COUNCIL AGENDA
Monday, November 18, 2019
6:00 P.M., Council Chambers

1. **Call To Order**
   Invocation
   Pledge of Allegiance of the United States of America

2. **Roll Call**

3. **Presentations**

   1. Joplin High School Student Council President Faron Haase Will Present An Update To City Council On Joplin School Events

   2. Proclamation Recognizing November 16-24, 2019 As Hunger And Homelessness Awareness Week. Requested By Robin Smith, Economic Security Corp. Of SW Area, Assistant Director Of Community Development.

      Documents:

      PROCLAMATION FOR HOMELESSNESS AND HUNGER - 2019.PDF

   3. Joplin Regional Airport Airline Industry And Air Service Update

4. **Finalization Of Consent Agenda**

5. **Reports And Communications**

6. **Citizen Requests And Petitions**

   1. William Shumate, 2925 Missouri Ave. Joplin, Requested To Address City Council Regarding A Medicinal Marijuana Ordinance Change.

   2. Debra Nash, 28253 Kafir Rd. Requested To Address City Council Regarding The Medicinal Marijuana Ordinance.

7. **Public Hearings**

   1. Public Hearing Procedures

      Documents:

      PUBLIC HEARING PROC..PDF

   2. COUNCIL BILL NO. 2019-009
      AN ORDINANCE approving a plan for an industrial development project consisting of the acquisition, construction, improvement and equipping of a warehouse and distribution facility; authorizing the city of Joplin, Missouri to issue its taxable industrial development revenue bonds in a principal amount not to exceed $51,400,000 to finance the costs of such project; authorizing and approving certain documents; and authorizing certain other actions in connection with the issuance of the bonds.

      Documents:

      CB2019-009 -SUMMARY SHEET.PDF
      CB2019-009- NOTICE TO TAXING JURISDICTIONS.PDF

CB2019-009- BPA V1.PDF
CB2019-009 -INDENTURE V2.PDF
CB2019-009-LEASE V2.PDF
CB2019-009-PERFORMANCE AGREEMENT V2.PDF
CB2019-009-ORDINANCE V2.PDF

8. Consent Agenda

1. Minutes Of The November 4, 2019 City Council Meeting

   Documents:

   NOV 4, 2019.PDF

2. Minutes Of The November 11, 2019 Special City Council Meeting

   Documents:

   NOV 11 CC MINS.PDF

3. COUNCIL BILL NO.. 2019-281
   AN ORDINANCE amending Ordinance No. 2004-256, passed by the Council of the City of Joplin, Missouri, November 15, 2004, by removing from District R-1 and including in District C-1 property as described below and located 2818, 2824, 2828, and 2832 E 19th St., City of Joplin, Jasper County, Missouri.

   Documents:

   CB2019-281.PDF

4. COUNCIL BILL NO. 2019-405
   AN ORDINANCE approving an Agreement between the City of Joplin, Missouri, and the Economic Security Corporation that pertains to 2019 CDBG public service grant funds in the amount of $25,000.00; authorizing the City Manager to execute same on behalf of the City.

   Documents:

   CB2019-405.PDF

5. COUNCIL BILL NO. 2019-406
   AN ORDINANCE approving an Agreement between the City of Joplin, Missouri, and the Homeless Coalition that pertains to 2019 CDBG public service grant funds in the amount of $17,000.00; authorizing the City Manager to execute same on behalf of the City.

   Documents:

   CB2019-406.PDF

9. Resolutions

1. Resolution No. 2019-013
   A RESOLUTION initiating the required 45-day public information period of the actuary reports for the transition from the policemen's and firemen's pension plan to the Missouri Local Government Employees Retirement System (LAGERS) for public safety employees.

Documents:

RESOLUTION 2019-013 SUMMARY PUBLIC INSPECTION OF ACTUARY REPORTS FOR PENSION TO LAGERS TRANSITION.PDF
RESOLUTION 2019-013 PUBLIC INSPECTION OF ACTUARY REPORT FOR PENSION TO LAGERS TRANSITION.PDF
RESOLUTION 2019-013 LAGERS VALUATION.PDF
RESOLUTION 2019-013 PENSION VALUATION.PDF

10. Ordinances - Emergency

1. Council Bill No. 2019-156

AN ORDINANCE authorizing the acceptance of a Missouri Highways and Transportation Commission Public Transit Operating Assistance Grant Agreement for state funds of eleven thousand five hundred ten dollars and No/100 ($11,510.00) to be used for operating assistance for the Metro Area Public Transit System (MAPS), and containing an emergency clause.

Documents:

SUMMARY SHEET 2019-156.PDF
CB 2019-156.PDF
DRAFTCORRECTION2019-10-53890.PDF

2. Council Bill No. 2019-157

AN ORDINANCE authorizing the City of Joplin to enter into an Airport Agreement with American Airlines, Inc. to establish operational guidelines and fees in the Commercial Terminal at the Joplin Regional Airport; authorizing the City Manager to execute the same by and on behalf of the City of Joplin; and containing an emergency clause.

Documents:

GS 2019-157 AA AIRPORT AGREEMENT.PDF
CB 2019-157 AA AIRPORT AGREEMENT.PDF
JLN TERMINAL AGREEMENT JULY 1 2019 (FINAL).PDF

3. Council Bill No. 2019-158

AN ORDINANCE authorizing the City of Joplin to establish the Airport Police Department and empower its Uniformed Officers at the Joplin Regional Airport; authorizing the City Manager to execute the same by and on behalf of the City of Joplin; and containing an emergency clause.

Documents:

GS 2019-158 AIRPORT POLICE DEPARTMENT.PDF
CB 2019-158 AIRPORT POLICE DEPARTMENT.PDF

4. Council Bill No. 2019-522

AN ORDINANCE adopting and establishing pay rates for certain Unclassified Council Employees; and, containing an emergency clause.

Documents:

CB 2019-522 SUMMARY COUNCIL EMPLOYEE RAISES.PDF
CB 2019-522 COUNCIL EMPLOYEES PAY ADOPTION ORDINANCE.PDF
CB 2019-522 EXHIBIT A COUNCIL EMPLOYEE PAY FY 2020.PDF

5. COUNCIL BILL NO. 2019-532
AN ORDINANCE amending the Annual Budget of the City of Joplin for the Fiscal Year 2019-2020 as adopted by Ordinance 2019-166 on October 21, 2019, to adjust appropriations and containing an emergency clause.

Documents:

CB 2019-532 SUMMARY BUDGET AMENDMENT.PDF
CB 2019-532 BUDGET AMENDMENT ORDINANCE FOR FY 2020.PDF
CB 2019-532 SCHEDULE A 2020 BUDGET AMENDMENT NOVEMBER 18 2019.PDF

11. Ordinances - First Reading

1. COUNCIL BILL NO. 2019-009
AN ORDINANCE approving a plan for an industrial development project consisting of the acquisition, construction, improvement and equipping of a warehouse and distribution facility; authorizing the city of Joplin, Missouri to issue its taxable industrial development revenue bonds in a principal amount not to exceed $51,400,000 to finance the costs of such project; authorizing and approving certain documents; and authorizing certain other actions in connection with the issuance of the bonds.

Documents:

CB2019-009.PDF

2. Council Bill No. 2019-523
AN ORDINANCE repealing Section 58-68, Schedule of Fees, Article II, Fire Prevention Code, Division 2, International Fire Code, of Chapter 58, Fire Prevention and Protection, of the Code of Ordinances of the City of Joplin and enacting in lieu thereof a new Section 58-68, Schedule of Fees, Article II, Fire Prevention Code, Division 2, International Fire Code, of Chapter 58, Fire Prevention and Protection, of the Code of Ordinances of the City of Joplin to implement certain fee changes; and setting a date when this Ordinance shall become effective.

Documents:

CB 2019-523 SUMMARY CHAPTER 58 FIRE PREVENTION CODE FEE CHANGES.PDF
CB 2019-523 CHAPTER 58 FIRE PREV AND PROT FIRE CODE LICENSE FEE CHANGES.PDF

3. Council Bill No. 2019-524
AN ORDINANCE repealing Section 106-32, Duty of Abutting Property Owners, Article II, Repairs, and Section 106-62, Plan Review and Permit Fees, Article III, Improvement Permits, of Chapter 106, Streets, Sidewalk and Other Public Places, of the Code of Ordinances of the City of Joplin and enacting in lieu thereof a new Section 106-32, Duty of Abutting Property Owners, Article II, Repairs, and Section 106-62, Plan Review and Permit Fees, Article III, Improvement Permits, of Chapter 106, Streets, Sidewalks and Other Public Places, of the Code of Ordinances of the City of Joplin to implement certain fee changes; and setting a date when this Ordinance

shall become effective.

Documents:

CB 2019-524 SUMMARY CHAPTER 106 STREETS SIDEWALKS OTHER PUBLIC PLACES CODE FEE CHANGES.PDF
CB 2019-524 CHAPTER 106 STREETS SIDEWALKS AND OTHER PUBLIC PLACES FEE CHANGES.PDF

4. Council Bill No. 2019-525
AN ORDINANCE repealing Section 34-2, Prices of lots and grave rights; charge for setting stones, of Chapter 34, Cemeteries, of the Code of Ordinances of the City of Joplin and enacting in lieu thereof a new Section 34-2, Prices of lots and grave rights; charge for setting stones, of Chapter 34, Cemeteries, of the Code of Ordinances of the City of Joplin to implement certain fee changes; and setting a date when this Ordinance shall become effective.

Documents:

CB 2019-525 SUMMARY CHAPTER 34 CEMETERIES CODE FEE CHANGES.PDF
CB 2019-525 CHAPTER 34 CEMETERIES FEE CHANGES.PDF

5. Council Bill No. 2019-526
AN ORDINANCE repealing Section 30-121, License Classifications and Fees, of Article III, Licenses, Division 2, Schedule of Fees, of Chapter 30, Businesses, of the Code of Ordinances of the City of Joplin and enacting in lieu thereof a new Section 30-121, License Classifications and Fees, of Article III, Licenses, Division 2, Schedule of Fees, of Chapter 30, Businesses, of the Code of Ordinances of the City of Joplin to implement certain classification changes; and setting a date when this Ordinance shall become effective.

Documents:

CB 2019-526 SUMMARY CHAPTER 30 BUSINESS LICENSE CODE FEE CHANGES.PDF
CB 2019-526 CHAPTER 30 BUSINESS LICENSE FEE CHANGES.PDF

6. Council Bill No. 2019-527
AN ORDINANCE repealing Section 86-5, Fees at Schifferdecker Golf Course, of Article I, In General, and Section 86-6, Fees for Parks Programs and Parks Facilities, of Article I, In General, and Section 86-152, Admission Fee, of Article V, Swimming Pools, of Chapter 86, Parks and Recreation, of the Code of Ordinances of the City of Joplin and enacting in lieu thereof a new Section 86-5, Fees at Schifferdecker Golf Course, of Article I, In General, and Section 86-6, Fees for Parks Programs and Parks Facilities, of Article I, In General, and Section 86-152, Admission Fee, of Article V, Swimming Pools, of Chapter 86, Parks and Recreation, of the Code of Ordinances of the City of Joplin to implement certain fee changes; and setting a date when this Ordinance shall become effective.

Documents:

CB 2019-527 SUMMARY CHAPTER 86 PARKS CODE FEE CHANGES.PDF
CB 2019-527 CHAPTER 86 PARKS FEE CHANGES.PDF

7. Council Bill No. 2019-528
AN ORDINANCE repealing Section 9, Filing Fees, of the Subdivision Regulations, Appendix 29B as adopted by Ordinance No. 97-161 of the City of Joplin and enacting in lieu thereof a new Section 9, Filing Fees, of the Subdivision Regulations, Appendix 29B of the City of Joplin to implement certain fee changes; and setting a date when this Ordinance shall become effective.

Documents:

CB 2019-528 SUMMARY SUBDIVISION REGULATIONS CODE FEE CHANGES.PDF
CB 2019-528 SUBDIVISION REGULATIONS FEE CHANGES.PDF

8. Council Bill No. 2019-529
AN ORDINANCE repealing Section 29A-2514, Fees, Article II, of Appendix 29A, of the Zoning Regulations of the City of Joplin and enacting in lieu thereof a new Section 29A-2514, Fees, of Appendix 29A, of the Zoning Regulations of the Code of Ordinances of the City of Joplin to implement certain fee changes; and setting a date when this Ordinance shall become effective.

Documents:

CB 2019-529 SUMMARY ZONING REGULATION CODE FEE CHANGES.PDF
CB 2019-529 ZONING REGULATION FEE CHANGES.PDF

9. Council Bill No. 2019-530
AN ORDINANCE repealing Section 118-211, Hauled Wastewater Fee, of Article II, Sewers and Sewage Disposal, of Division 6, Rates and Charges, and Section 118-235, Permit fee, Connection Fee, and other Sewer Fees, of Article II, Sewers and Sewage Disposal, of Division 7, Building Sewers, of Chapter 118, Utilities, of the Code of Ordinances of the City of Joplin, and enacting in lieu thereof a new Section 118-211, Hauled Wastewater Fee, of Article II, Sewers and Sewage Disposal, of Division 6, Rates and Charges, and Section 118-235, Permit Fee, Connection Fee, and other Sewer Fees, of Article II, Sewers and Sewage Disposal, of Division 7, Building Sewers, of Chapter 118, Utilities, of the Code of Ordinances of the City of Joplin to implement certain fee changes; and setting a date when this Ordinance shall become effective.

Documents:

CB 2019-530 SUMMARY CH 118 UTILITIES CODE FEE CHANGES.PDF
CB 2019-530 CHAPTER 118 UTILITIES FEE CHANGES.PDF

10. Council Bill No. 2019-531
AN ORDINANCE repealing Section 118-203, Basis for Computation, of Article II, Sewers and Sewage Disposal, of Division 6, Rates and Charges, and Section 118-206, Billing and Collection Procedures, of Article II, Sewers and Sewage Disposal, of Division 6, Rates and Charges, of Chapter 118, Utilities, of the Code of Ordinances of the City of Joplin, and enacting in lieu thereof a new Section 118-203, Basis for Computation, of Article II, Sewers and Sewage Disposal, of Division 6, Rates and Charges, and Section 118-206, Billing and Collection Procedures, of Article II, Sewers and Sewage Disposal, of Division 6, Rates and Charges, of Chapter 118, Utilities, of the Code of Ordinances of the City of Joplin to implement certain fee changes; and

setting a date when this Ordinance shall become effective.

Documents:

CB 2019-531 SUMMARY CH 118 UTILITIES CODE LANGUAGE CHANGES.PDF
CB 2019-531 CHAPTER 118 UTILITIES CODE LANGUAGE CHANGES.PDF

12. **Ordinances - Second Reading And Third Reading**

13. **Unfinished Business**

14. **New Business**

    1. News From Public Information Officer Lynn Onstot

    2. CLOSED SESSION
       Vote to go into closed session, which shall pertain to legal action, causes of action, or litigation including a public governmental body and any confidential or privileged communications between a governmental body or its representatives and its attorneys pursuant to state law; and which shall pertain to leasing, purchasing or sale of real estate by a public governmental body where public knowledge of the transaction might adversely affect the legal consideration therefore; and the hiring, firing, disciplining, or promotion of an employee or particular employees of a governmental body involving personal information as set forth in Section 610.021 (1) (2) (3) RSMo, as amended, 2018. This meeting, record, and vote to be closed to the extent provided by law. The City Council shall adjourn at the end of the session.

Anyone wishing to address the Council should step to the podium and state his/her name and address. If the matter is not a Public Hearing, a request to speak to the Council should be prepared prior to the meeting. Speaking time will be limited to five (5) minutes.

Sound enhancement units are available for hearing impaired customers who provide a form of identification as security, which will be returned to the customer upon the return of the unit.

Those in need of disability-related auxiliary aids or services should contact the City Clerk's office at (417) 624-0820, ext. 220 no later than 48 hours prior to the meeting.

Notice posted at ____ p.m. on this the __ day of ____, ____. (RSMo 610.020)

PROCLAMATION

PROCLAIMING NOVEMBER 16 - 24, 2019 AS
HUNGER AND HOMELESSNESS AWARENESS WEEK

WHEREAS, for over 30 years The Homeless Coalition of Jasper and Newton Counties have sponsored National Hunger and Homelessness Awareness Week; and

WHEREAS*,* hunger and homelessness continue to be a serious problem for 237 individuals and families in Joplin according to the 2019 Point In Time Count; and

WHEREAS*,* the purpose of the proclamation is to educate the public about the many reasons people are hungry and homeless including the shortage of affordable housing in the City of Joplin for very low-income residents; and to encourage support for homeless assistance service providers as well as community service opportunities for students and school service organizations; and

WHEREAS*,* there are many organizations committed to sheltering and providing supportive services, meals and food supplies to people experiencing homelessness including: Crosslines of Joplin, Lafayette House, Salvation Army, Soul's Harbor, Watered Gardens, Economic Security Corporation, and Lovin'Grace; and

WHEREAS*,* the intent of National Hunger and Homelessness Awareness Week is consistent with the activities of The Homeless Coalition.

NOW THEREFORE, I. Gary L. Shaw, Mayor of the City of Joplin, Missouri**,** do hereby proclaims November 16-24, 2019 as

HUNGER AND HOMELESSNESS AWARENESS WEEK

in the City of Joplin and encourage all citizens to recognize that while many services exist locally, many people do not have housing and need support from citizens, and private/public nonprofit service entities.

IN WITNESS, WHEREOF*,* I have hereto set my hand and cause the Great Seal of the City of Joplin to be affixed this 18th day of November 2019.

_____

Gary L. Shaw, Mayor

PUBLIC HEARING PROCEDURES

Persons wishing to testify before the City Council are requested to follow these rules:

1. Proponents of the issue will be asked to present their information, then the opponents will be asked to testify and then rebuttal testimony may be allowed by the Council.

2. Approach the podium and state your name and address clearly for the record.

3. Please give your testimony as briefly and completely as possible. By the rules of the City Council you have five (5) minutes within which to give your testimony. Please follow the clock on the dais in front of you. You must complete your testimony within the 5-minute time limit.

4. Please do not repeat testimony that has been given previously. We want you to state your facts but limit your information to only new information.

5. Everyone is invited to speak, however, if you have a spokesperson please allow them to speak without interrupting for applause or other demonstrations.

6. When the Public Hearing is closed by the Mayor, no additional testimony is allowed except when invited by the Mayor or other members of the Council.

7. Remember that this is a Public Hearing and all sides have a right to give testimony. Please respect their right to do so.

8. The City Council of the City of Joplin through this introduction, accepts into evidence the 2018 Comprehensive Plan, the Zoning Code of the City of Joplin, the Subdivision Regulations of the City of Joplin, the Telecommunications Ordinance, and the Stormwater Management Regulations of the City of Joplin being Appendices 29-A, 29-B, 29-D, 29-E and 29-F of the Joplin Municipal Code. Report of the Planning and Zoning Commission, recommendations of the City's staff, and other written documentation presented as that information applies to each public hearing.

Thank you for your consideration and understanding.

City of Joplin **City Council Agenda Item**

REQUESTED COUNCIL MEETING DATE: November 18, 2019 (Ch 100 hearing/1st reading)
December 2, 2019 (final readings)

ITEM: Council Bill No. 2019-009 approving a Chapter 100 plan, authorizing the City of Joplin, Missouri, to issue its Taxable Industrial Development Revenue Bonds and authorizing the execution of other documents connected therewith.

ORIGINATING DEPARTMENT: Legal Department
ATTACHMENTS: Council Bill No. 2019-009; copy of Chapter 100 Plan, Bond Purchase Agreement; Trust Indenture; Lease Agreement; Performance Agreement.

DEPARTMENT HEAD:	Peter C. Edwards	**DATE:**
CITY MANAGER:	Daniel Pekarek	**DATE:**
PUBLIC WORKS:	David Hertzberg	**DATE:**
FINANCE DIRECTOR:	Leslie Haase	**DATE:**

INTRODUCTION:

The Council Bill approves a plan for industrial development, or "Chapter 100 plan"; authorizes the execution of documents; and authorizes the issuance of Bonds for the purpose of acquiring, constructing, improving, purchasing, equipping and installing a new warehouse and distribution facility (the "Project") for Casey's Marketing Company (the "Company"), an affiliate of Casey's General Stores, Inc. The Project will be located at 2715 Prosperity Road, Joplin, Missouri (the "Project Site") and used in the storage and distribution of products for the Company's various retail stores. The Council Bill authorizes the City to enter into certain agreements in connection with the issuance of the Bonds.

DISCUSSION:

The project involves the construction of a 200,000 (approx.) square foot facility with an estimated cost of $40,900,000 for land and real property improvements (the "Project Improvements") and the acquisition and installation of approximately $10,400,000 in equipment and other personal property (the "Project Equipment").

No Abatement on Land Value

The Project Site will not be subject to abatement. The Company will pay a fixed schedule of payments in lieu of taxes ("PILOTs") calculated to equal 100% of the estimated taxes that would otherwise be due on the land were it not for the Chapter 100 incentive. The PILOT for 2020 will be $915 and will increase by 2% in each odd year so that the final PILOT in 2033 will be $1,051.

Abatement on Project Improvements

The Project Improvements will be subject to 100% abatement starting in 2019 or 2020 (depending on the issue date of the Chapter 100 Bonds) and ending with tax year 2033. This is calculated to provide 12 years of abatement after completion of the Project Improvements. The estimated value of abatement for the Project Improvements is $1,532,187.

Abatement on Project Equipment

The Project Equipment will be subject to 100% abatement for five years, on a rolling basis, meaning that Project Equipment purchased in 2021 will receive abatement for tax years 2022, 2023, 2024, 2025 and 2026 and go on the tax rolls starting with tax year 2027, and Project Equipment purchased in subsequent years will receive five years of abatement in a similar manner. The estimated value of abatement for the Project Equipment is $377,116.

Total Chapter 100 Incentive

The Company will also receive the benefit of applying the City's tax exemption certificate to purchases of construction materials for the Project and purchases of certain personal property approved by the Missouri Department of Economic Development ("DED"). Because DED has not yet approved the personal property that may be acquired, it is not possible to estimate that portion of the incentive. The total estimated benefit of the local portion of the Chapter 100 incentive to the Company is as follows:

Abatement on Project Improvements	$1,532,187
Abatement on Project Equipment	377,116
Sales Tax Exemption – Construction Materials	926,000
Total Estimated Local Incentive	$2,835,303

Jobs and Wage Requirements

The Company is expected to add 108 jobs to the Joplin economy in connection with the Project. Under the Performance Agreement, the Company is required to create 100 jobs at the Facility in order to retain the abatement at the levels described above. The jobs must pay an average wage of $39,816 (the county average wage), which is increased with inflation every other year, and the Company must cover at least 50% of the employees' health insurance premiums. If these requirements are not met, the Company will be required to make penalty payments to the taxing jurisdictions proportionate to the percentage of failure. Additionally, if the Company ceases invests less than 80% of the amounts discussed above in the Project, the Company will be required to make penalty payments to the taxing jurisdictions proportionate to the percentage of under-investment.

Other Benefits to the Joplin Area

The Company has represented that it will utilize local contractors and suppliers to the greatest degree possible, so long as pricing, availability, and timing align with project goals. Additionally, the Company represents itself as a great community partner that has a long-standing reputation of giving back to communities in which its facilities are located. The Company represents that last year it contributed $4.5 Million to various community and charitable organizations and events.

Chapter 100 Bonds

Chapter 100 Bonds will be offered at a public sale in accordance with the City's charter. It is anticipated that the Company or an affiliate or a related entity will place a bid to purchase the Bonds in the estimated aggregate principal amount of $51,400,000 to pay for the project costs and the costs of completing the Chapter 100 Bond transaction.

Chapter 100 Bonds are authorized pursuant to Chapter 100 of the Missouri Revised Statutes. This tax abatement tool provides for the City to be the actual owner of the Project. The Project is then leased to the Company. During the time the Bonds remain unpaid and the City owns the Project, it is exempt from property taxes because title is held by the City as a tax-exempt entity. Chapter 100 Bonds are paid solely from revenue received from the lease of the Project and such Bonds are not an obligation or debt of the City, except for the obligation to apply lease payments to the bond debt service. Thus, in the unlikely event that the Company was to default on the payment of its obligations under the Bond documents, the City is not liable to make such payments from any source other than revenue received from the lease. In addition, because such Bonds do not constitute a debt of the City within the meaning of any constitutional or statutory limitation, the bonding capacity of the City is not affected by their issuance.

Under the Bond documents, the Company agrees to indemnify the City against any losses or liability that might arise out of the City's ownership of the Project. The Company is also required to carry liability insurance to cover the City in an amount equal to the Missouri limits for waiver of sovereign immunity.

RECOMMENDATION:

Staff recommends this council bill be placed on First Reading.

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NOTICE TO TAXING JURISDICTIONS ON ATTACHED LIST

Re: Notice of Public Hearing – Industrial Development Project

On behalf of the City of Joplin, Missouri (the "City"), please find enclosed a copy of the proposed Plan for Industrial Development Project for a Distribution Facility (the "Plan"), which also contains a Cost Benefit Analysis on the affected taxing jurisdictions.

The City anticipates considering the first reading of an ordinance to approve the Plan following a public hearing on the Plan at a meeting on Monday, November 18, 2019 at 6:00 PM at City Hall located at 602 S. Main St., Joplin, MO 64801.

The City invites all affected taxing districts to attend the public hearing and to make oral comments on the proposed Plan to the City or to provide written comments to the City on the Plan prior to the hearing. All comments of the taxing districts will be fairly and duly considered by the City.

A copy of the Plan and Cost Benefit Analysis for the proposed project is enclosed and also will be on file in the office of the City Clerk and will be available for public inspection during normal business hours.

Any questions should be directed to Tobias Teeter, President of The Joplin Area Chamber of Commerce, at 417-625-6600.

Dated: October 28, 2019

CITY OF JOPLIN, MISSOURI
602 S. Main St.
Joplin, MO 64801

TAX ENTITY MAILING LIST

Jasper County, Missouri Presiding Commissioner Jasper County Courthouse 302 South Main Street, Room 101 Carthage, MO 64836	**Jasper County Assessor** Jasper County Courthouse 302 S. Main, Room 201B Carthage, MO 64836
Jasper County Collector Jasper County Courthouse 302 S. Main-Room 107 Carthage, MO 64836	**Jasper County Mental Health Fund Board** Attn: Neina Bellm P. 0. Box 2526 Joplin, MO 64803
City of Joplin, Missouri City Clerk 602 S. Main St. Joplin, MO 64801	**Jasper County Sheltered Facilities Board** Attn: Alecia Archer 1727 W 26th St. Joplin, MO 64804
Joplin Schools Board of Education Attn: Superintendent 825 Pearl Ave Joplin, MO 64801	**Joplin Special Road District** 1016 Picher Joplin, MO 64801
Missouri Department of Revenue Tax Administration Bureau Harry S Truman State Office Building 301 West High Street Jefferson City MO 65101 1-573-751-4249	**Department of Economic Development** Development Finance Missouri Department of Economic Development 301 West High Post Office Box 118 – Room 770 Jefferson City MO 65102 1-573-751-4962
Missouri Department of Economic Development Director Post Office Box 118 – Room 770 Jefferson City MO 65102 1-573-751-4962	**Missouri Department of Revenue** County Tax Section State Blind Pension Fund Harry S Truman State Office Building *P.O. Box 453* 301 West High Street Jefferson City MO 65101

BEFORE THE

CITY COUNCIL

OF THE

CITY OF JOPLIN, MISSOURI

PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT FOR A DISTRIBUTION FACILITY (HEARTHSTONE PROJECT)

October 28, 2019

PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT
FOR A DISTRIBUTION FACILITY

TO: THE CITY COUNCIL OF THE CITY OF JOPLIN, MISSOURI

A plan for an industrial development project as described herein has been proposed to the City of Joplin, Missouri (the "City"), for approval, to be carried out pursuant to Article VI, Section 27(b) of the Missouri Constitution, as amended, Sections 100.010 to 100.200, inclusive, of the Missouri Revised Statutes, as amended, and in support of said application the following is submitted:

1. Description of the Project. The Project consists of acquiring, constructing, improving, purchasing, equipping and installing a warehouse and distribution facility on approximately 40 acres of land in the City, including the land and associated buildings, structures, fixtures and equipment (the "Project"). The Project is designed to be used for the storage and distribution of inventory for a regional retail chain. The Project will be located at 2715 Prosperity Road, Joplin, Missouri, and will be operated for commercial purposes.

2. Estimate of the Cost of the Project. The total cost of the Project is estimated to be $51,300,000 (approximately $40,900,000 for land and real property improvements and approximately $10,400,000 for personal property). The Project involves the acquisition of real property and the construction of a warehousing and distribution facility enclosing approximately 200,000 square feet of space. The personal property to be acquired will be installed in the facility.

3. Source of Funds to be Expended for the Project. The source of funds to be expended for the Project will be the proceeds of $51,400,000 estimated aggregate principal amount of taxable industrial revenue bonds in one or more series (collectively, the "Bonds"), to be issued by the City for the Project and to pay costs of issuing the Bonds.

4. Statement of the Terms Upon Which the Project is to be Leased and Otherwise Disposed of by the City. The City will take title to the land underlying the Project. The Project will be leased by the City (with an option to purchase the City's interest in the Project) to a company (the "Company"). The lease payments collectively will equal the principal and interest on the Bonds plus certain payments in lieu of taxes, as applicable. The Bonds will be payable solely from the revenues derived by the City from the lease to the Company or other disposition of the Project and the Bonds will not be an indebtedness or general obligation, debt or liability of the City.

5. Bond Purchase Arrangements. The Bonds will be offered at a public sale in accordance with the City's charter. It is anticipated that the Company or an affiliate or a related entity will place a bid to purchase the Bonds in the estimated aggregate principal amount of $51,400,000.

6. Affected School District, Community College District, County, City and Emergency Services District. The Joplin R-VIII School District of Jasper County, Missouri; the City; and Jasper County, Missouri, will be affected by the Project as well as the other taxing jurisdictions shown on the attached Cost Benefit Analysis. There is no community college district affected by the Project. No ambulance district board operating under chapter 190 or fire protection district board operating under chapter 321 is affected by the Project.

7. **Equalized Assessed Valuation.** The most recent equalized assessed valuation of the real property underlying the Project is $6,020 (2019). The most recent equalized assessed valuation of the personal property to be included in the Project is $-0-. The total equalized assessed valuation of the real property and improvements included in the Project after construction is estimated at $2,256,374. The total equalized assessed valuation of the personal property to be included in the Project is estimated at $2,752,833.

8. **Cost/Benefit Analysis.** Attached hereto as **Exhibit A** is the Cost Benefit Analysis for the affected taxing jurisdictions, which assumes a total period of 12 years of tax abatement from the first year in which real property improvements will be completed and subject to taxation, at a rate of 100% abatement. Personal property acquired as part of the Project will be subject to 100% abatement for a period of 5 years.

9. **Payments in Lieu of Taxes.** The Company will agree to make payments in lieu of taxes during each year in which title to the Project is held by the City. The amounts shown below represent the value of such payments in lieu of taxes. The payments in lieu of taxes represent the value of taxes that would have been due on the land underlying the Project (which land is not subject to abatement pursuant to this Plan).

	Year	Payment in Lieu of Taxes
Pre-Construction	2019	$282
Construction phase	2020	915
Construction phase	2021	933
Abatement Year 1	2022	933
Abatement Year 2	2023	952
Abatement Year 3	2024	952
Abatement Year 4	2025	971
Abatement Year 5	2026	971
Abatement Year 6	2027	990
Abatement Year 7	2028	990
Abatement Year 8	2029	1,010
Abatement Year 9	2030	1,010
Abatement Year 10	2031	1,030
Abatement Year 11	2032	1,030
Abatement Year 12	2033	1,051

10. Sales and Use Tax Exemption on Construction Materials. Qualified building materials purchased for the construction of the Project are expected to be exempt from sales and use tax pursuant to the provisions of Section 144.062 of the Revised Statutes of Missouri and the underlying bond documents upon delivery of a project exemption certificate by the City to the Company. For purposes of determining the impact of the sales and use tax exemption of the qualified building materials on the affected taxing jurisdictions, the following assumptions were made:

Total Amount of qualified building materials:	$17,800,000
Amount to be purchased within the State of Missouri (but outside Jasper County):	6,900,000
Amount to be purchased within Jasper County (but outside City of Joplin):	1,000,000
Amount to be purchased within the City of Joplin:	4,200,000

Please note that any variance in these assumptions will alter the fiscal impact of the sales and use tax exemptions on the affected taxing jurisdictions.

Based on the assumptions set forth above, the fiscal impact on the affected taxing jurisdictions of the sales and use tax exemption on qualified building materials is as follows:

	Sales Tax Rate	Estimated Sales Tax Revenues Subject to Exemption	Use Tax Rate	Estimated Use Tax Revenues Subject to Exemption
State of Missouri	4.225%	$511,225	4.225%	$240,825
City of Joplin				
General Revenue	1.000	42,000	0	0
Capital Improvement	0.375	15,750	0	0
Public Safety	0.500	21,000	0	0
Parks & Stormwater	0.250	10,500	0	0
Transportation	0.500	21,000	0	0
Jasper County				
General Revenue	0.375	19,500	0	0
General - Bridge	0.250	13,000	0	0
Emergency Services	0.100	5,200	0	0
Law Enforcement	0.250	13,000	0	0
Juvenile Center / Courthouse	0.250	13,000	0	0
Total	8.075%	$685,175	4.225%	$240,825

11. **Application for Sales and Use Tax Exemption on Personal Property.** The Company intends to apply to the Missouri Department of Economic Development ("DED") for certification of the extent to which eligible tangible personal property integral to the company's activities at the Project qualifies for exemption from sales and use tax. DED, through its internal review procedures, will determine the dollar amount of purchases that may qualify for the exemption, which exemption will be contingent upon compliance with DED procedures and ultimate approval by DED of the Company's application for exemption. The Company does not anticipate that a significant portion of the acquisitions will occur within Jasper County or even the State of Missouri based on the specialized nature of the personal property to be acquired. For this reason, and due to the lack of a use tax imposed within the City or Jasper County, any personal property exemption that may be approved by DED is not anticipated to have a significant effect on local sales or use tax.

* * *

EXHIBIT A

COST/BENEFIT ANALYSIS

The accompanying spreadsheet shows the detailed cost/benefit amounts of the proposed Project. It assumes a fixed schedule of payments in lieu of taxes for real property taxes relating to the land included in the Project for the duration of the abatement period for the real property. No payments in lieu of tax will be made with respect to the improvements or personal property included in the Project.

The personal property is assumed to be depreciated over a 7 year period. The depreciated value of personal property is based on depreciation schedules designated by Section 137.122 of the Revised Statutes of Missouri for such property.

The 2019 ad valorem tax levy rates were utilized for all taxing jurisdictions. Amounts shown as payments in lieu of taxes attributable to any particular taxing jurisdiction are subject to change based on the then-current levy rates of all relevant taxing jurisdictions.

City of Joplin, Missouri
(Hearthstone Project)

COST BENEFIT ANALYSIS
PLAN FOR INDUSTRIAL DEVELOPMENT PROJECT

GILMORE BELL
GILMORE & BELL, P.C.

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This information is provided based on the factual information and assumptions provided to Gilmore & Bell, P.C. by a party to or a representative of a party to the proposed transaction. This information is intended to provide factual information only and is provided in conjunction with our legal representation. It is not intended as financial advice or a financial recommendation to any party. Gilmore & Bell, P.C. is not a financial advisor or a "municipal advisor" as defined in the Securities Exchange Act of 1934, as amended.

Project Assumptions

- Appraised value of property improvements $ 7,000,000
- Appraised value of personal property $ 9,250,000
- Bi-annual growth rate of appraised value of site 2.0%
- Assessed value as a percentage of appraised value (Agricultural) - 2019 12.0%
- Assessed value as a percentage of appraised value (Commercial) 32.0%
- Assessed value as a percentage of appraised value (Personal Property) 33.33%
- 2019 Assessed value of project site (Agricultural) $ 6,020
- 2020 Assessed value of project site (Commercial) $ 16,053
- 2021 Assessed value of project site (Commercial) $ 16,374
- Assessed value of property improvements $ 2,240,000
- Terms of abatement:

Site	
Years 1 to 15	0%
Commercial property improvements	
Years 1 to 12	100%
Personal property	
Years 1 to 5	100%

- Personal Property is depreciated using the following 7 year recovery period schedule:

Year	Recovery Period in Years					
	3	5	7	10	15	20
0	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%
1	75.00%	85.00%	89.29%	92.50%	95.00%	96.25%
2	37.50%	59.50%	70.16%	78.62%	85.50%	89.03%
3	12.50%	41.65%	55.13%	66.83%	76.95%	82.35%
4	5.00%	24.99%	42.88%	56.81%	69.25%	76.18%
5	5.00%	10.00%	30.63%	48.07%	62.32%	70.46%
6	5.00%	10.00%	18.38%	39.33%	56.09%	65.18%
7	5.00%	10.00%	10.00%	30.59%	50.19%	60.29%
8	5.00%	10.00%	10.00%	21.85%	44.29%	55.77%
9	5.00%	10.00%	10.00%	15.00%	38.38%	51.31%
10	5.00%	10.00%	10.00%	15.00%	32.48%	46.85%
11	5.00%	10.00%	10.00%	15.00%	26.57%	42.38%
12	5.00%	10.00%	10.00%	15.00%	20.67%	37.92%
13	5.00%	10.00%	10.00%	15.00%	15.00%	33.46%
14	5.00%	10.00%	10.00%	15.00%	15.00%	29.00%
15	5.00%	10.00%	10.00%	15.00%	15.00%	24.54%
16	5.00%	10.00%	10.00%	15.00%	15.00%	20.08%
17	5.00%	10.00%	10.00%	15.00%	15.00%	20.00%

Summary of Tax Impact Analysis
(Real and Personal Property)

Taxing Jurisdiction	Tax Rate	Projected Tax Revenues for Site Without Project	Projected PILOT Amount With Project	Projected Tax Revenue With Project (No Abatement)	Value of Abatement
State Blind Pension	0.0300	$ 29	$ 74	$ 10,803	$ 10,729
Jasper County	0.1195	115	295	43,031	42,735
Sheltered Workshop	0.0865	83	214	31,148	30,934
Mental Health	0.0865	83	214	31,148	30,934
R-VIII School District	3.6964	3,564	9,133	1,331,036	1,321,902
Joplin Road District	0.2270	219	561	81,740	81,179
City of Joplin	0.4342	419	1,073	117,786	116,713
Surtax	1.0200	-	2,459	276,635	274,176
	5.7001	$ 4,513	$ 14,023	$ 1,923,326	$ 1,909,303

Projected Tax Revenues for Site Without Project

Estimated Assessed Value of Project Site Without Project		$ 6,020	$ 6,020	$ 6,140	$ 6,140	$ 6,263	$ 6,263	$ 6,388	$ 6,388
Taxing Jurisdiction	Tax Rate per $100	2019	2020	2021	2022	2023	2024	2025	2026
State Blind Pension	0.0300	$ 2	$ 2	$ 2	$ 2	$ 2	$ 2	$ 2	$ 2
Jasper County	0.1195	7	7	7	7	7	7	8	8
Sheltered Workshop	0.0865	5	5	5	5	5	5	6	6
Mental Health	0.0865	5	5	5	5	5	5	6	6
R-VIII School District	3.6964	223	223	227	227	232	232	236	236
Joplin Road District	0.2270	14	14	14	14	14	14	15	15
City of Joplin	0.4342	26	26	27	27	27	27	28	28
	4.6801	$ 282	$ 282	$ 287	$ 287	$ 293	$ 293	$ 299	$ 299

Estimated Assessed Value of Project Site Without Project		$ 6,516	$ 6,516	$ 6,647	$ 6,647	$ 6,779	$ 6,779	$ 6,915	
Taxing Jurisdiction	Tax Rate per $100	2027	2028	2029	2030	2031	2032	2033	Total
State Blind Pension	0.0300	$ 2	$ 2	$ 2	$ 2	$ 2	$ 2	$ 2	$ 29
Jasper County	0.1195	8	8	8	8	8	8	8	115
Sheltered Workshop	0.0865	6	6	6	6	6	6	6	83
Mental Health	0.0865	6	6	6	6	6	6	6	83
R-VIII School District	3.6964	241	241	246	246	251	251	256	3,564
Joplin Road District	0.2270	15	15	15	15	15	15	16	219
City of Joplin	0.4342	28	28	29	29	29	29	30	419
	4.6801	$ 305	$ 305	$ 311	$ 311	$ 317	$ 317	$ 324	$ 4,513

Projected Tax Revenues for Site Only (Assuming Project Occurs)

Estimated Assessed Value of Site Only (Assuming Project Occurs)		$ 6,020	$ 16,053	$ 16,374	$ 16,374	$ 16,701	$ 16,701	$ 17,036	$ 17,036
Taxing Jurisdiction	Tax Rate per $100	2019	2020	2021	2022	2023	2024	2025	2026
State Blind Pension	0.0300	$ 2	$ 5	$ 5	$ 5	$ 5	$ 5	$ 5	$ 5
Jasper County	0.1195	7	19	20	20	20	20	20	20
Sheltered Workshop	0.0865	5	14	14	14	14	14	15	15
Mental Health	0.0865	5	14	14	14	14	14	15	15
R-VIII School District	3.6964	223	593	605	605	617	617	630	630
Joplin Road District	0.2270	14	36	37	37	38	38	39	39
City of Joplin	0.4342	26	70	71	71	73	73	74	74
Surtax	1.0200	-	164	167	167	170	170	174	174
	5.7001	$ 282	$ 915	$ 933	$ 933	$ 952	$ 952	$ 971	$ 971

Estimated Assessed Value of Site Only (Assuming Project Occurs)		$ 17,376	$ 17,376	$ 17,724	$ 17,724	$ 18,078	$ 18,078	$ 18,440	
Taxing Jurisdiction	Tax Rate per $100	2027	2028	2029	2030	2031	2032	2033	Total
State Blind Pension	0.0300	$ 5	$ 5	$ 5	$ 5	$ 5	$ 5	$ 6	$ 74
Jasper County	0.1195	21	21	21	21	22	22	22	295
Sheltered Workshop	0.0865	15	15	15	15	16	16	16	214
Mental Health	0.0865	15	15	15	15	16	16	16	214
R-VIII School District	3.6964	642	642	655	655	668	668	682	9,133
Joplin Road District	0.2270	39	39	40	40	41	41	42	561
City of Joplin	0.4342	75	75	77	77	79	79	80	1,073
Surtax	1.0200	177	177	181	181	184	184	188	2,459
	5.7001	$ 990	$ 990	$ 1,010	$ 1,010	$ 1,030	$ 1,030	$ 1,051	$ 14,023

Projected Tax Revenues Without Abatement
on Project Improvements

Estimated Assessed Value of Project Improvements		$2,240,000	$2,240,000	$2,240,000	$2,240,000	$2,240,000	$2,240,000	$2,240,000	$2,240,000	$2,240,000	$2,240,000	$2,240,000	$2,240,000	
Taxing Jurisdiction	Tax Rate per $100	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	Total
State Blind Pension	0.0300	$ 672	$ 672	$ 672	$ 672	$ 672	$ 672	$ 672	$ 672	$ 672	$ 672	$ 672	$ 672	$ 8,064
Jasper County	0.1195	2,677	2,677	2,677	2,677	2,677	2,677	2,677	2,677	2,677	2,677	2,677	2,677	32,122
Sheltered Workshop	0.0865	1,938	1,938	1,938	1,938	1,938	1,938	1,938	1,938	1,938	1,938	1,938	1,938	23,251
Mental Health	0.0865	1,938	1,938	1,938	1,938	1,938	1,938	1,938	1,938	1,938	1,938	1,938	1,938	23,251
R-VIII School District	3.6964	82,799	82,799	82,799	82,799	82,799	82,799	82,799	82,799	82,799	82,799	82,799	82,799	993,592
Joplin Road District	0.2270	5,085	5,085	5,085	5,085	5,085	5,085	5,085	5,085	5,085	5,085	5,085	5,085	61,018
City of Joplin	0.4342	9,726	9,726	9,726	9,726	9,726	9,726	9,726	9,726	9,726	9,726	9,726	9,726	116,713
Surtax	1.0200	22,848	22,848	22,848	22,848	22,848	22,848	22,848	22,848	22,848	22,848	22,848	22,848	274,176
	5.7001	$ 127,682	$ 127,682	$ 127,682	$ 127,682	$ 127,682	$ 127,682	$ 127,682	$ 127,682	$ 127,682	$ 127,682	$ 127,682	$ 127,682	$1,532,187

Projected PILOT Amount
(Real Property)

Estimated Value of Project Site	$ 6,020	$ 16,053	$ 16,374	$ 16,374	$ 16,701	$ 16,701	$ 17,036	$ 17,036
PILOT Payment on Project Site	100%	100%	100%	100%	100%	100%	100%	100%
Estimated Assessed Value of Project Improvements				$ 2,240,000	$ 2,240,000	$ 2,240,000	$ 2,240,000	$ 2,240,000
PILOT Payment on Project Improvements				0%	0%	0%	0%	0%

Taxing Jurisdiction	Tax Rate per $100	2019	2020	2021	2022	2023	2024	2025	2026
State Blind Pension	0.0300	$ 2	$ 5	$ 5	$ 5	$ 5	$ 5	$ 5	$ 5
Jasper County	0.1195	7	19	20	20	20	20	20	20
Sheltered Workshop	0.0865	5	14	14	14	14	14	15	15
Mental Health	0.0865	5	14	14	14	14	14	15	15
R-VIII School District	3.6964	223	593	605	605	617	617	630	630
Joplin Road District	0.2270	14	36	37	37	38	38	39	39
City of Joplin	0.4342	26	70	71	71	73	73	74	74
Surtax	1.0200	-	164	167	167	170	170	174	174
	5.7001	$ 282	$ 915	$ 933	$ 933	$ 952	$ 952	$ 971	$ 971

Estimated Value of Project Site	$ 17,376	$ 17,376	$ 17,724	$ 17,724	$ 18,078	$ 18,078	$ 18,440	
PILOT Payment on Project Site	100%	100%	100%	100%	100%	100%	100%	
Estimated Assessed Value of Project Improvements	$ 2,240,000	$ 2,240,000	$ 2,240,000	$ 2,240,000	$ 2,240,000	$ 2,240,000	$ 2,240,000	
PILOT Payment on Project Improvements	0%	0%	0%	0%	0%	0%	0%	

Taxing Jurisdiction	Tax Rate per $100	2027	2028	2029	2030	2031	2032	2033	Total
State Blind Pension	0.0300	$ 5	$ 5	$ 5	$ 5	$ 5	$ 5	$ 6	$ 74
Jasper County	0.1195	21	21	21	21	22	22	22	295
Sheltered Workshop	0.0865	15	15	15	15	16	16	16	214
Mental Health	0.0865	15	15	15	15	16	16	16	214
R-VIII School District	3.6964	642	642	655	655	668	668	682	9,133
Joplin Road District	0.2270	39	39	40	40	41	41	42	561
City of Joplin	0.4342	75	75	77	77	79	79	80	1,073
Surtax	1.0200	177	177	181	181	184	184	188	2,459
	5.7001	$ 990	$ 990	$ 1,010	$ 1,010	$ 1,030	$ 1,030	$ 1,051	$ 14,023

Projected Tax Abatement on Project Site With Project

Estimated Assessed Value of Project Site	$ 6,020	$ 16,053	$ 16,374	$ 16,374	$ 16,701	$ 16,701	$ 17,036	$ 17,036
Abatement Percentage on Project Site	0%	0%	0%	0%	0%	0%	0%	0%
Estimated Assessed Value of Project Improvements				$ 2,240,000	$ 2,240,000	$ 2,240,000	$ 2,240,000	$ 2,240,000
Abatement Percentage on Project Improvements				100%	100%	100%	100%	100%

Taxing Jurisdiction	Tax Rate per $100	2019	2020	2021	2022	2023	2024	2025	2026
State Blind Pension	0.0300	$ -	$ -	$ -	$ 672	$ 672	$ 672	$ 672	$ 672
Jasper County	0.1195	-	-	-	2,677	2,677	2,677	2,677	2,677
Sheltered Workshop	0.0865	-	-	-	1,938	1,938	1,938	1,938	1,938
Mental Health	0.0865	-	-	-	1,938	1,938	1,938	1,938	1,938
R-VIII School District	3.6964	-	-	-	82,799	82,799	82,799	82,799	82,799
Joplin Road District	0.2270	-	-	-	5,085	5,085	5,085	5,085	5,085
City of Joplin	0.4342	-	-	-	9,726	9,726	9,726	9,726	9,726
Surtax	1.0200	-	-	-	22,848	22,848	22,848	22,848	22,848
	5.7001	$ -	$ -	$ -	$ 127,682	$ 127,682	$ 127,682	$ 127,682	$ 127,682

Estimated Assessed Value of Project Site	$ 17,376	$ 17,376	$ 17,724	$ 17,724	$ 18,078	$ 18,078	$ 18,440	
Abatement Percentage on Project Site	0%	0%	0%	0%	0%	0%	0%	
Estimated Assessed Value of Project Improvements	$ 2,240,000	$ 2,240,000	$ 2,240,000	$ 2,240,000	$ 2,240,000	$ 2,240,000	$ 2,240,000	
Abatement Percentage on Project Improvements	100%	100%	100%	100%	100%	100%	100%	

Taxing Jurisdiction	Tax Rate per $100	2027	2028	2029	2030	2031	2032	2033	Total
State Blind Pension	0.0300	$ 672	$ 672	$ 672	$ 672	$ 672	$ 672	$ 672	$ 8,064
Jasper County	0.1195	2,677	2,677	2,677	2,677	2,677	2,677	2,677	32,122
Sheltered Workshop	0.0865	1,938	1,938	1,938	1,938	1,938	1,938	1,938	23,251
Mental Health	0.0865	1,938	1,938	1,938	1,938	1,938	1,938	1,938	23,251
R-VIII School District	3.6964	82,799	82,799	82,799	82,799	82,799	82,799	82,799	993,592
Joplin Road District	0.2270	5,085	5,085	5,085	5,085	5,085	5,085	5,085	61,018
City of Joplin	0.4342	9,726	9,726	9,726	9,726	9,726	9,726	9,726	116,713
Surtax	1.0200	22,848	22,848	22,848	22,848	22,848	22,848	22,848	274,176
	5.7001	$ 127,682	$ 127,682	$ 127,682	$ 127,682	$ 127,682	$ 127,682	$ 127,682	$ 1,532,187

Projected Tax Revenues Without Abatement
(Personal Property)

Estimated Assessed Value of Personal Property		$2,752,833	$2,163,050	$1,699,672	$1,322,001	$ 944,331	
Taxing Jurisdiction	Tax Rate per $100	1	2	3	4	5	Total
State Blind Pension	0.0300	$ 826	$ 649	$ 510	$ 397	$ 283	$ 2,665
Jasper County	0.1195	3,290	2,585	2,031	1,580	1,128	10,614
Sheltered Workshop	0.0865	2,381	1,871	1,470	1,144	817	7,683
Mental Health	0.0865	2,381	1,871	1,470	1,144	817	7,683
R-VIII School District	3.6964	101,756	79,955	62,827	48,866	34,906	328,310
Joplin Road District	0.2270	6,249	4,910	3,858	3,001	2,144	20,162
	4.2459	$ 116,883	$ 91,841	$ 72,166	$ 56,131	$ 40,095	$ 377,116

Personal Property Assessed Value (7-Year Depreciation)					
	1	**2**	**3**	**4**	**5**
9,250,000	2,752,833	2,163,050	1,699,672	1,322,001	944,331

Projected PILOT Amount
(Personal Property)

Estimated Assessed Value of Personal Property		$ 2,752,833		$ 2,163,050		$ 1,699,672		$ 1,322,001		$ 944,331	
PILOT Payment			0%		0%		0%		0%		0%
Taxing Jurisdiction	Tax Rate per $100	1		2		3		4		5	Total
State Blind Pension	0.0300	$ -		$ -		$ -		$ -		$ -	$ -
Jasper County	0.1195	-		-		-		-		-	-
Sheltered Workshop	0.0865	-		-		-		-		-	-
Mental Health	0.0865	-		-		-		-		-	-
R-VIII School District	3.6964	-		-		-		-		-	-
Joplin Road District	0.2270	-		-		-		-		-	-
	4.2459	$ -		$ -		$ -		$ -		$ -	$ -

Projected Tax Abatement
(Personal Property)

Estimated Assessed Value of Personal Property		$2,752,833	$2,163,050	$1,699,672	$1,322,001	$ 944,331	
Abatement Percentage		100%	100%	100%	100%	100%	
Taxing Jurisdiction	Tax Rate per $100	1	2	3	4	5	Total
State Blind Pension	0.0300	$ 826	$ 649	$ 510	$ 397	$ 283	$ 2,665
Jasper County	0.1195	3,290	2,585	2,031	1,580	1,128	10,614
Sheltered Workshop	0.0865	2,381	1,871	1,470	1,144	817	7,683
Mental Health	0.0865	2,381	1,871	1,470	1,144	817	7,683
R-VIII School District	3.6964	101,756	79,955	62,827	48,866	34,906	328,310
Joplin Road District	0.2270	6,249	4,910	3,858	3,001	2,144	20,162
	4.2459	$ 116,883	$ 91,841	$ 72,166	$ 56,131	$ 40,095	$ 377,116

$51,400,000
(AGGREGATE MAXIMUM PRINCIPAL AMOUNT)
CITY OF JOPLIN, MISSOURI
TAXABLE INDUSTRIAL DEVELOPMENT REVENUE BONDS
(HEARTHSTONE PROJECT)
SERIES 2019

DATED AS OF DECEMBER 1, 2019

BOND PURCHASE AGREEMENT

Mayor and City Council
Joplin, Missouri

Ladies and Gentlemen:

On the basis of the representations, and covenants and upon the terms and conditions contained in this Bond Purchase Agreement, Casey's Marketing Company, an Iowa corporation (the "Purchaser"), offers to purchase from the City of Joplin, Missouri (the "City"), the above-referenced series of Taxable Industrial Development Revenue Bonds (the "Bonds"), to be issued by the City, under and pursuant to Ordinance No. _____ passed by the governing body of the City on December ___, 2019 (the "Ordinance") and a Trust Indenture dated as of December 1, 2019 (the "Indenture"), by and between the City and UMB Bank, N.A., Kansas City, Missouri, as trustee (the "Trustee"). Capitalized terms not otherwise defined herein shall have the meanings set forth in **Section 101** of the Indenture.

SECTION 1. REPRESENTATIONS AND AGREEMENTS

(a) By the City's acceptance hereof, the City hereby represents to the Purchaser that:

(1) The City is a constitutional charter city and municipal corporation duly organized and validly existing under the laws of the State of Missouri. The City is authorized under Article VI, Section 27(b) of the Missouri Constitution and Sections 100.010 through 100.200 of the Revised Statutes of Missouri, as amended, and its Charter to authorize, issue and deliver the Bonds and to consummate all transactions contemplated by this Bond Purchase Agreement, the Ordinance, the Indenture, the Lease, the Performance Agreement and any and all other agreements relating thereto. The proceeds of the Bonds shall be used to finance the Project for Casey's Marketing Company, an Iowa corporation (the "Company"), and to pay for the costs incurred in connection with the issuance of the Bonds;

(2) There is no controversy, suit or other proceeding of any kind pending or threatened wherein or whereby any question is raised or may be raised, questioning, disputing or affecting in any way the legal organization of the City or its boundaries, or the right or title of any of its officers to their respective offices, or the legality of any official act leading up to the issuance of the Bonds or the constitutionality or validity of the obligation represented by the Bonds or the validity of the Bonds, the Ordinance, the Lease, the Indenture or the Performance Agreement; and

(3) Any certificate signed by an authorized representative of the City and delivered to the Purchaser shall be deemed a representation and warranty by the City to such party as to the statements made therein.

(b) The Purchaser represents as follows:

(1) The Purchaser is a corporation duly organized, validly existing and in good standing under the laws of the State of Iowa and is in good standing under the laws of and is qualified to do business in the State of Missouri;

(2) The execution, delivery and performance of this Bond Purchase Agreement by the Purchaser has been duly authorized by all necessary action of the Purchaser and does not and will not conflict with or result in the breach of any of the terms, conditions or provisions of, or constitute a default under, its organizational documents, any law, court or administrative regulation, decree or order applicable to or binding upon the Purchaser, or, to the best of its knowledge, any agreement, indenture, mortgage, lease or instrument to which the Purchaser is a party or by which it is bound;

(3) When executed and delivered by the Purchaser, this Bond Purchase Agreement will be, and is, a legal, valid and binding obligation, enforceable in accordance with its terms, subject, as to enforcement, to any applicable bankruptcy, reorganization, insolvency, moratorium or other laws affecting the enforcement of creditors' rights generally and further subject to the availability of equitable remedies; and

(4) Any certificate signed by an authorized officer or agent of the Purchaser and delivered to the City shall be deemed a representation and warranty by the Purchaser to such party as to the statements made therein.

SECTION 2. PURCHASE, SALE AND DELIVERY OF THE BONDS

On the basis of the representations and covenants contained herein and in the other agreements referred to herein, and subject to the terms and conditions herein set forth and in the Indenture, the Purchaser agrees to purchase from the City and the City agrees to sell to the Purchaser the Bonds on the terms and conditions set forth herein.

The Bonds shall be sold to the Purchaser by the City on the Closing Date (hereinafter defined) upon payment of an amount equal to the Closing Price (hereinafter defined) for the Bonds, which amount shall be applied as provided in the Indenture and shall thereafter on the Closing Date immediately be applied to the payment of Project Costs as provided in the Lease. From time to time after the Closing Date as additional Project Costs are incurred, the Purchaser may make additional payments with respect to the Bonds ("Additional Payments") to the Trustee, which Additional Payments shall constitute the purchase price for corresponding additional principal amounts of the Bonds, and shall be applied to the payment of Project Costs or as otherwise provided in the Indenture, and the outstanding principal amount of the Bonds shall increase by each such Additional Payment; provided that the sum of the Closing Price and all such Additional Payments for the Bonds shall not, in the aggregate, exceed $51,400,000.

As used herein, the term "Closing Date" shall mean _____ ___, 20___, or such other date as shall be mutually agreed upon by the City and the Purchaser; the term "Closing Price" shall mean, with respect to the Bonds, that certain amount specified in writing by the Purchaser and agreed to by the City in the Certificate as to Closing Price.

The Bonds shall be issued under and secured as provided in the Ordinance, the Indenture and the Lease authorized thereby and the Bonds shall have the maturity, interest rate and shall be subject to redemption as set forth therein. The delivery of the Bonds shall be made in definitive form as a fully registered bond in the maximum aggregate principal denomination of $51,400,000; provided, that the principal amount of the Bonds outstanding at any time shall be that amount recorded in the official bond registration records of the Trustee and further provided that interest shall be payable on the Bonds only on the outstanding principal amount of the Bonds, as more fully provided in the Indenture.

SECTION 3. CONDITIONS TO THE PURCHASER'S OBLIGATIONS

The Purchaser's obligations hereunder shall be subject to the due performance by the City of the City's obligations and agreements to be performed hereunder on or prior to the Closing Date and to the accuracy of and compliance with the City's representations contained herein, as of the date hereof and as of the Closing Date, and are also subject to the following conditions:

(a) There shall be delivered to the Purchaser on or prior to the Closing Date a duly executed copy of the Ordinance, the Indenture, the Performance Agreement, this Agreement and the Lease and any other instrument contemplated thereby shall be in full force and effect and shall not have been modified or changed except as may have been agreed to in writing by the Purchaser;

(b) The City shall confirm on the Closing Date by a certificate that at and as of the Closing Date the City has taken all action necessary to issue the Bonds and that there is no controversy, suit or other proceeding of any kind pending or threatened wherein any question is raised affecting in any way the legal organization of the City or the legality of any official act shown to have been done in the transcript of proceedings leading up to the issuance of the Bonds, or the constitutionality or validity of the indebtedness represented by the Bonds or the validity of the Bonds or any proceedings in relation to the issuance or sale thereof;

(c) The Company shall execute a certificate, dated the Closing Date, to the effect that (i) no litigation, proceeding or investigation is pending against the Company or its affiliates or, to the knowledge of the Company, threatened which would (A) contest, affect, restrain or enjoin the issuance, validity, execution, delivery or performance of the Bonds, or (B) in any way contest the existence or powers of the Company, (ii) no litigation, proceeding or investigation is pending or, to the knowledge of the Company, threatened against the Company that could reasonably be expected to adversely affect its ability to perform its obligations hereunder, (iii) the representations and warranties of the Company herein were and are true and correct in all material respects and not misleading as of the date made and as of the Closing Date, and (iv) such other matters as are reasonably requested by the other parties in connection with the issuance of the Bonds; and

(d) Receipt by the Purchaser and the Company of an approving opinion from Gilmore & Bell, P.C., in form and substance satisfactory to the Purchaser and the Company.

SECTION 4. THE PURCHASER'S RIGHT TO CANCEL

The Purchaser shall have the right to cancel its obligation hereunder to purchase the Bonds by notifying the City in writing of its election to make such cancellation at any time prior to the Closing Date.

SECTION 5. CONDITIONS OF OBLIGATIONS

The obligations of the parties hereto are subject to the receipt of the approving opinion of Gilmore & Bell, P.C., Bond Counsel, with respect to the validity of the authorization and issuance of the Bonds.

SECTION 6. REPRESENTATIONS AND AGREEMENTS TO SURVIVE DELIVERY

All of the representations and agreements by either party shall remain operative and in full force and effect, and shall survive delivery of the Bonds to the Purchaser.

SECTION 7. PAYMENT OF EXPENSES

The Company shall pay all reasonable expenses and costs to effect the authorization, preparation, issuance, delivery and sale of the Bonds. To the best of the City's knowledge and belief, the only expenses payable by the Company in connection with the issuance of the Bonds (other than fees of the Company's counsel and advisors) are the following: (1) the legal fees of Gilmore & Bell, P.C., (2) recording costs of the memoranda of certain documents executed in connection with the transaction, (3) costs of publication of the notice of bond sale, and (4) the Trustee's initial acceptance fee and first year's administrative fee.

SECTION 8. NOTICE

Any notice or other communication to be given under this Agreement may be given by mailing or delivering the same in writing to the appropriate party or parties at the addresses for notice set out in the Indenture.

SECTION 9. APPLICABLE LAW; ASSIGNABILITY

This Bond Purchase Agreement shall be governed by the laws of the State of Missouri and may be assigned by the Purchaser with the written consent of the City, which consent shall not be unreasonably withheld, conditioned or delayed.

SECTION 10. EXECUTION OF COUNTERPARTS

This Bond Purchase Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same document.

[remainder of page intentionally left blank]

Executed as of the date first written above

Very truly yours,

CASEY'S MARKETING COMPANY,
an Iowa corporation,
as Purchaser

By: _____
Name:
Title:

Accepted and Agreed to as of the date first written above.

CASEY'S MARKETING COMPANY,
an Iowa corporation,
as Company

By: _____
Name:
Title:

Accepted and Agreed to as of the date first written above.

CITY OF JOPLIN, MISSOURI

By: _____
Name: Gary Shaw
Title: Mayor

[SEAL]

ATTEST:

By: _____
Name: Barbara Gollhofer
Title: City Clerk

Approved as to form:

_____
City Attorney

CITY OF JOPLIN, MISSOURI,
the City

AND

UMB BANK, N.A.,
as Trustee

TRUST INDENTURE

Dated as of December 1, 2019

Relating to:

$51,400,000
(Aggregate Maximum Principal Amount)
City of Joplin, Missouri
Taxable Industrial Development Revenue Bonds
(Hearthstone Project)
Series 2019

TRUST INDENTURE

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TRUST INDENTURE

THIS TRUST INDENTURE dated as of December 1, 2019 (the "Indenture"), is between the **CITY OF JOPLIN, MISSOURI**, a constitutional charter city and municipal corporation duly organized and existing under the laws of the State of Missouri (the "City"), and **UMB BANK, N.A.**, a national banking association duly organized and existing and authorized to accept and execute trusts of the character herein set forth under the laws of the United States of America, with a corporate trust office located in Kansas City, Missouri, as Trustee (the "Trustee");

RECITALS:

1. The City is authorized and empowered pursuant to the provisions of Article VI, Section 27(b) of the Missouri Constitution and Sections 100.010 through 100.200, inclusive, of the Revised Statutes of Missouri, as amended (collectively, the "Act"), to purchase, construct, extend, improve and equip certain "projects" (as defined in the Act) and to issue industrial development revenue bonds for the purpose of providing funds to pay the costs of such projects and to lease or otherwise dispose of such projects to private persons or businesses for manufacturing, commercial, research and development, warehousing and industrial development purposes upon such terms and conditions as the City shall deem advisable.

2. Pursuant to the Act, the City Council passed an ordinance (the "Ordinance") on December ___, 2019, authorizing the City to issue its Taxable Industrial Development Revenue Bonds (Hearthstone Project), Series 2019, in the maximum principal amount of $51,400,000 (the "Bonds"), for the purpose of acquiring, constructing, improving, purchasing, equipping and installing a warehouse and distribution facility on approximately 40 acres of land located at 2715 Prosperity Road in the City (the "Project Site," as more fully described on **Exhibit A** hereto), including such land and the associated buildings, structures and fixtures (the "Project Improvements," as more fully described on **Exhibit B** hereto) and equipment (the "Project Equipment," as more fully described on **Exhibit B** hereto, the Project Site, the Project Improvements, and the Project Equipment collectively being the "Project").

3. The Ordinance authorizes the City to lease the Project to Casey's Marketing Company, an Iowa corporation (the "Company").

4. Pursuant to the Ordinance, the City is authorized to execute and deliver (a) this Indenture for the purpose of issuing and securing the Bonds, (b) the Lease Agreement of even date herewith (the "Lease") with the Company, under which the City, as lessor, will, or will cause the Company to, construct, improve, purchase and install the Project and will lease the Project to the Company, as lessee, in consideration of rentals that will be sufficient to pay the principal of and interest on the Bonds, and (c) the Performance Agreement for the purpose of setting forth the terms and conditions of the Project's exemption from ad valorem real property taxes and certain payments in lieu of taxes to be made by the Company with respect to the Project.

5. All things necessary to make the Bonds, when authenticated by the Trustee and issued as provided in this Indenture, the valid and legally binding obligations of the City, and to constitute this Indenture a valid and legally binding pledge and assignment of the Trust Estate (defined herein) herein made for the security of the payment of the principal of and interest on the Bonds, have been done and performed, and the execution and delivery of this Indenture and the execution and issuance of the Bonds, subject to the terms hereof, have in all respects been duly authorized.

NOW, THEREFORE, THIS TRUST INDENTURE WITNESSETH:

GRANTING CLAUSES

That the City, in consideration of the premises, the acceptance by the Trustee of the trusts hereby created, the purchase and acceptance of the Bonds by the Owners (defined herein) thereof, and of other good and valuable consideration, the receipt of which is hereby acknowledged, and in order to secure the payment of the principal of and interest on all of the Bonds issued and Outstanding under this Indenture from time to time according to their tenor and effect, and to secure the performance and observance by the City of all the covenants, agreements and conditions herein and in the Lease (including but not limited to the purchase option described in the Lease) and in the Bonds contained, does hereby pledge and assign to the Trustee and its successors and assigns until this Indenture has been satisfied and discharged, the property described in paragraphs (a), (b) and (c) below (said property being herein referred to as the "Trust Estate"), to-wit:

(a) All right, title and interest of the City in and to the Project together with the tenements, hereditaments, appurtenances, rights, easements, privileges and immunities thereunto belonging or appertaining and, to the extent permissible, all permits, certificates, approvals and authorizations;

(b) All right, title and interest of the City in, to and under the Lease (excluding the Unassigned Rights), and all rents, revenues and receipts derived by the City from the Project including, without limitation, all rentals and other amounts to be received by the City and paid by the Company under and pursuant to and subject to the provisions of the Lease; and

(c) All moneys and securities from time to time held by or now or hereafter required to be paid to the Trustee under the terms of this Indenture, and any and all other real or personal property of every kind and nature from time to time hereafter, by delivery or by writing of any kind, pledged, assigned or transferred as and for additional security hereunder by the City or by anyone in its behalf, or with its written consent, to the Trustee, which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof.

TO HAVE AND TO HOLD, all and singular, the Trust Estate with all rights and privileges hereby pledged and assigned or agreed or intended so to be, to the Trustee and its successors and assigns forever;

IN TRUST NEVERTHELESS, upon the terms and subject to the conditions herein set forth, for the equal and proportionate benefit, protection and security of all Owners from time to time of the Bonds Outstanding under this Indenture, without preference, priority or distinction as to lien or otherwise of any of the Bonds over any other of the Bonds except as expressly provided in or permitted by this Indenture;

PROVIDED, HOWEVER, that if the City pays, or causes to be paid, the principal of and interest on the Bonds, at the time and in the manner mentioned in the Bonds, according to the true intent and meaning thereof, or provides for the payment thereof (as provided in **Article XIII** hereof), and pays or causes to be paid to the Trustee all other sums of money due or to become due to it in accordance with the terms and provisions hereof, then upon such final payments this Indenture and the rights hereby granted shall cease, determine and be void; otherwise, this Indenture shall be and remain in full force and effect.

THIS INDENTURE FURTHER WITNESSETH, and it is hereby expressly declared, covenanted and agreed by and between the parties hereto, that all Bonds issued and secured hereunder are to be issued, authenticated and delivered and that all the Trust Estate is to be held and applied under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed, and the City does hereby agree and covenant with the Trustee and with the respective Owners from time to time, as follows:

ARTICLE I

DEFINITIONS

Section 101. Definitions of Words and Terms. In addition to words and terms defined in the Lease, which definitions shall be deemed to be incorporated herein, and terms defined elsewhere in this Indenture, the following words and terms as used in this Indenture shall have the following meanings, unless some other meaning is plainly intended:

"Act" means, collectively, Article VI, Section 27(b) of the Missouri Constitution, as amended, and Sections 100.010 through 100.200 of the Revised Statutes of Missouri, as amended.

"Additional Rent" means the additional rental described in **Sections 5.2** and **6.2** of the Lease.

"Approved Investor" means (i) the Company, its successor and assigns, including but not limited to any entity receiving an assignment of the Lease as permitted pursuant to **Section 10.7** of the Lease, (ii) a "qualified institutional buyer" under Rule 144A promulgated under the Securities Act of 1933, or (iii) any general business corporation or enterprise with total assets in excess of $100,000,000.

"Authorized City Representative" means the Mayor, City Manager, Finance Director, City Clerk or such other person at the time designated to act on behalf of the City as evidenced by written certificate furnished to the Company and the Trustee containing the specimen signature of such person and signed on behalf of the City by its Mayor. Such certificate may designate an alternate or alternates each of whom shall be entitled to perform all duties of the Authorized City Representative.

"Authorized Company Representative" means the Person at the time designated to act on behalf of the Company as evidenced by written certificate furnished to the City and the Trustee containing the specimen signature of such Person and signed on behalf of the Company by an authorized officer of the Company. Such certificate may designate an alternate or alternates, each of whom shall be entitled to perform all duties of the Authorized Company Representative.

"Basic Rent" means the rental described in **Section 5.1** of the Lease.

"Bond" or **"Bonds"** means the Taxable Industrial Development Revenue Bonds (Hearthstone Project), Series 2019, in the maximum aggregate principal amount of $51,400,000, issued, authenticated and delivered under and pursuant to this Indenture.

"Bond Fund" means the "City of Joplin, Missouri, Bond Fund -- Hearthstone Project" created in **Section 501** of this Indenture.

"Bond Purchase Agreement" means the agreement by that name with respect to the Bonds, dated as of December 1, 2019, by and between the City and the Purchaser.

"Business Day" means any day other than a Saturday or Sunday or legal holiday or a day on which banks located in the city in which the principal corporate trust office or the principal payment office of the Trustee are required or authorized by law to remain closed.

"City" means the City of Joplin, Missouri, a constitutional charter city and municipal corporation duly organized and existing under the laws of the State of Missouri, and its successors and assigns.

"Closing Date" means the date identified in the Bond Purchase Agreement for the initial issuance and delivery of the Bonds.

"Closing Price" means the amount specified in writing by the Purchaser and agreed to by the City as the amount required to pay for the initial issuance of the Bonds on the Closing Date, which amount shall be equal to any Project Costs spent by the Company from its own funds before the Closing Date plus the costs of issuing the Bonds.

"Company" means Casey's Marketing Company, an Iowa corporation, and its successors or assigns.

"Completion Date" means the date of execution of the certificate required pursuant to **Section 4.5** of the Lease and **Section 504** hereof.

"Costs of Issuance Fund" means the "City of Joplin, Missouri, Costs of Issuance Fund -- Hearthstone Project" created in **Section 501** hereof.

"Cumulative Outstanding Principal Amount" means the aggregate principal amount of all Bonds Outstanding under the provisions of this Indenture, not to exceed $51,400,000, as reflected in the records maintained by the Trustee as provided in the Bonds and in this Indenture.

"Event of Default" means, with respect to this Indenture, any Event of Default as defined in **Section 901** hereof and, with respect to the Lease, any Event of Default as described in **Section 12.1** of the Lease.

"Financing Document" means any loan agreement, credit agreement, promissory note, security agreement, financing statement, mortgage, deed of trust, letter of credit, participation agreement, lease agreement, sublease, ground lease, hedging agreement or other document executed by or on behalf of, or for the benefit of, a Financing Party, and all amendments, modifications, restatements, extensions and renewals thereof.

"Financing Party" means any Person providing debt, lease or equity financing (including equity contributions or commitments) or hedging arrangements, or any renewal, extension or refinancing of any such financing or hedging arrangements, or any guarantee, insurance, letters of credit or credit support for or in connection with such financing or hedging arrangements, in connection with the ownership, lease, operation or maintenance of the Project or interests or rights in the Lease, or any part thereof, including any trustee or agent acting on any such Person's behalf.

"Government Securities" means direct obligations of, or obligations the payment of principal of and interest on which are unconditionally guaranteed by, the United States of America.

"Indenture" means this Trust Indenture, as from time to time amended and supplemented by Supplemental Indentures in accordance with the provisions of **Article XI** hereof.

"Investment Securities" means any of the following securities:

(a) Government Securities;

(b) obligations of the Government National Mortgage Association, the Federal Financing Bank, the Federal Intermediate Credit Corporation, Federal Banks for Cooperatives, Federal Land Banks, Federal Home Loan Banks, Farmers Home Administration and Federal Home Loan Mortgage Corporation;

(c) direct and general obligations of any state of the United States of America, to the payment of the principal of and interest on which the full faith and credit of such state is pledged, provided that at the time of their purchase under this Indenture such obligations are rated in either of the two highest rating categories by a nationally-recognized bond rating agency;

(d) certificates of deposit, whether negotiable or nonnegotiable, issued by any bank or trust company organized under the laws of any state of the United States of America or any national banking association (including the Trustee or any of its affiliates), provided that such certificates of deposit shall be either (1) continuously and fully insured by the Federal Deposit Insurance Corporation, or (2) continuously and fully secured by such securities as are described above in clauses (a) through (c), inclusive, which shall have a market value at all times at least equal to the principal amount of such certificates of deposit and shall be deposited with the Trustee or a custodian bank, trust company or national banking association. The bank, trust company or national banking association holding each such certificate of deposit required to be so secured shall furnish the Trustee written evidence satisfactory to it that the aggregate market value of all such obligations securing each such certificate of deposit will at all times be an amount at least equal to the principal amount of each such certificate of deposit and the Trustee shall be entitled to rely on each such undertaking;

(e) shares of a fund registered under the Investment Company Act of 1940, as amended, whose shares are registered under the Securities Act of 1933, as amended, having assets of at least $100,000,000, and which shares, at the time of purchase, are rated by S&P and Moody's in one of the two highest rating categories (without regard to any refinements or gradation of rating category by numerical modifier or otherwise) assigned by such rating agencies for obligations of that nature; or

(f) any other investment approved in writing by the Authorized City Representative and the Owners of all of the Outstanding Bonds.

"Lease" means the Lease Agreement dated as of December 1, 2019, between the City, as lessor, and the Company, as lessee, as from time to time amended and supplemented by Supplemental Leases in accordance with the provisions thereof and of **Article XII** of this Indenture.

"Lease Term" means the period from the effective date of the Lease until the expiration thereof pursuant to **Section 3.2** of the Lease.

"Leasehold Security Agreement" means any leasehold security agreement, leasehold deed of trust, assignment of rents and leases, security agreement or other agreement relating to the Project permitted pursuant to the provisions of **Section 10.4** of the Lease.

"Moody's" means Moody's Investors Service, Inc., its successors and assigns, and, if such corporation is dissolved or liquidated or no longer performs the functions of a securities rating agency, "Moody's" will be deemed to refer to any other nationally recognized securities rating agency designated by the Authorized Company Representative.

"Outstanding" means, when used with reference to Bonds, as of a particular date, all Bonds theretofore authenticated and delivered, except:

(a) Bonds subsequently cancelled by the Trustee or delivered to the Trustee for cancellation;

(b) Bonds deemed to be paid in accordance with the provisions of **Section 1302** hereof; and

(c) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered pursuant to this Indenture.

"Owner" or **"Bondowner"** means the registered owner of any Bond as recorded on the bond registration records maintained by the Trustee.

"Paying Agent" means the Trustee and any other bank or trust company designated by this Indenture as paying agent for the Bonds at which the principal of or interest on the Bonds shall be payable.

"Payment Date" means the date on which principal or interest on any Bond, whether at the stated maturity thereof or the redemption date thereof, is payable, which shall be December 1 of each year that the Bonds are Outstanding.

"Performance Agreement" means the Performance Agreement dated as of December 1, 2019, between the City and the Company, as amended and supplemented from time to time.

"Permitted Encumbrances" means, as of any particular time (a) liens for ad valorem taxes, special assessments and other governmental charges not then delinquent, or which are being contested in good faith in accordance with the Lease, (b) the Indenture, the Lease and the Performance Agreement, (c) liens or security interests granted pursuant to any Leasehold Security Agreement or any Financing Documents, all as now existing or hereafter granted pursuant to the Financing Documents, including any subsequent or additional security instruments relating to any future financings or refinancings, (d) such exceptions to title set forth in the title report included in the transcript of proceedings relating to the Bonds, and (e) any sublease, license or easement agreement between the Company and a third party allowing the use by such party of portions of the Project Site that are not occupied by the Project Improvements or the Project Equipment, so long as such use does not impair the use or operation of the Project.

"Person" means an individual, partnership, corporation, business trust, joint stock company, limited liability company, bank, insurance company, unincorporated association, joint venture or other entity of whatever nature.

"Project" means the Project Site, the Project Improvements and the Project Equipment as they may at any time exist, and all additions (and taking into account any subtractions), modifications, improvements, replacements and substitutions made to the Project pursuant to the Lease as they may exist from time to time.

"Project Costs" means all costs of purchasing, constructing, extending, improving and equipping the Project, including the following:

(a) all costs and expenses necessary or incident to the acquisition of the Project Site, the construction, extension and improvement of the Project Improvements located on the Project Site, and the acquisition and installation of the Project Equipment;

(b) fees and expenses of architects, appraisers, surveyors, consultants and engineers for estimates, surveys, soil borings and soil tests and other preliminary investigations and items necessary to the commencement of acquisition, purchase, construction, improvement and equipping, preparation of plans, drawings and specifications and supervision of construction and renovation, as well as for the performance of all other duties of architects, appraisers, surveyors and engineers in relation to the acquisition, purchase, construction, improvement and equipping of the Project or the issuance of the Bonds;

(c) all costs and expenses of every nature incurred in connection with the acquisition, purchase, construction and improvement of the Project Improvements and otherwise improving the Project Site and purchasing and installing the Project Equipment, including the actual cost of labor, materials, machinery, furnishings and equipment as payable to contractors, builders and materialmen in connection with the acquisition, purchase, construction, improvement and equipping of the Project;

(d) interest accruing on the Bonds during the construction period of the Project;

(e) the cost of title insurance reports, if any, and the cost of any other insurance maintained during the construction period in accordance with **Article VII** of the Lease;

(f) reasonable expenses of administration, supervision and inspection properly chargeable to the Project, legal fees and expenses, fees and expenses of accountants and other consultants, publication and printing expenses, and initial fees and expenses of the Trustee to the extent that said fees and expenses are necessary or incident to the issuance and sale of the Bonds or the construction and improvement of the Project;

(g) all other items of expense not elsewhere specified in this definition as may be necessary or incident to: (1) the authorization, issuance and sale of the Bonds, including costs of issuance of the Bonds; (2) the construction, improvement and equipping of the Project; and (3) the financing thereof; and

(h) reimbursement to the Company or those acting for it for any of the above enumerated costs and expenses incurred and paid by them before or after the execution of the Lease.

"Project Equipment" means the personal property to be purchased, constructed, installed and otherwise improved or located on the Project Site pursuant to **Article IV** of the Lease and paid for in whole or in part from the proceeds of Bonds, as described in **Exhibit B** attached hereto, and all additions (and taking into account any subtractions), alterations, modifications and improvements thereof made pursuant to the Lease.

"Project Fund" means the "City of Joplin, Missouri, Project Fund -- Hearthstone Project" created in **Section 501** hereof.

"Project Improvements" means the buildings, structures, improvements and fixtures to be purchased, constructed, installed and otherwise improved or located on the Project Site pursuant to **Article IV** of the Lease and paid for in whole or in part from the proceeds of Bonds, as described in **Exhibit B** attached hereto, and all additions, alterations, modifications and improvements thereof made pursuant to the Lease.

"Project Site" means all of the real estate as described in **Exhibit A** attached hereto and by this reference made a part hereof, including any existing improvements thereon.

"Purchaser" means the entity identified in the Bond Purchase Agreement as the purchaser of the Bonds.

"S&P" means Standard & Poor's Ratings Services, a division of McGraw Hill Financial, Inc., its successors and assigns, and if such corporation is dissolved or liquidated or no longer performs the functions of a securities rating agency, "S&P" will be deemed to refer to any other nationally recognized securities rating agency designated by the Authorized Company Representative.

"State" means the State of Missouri.

"Supplemental Indenture" means any indenture supplemental or amendatory to this Indenture entered into by the City and the Trustee pursuant to **Article XI** hereof.

"Supplemental Lease" means any supplement or amendment to the Lease entered into pursuant to **Article XII** hereof.

"Trust Estate" means the Trust Estate described in the Granting Clauses of this Indenture.

"Trustee" means UMB Bank, N.A., a national banking association duly organized and existing and authorized to accept and execute trusts of the character herein set forth under the laws of the United States of America, and its successor or successors and any other corporation which at the time may be substituted in its place pursuant to and at the time serving as Trustee under this Indenture.

"Unassigned Rights" means the City's rights under the Lease to receive moneys for its own account and the City's rights to indemnification or to be protected from liabilities by insurance policies required by the Lease, as provided in the Lease.

Section 102. Rules of Interpretation.

(a) Unless the context shall otherwise indicate, the words importing the singular number shall include the plural and vice versa, and words importing Persons shall include firms, associations and corporations, including public bodies, as well as natural Persons.

(b) Wherever in this Indenture it is provided that either party shall or will make any payment or perform or refrain from performing any act or obligation, each such provision shall, even though not so expressed, be construed as an express covenant to make such payment or to perform, or not to perform, as the case may be, such act or obligation.

(c) All references in this instrument to designated "Articles," "Sections" and other subdivisions are, unless otherwise specified, to the designated Articles, Sections and subdivisions of this instrument as originally executed. The words "herein," "hereof," "hereunder" and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or subdivision.

(d) Whenever an item or items are listed after the word "including", such listing is not intended to be a listing that excludes items not listed.

(e) The Table of Contents and the Article and Section headings of this Indenture shall not be treated as a part of this Indenture or as affecting the true meaning of the provisions hereof.

ARTICLE II

THE BONDS

Section 201. Title and Amount of Bonds. No Bonds may be issued under this Indenture except in accordance with the provisions of this Article. The Bonds authorized to be issued under this Indenture shall be designated as "City of Joplin, Missouri, Taxable Industrial Development Revenue Bonds (Hearthstone Project), Series 2019." The maximum total principal amount of Bonds that may be issued hereunder is hereby expressly limited to $51,400,000.

Section 202. Nature of Obligation. The Bonds and the interest thereon shall be special obligations of the City payable solely out of the rents, revenues and receipts derived by the City from the Project and the Lease, and not from any other fund or source of the City. The Bonds are secured by a pledge and assignment of the Trust Estate to the Trustee in favor of the Owners, as provided in this Indenture. The Bonds and the interest thereon shall not constitute general obligations of the City, the State or any political subdivision thereof, and neither the City, the State or related political subdivision thereof shall be liable thereon, and the Bonds shall not constitute an indebtedness within the meaning of any constitutional, charter or statutory debt limitation or restriction, and are not payable in any manner by taxation.

Section 203. Denomination, Number and Dating of the Bonds.

(a) The Bonds shall be issuable in the form of one fully-registered Bond, in substantially the form set forth in **Exhibit C** hereto, in the denomination of $0.01 or any multiple thereof.

(b) The Bonds shall be dated by the Trustee as of the date of initial delivery thereof as provided herein. If the Bonds are at any time thereafter transferred, any replacement Bonds shall be dated as of the date of authentication thereof.

Section 204. Method and Place of Payment of Bonds.

(a) The principal of and interest on the Bonds shall be payable in any coin or currency of the United States of America which on the respective dates of payment thereof is legal tender for payment of public and private debts.

(b) Payment of the principal of the Bonds shall be made upon the presentation and surrender of such Bonds at the principal payment office of any Paying Agent named in the Bonds. The payment of principal on the Bonds shall be noted on the Bonds on **Schedule I** thereto and the registration books maintained by the Trustee pursuant to **Section 206** hereof. Payment of the interest on the Bonds shall be made by the Trustee on each Payment Date to the Person appearing on the registration books of the Trustee hereinafter provided for as the Owner thereof on the fifteenth day (whether or not a Business Day) of the calendar month next preceding such Payment Date by check or draft mailed to such Owner at such Owner's address as it appears on such registration books.

(c) The Bonds and the original **Schedule I** thereto shall be held by the Trustee in trust, unless otherwise directed in writing by the Owner. If the Bonds are held by the Trustee, the Trustee shall, on each Payment Date, send a revised copy of **Schedule I** via facsimile or other electronic means to the Owner, the Company (if not the Owner) and the City. Absent manifest error, the amounts shown on **Schedule I** as noted by the Trustee shall be conclusive evidence of the principal amount paid on the Bonds.

(d) If there is one Owner of the Bonds, the Trustee is authorized to make the final or any interim payments of principal on such Bonds by internal bank transfer or by electronic transfer to an account at a commercial bank or savings institution designated in writing by such Owner and located in the continental United States. The Trustee is also authorized to make interest payments on such Bonds by internal bank transfer or by electronic transfer to an account at a commercial bank or savings institution designated by such Owner and located in the continental United States.

(e) If the Company is the sole Owner of the Bonds, then the Company may set-off (by book entry or other reasonable means) its obligation to the City as lessee under the Lease against the City's obligations to the Company as the bondholder under this Indenture. The Trustee may conclusively rely on the absence of any notice from the Company to the contrary as evidence that such set-off has occurred. On the final Payment Date, the Company may deliver to the Trustee for cancellation the Bonds and the Company shall receive a credit against the Basic Rent payable by the Company under **Section 5.1** of the Lease in an amount equal to the remaining principal on the Bond so tendered for cancellation plus accrued interest thereon.

Section 205. Execution and Authentication of Bonds.

(a) The Bonds shall be executed on behalf of the City by the manual or facsimile signature of its Mayor and attested by the manual or facsimile signature of the City Clerk, and shall have the corporate seal of the City affixed thereto or imprinted thereon. If any officer whose signature or facsimile thereof appears on the Bonds ceases to be such officer before the delivery of such Bond, such signature or facsimile thereof shall nevertheless be valid and sufficient for all purposes, the same as if such Person had remained in office until delivery. Any Bond may be signed by such Persons as at the actual time of the execution of such Bond are the proper officers to sign such Bond although at the date of such Bond such Persons may not have been such officers.

(b) The Bonds shall have endorsed thereon a Certificate of Authentication substantially in the form set forth in **Exhibit C** hereof, which shall be manually executed by the Trustee. No Bond shall be entitled to any security or benefit under this Indenture or shall be valid or obligatory for any purposes until such Certificate of Authentication has been duly executed by the Trustee. The executed Certificate of Authentication upon any Bond shall be conclusive evidence that such Bond has been duly authenticated and delivered under this Indenture. The Certificate of Authentication on any Bond shall be deemed to have been duly executed if signed by any authorized signatory of the Trustee.

Section 206. Registration, Transfer and Exchange of Bonds.

(a) The Trustee shall keep books for the registration and for the transfer of Bonds as provided in this Indenture.

(b) The Bonds may be transferred to an Approved Investor only upon the books kept for the registration and transfer of Bonds upon surrender thereof to the Trustee duly endorsed for transfer or accompanied by an assignment duly executed by the Owner or such Owner's attorney or legal representative in such form as shall be satisfactory to the Trustee. In connection with any such transfer of the Bonds, the City and the Trustee shall receive an executed representation letter signed by the proposed assignee in substantially the form of **Exhibit D** hereto. Upon any such transfer, the City shall execute and the Trustee shall authenticate and deliver in exchange for such Bond a new fully registered Bond or Bonds, registered in the name of the transferee, of any denomination or denominations authorized by this Indenture, in an aggregate principal amount equal to the Outstanding principal amount of such Bond, of the same maturity and bearing interest at the same rate.

(c) In all cases in which Bonds are exchanged or transferred hereunder the provisions of any legend restrictions on the Bonds shall be complied with and the City shall execute and the Trustee shall authenticate and deliver at the earliest practicable time Bonds in accordance with the provisions of this Indenture. All Bonds surrendered in any such exchange or transfer shall forthwith be cancelled by the Trustee. The City or the Trustee may make a reasonable charge for every such exchange or transfer of Bonds sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer, and such charge shall be paid before any such new Bond shall be delivered. Neither the City nor the Trustee shall be required to make any such exchange or transfer of Bonds during the 15 days immediately preceding a Payment Date on the Bonds or, in the case of any proposed redemption of Bonds, during the 15 days immediately preceding the selection of Bonds for such redemption or after such Bonds or any portion thereof has been selected for redemption.

(d) If any Owner fails to provide a certified taxpayer identification number to the Trustee, the Trustee may make a charge against such Owner sufficient to pay any governmental charge required to be

paid as a result of such failure, which amount may be deducted by the Trustee from amounts otherwise payable to such Owner under such Owner's Bond.

Section 207. Persons Deemed Owners of Bonds. As to any Bond, the Person in whose name the same is registered as shown on the bond registration books required by **Section 206** hereof shall be deemed and regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and interest on any such Bond shall be made only to or upon the order of the Owner thereof or a legal representative thereof. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond, including the interest thereon, to the extent of the sum or sums so paid.

Section 208. Authorization of the Bonds.

(a) The Bonds are authorized in the aggregate maximum principal amount of $51,400,000 for the purpose of providing funds to pay the costs of the Project, which Bonds shall be designated "City of Joplin, Missouri, Taxable Industrial Development Revenue Bonds (Hearthstone Project), Series 2019." The Bonds shall be dated as provided in **Section 203(b)** hereof, shall become due on **December 1, 2033** (subject to prior redemption as provided in **Article III** hereof) and shall bear interest as specified in **Section 208(f)** hereof, payable on the dates specified in **Section 208(f)** hereof.

(b) The Trustee is hereby designated as the Paying Agent. The Owners of a majority of Bonds then Outstanding may designate a different Paying Agent upon written notice to the City and the Trustee.

(c) The Bonds shall be executed without material variance from the form and in the manner set forth in **Exhibit C** hereto and delivered to the Trustee for authentication. Prior to or simultaneously with the authentication and delivery of the Bonds by the Trustee, there shall be filed with the Trustee the following:

(1) An original or certified copy of the ordinance passed by the City Council authorizing the issuance of the Bonds and the execution of this Indenture, the Performance Agreement, the Bond Purchase Agreement and the Lease;

(2) Original executed counterparts of this Indenture, the Lease, the Performance Agreement and the Bond Purchase Agreement;

(3) A representation letter from the Purchaser in substantially the form attached as **Exhibit D** hereto;

(4) A request and authorization to the Trustee on behalf of the City, executed by the Authorized City Representative, to authenticate the Bonds and deliver the same to or at the direction of the Purchaser upon payment to the Trustee, for the account of the City, of the purchase price thereof specified in the Bond Purchase Agreement. The Trustee shall be entitled to conclusively rely upon such request and authorization as to names of the purchaser and the amount of such purchase price;

(5) An opinion of counsel nationally recognized on the subject of municipal bonds to the effect that the Bonds constitute valid and legally binding limited and special revenue obligations of the City; and

(6) Such other certificates, statements, receipts, opinions and documents as the Trustee shall reasonably require for the delivery of the Bonds.

(d) When the documents specified in subsection (c) of this Section have been filed with the Trustee, and when the Bonds have been executed and authenticated as required by this Indenture, either:

(1) The Purchaser shall pay the Closing Price to the Trustee, and the Trustee shall endorse the Bonds in an amount equal to the Closing Price and then either hold the Bonds in trust or if so directed in writing deliver the Bonds to or upon the order of the Purchaser; or

(2) The Company shall submit a requisition certificate in accordance with **Section 4.4** of the Lease, in an amount equal to the Closing Price, and the Trustee shall authenticate and endorse the Bonds in an amount equal to the Closing Price and then either hold the Bonds in trust or if so directed in writing deliver the Bonds to the Company (or another purchaser designated by the Company).

In either case, the Purchaser shall be deemed to have paid over to the Trustee, and the Trustee shall be deemed to have deposited into the Project Fund, an amount equal to the Closing Price.

(e) Following the initial issuance and delivery of the Bonds, the Company may submit additional requisition certificates in accordance with **Section 4.4** of the Lease, and the Trustee shall, based solely of the amount set forth in the requisition, endorse the Bonds in an amount equal to the amount set forth in each requisition certificate. The date of endorsement of each Principal Amount Advanced (as defined in subsection (g) below) as set forth on **Schedule I** to the Bonds shall be the date of the City's approval of each requisition certificate. The Company shall be deemed to have paid over to the Trustee, and the Trustee shall be deemed to have deposited into the Project Fund, an amount equal to the amount of such requisition. The Trustee shall, at the time of each endorsement, send revised **Schedule I** to the Bonds via facsimile or electronic mail to the Purchaser and the Company (if not the sole Owner of the Bonds) and the City. The Trustee shall keep a record of the total requisitions submitted by the Company for the Project, and shall notify the Company and the City in writing if the requisitions submitted exceed the maximum principal amount of the Bonds.

(f) The Bonds shall bear interest at the rate of 5.00% per annum on the Cumulative Outstanding Principal Amount of the Bonds. Such interest shall be payable in arrears on each December 1, commencing on December 1, 2020, and continuing thereafter until the Cumulative Outstanding Principal Amount is paid in full; provided that the aggregate maximum principal amount shall not exceed $51,400,000 and further provided that the Bonds shall be paid in full no later than **December 1, 2033**. Interest shall be calculated on the basis of a year of 360 days consisting of twelve months of 30 days each.

(g) The Trustee shall keep and maintain a record of the amount deposited or deemed to be deposited into the Project Fund pursuant to the terms of this Indenture as "Principal Amount Advanced" and shall enter the aggregate principal amount of the Bonds then Outstanding on its records as the "Cumulative Outstanding Principal Amount." On each date upon which a portion of the Cumulative Outstanding Principal Amount is paid to the Owners, pursuant to the redemption provisions of this Indenture, the Trustee shall enter on its records the principal amount paid on the Bonds as "Principal Amount Redeemed," and shall enter the then Outstanding principal amount of the Bonds as "Cumulative Outstanding Principal Amount." The records maintained by the Trustee as to amounts deposited into the Project Fund or principal amounts paid on the Bonds shall be the official records of the Cumulative Outstanding Principal Amount for all purposes, absent manifest error, and shall be in substantially the

form of the Table of Cumulative Outstanding Principal Amount as set out in the form of Bonds in **Exhibit C** hereto. If any moneys are deposited by the Trustee into the Project Fund, then the Trustee shall provide a statement of receipts and disbursements with respect thereto to the City and the Company on a monthly basis. After the Project has been completed and the certificate of payment of all costs is filed as provided in **Section 504** hereof, the Trustee, to the extent it has not already done so pursuant to this Section or **Section 1012** hereof, shall file a final statement of receipts and disbursements with respect thereto with the City and the Company.

Section 209. Mutilated, Lost, Stolen or Destroyed Bonds. If any Bond becomes mutilated, or is lost, stolen or destroyed, the City shall execute and the Trustee shall authenticate and deliver a new Bond of like series, date and tenor as the Bond mutilated lost, stolen or destroyed; provided that, in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Trustee, and in the case of any lost, stolen or destroyed Bond, there shall be first furnished to the City and the Trustee evidence of such loss, theft or destruction satisfactory to the Trustee, together with indemnity satisfactory to the Trustee to save each of the City and the Trustee harmless. If any such Bond has matured, instead of delivering a substitute Bond, the Trustee may pay the same without surrender thereof. Upon the issuance of any substitute Bond, the City and the Trustee may require the payment of an amount sufficient to reimburse the City and the Trustee for any tax or other governmental charge that may be imposed in relation thereto and any other reasonable fees and expenses incurred in connection therewith.

Section 210. Cancellation and Destruction of Bonds Upon Payment.

(a) All Bonds which have been paid or redeemed or which the Trustee has purchased or which have otherwise been surrendered to the Trustee under this Indenture, either at or before maturity shall be cancelled by the Trustee immediately upon the payment, redemption or purchase of such Bonds and the surrender thereof to the Trustee.

(b) All Bonds cancelled under any of the provisions of this Indenture shall be destroyed by the Trustee. The Trustee shall execute a certificate describing the Bonds so destroyed, and shall file executed counterparts of such certificate with the City and the Company.

ARTICLE III

REDEMPTION OF BONDS

Section 301. Redemption of Bonds.

(a) The Bonds are subject to redemption and payment at any time before the stated maturity thereof, at the option of the Company, (1) in whole, if the Company exercises its option to purchase the Project and deposits an amount sufficient to effect such purchase pursuant to the Lease on the applicable redemption date, or (2) in part, if the Company prepays additional Basic Rent pursuant to the Lease. If only a portion of the Bonds are to be redeemed, (1) Bonds aggregating at least 10% of the maximum aggregate principal amount of Bonds authorized hereunder shall not be subject to redemption and payment before the stated maturity thereof, and (2) the Trustee shall keep a record of the amount of Bonds to remain Outstanding following such redemption. Any redemption of Bonds pursuant to this paragraph shall be at a redemption price equal to the par value thereof being redeemed, plus accrued interest thereon, without premium or penalty, to the redemption date.

(b) The Bonds are subject to mandatory redemption, in whole or in part, to the extent of amounts deposited in the Bond Fund pursuant to **Section 9.1** or **9.2** of the Lease, in the event of substantial damage to or destruction or condemnation of substantially all of the Project. Bonds to be redeemed pursuant to this paragraph shall be called for redemption by the Trustee on the earliest practicable date for which timely notice of redemption may be given as provided hereunder. Any redemption of Bonds pursuant to this paragraph shall be at a redemption price equal to the par value thereof being redeemed, plus accrued interest thereon, without premium or penalty, to the redemption date. Before giving notice of redemption to the Owners pursuant to this paragraph (b), money in an amount equal to the redemption price shall have been deposited in the Bond Fund.

(c) The Bonds are subject to mandatory redemption, in whole, in the event that the Company vacates, abandons, ceases operations, fails to occupy or is ejected from the Project Site, and the same remains uncared for or abandoned for a period of one year after notice of such condition is provided to the Company by the City. Such notice shall specify the date on which the condition or conditions described in this subsection first occurred and the date (not less than one year after the date so specified) upon which the Company must redeem all Outstanding Bonds. Such notice shall not be given by the City during any period of time allowed under **Section 9.1** or **9.2** of the Lease for the repair, restoration, replacement, substitution or rebuilding of damage to, destruction of or with respect to condemnation of the Project.

(d) In connection with a redemption under paragraphs (a), (b) or (c) of this Section, at its option, the Company may deliver to the Trustee for cancellation any Bonds owned by the Company and not previously paid, and the Company shall receive a credit against the amounts payable by the Company for the redemption of such Bonds in an amount equal to the principal amount of the Bonds so tendered for cancellation, plus accrued interest.

Section 302. Effect of Call for Redemption. Before or on the date fixed for redemption, funds, Government Securities, or a combination thereof, shall be placed with the Trustee which are sufficient to pay the Bonds called for redemption and accrued interest thereon, if any, to the redemption date. Upon the happening of the above conditions and appropriate written notice having been given, the Bonds or the portions of the principal amount of Bonds thus called for redemption shall cease to bear interest on the specified redemption date, and shall no longer be entitled to the protection, benefit or security of this Indenture and shall not be deemed to be Outstanding under the provisions of this Indenture. If the Bonds are fully redeemed before maturity and an amount of money equal to the Trustee's and the Paying Agent's agreed to fees and expenses hereunder accrued and to accrue in connection with such redemption is paid or provided for, the City shall, at the Company's direction, deliver to the Company the items described in **Section 11.2** of the Lease.

Section 303. Notice of Redemption. If the Bonds are to be called for redemption as provided in **Section 301(a)** hereof, the Company shall deliver written notice to the City and the Trustee that it has elected to redeem all or a portion of the Bonds at least 40 days (10 days if the Company is the Owner) prior to the scheduled redemption date. The Trustee shall then deliver written notice to the Owners at least 30 days (five days if the Company is the Owner) prior to the scheduled redemption date by facsimile and by first-class mail stating the date upon which the Bonds will be redeemed and paid, unless such notice period is waived by the Owners in writing.

ARTICLE IV

FORM OF BONDS

Section 401. Form Generally. The Bonds and the Trustee's Certificate of Authentication to be endorsed thereon shall be issued in substantially the forms set forth in **Exhibit C** hereto. The Bonds may have endorsed thereon such legends or text as may be necessary or appropriate to conform to any applicable rules and regulations of any governmental authority or any custom, usage or requirements of law with respect thereto.

ARTICLE V

CUSTODY AND APPLICATION OF BOND PROCEEDS

Section 501. Creation of Funds. There are hereby created and ordered to be established in the custody of the Trustee the following special trust funds in the name of the City:

(a) "City of Joplin, Missouri, Project Fund – Hearthstone Project" (herein called the "Project Fund");

(b) "City of Joplin, Missouri, Costs of Issuance Fund – Hearthstone Project" (herein called the "Costs of Issuance Fund"); and

(c) "City of Joplin, Missouri, Bond Fund – Hearthstone Project" (herein called the "Bond Fund").

Section 502. Deposits into the Project Fund. The proceeds of the sale of the Bonds (whether actually paid or deemed paid under **Section 208(d)** and **(e)** hereof), including Additional Payments provided for in the Bond Purchase Agreement, when received, excluding such amounts required to be paid into the Bond Fund pursuant to **Section 601** hereof, shall be deposited by the Trustee into the Project Fund. Any money received by the Trustee from any other source for the purpose of purchasing, constructing, improving and equipping the Project shall pursuant to any directions from the Person depositing such moneys also be deposited into the Project Fund.

Section 503. Disbursements from the Project Fund.

(a) The moneys in the Project Fund shall be disbursed by the Trustee for the payment of, or reimbursement to the Company (or any other party that has made payment on behalf of the Company) for payment of, Project Costs upon receipt of requisition certificates signed by the Company in accordance with the provisions of **Article IV** of the Lease. The Trustee hereby covenants and agrees to disburse such moneys in accordance with such provisions.

(b) If, pursuant to **Section 208(d)** and **(e)** hereof, the Trustee is deemed to have deposited into the Project Fund the amount specified in the requisition certificates submitted by the Company in accordance with the provisions of **Article IV** of the Lease, the Trustee shall upon endorsement of the Bonds in an equal amount be deemed to have disbursed such funds from the Project Fund to the Company (or such other purchaser designated by the Company) in satisfaction of the requisition certificate.

(c) In paying any requisition under this Section, the Trustee may rely as to the completeness and accuracy of all statements in such requisition certificate if such requisition certificate is signed by the Authorized Company Representative. If the City so requests in writing, a copy of each requisition certificate submitted to the Trustee for payment under this Section shall be promptly provided by the Trustee to the City. The City hereby authorizes and directs the Trustee to make disbursements in the manner and as provided for by the aforesaid provisions of the Lease.

Section 504. Completion of the Project. The completion of the acquisition, construction, improvement and equipping of the Project and payment of all costs and expenses incident thereto shall be evidenced by the filing with the Trustee of the certificate required by the provisions of **Section 4.5** of the Lease. As soon as practicable after the Completion Date any balance remaining in the Project Fund shall without further authorization be transferred by the Trustee to the Bond Fund and applied as provided in **Section 4.6** of the Lease.

Section 505. Deposits into and Disbursements from the Costs of Issuance Fund. Money deposited by the Company in the Costs of Issuance Fund shall be used solely to pay costs of issuing the Bonds or refunded to the Company as hereinafter provided. The Trustee shall without further authorization disburse from the Costs of Issuance Fund, to the extent available, money sufficient to pay the amounts shown in a closing memorandum provided to the Trustee on or before the date of delivery of the Bonds, which shall have attached thereto the statements, invoices and related items described in said closing memorandum. The Trustee may rely conclusively on the amounts due as shown in the closing memorandum and will not be required to make any independent inspection or investigation in connection therewith. Any of such money not used on the date that is three months after the issuance of the Bonds shall be refunded to the Company.

Section 506. Disposition Upon Acceleration. If the principal of the Bonds has become due and payable pursuant to **Section 902** hereof, upon the date of payment by the Trustee of any moneys due as provided in **Article IX** hereof, any balance remaining in the Project Fund shall without further authorization be deposited in the Bond Fund by the Trustee, with advice to the City and to the Company of such action.

ARTICLE VI

REVENUES AND FUNDS

Section 601. Deposits Into the Bond Fund.

(a) The Trustee shall deposit into the Bond Fund, as and when received, (a) all accrued interest on the Bonds, if any, paid by the Purchaser; (b) all Basic Rent payable by the Company to the City specified in **Section 5.1** of the Lease; (c) any Additional Rent payable by the Company specified in **Section 5.2** of the Lease; (d) any amount in the Project Fund to be transferred to the Bond Fund pursuant to **Section 504** hereof upon completion of the Project or pursuant to **Section 506** hereof upon acceleration of the Bonds; (e) any excess Net Proceeds (as defined in the Lease) of condemnation awards or insurance received by the Trustee pursuant to **Section 9.1(b)** or **Section 9.2(b)** of the Lease; (f) the amounts to be deposited in the Bond Fund pursuant to **Sections 9.1(f)** and **9.2(c)** of the Lease; (g) all interest and other income derived from investments of Bond Fund moneys as provided in **Section 702** hereof; and (h) all other moneys received by the Trustee under and pursuant to any of the provisions of the Lease when

accompanied by written directions from the Person depositing such moneys that such moneys are to be paid into the Bond Fund.

(b) The Trustee shall notify the Company in writing, at least 15 days before each date on which a payment is due under **Section 5.1** of the Lease, of the amount that is payable by the Company pursuant to such Section.

Section 602. Application of Moneys in the Bond Fund.

(a) Except as provided in **Section 604** and **Section 908** hereof or in **Section 4.6(a)** of the Lease, moneys in the Bond Fund shall be expended (or deemed to be expended) solely for the payment of the principal of and the interest on the Bonds as the same mature and become due or upon the redemption thereof before maturity; provided, however, that any amounts received by the Trustee as Additional Rent under **Section 5.2** of the Lease and deposited to the Bond Fund as provided in **Section 601** above, shall be expended by the Trustee for such items of Additional Rent as they are received or due without further authorization from the City.

(b) The City hereby authorizes and directs the Trustee to withdraw sufficient funds from the Bond Fund to pay the principal of and the interest on the Bonds as the same become due and payable and to make said funds so withdrawn available to the Paying Agent for the purpose of paying said principal and interest.

(c) Whenever the amount in the Bond Fund from any source whatsoever is sufficient to redeem all of the Bonds Outstanding and to pay interest to accrue thereon before such redemption, the City covenants and agrees, upon request of the Company, to take and cause to be taken the necessary steps to redeem all such Bonds on the next succeeding redemption date for which the required redemption notice may be given or on such later redemption date as may be specified by the Company. The Trustee shall use any moneys in the Bond Fund to redeem a part of the Bonds Outstanding in accordance with and to the extent permitted by **Article III** hereof so long as the Company is not in default with respect to any payments under the Lease and to the extent said moneys are in excess of the amount required for payment of Bonds theretofore matured or called for redemption and past due interest, if any, in all cases when such Bonds have not been presented for payment.

(d) After payment in full of the principal of and interest, if any, on the Bonds (or provision has been made for the payment thereof as provided in this Indenture), and the fees, charges and expenses of the Trustee, the City and any Paying Agent and any other amounts required to be paid under this Indenture, the Lease and the Performance Agreement, all amounts remaining in the Bond Fund shall be paid to the Company upon the expiration or sooner termination of the Lease.

Section 603. Payments Due on Days Other than Business Days. In any case where the date of maturity of principal of or interest, if any, on the Bonds or the date fixed for redemption of any Bonds is not a Business Day, then payment of principal or interest, if any, need not be made on such date but may be made on the next succeeding Business Day with the same force and effect as if made on the date of maturity or the date fixed for redemption, and no interest, if any, shall continue to accrue for the period after such date.

Section 604. Nonpresentment of Bonds. If any Bond is not presented for payment when the principal thereof becomes due, either at maturity or otherwise, or at the date fixed for redemption thereof, if funds sufficient to pay such Bond shall have been made available to the Trustee, all liability of the City

to the Owner thereof for the payment of such Bond shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Trustee to hold such fund or funds, without liability for interest thereon, for the benefit of the Owner of such Bond who shall thereafter be restricted exclusively to such fund or funds for any claim of whatever nature on his part under this Indenture or on, or with respect to, said Bond. If any Bond is not presented for payment within one year following the date when such Bond becomes due, whether by maturity or otherwise, the Trustee shall without liability for interest thereon repay to the Company the funds theretofore held by it for payment of such Bond, and such Bond shall, subject to the defense of any applicable statute of limitation, thereafter be an unsecured obligation of the Company, and the Owner thereof shall be entitled to look only to the Company for payment, and then only to the extent of the amount so repaid, and the Company shall not be liable for any interest thereon and shall not be regarded as a trustee of such money.

ARTICLE VII

SECURITY FOR DEPOSITS AND INVESTMENT OF FUNDS

Section 701. Moneys to be Held in Trust. All moneys deposited with or paid to the Trustee for account of the Bond Fund or the Project Fund under any provision of this Indenture, and all moneys deposited with or paid to any Paying Agent under any provision of this Indenture, shall be held by the Trustee or Paying Agent in trust and shall be applied only in accordance with the provisions of this Indenture and the Lease, and, until used or applied as herein provided, shall constitute part of the Trust Estate and be subject to the lien hereof. Neither the Trustee nor any Paying Agent shall be under any liability for interest on any moneys received hereunder except such as may be agreed upon in writing.

Section 702. Investment of Moneys in Funds. Moneys held in the Project Fund and the Bond Fund shall, pursuant to written direction of the Company, signed by the Authorized Company Representative, be separately invested and reinvested by the Trustee in Investment Securities which mature or are subject to redemption by the Owner before the date such funds will be needed. Moneys in the Costs of Issuance fund shall be held un-invested. If the Company fails to provide written directions concerning investment of moneys held in the Project Fund and the Bond Fund, the Trustee shall invest in such Investment Securities specified in paragraph (e) of the definition of Investment Securities, provided they mature or are subject to redemption before the date such funds will be needed. The Trustee is specifically authorized to implement its automated cash investment system to assure that cash on hand is invested and to charge its normal cash management fees and cash sweep account fees, which may be deducted from income earned on investments; provided that any such fees shall not exceed the interest income on the investment. Any such Investment Securities shall be held by or under the control of the Trustee and shall be deemed at all times a part of the fund in which such moneys are originally held, and the interest accruing thereon and any profit realized from such Investment Securities shall be credited to such fund, and any loss resulting from such Investment Securities shall be charged to such fund. After the Trustee has notice pursuant to **Section 1001(h)** hereof of the existence of an Event of Default, the Trustee shall direct the investment of moneys in the Bond Fund and the Project Fund. The Trustee shall sell and reduce to cash a sufficient amount of such Investment Securities whenever the cash balance in any Fund is insufficient for the purposes of such Fund. In determining the balance in any Fund, investments in such Fund shall be valued at the lower of their original cost or their fair market value as of the most recent Payment Date. The Trustee may make any and all investments permitted by the provisions of this Section through its own bond department or any affiliate or short-term investment department.

Section 703. Record Keeping. The Trustee shall maintain records designed to show compliance with the provisions of this Article and with the provisions of **Article VI** hereof for at least six years after the payment of all of the Outstanding Bonds.

ARTICLE VIII

GENERAL COVENANTS AND PROVISIONS

Section 801. Payment of Principal and Interest. The City covenants and agrees that it will, but solely from the rents, revenues and receipts derived from the Project and the Lease as described herein, deposit or cause to be deposited in the Bond Fund sufficient sums payable under the Lease promptly to meet and pay the principal of and the interest on the Bonds as they become due and payable at the place, on the dates and in the manner provided herein and in the Bonds according to the true intent and meaning thereof. Nothing herein shall be construed as requiring the City to operate the Project as a business other than as lessor or to use any funds or revenues from any source other than funds and revenues derived from the Project.

Section 802. Authority to Execute Indenture and Issue Bonds. The City covenants that it is duly authorized under the Constitution and laws of the State to execute this Indenture, to issue the Bonds and to pledge and assign the Trust Estate in the manner and to the extent herein set forth; that all action on its part for the execution and delivery of this Indenture and the issuance of the Bonds has been duly and effectively taken; that the Bonds in the hands of the Owners thereof are and will be valid and enforceable obligations of the City according to the import thereof.

Section 803. Performance of Covenants. The City covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Indenture, in the Bonds and in all proceedings of its governing body pertaining thereto. The Trustee may take such action as it deems appropriate to enforce all such covenants, undertakings, stipulations and provisions of the City hereunder.

Section 804. Instruments of Further Assurance. The City covenants that it will do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, such Supplemental Indentures and such further acts, instruments, financing statements and other documents as the Trustee may reasonably require for the better pledging and assigning unto the Trustee the property and revenues herein described to the payment of the principal of and interest, if any, on the Bonds. The City covenants and agrees that, except as herein and in the Lease provided, it will not sell, convey, mortgage, encumber or otherwise dispose of any part of the Project or the rents, revenues and receipts derived therefrom or from the Lease, or of its rights under the Lease.

Section 805. Recordings and Filings. The City shall file or cause to be kept and filed all financing statements, and hereby authorizes the Trustee to file or cause to be kept and filed continuation statements with respect to such originally filed financing statements related to this Indenture and all supplements hereto and such other documents as may be required under the Uniform Commercial Code in order to fully preserve and protect the security of the Owners and the Company under the Lease and the rights of the Trustee hereunder. The City will cooperate in causing this Indenture and all Supplemental Indentures, the Lease and all Supplemental Leases and all other security instruments to be recorded and filed in such manner and in such places as may be required by law in order to fully preserve and protect the security of the Owners and the rights of the Trustee hereunder.

Section 806. Inspection of Project Books. The City covenants and agrees that all books and documents in its possession relating to the Project and the rents, revenues and receipts derived from the Project shall at all times be open to inspection by such accountants or other agencies as the Trustee may from time to time designate.

Section 807. Enforcement of Rights Under the Lease.

(a) The Trustee, as assignee, transferee, pledgee, and owner of a security interest under this Indenture, in its name or in the name of the City, may enforce all assigned rights of the City and the Trustee and all obligations of the Company under and pursuant to the Lease for and on behalf of the Owners, whether or not the City is in default hereunder.

(b) The City covenants and agrees that it will enforce all of its rights and all of the obligations of the Company (at the expense of the Company) under the Lease to the extent necessary to preserve the Project in good repair and reasonably safe operating condition, and to protect the rights of the Trustee and the Owners hereunder with respect to the pledge and assignment of the rents, revenues and receipts coming due under the Lease; provided that, the City and the Trustee, as its assignee, shall refrain from enforcing any such right or obligation (except for the rights of the City or the Trustee to receive payments owing to either of them for their own account under the Indenture, the Lease, the Performance Agreement or any other agreement related to the Bonds or for their rights of indemnification or to be protected from liabilities by insurance policies required by the Lease) if so directed in writing by the Owners of 100% of the Outstanding Bonds. The City agrees that the Trustee, as assignee of the rentals and other amounts to be received by the City and paid by the Company under the Lease, or in its name or in the name of the City, may enforce all rights of the City to receive such rentals and other amounts and all obligations of the Company to pay such rentals and other amounts under and pursuant to the Lease for and on behalf of the Owners, whether or not the City is in default hereunder. So long as not otherwise provided in this Indenture, the Company shall be permitted to possess, use and enjoy the Project and appurtenances so as to carry out its obligations under the Lease.

ARTICLE IX

DEFAULT AND REMEDIES

Section 901. Events of Default; Notice; Opportunity to Cure. If any of the following events occur, it is hereby defined as and declared to be and to constitute an "Event of Default":

(a) Default in the due and punctual payment of the principal on any Bond, whether at the stated maturity or accelerated maturity thereof, or at any date fixed for redemption thereof;

(b) Default in the due and punctual payment of the interest on any Bond, whether at the stated maturity or accelerated maturity thereof, or at any date fixed for redemption thereof;

(c) Default as specified in **Section 12.1** of the Lease has occurred; or

(d) Default in the performance, or breach, of any other covenant or agreement under this Indenture.

No default specified above shall constitute an Event of Default until the Trustee or the Owners of 25% in aggregate principal amount of all Bonds Outstanding has given actual notice of such default by registered or certified mail to the City and the Company, and the City and the Company have had 30 days after receipt of such notice to correct said default or cause said default to be corrected and have not corrected said default or caused said default to be corrected within such period; provided, however, if any such default (other than a default in the payment of any money) is such that it cannot be corrected within such period, it shall not constitute an Event of Default if corrective action is instituted by the City or the Company (as the case may be) within such period and diligently pursued until the default is corrected. While the Company shall have no obligation to cure any default under this Indenture (except for such defaults as result from a default under **Section 12.1** of the Lease), the cure of any default hereunder by the Company shall be accepted as if such cure was made by the City.

Section 902. Acceleration of Maturity in Event of Default; Rescission.

(a) If an Event of Default has occurred and is continuing after the notice and cure period described in **Section 901** elapses, the Trustee may, and upon the written request of the Owners of not less than 25% in aggregate principal amount of Bonds then Outstanding, shall, by notice in writing delivered to the City and the Company, declare the principal of all Bonds then Outstanding and the interest accrued thereon immediately due and payable, and such principal and interest and all other amounts due hereunder shall thereupon become and be immediately due and payable.

(b) If, at any time after such declaration, but before the Bonds have matured by their terms, all overdue installments of principal and interest upon the Bonds, together with the reasonable and proper expenses of the Trustee, and all other sums then payable by the City under this Indenture are either paid or provisions satisfactory to the Trustee are made for such payment (and all sums then payable as Additional Rent under the Lease by the Company have been paid to the City or other appropriate payee), then and in every such case the Trustee shall, but only with the approval of a majority of the Owners of the Bonds then Outstanding, rescind such declaration and annul such default in its entirety. In such event, the Trustee shall rescind any declaration of acceleration of installments of rent payments on the Bonds under **Section 12.2** of the Lease.

(c) In case of any rescission, then and in every such case the City, the Trustee, the Company and the Owners shall be restored to their former position and rights hereunder respectively, but no such rescission shall extend to any subsequent or other default or Event of Default or impair any right consequent thereon.

Section 903. Surrender of Possession of Trust Estate; Rights and Duties of Trustee in Possession. If an Event of Default has occurred and is continuing after the notice and cure period described in **Section 901** hereof elapses, the City, upon demand of the Trustee, shall forthwith surrender the possession of, and it shall be lawful for the Trustee, by such officer or agent as it may appoint, to take possession of all or any part of the Trust Estate, together with the books, papers and accounts of the City pertaining thereto, and including the rights and the position of the City under the Lease, and to hold, operate and manage the same, and from time to time make all needful repairs and improvements. The Trustee may lease the Project or any part thereof, in the name and for account of the City, and collect, receive and sequester the rents, revenues and receipts therefrom, and out of the same and any moneys received from any receiver of any part thereof pay, and set up proper reserves for the payment of all proper costs and expenses of so taking, holding and managing the same, including without limitation (a) reasonable compensation to the Trustee, its agents and counsel, (b) any reasonable charges of the Trustee hereunder, (c) any taxes and assessments and other charges having a lien that is senior to the lien of this Indenture, (d) all expenses of such repairs and improvements and (e) any amounts payable under

the Performance Agreement. The Trustee shall apply the remainder of the moneys so received in accordance with the provisions of **Section 908** hereof. Whenever all that is due upon the Bonds has been paid and all defaults cured, the Trustee shall surrender possession of the Trust Estate to the City, its successors or assigns, the same right of entry, however, to exist upon any subsequent Event of Default. While in possession of such property, the Trustee shall render annually to the City and the Company a summarized statement of receipts and expenditures in connection therewith.

Section 904. Appointment of Receivers in Event of Default. If an Event of Default has occurred and is continuing after the notice and cure period described in **Section 901** elapses, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Trustee and of the Owners under this Indenture, the Trustee shall be entitled, as a matter of right, to the appointment of a receiver or receivers of the Trust Estate or any part thereof, pending such proceedings, with such powers as the court making such appointment shall confer.

Section 905. Exercise of Remedies by the Trustee.

(a) Upon the occurrence of an Event of Default, the Trustee may pursue any available remedy at law or in equity by suit, action, mandamus or other proceeding to enforce the payment of the principal of and interest on the Bonds then Outstanding and all other amounts due hereunder, and to enforce and compel the performance of the duties and obligations of the City or the Company as herein set forth or as set forth in the Lease, respectively.

(b) If an Event of Default has occurred and is continuing after the notice and cure period described in **Section 901** elapses, and if requested to do so by (1) the City (in the case of an Event of Default pursuant to **Section 12.1(a)** of the Lease, to the extent that such Event of Default is based upon the nonpayment of Additional Rent, **Section 12.1(b)** of the Lease, to the extent that such Event of Default relates to Unassigned Rights, or **Section 12.1(c)** or **(d)** of the Lease), or (2) the Owners of 25% in aggregate principal amount of Bonds then Outstanding and indemnified as provided in subsection (l) of **Section 1001** hereof, the Trustee shall be obligated to exercise such one or more of the rights and powers conferred by this Article as the Trustee, being advised by counsel, shall deem most expedient and in the interests of the City or the Owners, as the case may be.

(c) All rights of action under this Indenture or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceedings relating thereto, and any such suit or proceeding instituted by the Trustee shall be brought in its name as Trustee without necessity of joining as plaintiffs or defendants any Owners, and any recovery of judgment shall, subject to the provisions of **Section 908** hereof, be for the equal benefit of all the Owners of the Outstanding Bonds.

Section 906. Limitation on Exercise of Remedies by Owners. No Owner shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of this Indenture or for the execution of any trust hereunder or for the appointment of a receiver or any other remedy hereunder, unless (a) a default has occurred of which the Trustee has been notified as provided in **Section 1001(h)** hereof or of which by said subsection the Trustee is deemed to have notice, (b) such default has become an Event of Default, (c) the Owners of 25% in aggregate principal amount of Bonds then Outstanding have made written request to the Trustee, have offered it reasonable opportunity either to proceed for such reasonable period not to exceed 60 days following such notice and to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name, and have offered to the Trustee indemnity as provided in **Section 1001(l)** hereof, and (d) the Trustee thereafter fails

or refuses to exercise the powers herein granted or to institute such action, suit or proceeding in its own name; such notification, request and offer of indemnity are hereby declared in every case, at the option of the Trustee, to be conditions precedent to the execution of the powers and trusts of this Indenture, and to any action or cause of action for the enforcement of this Indenture, or for the appointment of a receiver or for any other remedy hereunder, it being understood and intended that no one or more Owners shall have any right in any manner whatsoever to affect, disturb or prejudice this Indenture by their action or to enforce any right hereunder except in the manner herein provided, and that all proceedings at law or equity shall be instituted, had and maintained in the manner herein provided and for the equal benefit of the Owners of all Bonds then Outstanding. Nothing in this Indenture contained shall, however, affect or impair the right of any Owner to payment of the principal of and interest on any Bond at and after the maturity thereof or the obligation of the City to pay the principal of and interest on each of the Bonds issued hereunder to the respective Owners thereof at the time, place, from the source and in the manner herein and in the Bonds expressed.

Section 907. Right of Owners to Direct Proceedings.

(a) The Owners of a majority in aggregate principal amount of Bonds then Outstanding may, at any time, by an instrument or instruments in writing executed and delivered to the Trustee, direct the time, method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture, or for the appointment of a receiver or any other proceedings hereunder; provided that such direction shall not be otherwise than in accordance with the provisions of law and of this Indenture, including **Section 1001(l)** hereof.

(b) Notwithstanding any provision in this Indenture to the contrary, including paragraph (a) of this Section, the Owners shall not have the right to control or direct any remedies hereunder upon an Event of Default under **Section 12.1(a)** (but only if such Event of Default is based upon the nonpayment of Additional Rent), **Section 12.1(b)** (but only with respect to Unassigned Rights) or **Section 12.1(c)** or **(d)** of the Lease.

Section 908. Application of Moneys in Event of Default.

(a) All moneys received by the Trustee pursuant to any right given or action taken under the provisions of this Article shall, after payment of any obligations outstanding under the Lease and the Performance Agreement, of the cost and expenses of the proceedings resulting in the collection of such moneys and of the fees, expenses, liabilities and advances incurred or made by the Trustee (including any attorneys fees and expenses) or amounts to be paid pursuant to **Section 903** hereof, be deposited in the Bond Fund and all moneys so deposited in the Bond Fund shall be applied as follows:

(1) Unless the principal of all the Bonds shall have become or shall have been declared due and payable, all such moneys shall be applied:

FIRST -- To the payment to the Persons entitled thereto of all installments of interest, if any, then due and payable on the Bonds, in the order in which such installments of interest became due and payable, and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the Persons entitled thereto, without any discrimination or privilege;

SECOND -- To the payment to the Persons entitled thereto of the unpaid principal of any of the Bonds which shall have become due and payable (other than Bonds called for redemption for the payment of which moneys are held pursuant to the provisions of this Indenture), in the order of their due dates, and, if the amount available shall not be sufficient to pay in full Bonds due on any particular date, together with such interest, then to the payment, ratably, according to the amount of principal due on such date, to the Persons entitled thereto without any discrimination or privilege.

(2) If the principal of all the Bonds shall have become due or shall have been declared due and payable, all such moneys shall be applied to the payment of the principal and interest, if any, then due and unpaid on all of the Bonds, without preference or priority of principal over interest or of interest over principal or of any installment of interest over any other installment of interest or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the Person entitled thereto, without any discrimination or privilege.

(3) If the principal of all the Bonds shall have been declared due and payable, and if such declaration shall thereafter have been rescinded and annulled under the provisions of **Section 910** hereof, then, subject to the provisions of subsection (2) of this Section in the event that the principal of all the Bonds shall later become due or be declared due and payable, the moneys shall be applied in accordance with the provisions of subsection (1) of this Section.

(b) Whenever moneys are to be applied pursuant to the provisions of this Section, such moneys shall be applied at such times and from time to time as the Trustee shall determine, having due regard to the amount of such moneys available and which may become available for such application in the future. Whenever the Trustee shall apply such moneys, it shall fix the date (which shall be a Payment Date unless it shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such dates shall cease to accrue.

(c) Whenever all of the Bonds and interest thereon, if any, have been paid under the provisions of this Section, and all fees, expenses and charges of the City and the Trustee and any other amounts required to be paid under this Indenture and the Lease have been paid (including any amounts payable under the Performance Agreement), any balance remaining in the Bond Fund shall be paid to the Company as provided in **Section 602** hereof.

Section 909. Remedies Cumulative. No remedy by the terms of this Indenture conferred upon or reserved to the Trustee or to the Owners is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Trustee or to the Owners hereunder or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right, power or remedy accruing upon any Event of Default shall impair any such right, power or remedy or shall be construed to be a waiver of any such Event of Default or acquiescence therein; every such right, power or remedy may be exercised from time to time and as often as may be deemed expedient. If the Trustee has proceeded to enforce any right under this Indenture by the appointment of a receiver, by entry, or otherwise, and such proceedings have been discontinued or abandoned for any reason, or have been determined adversely, then and in every such case the City, the Company, the Trustee and the Owners shall be restored to their former positions and rights hereunder, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

Section 910. Waivers of Events of Default. The Trustee shall waive any Event of Default hereunder and its consequences and rescind any declaration of maturity of principal of and interest, if any, on Bonds, and only upon the written request of the Owners of at least 50% in aggregate principal amount of all the Bonds then Outstanding, provided, however, that (1) there shall not be waived without the consent of the City an Event of Default hereunder arising from an Event of Default under **Section 12.1(a)** of the Lease (but only if such Event of Default is based upon the nonpayment of Additional Rent), **Section 12.1(b)** of the Lease (but only with respect to Unassigned Rights), or **Section 12.1(c)** or **(d)** of the Lease, and (2) there shall not be waived without the consent of the Owners of all the Bonds Outstanding (a) any Event of Default in the payment of the principal of any Outstanding Bonds when due (whether at the date of maturity or redemption specified therein), or (b) any Event of Default in the payment when due of the interest on any such Bonds, unless prior to such waiver or rescission, all arrears of interest, or all arrears of payments of principal when due, as the case may be, and all reasonable expenses of the Trustee and the City (including reasonable attorneys' fees and expenses), in connection with such default, shall have been paid or provided for. In case of any such waiver or rescission, or in case any proceeding taken by the Trustee on account of any such default shall have been discontinued or abandoned or determined adversely, then and in every such case the City, the Company, the Trustee and the Owners shall be restored to their former positions, rights and obligations hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other default, or impair any right consequent thereon, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

ARTICLE X

THE TRUSTEE

Section 1001. Acceptance of the Trusts. The Trustee hereby accepts the trusts imposed upon it by this Indenture, and agrees to perform said trusts as a corporate trustee ordinarily would perform said trusts under a corporate indenture, but only upon and subject to the following express terms and conditions, and no implied covenants or obligations shall be read into this Indenture against the Trustee:

(a) The Trustee, before the occurrence of an Event of Default and after the curing or waiver of all Events of Default that may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. If any Event of Default has occurred and is continuing, subject to **Section 1001(l)** hereof, the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and shall use the same degree of care and skill in their exercise, as a prudent Person would exercise or use under the circumstances in the conduct of its own affairs.

(b) The Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or through agents, affiliates, attorneys or receivers and shall not be responsible for any misconduct or negligence on the part of any agent, attorney or receiver appointed or chosen by it with due care. The Trustee may conclusively rely upon and act or refrain from acting upon any opinion or advice of counsel, who may be counsel to the City or to the Company, concerning all matters of trust hereof and the duties hereunder, and may in all cases pay such reasonable compensation to all such agents, attorneys and receivers as may reasonably be employed in connection with the trusts hereof. The Trustee shall not be responsible for any loss or damage resulting from any action or nonaction by it taken or omitted to be taken in good faith in reliance upon such opinion or advice of counsel addressed to the City and the Trustee.

(c) The Trustee shall not be responsible for any recital herein or in the Bonds (except with respect to the Certificate of Authentication of the Trustee endorsed on the Bonds), or except as provided in the Lease and particularly **Section 10.8** thereof, for the recording or rerecording, filing or refiling of this Indenture or any security agreement in connection therewith (excluding the continuation of Uniform Commercial Code financing statements), or for insuring the Project or collecting any insurance moneys, or for the validity of the execution by the City of this Indenture or of any Supplemental Indentures or instruments of further assurance, or for the sufficiency of the security of the Bonds. The Trustee shall not be responsible or liable for any loss suffered in connection with any investment of funds made by it in accordance with **Article VII** hereof, so long as the Trustee has complied with any instructions of the Company.

(d) The Trustee shall not be accountable for the use of any Bonds authenticated and delivered hereunder. The Trustee, in its individual or any other capacity, may become the Owner or pledgee of Bonds with the same rights that it would have if it were not Trustee. The Trustee shall not be accountable for the use or application by the City or the Company of the proceeds of any of the Bonds or of any money paid to or upon the order of the City or Company under any provision of this Indenture.

(e) The Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, affidavit, letter, telegram or other paper or document provided for under this Indenture believed by it to be genuine and correct and to have been signed, presented or sent by the proper Person or Persons. Any action taken by the Trustee pursuant to this Indenture upon the request or authority or consent of any Person who, at the time of making such request or giving such authority or consent is an Owner, shall be conclusive and binding upon all future Owners of the same Bond and upon Bonds issued in exchange therefor or upon transfer or in place thereof.

(f) As to the existence or nonexistence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, or whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established before taking, suffering or omitting any action hereunder, the Trustee shall be entitled to rely upon a certificate signed by the Authorized City Representative or an Authorized Company Representative as sufficient evidence of the facts therein contained, and before the occurrence of a default of which the Trustee has been notified as provided in subsection (h) of this Section or of which by said subsection it is deemed to have notice, the Trustee shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient, but may at its discretion secure such further evidence deemed necessary or advisable, but shall in no case be bound to secure the same.

(g) The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty, and the Trustee shall not be answerable for other than its negligence or willful misconduct.

(h) The Trustee shall not be required to take notice or be deemed to have notice of any default hereunder except failure by the City to cause to be made any of the payments to the Trustee required to be made in **Article VI** hereof, unless the Trustee is specifically notified in writing of such default by the City or by the Owners of at least 25% in aggregate principal amount of all Bonds then Outstanding.

(i) At any and all reasonable times and subject to the Company's reasonable and standard security procedures, the Trustee and its duly authorized agents, attorneys, experts, engineers, accountants and representatives may, but shall not be required to, inspect any and all of the Project, and all books, papers and records of the City pertaining to the Project and the Bonds, and to take such memoranda from and in regard thereto as may be desired. The Trustee shall treat all proprietary information of the Company as confidential.

(j) The Trustee shall not be required to give any bond or surety in respect to the execution of its trusts and powers hereunder or otherwise in respect of the Project.

(k) The Trustee may, but shall not be required to, demand, in respect of the authentication of any Bonds, the withdrawal of any cash, the release of any property, or any action whatsoever within the purview of this Indenture, any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required, as a condition of such action by the Trustee deemed desirable for the purpose of establishing the right of the City to the authentication of any Bonds, the withdrawal of any cash, or the taking of any other action by the Trustee.

(l) Notwithstanding anything in the Indenture or the Lease to the contrary, before taking any action under this Indenture other than the payments from moneys on deposit in the Project Fund or the Bond Fund, as provided herein, the Trustee may require that satisfactory indemnity be furnished to it for the reimbursement of all costs and expenses to which it may be put and to protect it against all liability which it may incur in or by reason of such action, except liability which is adjudicated to have resulted from its negligence or willful misconduct by reason of any action so taken.

(m) Notwithstanding any other provision of this Indenture to the contrary, any provision relating to the conduct of, intended to provide authority to act, right to payment of fees and expenses, protection, immunity and indemnification to the Trustee, shall be interpreted to include any action of the Trustee, whether it is deemed to be in its capacity as Trustee, bond registrar or Paying Agent.

Section 1002. Fees, Charges and Expenses of the Trustee. The Trustee shall be entitled to payment of and/or reimbursement for reasonable fees for its ordinary services rendered hereunder and all advances, agent and counsel fees and other ordinary expenses reasonably made or incurred by the Trustee in connection with such ordinary services, in accordance with the separate fee schedule agreed to by the Trustee and the Company. If it becomes necessary for the Trustee to perform extraordinary services, it shall be entitled to reasonable extra compensation therefor and to reimbursement for reasonable extraordinary expenses in connection therewith; provided that if such extraordinary services or extraordinary expenses are occasioned by the neglect or willful misconduct of the Trustee, it shall not be entitled to compensation or reimbursement therefor. The Trustee shall be entitled to payment and reimbursement for the reasonable fees and charges of the Trustee as Paying Agent for the Bonds. Pursuant to the provisions of **Section 5.2** of the Lease, the Company has agreed to pay to the Trustee all reasonable fees, charges and expenses of the Trustee under this Indenture. The Trustee agrees that the City shall have no liability for any reasonable fees, charges and expenses of the Trustee, and the Trustee agrees to look only to the Company for the payment of all reasonable fees, charges and expenses of the Trustee and any Paying Agent as provided in the Lease. Upon the occurrence of an Event of Default and during its continuance, the Trustee shall have a lien with right of payment before payment on account of

principal of or interest on any Bond, upon all moneys in its possession under any provisions hereof for the foregoing reasonable advances, fees, costs and expenses incurred.

Section 1003. Notice to Owners if Default Occurs. If a default occurs of which the Trustee is by **Section 1001(h)** hereof required to take notice or if notice of default is given as in said subsection (h) provided, then the Trustee shall give written notice thereof to the last known Owners of all Bonds then Outstanding as shown by the bond registration books required by **Section 206** hereof to be kept at the corporate trust office of the Trustee.

Section 1004. Intervention by the Trustee. In any judicial proceeding to which the City is a party and which, in the opinion of the Trustee and its counsel, has a substantial bearing on the interests of Owners, the Trustee may intervene on behalf of Owners and, subject to the provisions of **Section 1001(l)** hereof, shall do so if requested in writing by the Owners of at least 25% of the aggregate principal amount of Bonds then Outstanding.

Section 1005. Successor Trustee Upon Merger, Consolidation or Sale. With the prior written consent of the Company, any corporation or association into which the Trustee may be merged or converted or with or into which it may be consolidated, or to which it may sell or transfer its corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any merger, conversion, sale, consolidation or transfer to which it is a party, shall be and become successor Trustee hereunder and shall be vested with all the trusts, powers, rights, obligations, duties, remedies, immunities and privileges hereunder as was its predecessor, without the execution or filing of any instrument or any further act on the part of any of the parties hereto.

Section 1006. Resignation of Trustee. The Trustee and any successor Trustee may at any time resign from the trusts hereby created by giving 30 days' written notice to the City, the Company and the Owners, and such resignation shall take effect at the end of such 30 days, or upon the earlier appointment of a successor Trustee by the Owners or by the City; provided, however, that in no event shall the resignation of the Trustee or any successor trustee become effective until such time as a successor trustee has been appointed and has accepted the appointment. If no successor has been appointed and accepted the appointment within 30 days after the giving of such notice of resignation, the Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee.

Section 1007. Removal of Trustee. The Trustee may be removed at any time, with or without cause, by an instrument or concurrent instruments in writing (a) delivered to the Trustee, the City and the Company and signed by the Owners of a majority in aggregate principal amount of Bonds then Outstanding, or (b) so long as no Event of Default under this Indenture or the Lease shall have occurred and be continuing, delivered to the Trustee, the City and the Owners and signed by the Company.

Section 1008. Appointment of Successor Trustee. If the Trustee hereunder resigns or is removed, or otherwise becomes incapable of acting hereunder, or if it is taken under the control of any public officer or officers or of a receiver appointed by a court, a successor Trustee (a) reasonably acceptable to the City may be appointed by the Company (so long as no Event of Default has occurred and is continuing), or (b) reasonably acceptable to the City and the Company may be appointed by the Owners of a majority in aggregate principal amount of Bonds then Outstanding, by an instrument or concurrent instruments in writing; provided, nevertheless, that in case of such vacancy, the City, by an instrument executed and signed by its Mayor and attested by its City Clerk under its seal, may appoint a temporary Trustee to fill such vacancy until a successor Trustee shall be appointed in the manner above provided. Any such temporary Trustee so appointed by the City shall immediately and without further

acts be superseded by the successor Trustee so appointed as provided above. Every such Trustee appointed pursuant to the provisions of this Section shall be a trust company or bank in good standing and qualified to accept such trust with a corporate trust office in the State, and having, or whose obligations are guaranteed by a financial institution having, a reported capital, surplus and undivided profits of not less than $50,000,000. If no successor Trustee has been so appointed and accepted appointment in the manner herein provided, the Trustee or any Owner may petition any court of competent jurisdiction for the appointment of a successor Trustee, until a successor shall have been appointed as above provided.

Section 1009. Vesting of Trusts in Successor Trustee. Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the City and the Company an instrument in writing accepting such appointment hereunder, and thereupon such successor shall, without any further act, deed or conveyance, become fully vested with all the trusts, powers, rights, obligations, duties, remedies, immunities and privileges of its predecessor and the duties and obligations of such predecessor hereunder shall thereafter cease and terminate; but such predecessor shall, nevertheless, on the written request of the City, execute and deliver an instrument transferring to such successor Trustee all the trusts, powers, rights, obligations, duties, remedies, immunities and privileges of such predecessor hereunder; every predecessor Trustee shall deliver all securities and moneys held by it as Trustee hereunder to its successor. Should any instrument in writing from the City be required by any predecessor or successor Trustee for more fully and certainly vesting in such successor the trusts, powers, rights, obligations, duties, remedies, immunities and privileges hereby vested in the predecessor, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the City.

Section 1010. Right of Trustee to Pay Taxes and Other Charges. If any tax, assessment or governmental or other charge upon, or insurance premium with respect to, any part of the Project is not paid as required herein or in the Lease, the Trustee may pay such tax, assessment or governmental charge or insurance premium, without prejudice, however, to any rights of the Trustee or the Owners hereunder arising in consequence of such failure; any amount at any time so paid under this Section, with interest thereon from the date of payment at the rate of 10% per annum, shall become an additional obligation secured by this Indenture, and the same shall be given a preference in payment over any payment of principal of or interest on the Bonds, and shall be paid out of the proceeds of rents, revenues and receipts collected from the Project, if not otherwise caused to be paid; but the Trustee shall be under no obligation to make any such payment unless it shall have been requested to do so by the Owners of at least 25% of the aggregate principal amount of Bonds then Outstanding and shall have been provided adequate funds for the purpose of such payment.

Section 1011. Trust Estate May be Vested in Co-Trustee.

(a) It is the purpose of this Indenture that there shall be no violation of any law of any jurisdiction (including particularly the State) denying or restricting the right of banking corporations or associations to transact business as trustee in such jurisdiction. It is recognized that in case of litigation under this Indenture or the Lease, and in particular in case of the enforcement of either this Indenture or the Lease upon the occurrence of an Event of Default or if the Trustee deems that by reason of any present or future law of any jurisdiction it cannot exercise any of the powers, rights or remedies herein granted to the Trustee, or take any other action which may be desirable or necessary in connection therewith, it may be necessary or desirable that the Trustee appoint an additional individual or institution as a co-trustee or separate trustee, and the Trustee is hereby authorized to appoint such co-trustee or separate trustee.

(b) If the Trustee appoints an additional individual or institution as a co-trustee or separate trustee (which appointment shall be subject to the approval of the Company), each and every remedy, power, right, claim, demand, cause of action, immunity, title, interest and lien expressed or intended by this Indenture to be exercised by the Trustee with respect thereto shall be exercisable by such co-trustee or separate trustee but only to the extent necessary to enable such co-trustee or separate trustee to exercise such powers, rights and remedies, and every covenant and obligation necessary to the exercise thereof by such co-trustee or separate trustee shall run to and be enforceable by either of them.

(c) Should any deed, conveyance or instrument in writing from the City be required by the co-trustee or separate trustee so appointed by the Trustee for more fully and certainly vesting in and confirming to such co-trustee such properties, rights, powers, trusts, duties and obligations, any and all such deeds, conveyances and instruments in writing shall, on request, be executed, acknowledged and delivered by the City.

(d) If any co-trustee or separate trustee shall die, become incapable of acting, resign or be removed, all the properties, rights, powers, trusts, duties and obligations of such co-trustee or separate trustee, so far as permitted by law, shall vest in and be exercised by the Trustee until the appointment of a successor to such co-trustee or separate trustee.

Section 1012. Accounting. The Trustee shall render an annual accounting for the period ending December 31 of each year, to the City, the Company and to any Owner requesting the same and, upon the request of the City, the Company or any Owner, a monthly accounting to any such party, showing in reasonable detail all financial transactions relating to the Trust Estate during the accounting period and the balance in any funds or accounts created by this Indenture as of the beginning and close of such accounting period.

Section 1013. Performance of Duties Under the Lease. The Trustee hereby accepts and agrees to perform all duties and obligations assigned to it under the Lease.

ARTICLE XI

SUPPLEMENTAL INDENTURES

Section 1101. Supplemental Indentures Not Requiring Consent of Owners. The City and the Trustee may from time to time, without the consent of or notice to any of the Owners, enter into such Supplemental Indenture or Supplemental Indentures as shall not be inconsistent with the terms and provisions hereof, for any one or more of the following purposes:

(a) To cure any ambiguity or formal defect or omission in this Indenture, or to make any other change which, in the judgment of the Trustee, is not to the material prejudice of the Trustee or the Owners (provided the Trustee is entitled to receive and may conclusively rely upon an opinion of counsel in exercising such judgment);

(b) To grant to or confer upon the Trustee for the benefit of the Owners any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Owners or the Trustee or either of them;

(c) To more precisely identify any portion of the Project or to add additional property thereto;

(d) To conform the Indenture to amendments to the Lease made by the City and the Company; or

(e) To subject to this Indenture additional revenues, properties or collateral.

Section 1102. Supplemental Indentures Requiring Consent of Owners.

(a) Exclusive of Supplemental Indentures covered by **Section 1101** hereof and subject to the terms and provisions contained in this Section, and not otherwise, the Owners of not less than a majority in aggregate principal amount of the Bonds then Outstanding may, from time to time, anything contained in this Indenture to the contrary notwithstanding, consent to and approve the execution by the City and the Trustee of such other Supplemental Indenture or Supplemental Indentures as shall be deemed necessary and desirable by the City for the purpose of modifying, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Indenture or in any Supplemental Indenture; provided, however, that without the consent of the Owners of 100% of the principal amount of the Bonds then Outstanding, nothing in this Section contained shall permit or be construed as permitting (1) an extension of the maturity or a shortening of the redemption date of the principal of or the interest, if any, on any Bond issued hereunder, or (2) a reduction in the principal amount of any Bond or the rate of interest thereon, if any, or (3) a privilege or priority of any Bond or Bonds over any other Bond or Bonds, or (4) a reduction in the aggregate principal amount of Bonds the Owners of which are required for consent to any such Supplemental Indenture.

(b) If at the time the City requests the Trustee to enter into any such Supplemental Indenture for any of the purposes of this Section, the Trustee shall cause notice of the proposed execution of such Supplemental Indenture to be mailed to each Owner as shown on the bond registration books required by **Section 206** hereof. Such notice shall briefly set forth the nature of the proposed Supplemental Indenture and shall state that copies thereof are on file at the corporate trust office of the Trustee for inspection by all Owners. If within 60 days or such longer period as may be prescribed by the City following the mailing of such notice, the Owners of not less than a majority in aggregate principal amount of the Bonds Outstanding at the time of the execution of any such Supplemental Indenture shall have consented to and approved the execution thereof as herein provided, no Owner shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the City from executing the same or from taking any action pursuant to the provisions thereof.

Section 1103. Company's Consent to Supplemental Indentures. Anything herein to the contrary notwithstanding, a Supplemental Indenture under this Article shall not become effective unless and until the Company shall have consented in writing to the execution and delivery of such Supplemental Indenture. The Trustee shall cause notice of the proposed execution and delivery of any Supplemental Indenture (regardless of whether it affects the Company's rights) together with a copy of the proposed Supplemental Indenture to be mailed to the Company and any Financing Party at least 15 days before the proposed date of execution and delivery of the Supplemental Indenture.

Section 1104. Opinion of Counsel. In executing, or accepting the additional trusts created by, any Supplemental Indenture permitted by this Article or the modification thereby of the trusts created by this Indenture, the Trustee and the City shall receive, and, shall be fully protected in relying upon, an

opinion of counsel addressed and delivered to the Trustee and the City stating that the execution of such Supplemental Indenture is permitted by and in compliance with this Indenture and will, upon the execution and delivery thereof, be a valid and binding obligation of the City. The Trustee may, but shall not be obligated to, enter into any such Supplemental Indenture which affects the Trustee's rights, duties or immunities under this Indenture or otherwise.

ARTICLE XII

SUPPLEMENTAL LEASES

Section 1201. Supplemental Leases Not Requiring Consent of Owners. The City and the Trustee shall, without the consent of or notice to the Owners, consent to the execution of any Supplemental Lease or Supplemental Leases by the City and the Company as may be required (a) by the provisions of the Lease and this Indenture, (b) for the purpose of curing any ambiguity or formal defect or omission in the Lease, (c) so as to more precisely identify the Project or add additional property thereto or (d) in connection with any other change therein which, in the judgment of the Trustee, does not materially and adversely affect the Trustee or security for the Owners (provided the Trustee is entitled to receive and may conclusively rely upon an opinion of counsel in exercising such judgment).

Section 1202. Supplemental Leases Requiring Consent of Owners. Except for Supplemental Leases as provided for in **Section 1201** hereof, neither the City nor the Trustee shall consent to the execution of any Supplemental Lease or Supplemental Leases by the City or the Company without the mailing of notice and the obtaining of the written approval or consent of the Owners of not less than a majority in aggregate principal amount of the Bonds at the time Outstanding given and obtained as provided in **Section 1102** hereof. If at any time the City and the Company shall request the consent of the Trustee to any such proposed Supplemental Lease, the Trustee shall cause notice of such proposed Supplemental Lease to be mailed in the same manner as provided in **Section 1102** hereof with respect to Supplemental Indentures. Such notice shall briefly set forth the nature of such proposed Supplemental Lease and shall state that copies of the same are on file in the corporate trust office of the Trustee for inspection by all Owners. If within 60 days or such longer period as may be prescribed by the City following the mailing of such notice, the Owners of not less than 50% in aggregate principal amount of the Bonds Outstanding at the time of the execution of any such Supplemental Lease shall have consented to and approved the execution thereof as herein provided, no Owner shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the City from executing the same or from taking any action pursuant to the provisions thereof.

Section 1203. Opinion of Counsel. In executing or consenting to any Supplemental Lease permitted by this Article, the City and the Trustee shall receive, and shall be fully protected in relying upon, an opinion of counsel addressed to the Trustee and the City stating that the executing of such Supplemental Lease is authorized or permitted by the Lease and this Indenture and the applicable law and will upon the execution and delivery thereof be valid and binding obligations of the parties thereof.

ARTICLE XIII

SATISFACTION AND DISCHARGE OF INDENTURE

Section 1301. Satisfaction and Discharge of this Indenture.

(a) When the principal of and interest on all the Bonds have been paid in accordance with their terms or provision has been made for such payment, as provided in **Section 1302** hereof, and provision also made for paying all other sums payable hereunder and under the Lease and the Performance Agreement, including the reasonable fees and expenses of the Trustee, the City and Paying Agent to the date of retirement of the Bonds, then the right, title and interest of the Trustee in respect hereof shall thereupon cease, determine and be void. Thereupon, the Trustee shall cancel, discharge and release this Indenture and shall upon the written request of the City or the Company execute, acknowledge and deliver to the City such instruments of satisfaction and discharge or release as shall be required to evidence such release and the satisfaction and discharge of this Indenture, and shall assign and deliver to the City (subject to the City's obligations under **Section 11.2** of the Lease) any property at the time subject to this Indenture which may then be in its possession, except amounts in the Bond Fund required to be paid to the Company under **Section 602** hereof and except funds or securities in which such funds are invested held by the Trustee for the payment of the principal of and interest on the Bonds.

(b) The City is hereby authorized to accept a certificate by the Trustee that the whole amount of the principal and interest, if any, so due and payable upon all of the Bonds then Outstanding has been paid or such payment provided for in accordance with **Section 1302** hereof as evidence of satisfaction of this Indenture, and upon receipt thereof shall cancel and erase the inscription of this Indenture from its records.

Section 1302. Bonds Deemed to be Paid.

(a) Bonds shall be deemed to be paid within the meaning of this Article when payment of the principal of and interest thereon to the due date thereof (whether such due date be by reason of maturity or upon redemption as provided in this Indenture, or otherwise), either (1) have been made or caused to be made in accordance with the terms thereof, or (2) have been provided for by depositing with the Trustee or other commercial bank or trust company having full trust powers and authorized to accept trusts in the State in trust and irrevocably set aside exclusively for such payment (i) moneys sufficient to make such payment or (ii) Government Securities maturing as to principal and interest in such amount and at such times as will insure the availability of sufficient moneys to make such payment, or (3) have been provided for by surrendering the Bonds to the Trustee for cancellation. At such time as Bonds are deemed to be paid hereunder, as aforesaid, they shall no longer be secured by or entitled to the benefits of this Indenture, except for the purposes of such payment from such moneys or Government Securities.

(b) Notwithstanding the foregoing, in the case of Bonds which by their terms may be redeemed before the stated maturities thereof, no deposit under clause (2) of the immediately preceding paragraph shall be deemed a payment of such Bonds as aforesaid until, as to all such Bonds which are to be redeemed before their respective stated maturities, proper notice of such redemption shall have been given in accordance with **Article III** hereof or irrevocable instructions shall have been given to the Trustee to give such notice.

(c) Notwithstanding any provision of any other section of this Indenture which may be contrary to the provisions of this Section, all moneys or Government Securities set aside and held in trust

pursuant to the provisions of this Section for the payment of Bonds shall be applied to and used solely for the payment of the particular Bonds, with respect to which such moneys and Government Securities have been so set aside in trust.

ARTICLE XIV

MISCELLANEOUS PROVISIONS

Section 1401. Consents and Other Instruments by Owners.

(a) Any consent, request, direction, approval, objection or other instrument required by this Indenture to be signed and executed by the Owners may be in any number of concurrent writings of similar tenor and may be signed or executed by such Owners in Person or by agent appointed in writing. Proof of the execution of any such instrument or of the writing appointing any such agent and of the ownership of Bonds (other than the assignment of ownership of a Bond) if made in the following manner, shall be sufficient for any of the purposes of this Indenture, and shall be conclusive in favor of the Trustee with regard to any action taken, suffered or omitted under any such instrument, namely:

(i) The fact and date of the execution by any Person of any such instrument may be proved by the certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the Person signing such instrument acknowledged before him the execution thereof, or by affidavit of any witness to such execution.

(ii) The fact of ownership of Bonds and the amount or amounts, numbers and other identification of such Bonds, and the date of holding the same shall be proved by the registration books of the City maintained by the Trustee pursuant to **Section 206** hereof.

(b) In determining whether the Owners of the requisite principal amount of Bonds Outstanding have given any request, demand, authorization, direction, notice, consent or waiver under this Indenture, Bonds owned by the Company shall be disregarded and deemed not to be Outstanding under this Indenture, except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Bonds which the Trustee knows to be so owned shall be so disregarded; provided, the foregoing provisions shall not be applicable if the Company is the only Owner of the Bonds. Notwithstanding the foregoing, Bonds so owned which have been pledged in good faith shall not be disregarded as aforesaid if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Bonds and the pledgee is not the Company or any affiliate thereof.

Section 1402. Limitation of Rights Under this Indenture. With the exception of rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Indenture or the Bonds is intended or shall be construed to give any Person other than the parties hereto, and the Owners, if any, any right, remedy or claim under or in respect to this Indenture, this Indenture and all of the covenants, conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the parties hereto and the Owners, as herein provided.

Section 1403. Notices. It shall be sufficient service of any notice, request, complaint, demand or other paper required by this Indenture to be given or filed with the City, the Trustee, the Company or Owners if the same is duly mailed, postage prepaid, sent by overnight delivery or other delivery service, as follows:

(a) To the City:

City of Joplin, Missouri
602 S. Main Street
Joplin, Missouri 64801
Attention: City Manager

with copy to:

The Joplin Area Chamber of Commerce
320 E. 4th Street
Joplin, Missouri 64801
ATTN: Tobias Teeter

(b) To the Trustee:

UMB Bank, N.A.
928 Grand Blvd, 12th Floor
Kansas City, MO 64106
ATTN: Corporate Trust Department

(c) To the Company:

Casey's Marketing Company, an Iowa corporation
Casey's General Stores, Inc.
One S.E. Convenience Boulevard
Ankeny, Iowa 50021
Attn: Legal Counsel/Director of Government Relations

(d) To the Owners if the same is duly mailed by first class, registered or certified mail addressed to each of the Owners of Bonds at the time Outstanding as shown by the bond registration books required by **Section 206** hereof to be kept at the corporate trust office of the Trustee.

All notices given by certified or registered mail as aforesaid shall be deemed fully given as of the date they are so mailed, provided that any of the foregoing given to the Trustee shall be effective only upon receipt. All notices given by overnight delivery or other delivery service shall be deemed fully given as of the date when received. A duplicate copy of each notice, certificate or other communication given hereunder by either the City or the Trustee to the other shall also be given to the Company. The City, the Company and the Trustee may from time to time designate, by notice given hereunder to the others of such parties, such other address to which subsequent notices, certificates or other communications shall be sent.

Section 1404. Severability. If any provision of this Indenture shall be held or deemed to be invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever.

Section 1405. Execution in Counterparts. This Indenture may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 1406. Governing Law. This Indenture shall be governed exclusively by and construed in accordance with the applicable laws of the State.

Section 1407. Electronic Storage. The parties agree that the transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

Section 1408. City Consents. The Mayor of the City is authorized, unless expressly provided herein, to grant on behalf of the City such consents and waivers relating to the Bonds, this Indenture, the Lease or the Performance Agreement as may be requested during the term thereof; provided, such consents and/or waivers shall not increase the principal amount of the Bonds, increase the term of the Lease or the tax exemption as provided for therein, or materially change the nature of the transaction.

[remainder of this page intentionally left blank]

IN WITNESS WHEREOF, City of Joplin, Missouri, has caused this Indenture to be signed in its name and behalf by its Mayor and the seal of the City to be hereunto affixed and attested by the City Clerk, and to evidence its acceptance of the trusts hereby created, the Trustee has caused this Indenture to be signed in its name and behalf by a duly authorized officer, all as of the date first above written.

CITY OF JOPLIN, MISSOURI

By: _____
Name: Gary Shaw
Title: Mayor

[SEAL]

ATTEST:

By: _____
Name: Barbara Gollhofer
Title: City Clerk

Approved as to form:

_____
City Attorney

UMB BANK, N.A.,
as Trustee

By _____
Name:
Title:

[SEAL]

ATTEST:

By _____
Name:
Title:

EXHIBIT A

PROJECT SITE

The following described real estate located in Jasper County, Missouri:

[**INSERT LEGAL DESCRIPTION**]

EXHIBIT B

PROJECT IMPROVEMENTS

The Project Improvements consist of the following, to the extent paid for in whole with Bond proceeds:

The purchase and construction of a warehouse and distribution facility including buildings, site improvements and related fixtures and improvements.

PROJECT EQUIPMENT

The Project Equipment consists of the following, to the extent paid for in whole with Bond proceeds:

All items of machinery, equipment and parts or other personal property installed or acquired in the Project Improvements or elsewhere on the Project Site, and replacements thereof and additions thereto as provided in the Indenture and the Lease; provided that, each item of personal property that becomes a part of the Project Equipment shall constitute Project Equipment for no more than 5 tax years, starting with the tax year after the calendar year in which such personal property is acquired by the Company.

EXHIBIT C

FORM OF BONDS

THIS BOND OR ANY PORTION HEREOF MAY BE TRANSFERRED, ASSIGNED OR NEGOTIATED ONLY AS PROVIDED IN THE HEREIN DESCRIBED INDENTURE.

No. 1 **Not to Exceed $51,400,000**

UNITED STATES OF AMERICA
STATE OF MISSOURI

CITY OF JOPLIN, MISSOURI
TAXABLE INDUSTRIAL DEVELOPMENT REVENUE BOND
(HEARTHSTONE PROJECT)
SERIES 2019

Interest Rate	Maturity Date	Dated Date
5.00%	December 1, 2033	December___, 2019

OWNER: _____

MAXIMUM PRINCIPAL AMOUNT: **FIFTY-ONE MILLION FOUR HUNDRED THOUSAND DOLLARS**

THE CITY OF JOPLIN, MISSOURI, a constitutional charter city and municipal corporation duly organized and existing under the laws of the State of Missouri (the "City"), for value received, promises to pay, but solely from the source hereinafter referred to, to the Owner named above, or registered assigns thereof, on the Maturity Date shown above, the principal amount shown above, or such lesser amount as may be outstanding hereunder as reflected on **Schedule I** hereto held by the Trustee as provided in the hereinafter referred to Indenture. The City agrees to pay such principal amount to the Owner in any coin or currency of the United States of America which on the date of payment thereof is legal tender for the payment of public and private debts (or by book entry as provided in the Indenture and Lease), and in like manner to pay to the Owner hereof, either by check or draft mailed to the Owner at a stated address as it appears on the bond registration books of the City kept by the Trustee under the within mentioned Indenture or, in certain situations authorized in the Indenture, by internal bank transfer (or by book entry as provided in the Indenture and Lease), or by wire transfer to an account in a commercial bank or savings institution located in the continental United States. Interest on the Cumulative Outstanding Principal Amount (as hereinafter defined) at the per annum Interest Rate stated above, payable in arrears on each December 1, commencing on December 1, 2020, and continuing thereafter until the earlier of the date on which said Cumulative Outstanding Principal Amount is paid in full or the Maturity Date. Interest on each advancement of the principal amount of this Bond shall accrue from the date that such advancement is made, computed on the basis of a year of 360 days consisting of 12 months of 30 days each.

As used herein, the term "Cumulative Outstanding Principal Amount" means all Bonds outstanding under the terms of the hereinafter-defined Indenture, as reflected on **Schedule I** hereto maintained by the Trustee.

THIS BOND is one of a duly authorized series of Bonds of the City designated "City of Joplin, Missouri, Taxable Industrial Development Revenue Bonds (Hearthstone Project), Series 2019," in the maximum aggregate principal amount of $51,400,000 (the "Bonds"), to be issued for the purpose of acquiring, constructing, improving and equipping a project located at 2715 Prosperity Road in the City (the "Project"). The City will lease the land on which the Project is located (the "Project Site"), the improvements to be made thereon and equipment to be installed therein (collectively, the "Project") to Casey's Marketing Company, an Iowa corporation (the "Company"), under the terms of a Lease Agreement dated as of December 1, 2019 (said Lease Agreement, as amended and supplemented from time to time in accordance with the provisions thereof, being herein called the "Lease"), between the City and the Company, all pursuant to the authority of and in full compliance with the provisions, restrictions and limitations of the Constitution, the statutes of the State of Missouri, including particularly the Act, the charter of the City and pursuant to proceedings duly had by the Council of the City.

THE BONDS are issued under and are equally and ratably secured and entitled to the protection given by a Trust Indenture dated as of December 1, 2019 (said Trust Indenture, as amended and supplemented from time to time in accordance with the provisions thereof, being herein called the "Indenture"), between the City and UMB Bank, N.A., as trustee (the "Trustee"). *Capitalized terms not defined herein shall have the meanings set forth in the Indenture.*

Reference is hereby made to the Indenture for a description of the provisions, among others, with respect to the nature and extent of the security for the Bonds, the rights, duties and obligations of the City, the Trustee and the Owners, and the terms upon which the Bonds are issued and secured.

THE BONDS are subject to redemption and prepayment as stated in the Indenture.

IF THE BONDS are to be called for optional redemption, the Company shall deliver written notice to the City and the Trustee that it has elected to redeem all or a portion of the Bonds at least 40 days (10 days if the Company is the Owner) prior to the scheduled redemption date. The Trustee shall then deliver written notice to the Owners at least 30 days (five days if the Company is the Owner) prior to the scheduled redemption date by facsimile and by first-class mail stating the date upon which the Bonds will be redeemed and paid, unless such notice period is waived by the Owners in writing.

THE BONDS, including interest thereon, are special obligations of the City and are payable solely out of the rents, revenues and receipts derived by the City from the Project and the Lease and not from any other fund or source of the City, and are secured by a pledge and assignment of the Project and of such rents, revenues and receipts, including all rentals and other amounts to be received by the City under and pursuant to the Lease, all as provided in the Indenture. The Bonds do not constitute a general obligation of the City or the State of Missouri, and neither the City nor said State shall be liable thereon, and the Bonds shall not constitute an indebtedness within the meaning of any constitutional, charter or statutory debt limitation or restriction, and are not payable in any manner by taxation. Pursuant to the provisions of the Lease, rental payments sufficient for the prompt payment when due of the principal of and interest on the Bonds are to be paid by the Company directly to the Trustee for the account of the City and deposited in a special fund created by the City and designated the "City of Joplin, Missouri, Bond Fund -- Hearthstone Project"

THE OWNER of this Bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any Event of Default under the Indenture, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Indenture. In certain events, on the conditions, in the manner and with the effect set forth in the Indenture, the principal of all the Bonds issued under the Indenture and then Outstanding may become or may be declared due and payable before the stated maturity thereof, together with interest accrued thereon. Modifications or alterations of this Bond or the Indenture may be made only to the extent and in the circumstances permitted by the Indenture.

THIS BOND is transferable, as provided in the Indenture, only upon the books of the City kept for that purpose at the above-mentioned office of the Trustee by the Owner hereof in Person or by such Person's duly authorized attorney, upon surrender of this Bond together with a written instrument of transfer reasonably satisfactory to the Trustee duly executed by the Owner or such Person's duly authorized attorney, and thereupon a new fully registered Bond or Bonds, in the same aggregate principal amounts, shall be issued to the transferee in exchange therefor as provided in the Indenture, and upon payment of the charges therein prescribed. The City, the Trustee and any Paying Agent may deem and treat the Person in whose name this Bond is registered as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or redemption price hereof and interest due hereon and for all other purposes.

THE BONDS are issuable in the form of one fully-registered Bond in the maximum principal amount of $51,400,000.

THIS BOND shall not be valid or become obligatory for any purposes or be entitled to any security or benefit under the Indenture until the Certificate of Authentication hereon shall have been executed by the Trustee.

IT IS HEREBY CERTIFIED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the execution and delivery of the Indenture and the issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by the Constitution and laws of the State of Missouri.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, the City of Joplin, Missouri has caused this Bond to be executed in its name by the manual or facsimile signature of its Mayor, attested by the manual or facsimile signature of its City Clerk and its corporate seal to be affixed hereto or imprinted hereon, and has caused this Bond to be dated the date set forth above.

CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds of the issue described in the within-mentioned Resolution.

Registration Date: _____

UMB Bank, N.A.,
as Trustee

By _____
Authorized Signatory

CITY OF JOPLIN, MISSOURI

By: _____
Mayor

ATTEST: (Seal)

_____
City Clerk

SCHEDULE I

TABLE OF CUMULATIVE OUTSTANDING PRINCIPAL AMOUNT

CITY OF JOPLIN, MISSOURI
TAXABLE INDUSTRIAL DEVELOPMENT REVENUE BOND
(HEARTHSTONE PROJECT)
SERIES 2019

Date	Principal Amount Advanced	Principal Amount Redeemed	Cumulative Outstanding Principal Amount	Notation Made By

FORM OF ASSIGNMENT

(NOTE RESTRICTIONS ON TRANSFERS)

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto

_____

Print or Typewrite Name, Address and Social Security or
other Taxpayer Identification Number of Transferee

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____ attorney to transfer the within Bond on the books kept by the Trustee for the registration and transfer of Bonds, with full power of substitution in the premises.

Dated: _____.

_____

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular.

Place signature medallion below:

EXHIBIT D

FORM OF REPRESENTATION LETTER

City of Joplin, Missouri
602 S. Main Street
Joplin, Missouri 64801
Attention: City Manager

UMB Bank, N.A.
928 Grand Blvd, 12th Floor
Kansas City, MO 64106
Attention: Corporate Trust Department

Re: $51,400,000 Maximum Principal Amount of Taxable Industrial Development Revenue Bonds (Hearthstone Project), Series 2019 of the City of Joplin, Missouri

Ladies and Gentlemen:

In connection with the purchase of the above-referenced Bonds (the "Bonds"), the undersigned purchaser of the Bonds (the "Purchaser") hereby represents, warrants and agrees as follows:

1. The Purchaser fully understands that (a) the Bonds have been issued under and pursuant to a Trust Indenture dated as of December 1, 2019 (the "Indenture"), between the City of Joplin, Missouri (the "City") and UMB Bank, N.A., as trustee (the "Trustee"), and (b) the Bonds are payable solely out of certain rents, revenues and receipts to be derived from the leasing or sale of the Project (as defined in the Indenture) to Casey's Marketing Company, an Iowa corporation (the "Company"), under a Lease Agreement dated as of December 1, 2019 (the "Lease"), between the City and the Company, with certain of such rents, revenues and receipts being pledged and assigned by the City to the Trustee under the Indenture to secure the payment of the principal of and interest on the Bonds.

2. The Purchaser understands that the Bonds have not been registered under the Securities Act of 1933, as amended (the "1933 Act"), or the securities laws of any state and will be sold to the Purchaser in reliance upon certain exemptions from registration and in reliance upon the representations and warranties of the Purchaser set forth herein.

3. The Purchaser understands that the Bonds are transferable only in the manner provided for in the Indenture and discussed below and warrants that it is acquiring the Bonds for its own account with the intent of holding the Bonds as an investment, and the acquisition of the Bonds is not made with a view toward their distribution or for the purpose of offering, selling or otherwise participating in a distribution of the Bonds.

4. The Purchaser agrees not to attempt to offer, sell, hypothecate or otherwise distribute the Bonds to others unless authorized by the terms of the Indenture.

5. The Company has (a) furnished to the Purchaser such information about itself as the Purchaser deems necessary in order for it to make an informed investment decision with respect to the purchase of the Bonds, (b) made available to the Purchaser, during the course of this transaction, ample

opportunity to ask questions of, and to receive answers from, appropriate officers of the City and the terms and conditions of the offering of the Bonds, and (c) provided to the undersigned all additional information which it has requested.

6. The Purchaser acknowledges that no offering document has been prepared in connection with the sale of the Bonds. The Purchaser further acknowledges that it has timely received in satisfactory form and manner all proceedings, certificates, opinions, letters and other documents required to be submitted to the Purchaser pursuant to the Bond Purchase Agreement prior to or on the date of the delivery of and payment for the Bonds, and that the City and the Company have in all respects complied with and satisfied all of their respective obligations to the Purchaser which are required under the Bond Purchase Agreement to be complied with and satisfied on or before such date.

7. The Purchaser is now, and was when it agreed to purchase the Bonds, familiar with the operations of the Company and fully aware of terms and risks of the Bonds and that the Purchaser is relying on its own knowledge and investigation of facts and circumstances relating to the purchase of the Bonds. The Purchaser believes that the Bonds being acquired are a security of the type that the Purchaser wishes to purchase and hold for investment and that the nature and amount thereof are consistent with its investment program.

8. The Purchaser is fully aware of and satisfied with (i) the current status of the title to the Project and any issues related thereto and (ii) the terms, amounts and providers of the insurance maintained pursuant to **Article VII** of the Lease, and the undersigned is purchasing the Bonds with full knowledge of such matters.

9. The Purchaser understands and agrees that the interest on the Bonds *is* subject to federal and state income taxation.

10. The Purchaser hereby directs the Trustee to hold the Bonds in trust for the undersigned pursuant to **Section 204(c)** of the Indenture.

11. The Purchaser is the lessee under the Lease or (i) a "qualified institutional buyer" under Rule 144A promulgated under the Securities Act of 1933, or (ii) any general business corporation or enterprise with total assets in excess of $100,000,000.

Dated: _____, 20___

[PURCHASER OF BONDS]

By:_____
Name: _____
Title: _____

CITY OF JOPLIN, MISSOURI,
As Lessor,

AND

CASEY'S MARKETING COMPANY,
As Lessee

LEASE AGREEMENT

Dated as of December 1, 2019

Relating to:

$51,400,000
(Aggregate Maximum Principal Amount)
City of Joplin, Missouri
Taxable Industrial Development Revenue Bonds
(Hearthstone Project)
Series 2019

Certain rights of the City of Joplin, Missouri (the "City"), in this Lease Agreement have been pledged and assigned to UMB Bank, N.A., Kansas City, Missouri, as Trustee under the Trust Indenture dated as of December 1, 2019, between the City and the Trustee.

LEASE AGREEMENT

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LEASE AGREEMENT

THIS LEASE AGREEMENT, dated as of December 1, 2019 (the "Lease"), is between the **CITY OF JOPLIN, MISSOURI**, a constitutional charter city and municipal corporation duly organized and existing under the laws of the State of Missouri, as lessor (the "City"), and **CASEY'S MARKETING COMPANY, AN IOWA CORPORATION**, as lessee (the "Company");

RECITALS:

1. The City is authorized under Article VI, Section 27(b) of the Missouri Constitution and Sections 100.010 through 100.200 of the Revised Statutes of Missouri, as amended (the "Act"), to purchase, construct, extend, improve and equip certain "projects" (as defined in the Act) and to issue industrial development revenue bonds for the purpose of providing funds to pay the costs of such projects and to lease or otherwise dispose of such projects to private persons or corporations for manufacturing, commercial, research and development, warehousing and industrial development purposes upon such terms and conditions as the City shall deem advisable.

2. Pursuant to the Act, the City Council passed an ordinance (the "Ordinance") on December 2, 2019, authorizing the City to issue its Taxable Industrial Development Revenue Bonds (Hearthstone Project), Series 2019, in the maximum principal amount of $51,400,000 (the "Bonds"), for the purpose of acquiring, constructing, improving, purchasing, equipping and installing a warehouse and distribution facility on approximately 40 acres of land located at 2715 Prosperity Road in the City (the "Project Site," as more fully described on **Exhibit A** hereto), including such land and the associated buildings, structures and fixtures (the "Project Improvements," as more fully described on **Exhibit B** hereto) and equipment (the "Project Equipment," as more fully described on **Exhibit B** hereto, the Project Site, the Project Improvements, and the Project Equipment collectively being the "Project").

3. Pursuant to the Ordinance, the City is authorized to enter into a Trust Indenture of even date herewith (the "Indenture") with UMB Bank, N.A., Kansas City, Missouri, as Trustee (the "Trustee"), for the purpose of issuing and securing the Bonds, as therein provided, and to enter into this Lease with the Company under which the City will construct, improve and equip the Project, and lease the Project to the Company in consideration of rental payments by the Company that will be sufficient to pay the principal of and interest on the Bonds.

4. In consideration of the terms and conditions of this Lease, the Ordinance, issuance of the Bonds and certain other agreements, the City and the Company have concurrently herewith entered into a Performance Agreement of even date herewith (the "Performance Agreement"), pursuant to which the Company has agreed to make certain payments in lieu of taxes.

5. Pursuant to the foregoing, the City desires to lease the Project to the Company and the Company desires to lease the Project from the City, for the rentals and upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the premises and the mutual representations, covenants and agreements herein contained, the receipt and sufficiency of which are hereby acknowledged, the City and the Company do hereby represent, covenant and agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1. Definitions of Words and Terms. In addition to any words and terms defined elsewhere in this Lease and the words and terms defined in **Section 101** of the Indenture which definitions are hereby incorporated herein by reference, and terms defined, the following words and terms as used in this Lease shall have the following meanings:

"Additional Rent" means the additional rental described in **Sections 5.2** and **6.2** of this Lease.

"Basic Rent" means the rental described in **Section 5.1** of this Lease.

"Environmental Law" means and includes the Comprehensive Environmental Response, Compensation and Liability Act of 1980, the Resource Conservation and Recovery Act, the Superfund Amendments and Reauthorization Act of 1986, any other "Superfund" or "Superlien" law, or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning any Hazardous Materials, as now or at any time hereafter in effect.

"Full Insurable Value" means the actual replacement cost of the Project less physical depreciation as determined in accordance with **Section 7.1(a)** hereof.

"Lease Term" means the period from the effective date of this Lease until the expiration thereof pursuant to **Section 3.2** hereof.

"Net Proceeds" means, when used with respect to any insurance or condemnation award with respect to the Project, the gross proceeds from the insurance or condemnation award with respect to which that term is used remaining after payment of all expenses (including reasonable attorneys' fees, trustee's fees and any extraordinary expenses of the City and the Trustee) incurred in the collection of such gross proceeds.

"Plans and Specifications" means the plans and specifications prepared for and showing the Project, as amended by the Company from time to time prior to the Completion Date, the same being duly certified by the Company, and on file with the Company, or with the architect/engineers retained by the Company for the Project, and which shall be available for reasonable inspection by the City, the Trustee and their duly appointed representatives.

"Project Site" means the real property upon which the property comprising the Project is located as more fully described in **Exhibit A**.

"Remedies Notice" means notice to the Company from the City or the Trustee that the City or the Trustee intends to exercise remedies hereunder.

Section 1.2. Rules of Interpretation.

(a) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders.

(b) Unless the context shall otherwise indicate, words importing the singular number shall include the plural and vice versa, and words importing Persons shall include firms, associations and corporations, including governmental entities, as well as natural Persons.

(c) Wherever in this Lease it is provided that either party shall or will make any payment or perform or refrain from performing any act or obligation, each such provision shall, even though not so expressed, be construed as an express covenant to make such payment or to perform, or not to perform, as the case may be, such act or obligation.

(d) All references in this instrument to designated "Articles," "Sections" and other subdivisions are, unless otherwise specified, to the designated Articles, Sections and subdivisions of this instrument as originally executed. The words "herein," "hereof," "hereunder" and other words of similar import refer to this Lease as a whole and not to any particular Article, Section or other subdivision.

(e) The Table of Contents and the Article and Section headings of this Lease shall not be treated as a part of this Lease or as affecting the true meaning of the provisions hereof.

(f) Whenever an item or items are listed after the word "including," such listing is not intended to be a listing that excludes items not listed.

ARTICLE II

REPRESENTATIONS

Section 2.1. Representations by the City. The City makes the following representations as the basis for the undertakings on its part herein contained:

(a) The City is a constitutional charter city and municipal corporation duly organized and validly existing under the laws of the State of Missouri. Under the provisions of the Act, the City has lawful power and authority to enter into the transactions contemplated by this Lease and to carry out its obligations hereunder. By proper action of its governing body, the City has been duly authorized to execute and deliver this Lease, acting by and through its duly authorized officers;

(b) As of the date of delivery hereof, the City has acquired the Project Site and agrees to construct and improve or cause to be constructed, improved and installed thereon the Project Improvements and Project Equipment. The City agrees to lease the Project to the Company and sell the Project to the Company if the Company exercises its option to purchase the Project or upon termination of this Lease as provided for herein, all for the purpose of furthering the public purposes of the Act;

(c) The purchase, construction, extension, improvement and installation of the Project and the leasing of the Project by the City to the Company will further the public purposes of the Act;

(d) To the City's knowledge, no member of the City Council or any other officer of the City has any significant or conflicting interest, financial, employment or otherwise, in the Company or in the transactions contemplated hereby;

(e) To finance the costs of the Project, the City proposes to issue the Bonds which will be scheduled to mature as set forth in **Article II** of the Indenture and will be subject to redemption prior to maturity in accordance with the provisions of **Article III** of the Indenture;

(f) The Bonds are to be issued under and secured by the Indenture, pursuant to which the Project and the net earnings therefrom, including all rents, revenues and receipts to be derived by the City from the leasing or sale of the Project, will be pledged and assigned to the Trustee as security for payment of the principal of and interest on the Bonds and amounts owing pursuant to the Lease;

(g) The City will not knowingly take any affirmative action that would permit a lien to be placed on the Project or pledge the revenues derived therefrom for any bonds or other obligations, other than the Bonds, except with the written consent of the Authorized Company Representative; and

(h) The City shall have no authority to operate the Project as a business or in any other manner except as the lessor thereof or potentially as lessee of a portion thereof, except subsequent to an Event of Default hereunder.

Section 2.2. Representations by the Company. The Company makes the following representations as the basis for the undertakings on its part herein contained:

(a) The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of Iowa and is in good standing under the laws of and is qualified to do business in the State of Missouri;

(b) The Company has lawful power and authority to enter into this Lease and to carry out its obligations hereunder and by proper action of its board of directors the Company has been duly authorized to execute and deliver this Lease, acting by and through its duly authorized officers and representatives;

(c) The execution and delivery of this Lease, the consummation of the transactions contemplated hereby, and the performance of or compliance with the terms and conditions of this Lease by the Company will not, to the Company's knowledge, conflict with or result in a breach of any of the terms, conditions or provisions of, or constitute a default under, any mortgage, deed of trust, lease or any other restrictions or any agreement or instrument to which the Company is a party or by which it or any of its property is bound, or the Company's organizational documents, or any order, rule or regulation applicable to the Company or any of its property of any court or governmental body, or constitute a default under any of the foregoing, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Company under the terms of any instrument or agreement to which the Company is a party;

(d) To the Company's knowledge, the estimated costs of the construction, improvement and equipping of the Project are in accordance with sound engineering and accounting principles;

(e) The Project will comply in all material respects with all presently applicable building and zoning, health, environmental and safety orders and laws and all other applicable laws, rules and regulations and the Project Equipment will be located at the Project Site.

ARTICLE III

GRANTING PROVISIONS

Section 3.1. Granting of Leasehold Estate. The City hereby exclusively rents, leases and lets the Project to the Company, and the Company hereby rents, leases and hires the Project from the City, subject to Permitted Encumbrances existing as of the date of the execution and delivery hereof, for the rentals and upon and subject to the terms and conditions herein contained.

Section 3.2. Lease Term. This Lease shall become effective upon its delivery, and subject to sooner termination pursuant to the provisions of this Lease, shall have a term commencing as of the date of this Lease and terminating on **December 1, 2033**.

Section 3.3. Possession and Use of the Project.

(a) The City covenants and agrees that as long as neither the City nor the Trustee has exercised any of the remedies set forth in **Section 12.2** hereof following the occurrence and continuance of an Event of Default, as defined in **Section 12.1** hereof, the Company shall have sole and exclusive possession of the Project (subject to Permitted Encumbrances and the City's and the Trustee's right of access pursuant to **Section 10.3** hereof) and shall and may peaceably and quietly have, hold and enjoy the Project during the Lease Term. The City covenants and agrees that it will not take any action, other than expressly pursuant to **Article XII** hereof, to prevent the Company from having quiet and peaceable possession and enjoyment of the Project during the Lease Term and will, at the request and expense of the Company, cooperate with the Company in order that the Company may have quiet and peaceable possession and enjoyment of the Project and will defend the Company's enjoyment and possession thereof against all parties.

(b) Subject to the provisions of this Section, the Company shall have the exclusive right to use the Project for any lawful purpose contemplated by the Act and consistent with the terms of the Performance Agreement. The Company shall use commercially reasonable efforts to comply in all material respects with all statutes, laws, ordinances, orders, judgments, decrees, regulations, directions and requirements of all federal, state, local and other governments or governmental authorities, now or hereafter applicable to the Project or to any adjoining public ways, as to the manner of use or the condition of the Project or of adjoining public ways. In the event of demonstrated noncompliance with such statutes, laws, ordinances, orders, judgments, decrees, regulations, directions and requirements the Company will take all reasonable steps to comply with such statutes, laws, ordinances, orders, judgments, decrees, regulations, directions and requirements, subject to the rights of the Company to contest the same. The Company shall also comply with the mandatory requirements, rules and regulations of all insurers under the policies carried under the provisions of **Article VII** hereof. The Company shall pay all actual and reasonable costs, expenses, claims, fines, penalties and damages that may in any manner arise out of, or be imposed as a result of, the failure of the Company to comply with the provisions of this Section. Notwithstanding any provision contained in this Section, however, the Company may, at its own cost and expense, contest or review by legal or other appropriate procedures the validity or legality of any such governmental statute, law, ordinance, order, judgment, decree, regulation, direction or requirement,

or any such requirement, rule or regulation of an insurer, and during such contest or review the Company may refrain from complying therewith.

Section 3.4. Title to the Project. The City shall be the sole owner of the Project during the Lease Term, subject to the Permitted Encumbrances.

ARTICLE IV

CONSTRUCTION, IMPROVEMENT AND INSTALLATION OF THE PROJECT

Section 4.1. Issuance of the Bonds. To provide funds for the payment of Project Costs, the City agrees that, upon request of the Company, it will issue, sell and cause to be delivered the Bonds to the purchaser thereof in accordance with the provisions of the Indenture and the Bond Purchase Agreement.

Section 4.2. Acquisition, Construction, Improvement and Installation of the Project. The City and the Company agree that the Company, as the agent of the City, shall acquire, construct, improve and install the Project Improvements and the Project Equipment as follows:

(a) The City has acquired the Project Site prior to the execution hereof. Concurrently with the execution of this Lease, (i) a deed and any other necessary instruments of transfer will be delivered to the City and placed of record, and (ii) the commitment for title insurance or ownership and encumbrance report required by **Article VII** hereof will be delivered to the City and the Trustee;

(b) On behalf of the City, the Company will construct and improve the Project Improvements on the Project Site and otherwise improve the Project Site in substantial accordance with the Plans and Specifications. The Company may revise the Plans and Specifications from time to time as it deems necessary to carry out the Project, but revisions that would alter the intended purpose of the Project to a use other than as a manufacturing, warehousing and distribution facility may be made only with the prior written approval of the City. The Company agrees that the aforesaid construction and improvement will, with such changes and additions as may be made hereunder, result in facilities suitable for use by the Company for its purposes, and that all real and personal property described in the Plans and Specifications, with such changes and additions as may be made hereunder, is desirable and appropriate in connection with the Project. The provisions of this paragraph are in addition to and do not supersede the provisions of **Section 8.2**;

(c) The Company will purchase and install the Project Equipment at the Project Site. The Company shall transfer title to the Project Equipment to the City from time to time by bills of sale or other instruments of transfer. On or before March 1 of each year or such other date required by law for reporting personal property declarations, the Company shall furnish to the City, Jasper County and the Trustee a list of items (based on the Company's internal record keeping) comprising the Project Equipment as of January 1 of such year. ***No item of personal property shall appear on the list of Project Equipment for more than 5 such reports.*** If the Company makes additions to, or replacements of, the Project Equipment for the purpose of repairing damage or normal wear and tear, such additions and/or replacements shall become part of the Project Equipment and shall be entitled to the tax exemption afforded by virtue of the City's ownership of the Project Equipment (such addition or replacement may be placed in

service on or after the Completion Date). The improper inclusion or exclusion of any Project Equipment pursuant to such list may be rectified by the Company within 30 days after notice of such improper inclusion or exclusion. The improper inclusion or exclusion of an item on or from such list shall not affect the items comprising the Project Equipment for the purpose of this Lease or title thereto as intended by the parties hereto. The Company shall provide such information to the City, Jasper County and the Trustee as may be requested in order to ensure that such list corresponds to the list of Project Equipment maintained by the Trustee pursuant to **Section 10.8**. Each bill of sale or other instrument of transfer and each personal property declaration form shall be of sufficient specificity so as to enable Jasper County's officials (including representatives of the Assessor's office) to determine which personal property as reported on the annual personal property declaration constitutes Project Equipment (and therefore is owned by the City) and which personal property does not constitute Project Equipment (and therefore is owned by the Company). The City and the Company agree that, pursuant to **Section 4.8**, property purchased in whole or in part by the Company with its own funds, and not Bond proceeds, shall not constitute part of the Project Equipment and shall remain the property of the Company and therefore subject to taxation. ***Each item of personal property that becomes a part of the Project Equipment shall cease to be part of the Project Equipment after 5 tax years, starting with the tax year after the calendar year in which such personal property is acquired by the Company. Upon expiration of such 5-year period, title to such personal property shall be, and hereby is, conveyed to the Company, without further act of the City or the Company.***

(d) The Company agrees that it will use reasonable efforts to cause the acquisition, construction, improvement and installation of the Project to be completed as soon as practicable with all reasonable dispatch. In the event such acquisition, construction, improvement and installation commences prior to the receipt of proceeds from the sale of the Bonds, the Company agrees to advance all funds necessary for such purpose.

Section 4.3. Project Costs. The City hereby agrees to pay for, but solely from the Project Fund, and hereby authorizes and directs the Trustee to pay for, but solely from the Project Fund, all Project Costs upon receipt by the Trustee of a certificate pursuant to **Section 4.4** hereof. The Company may not submit any requisition certificates for Project Costs incurred after the Completion Date. The Company must submit all requisitions for Project Costs incurred before the Completion Date within three months after the Completion Date.

Section 4.4. Payment for Project Costs. The City hereby authorizes and directs the Trustee to make disbursements from the Project Fund, upon receipt by the Trustee of certificates in substantially the form attached hereto as **Exhibit C**, signed by an Authorized Company Representative and approved by an Authorized Company Representative,

(a) requesting payment or reimbursement of a specified amount of such funds (which amount shall be equal to the value of the property being transferred to the City simultaneously with any request) and directing to whom such amount shall be paid (which may include the Company in the event of a reimbursement);

(b) describing each item of Project Costs for which payment is being requested, including for each item of Project Equipment or Project Improvement, a description of the item and, for each item of Project Equipment, a serial or other identifying number, if any, for such item;

(c) stating that each item for which payment is requested is or was desirable and appropriate in connection with the purchase, installation or equipping of the Project has been properly incurred and is a proper charge against the Project Fund, that the amount requested either has been paid by the Company, or is justly due, and has not been the basis of any previous requisition from the Project Fund; and

(d) stating that, except for the amounts, if any, stated in said certificate, to the best of the knowledge of the Authorized Company Representative there are no outstanding disputed statements for which payment is requested for labor, wages, materials, supplies or services in connection with the purchase, installation or equipping of the Project which, if unpaid, might become the basis of a vendors', mechanics', laborers' or materialmen's statutory or similar lien upon the Project or any part thereof.

The Trustee may rely conclusively on any such certificate and shall not be required to make any independent inspection or investigation in connection therewith. The approval of any requisition certificate by the Authorized Company Representative and the Authorized City Representative shall constitute unto the Trustee an irrevocable determination that all conditions precedent to the payments requested have been completed. The Trustee shall retain copies of all requisition certificates for the same period of record retention described in **Section 703** of the Indenture.

Section 4.5. Establishment of Completion Date. The Completion Date shall be evidenced to the Trustee by a certificate signed by the Authorized Company Representative stating (a) the acquisition, construction, improvement and installation of the Project has been substantially completed in substantial accordance with the Plans and Specifications, in all material respects, (b) that all costs and expenses incurred in the acquisition, construction, improvement and installation of the Project have been paid except costs and expenses the payment of which is not yet due or is being retained or contested in good faith by the Company, and (c) amounts to be retained by Trustee with respect to item (b) above. Notwithstanding the foregoing, such certificate shall state that it is given without prejudice to any rights against third parties which exist at the date of such certificate or which may subsequently come into being. The Company and the City agree to cooperate in causing such certificate to be furnished to the Trustee. If the Company makes additions to, substitutions for, or replacements of, the Project for the purpose of repairing damage or normal wear and tear or substituting property in the case of condemnation under **Section 8.2(c), Section 9.1(a)** or **Section 9.2(b)**, such additions, substitutions and/or replacements shall become part of the Project and shall be entitled to the tax exemption afforded by virtue of the City's ownership of the Project regardless of whether such additions, substitutions or replacements may be purchased or placed in service on or after the Completion Date.

Section 4.6. Surplus or Deficiency in Project Fund.

(a) Upon receipt of the certificate described in **Section 4.5** hereof, the Trustee shall, as provided in **Section 504** of the Indenture, transfer any remaining moneys then in the Project Fund to the Bond Fund to be applied as directed by the Company solely to (1) the payment of principal and premium, if any, of the Bonds through the payment (including regularly scheduled principal payments, if any) or redemption thereof at the earliest date permissible under the terms of the Indenture, or (2) at the option of the Company, to the purchase of Bonds at such earlier date or dates as the Company may elect. Any amount so deposited in the Bond Fund may be invested as permitted by **Section 702** of the Indenture.

(b) If the Project Fund shall be insufficient to pay fully all Project Costs and to complete the Project free of liens and encumbrances other than Permitted Encumbrances, the Company shall pay, in cash, the full amount of any such deficiency by making payments thereof directly to the contractors and to

the suppliers of materials and services as the same shall become due (subject to the rights of the Company to contest any claims or liens of any such contractors or material used in accordance with applicable laws) and the Company shall save the City and the Trustee whole and harmless from any obligation to pay such deficiency.

Section 4.7. Project Property of City. The Project Site, the Project Improvements and the Project Equipment, which the Company desires to convey to the City, including all work and materials on the Project as such work progresses, and all additions or enlargements thereto or thereof, the Project as fully completed, anything under this Lease which becomes, is deemed to be, or constitutes a part of the Project, and the Project as repaired, rebuilt, rearranged, restored or replaced by the Company under the provisions of this Lease, except as otherwise specifically provided herein, shall immediately when erected or installed become the absolute property of the City, subject only to this Lease, the Indenture, Permitted Encumbrances, the Financing Documents and the Leasehold Security Agreement, if any.

Section 4.8. Non-Project Improvements, Machinery and Equipment Property of the Company. Any improvements or items of machinery or equipment which do not constitute part of the Project and the entire purchase price of which is paid for by the Company with the Company's own funds, and no part of the purchase price of which is paid for from funds deposited pursuant to the terms of this Lease in the Project Fund, shall be the property of the Company and shall not constitute a part of the Project for purposes of **Section 6.4** hereof and therefore are subject to taxation, to the extent otherwise provided by law.

Section 4.9. Environmental Matters. The Company acknowledges that is it responsible for maintaining the Project in compliance with all Environmental Laws. In the event that the Company fails to undertake to comply with any final, non-appealable order issued by any local, state or federal authority under applicable Environmental Law, the City or the Trustee, thirty days after notice to the Company, may elect (but shall not be required) to undertake such compliance if the Company has not undertaken such compliance or is otherwise not prosecuting the same to completion with reasonable diligence. Any moneys expended by the City or the Trustee in efforts to comply with any applicable Environmental Law (including the reasonable cost of hiring consultants, undertaking sampling and testing, performing any cleanup necessary or useful in the compliance process and reasonable attorneys' fees) shall be due and payable as Additional Rent hereunder with interest thereon at the average rate of interest per annum on the Bonds, plus two (2) percentage points, from the date such cost is incurred. There shall be unlimited recourse to the Company to the extent of any liability incurred by the City or the Trustee with respect to any breaches of the provisions of this section.

ARTICLE V

RENT PROVISIONS

Section 5.1. Basic Rent. The Company covenants and agrees to pay to the Trustee in same day funds for the account of the City during this Lease Term, on or before 11:00 a.m., Trustee's local time, on or before each December 1 (each a "Payment Date"), commencing December 1, 2020 and continuing until the principal of and interest on the Bonds shall have been fully paid, as "Basic Rent" for the Project, an amount which, when added to any collected funds then on deposit in the Bond Fund and available for the payment of principal of the Bonds and the interest thereon on such Payment Date, shall be equal to the amount payable on such Payment Date as interest on the Bonds (except as offset pursuant to the right of the Company described herein). On **December 1, 2033** (or such earlier date as the

Company may elect to redeem the Bonds), the Company shall also pay an amount equal to all principal then due on the Bonds in connection with such maturity or redemption (subject to the right of the Company to surrender the Bonds in lieu of such payment). All payments of Basic Rent provided for in this Section shall be paid directly to the Trustee and shall be deposited in accordance with the provisions of the Indenture into the Bond Fund and shall be used and applied by the Trustee in the manner and for the purposes set forth in this Lease and the Indenture. In furtherance of the foregoing, and notwithstanding any other provision in this Lease, the Indenture, the Bond Purchase Agreement or the Performance Agreement to the contrary, and provided that the Company is the sole holder of the Bonds, the Company may set-off the then-current Basic Rent payment against the City's obligation to the Company as Bondholder under the Indenture in lieu of delivery of the Basic Rent on any Payment Date, without providing notice of such set-off to the Trustee. The Trustee may conclusively rely on the absence of any notice from the Company to the contrary as evidence that such set-off has occurred. On the final Payment Date, the Company will (a) if the Trustee holds the Bonds, notify the Trustee of the Bonds not previously paid that are to be cancelled or (b) if an entity other than the Trustee holds the Bonds, deliver or cause to be delivered to the Trustee for cancellation Bonds not previously paid. The Company shall receive a credit against the Basic Rent payable by the Company in an amount equal to the principal amount of the Bonds so tendered for cancellation plus accrued interest thereon.

Section 5.2. Additional Rent. The Company shall pay as Additional Rent, within 30 days after receiving an itemized invoice therefor, the following amounts:

(a) all fees, charges and expenses, including reasonable agent and counsel fees and expenses, of the City, the Trustee and the Paying Agent incurred under or arising from the Indenture, this Lease or the Performance Agreement, including but not limited to claims by contractors or subcontractors, as and when the same become due;

(b) all costs incident to the issuance of the Bonds (which are to be paid on the Closing Date) and the payment of the principal of and interest on the Bonds as the same become due and payable, including all costs and expenses in connection with the call, redemption and payment of all Outstanding Bonds;

(c) the actual and reasonable fees, charges and expenses incurred in connection with the enforcement of any rights under this Lease, the Indenture or the Performance Agreement by the City, the Trustee or the Owners, including reasonable counsel fees and expenses; and

(d) all other payments of whatever nature which Company has agreed in writing to pay or assume under the provisions of this Lease, the Performance Agreement or the Indenture.

Section 5.3. Obligations of Company Absolute and Unconditional.

(a) The obligations of the Company under this Lease to make payments of Basic Rent and Additional Rent on or before the date the same become due, and to perform all of its other obligations, covenants and agreements hereunder shall be absolute and unconditional, without notice or demand, and without abatement, deduction, set-off, counterclaim, recoupment or defense or any right of termination or cancellation arising from any circumstance whatsoever, whether now existing or hereafter arising, and irrespective of whether the Project has been started or completed, or whether the City's title thereto or to any part thereof is defective or nonexistent, and notwithstanding any damage to, loss, theft or destruction of, the Project or any part thereof, any failure of consideration or frustration of commercial purpose, the taking by eminent domain of title to or of the right of temporary use of all or any part of the Project, legal curtailment of the Company's use thereof, the eviction or constructive eviction of the Company, any

change in the tax or other laws of the United States of America, the State of Missouri or any political subdivision thereof, any change in the City's legal organization or status, or any default of the City hereunder, and regardless of the invalidity of any action of the City; provided, however, that nothing in this **Section 5.3(a)** or **Section 5.3(b)** is intended or shall be deemed to affect or impair in anyway the rights of the Company to tender Bonds for redemption in satisfaction of Basic Rent as provided in **Section 5.1** and **Section 5.4** hereof, nor the right of the Company to terminate this Lease and repurchase the Project as provided in **Article XI** hereof, nor the right of the offset as provided in **Section 5.1** hereof.

(b) Nothing in this Lease shall be construed to release the City from the performance of any agreement on its part herein contained or as a waiver by the Company of any rights or claims the Company may have against the City under this Lease or otherwise, but any recovery upon such rights and claims shall be had from the City separately, it being the intent of this Lease that the Company shall be unconditionally and absolutely obligated to perform fully all of its obligations, agreements and covenants under this Lease (including the obligation to pay Basic Rent and Additional Rent) for the benefit of the Owners and the City. The Company may, however, at its own cost and expense and in its own name or in the name of the City, prosecute or defend any action or proceeding or take any other action involving third Persons which the Company deems reasonably necessary in order to secure or protect its right of possession, occupancy and use hereunder, and in such event the City hereby agrees to cooperate fully with the Company and to take all action necessary to effect the substitution of the Company for the City in any such action or proceeding if the Company shall so request.

Section 5.4. Prepayment of Basic Rent. The Company may at any time and from time to time prepay all or any part of the Basic Rent provided for hereunder (subject to the limitations of **Section 301(a)** of the Indenture relating to the partial redemption of the Bonds). During such times as the amount held by the Trustee in the Bond Fund shall be sufficient to pay, at the time required, the principal of and interest on all the Bonds then remaining unpaid, the Company shall not be obligated to make payments of Basic Rent under the provisions of this Lease.

The Company, at its option, may deliver to the Trustee for cancellation Bonds owned by the Company and not previously paid, and the Company shall receive a credit against amounts payable by the Company for the redemption of Bonds in an amount equal to the principal amount of the Bonds so tendered for cancellation, plus accrued interest thereon.

ARTICLE VI

MAINTENANCE, TAXES AND UTILITIES

Section 6.1. Maintenance and Repairs. Throughout the Lease Term the Company shall, at its own expense, keep the Project in reasonably safe operating condition and keep the Project in reasonably good repair, reasonable wear, tear, depreciation and obsolescence excepted, making from time to time all repairs thereto and renewals and replacements thereof it determines to be necessary. Without limiting the generality of the foregoing, the Company shall at all times remain in compliance in all material respects with all provisions of the City's code relating to maintenance and appearance.

Section 6.2. Taxes, Assessments and Other Governmental Charges.

(a) Subject to subsection (b) of this Section, the Company shall promptly pay and discharge, as the same become due, all taxes and assessments, general and special, and other governmental charges of any kind whatsoever that may be lawfully taxed, charged, levied, assessed or imposed upon or against

or be payable for or in respect of the Project, or any part thereof or interest therein (including the leasehold estate of the Company therein) or any buildings, improvements, machinery and equipment at any time installed thereon by the Company, or the income therefrom, including any new taxes and assessments not of the kind enumerated above to the extent that the same are lawfully made, levied or assessed in lieu of or in addition to taxes or assessments now customarily levied against real or personal property, and further including all utility charges, assessments and other general governmental charges and impositions whatsoever, foreseen or unforeseen, which if not paid when due would impair the security of the Bonds or encumber the City's title to the Project; provided that with respect to any special assessments or other governmental charges that are lawfully levied and assessed which may be paid in installments, the Company shall be obligated to pay only such installments thereof as become due and payable during the Lease Term.

(b) The Company may, in its own name or in the City's name, contest the validity or amount of any tax, assessment or other governmental charge which the Company is required to bear, pay and discharge pursuant to the terms of this Article by appropriate legal proceedings instituted before the tax, assessment or other governmental charge complained of becomes delinquent if and provided (1) the Company, before instituting any such contest, gives the City written notice of its intention to do so, (2) the Company diligently prosecutes any such contest, at all times effectively stays or prevents any official or judicial sale therefor, under execution or otherwise, and (3) the Company promptly pays any final judgment enforcing the tax, assessment or other governmental charge so contested and thereafter promptly procures record release or satisfaction thereof. The City agrees to cooperate fully with the Company in connection with any and all administrative or judicial proceedings related to any tax, assessment or other governmental charge and to take such actions as may be reasonably requested by the Company related to such proceedings. The Company shall save and hold harmless the City and the Trustee from any costs and expenses the City and the Trustee may incur related to any of the above.

(c) Nothing in this Lease shall be construed to require the Company to make duplicate tax payments. The Company shall receive a credit against the payments to be made by the Company under the Performance Agreement to the extent of any ad valorem taxes imposed and paid by the Company with respect to the Project paid pursuant to this Section.

Section 6.3. Utilities. All utilities and utility services used by the Company in, on or about the Project shall be paid for by the Company and shall be contracted for by the Company in the Company's own name (or the name(s) of its affiliates), and the Company shall, at its sole cost and expense, procure any and all permits, licenses or authorizations necessary in connection therewith.

Section 6.4. Property Tax Exemption. The City and the Company expect that while the Project is owned by the City and is subject to this Lease, the Project will be exempt from all ad valorem real and personal property taxes by reason of such ownership, and the City agrees that it will (at the expense of the Company) cooperate with the Company to defend such exemption against all parties. The City and the Company further acknowledge and agree that the City's obligations hereunder are contingent upon the Company making the payments due under and otherwise complying with the terms of the Performance Agreement during the term of this Lease. The terms and conditions of the Performance Agreement are incorporated herein as if fully set forth herein.

ARTICLE VII

INSURANCE

Section 7.1. Title Commitment or Report. Before conveying title to any real property to the City, the Company will obtain, from a title insurance company reasonably acceptable to the City, a commitment for title insurance or provide such other report in a form reasonably acceptable to the City showing the ownership of and encumbrances on the Project Site. Copies of such report shall be provided to the City and the Trustee.

Section 7.2. Property Insurance.

(a) The Company shall at its sole cost and expense obtain and shall maintain throughout the Lease Term a policy or policies of insurance to keep the Project constantly insured against loss or damage by fire, lightning and all other risks covered by the extended coverage insurance endorsement then in use in the State of Missouri in an amount equal to the Full Insurable Value thereof (subject to reasonable loss deductible provisions); provided, however, that during the period of time while the facility at the Project Site is under construction, the Company shall obtain and maintain a policy of builder's risk insurance. The insurance required pursuant to this Section shall be maintained with a generally recognized responsible insurance company or companies authorized to do business in the State of Missouri or generally recognized international insurers or reinsurers as may be selected by the Company. The Company shall deliver certificates of insurance for such policies to the City and the Trustee before the initial acquisition of the Project and promptly after renewal of each insurance policy. All such policies of insurance pursuant to this Section, and all renewals thereof, shall name the City and the Trustee as additional insureds, as their respective interests may appear, shall name the Trustee as loss payee and shall contain a provision that such insurance may not be canceled by the issuer thereof without at least 10 days' advance written notice to the City, the Company and the Trustee, to the extent such a provision can be obtained and is available from the insurer.

(b) In the event of loss or damage to the Project resulting in Net Proceeds of property insurance carried pursuant to this Section in an amount equal to or greater than $1,000,000, such Net Proceeds shall be (i) paid over to the Trustee and shall be applied as provided in **Article IX** of this Lease, or (ii) if otherwise directed by, or on behalf of, the Owners of 100% in principal amount of the Bonds Outstanding, as so directed. Insurance monies in an amount less than $1,000,000 may be paid to or retained by the Company to be held in trust and used as provided in **Section 9.1(a)** hereof.

Section 7.3. Commercial General Liability Insurance.

(a) The Company shall at its sole cost and expense maintain or cause to be maintained at all times during the Lease Term commercial general liability insurance (including but not limited to coverage for operations, contingent liability, operations of subcontractors, completed operations and contractual liability), under which the City and the Trustee shall be named as additional insureds, properly protecting and indemnifying the City and the Trustee, in an amount not less than the limits of liability set by Section 537.610 of the Revised Statutes of Missouri, as amended (subject to reasonable loss deductible clauses not to exceed the amounts normally or generally carried by the Company). The policies of said insurance shall contain a provision that such insurance may not be canceled by the issuer thereof without at least 10 days' advance written notice to the City, the Company and the Trustee, to the extent such a provision can be obtained and is available from the insurer. Certificates of such policies shall be furnished to the Trustee on the date of execution of this Lease and not less than 30 days before the expiration date of each insurance policy.

(b) In the event of a general liability occurrence, the Net Proceeds of liability insurance carried pursuant to this Section shall be applied toward the extinguishment or satisfaction of the liability with respect to which such proceeds have been paid.

Section 7.4. Workers' Compensation. The Company agrees throughout the Lease Term to maintain or cause to be maintained the Workers' Compensation coverage required by the laws of the State of Missouri.

Section 7.5. Blanket Insurance Policies; Self-Insurance. The Company may satisfy any of the insurance requirements set forth in this Article by using blanket policies of insurance, provided each and all of the requirements and specifications of this Article respecting insurance are complied with. The Company may satisfy any of the insurance requirements set forth in this Article using self-insurance or insurance through a subsidiary or affiliate; so long as (i) the insurance is underwritten by a subsidiary or other affiliate of the Company with a separate net worth of at least $150,000,000, or (ii) the Company funds such self-insurance by appropriate reserves in the amounts recommended by independent actuarial reports obtained not less than every three (3) years for the term of this Lease. The Company shall provide to the City and the Trustee copies of financial statements or similar evidence of net worth of such affiliate on the date hereof and every three (3) years, or, in the case of actuarial reports, on the date of delivery of this Lease and, thereafter, not less than 30 days after receipt of such reports.

ARTICLE VIII

ALTERATION OF THE PROJECT

Section 8.1. Additions, Modifications and Improvements at the Project Site. The Company shall have and is hereby given the right, at its sole cost and expense, to make such additions, modifications and improvements in and to any part of the Project Improvements or the Project Equipment as the Company from time to time may deem necessary or desirable for its business purposes. All additions, modifications and improvements made by the Company pursuant to this Section shall (a) be made in a good and workmanlike manner and in material compliance with all laws and ordinances applicable thereto, (b) when commenced, be prosecuted to completion with due diligence, and (c) when completed, be deemed a part of the Project; provided, however, that additions of improvements, machinery and equipment installed on the Project Site by the Company but not purchased or acquired with proceeds of the Bonds (or purchased as replacement of such Project Improvements or Project Equipment) shall not become part of the Project and such property shall be subject to *ad valorem* taxes.

The Company may, at its sole cost and expense, construct on portions of the Project Site not theretofore occupied by buildings or improvements such additional buildings and improvements as the Company from time to time may deem necessary or desirable for its business purposes. All additional buildings and improvements constructed on the Project Site by the Company, and not paid for with Bond proceeds, pursuant to the authority of this Section shall not be included as Project Improvements and, during the life of this Lease, shall remain the property of the Company and may be added to, altered or razed and removed by the Company at any time. All additional buildings and improvements shall be made in a good and workmanlike manner and in strict compliance with all material laws, orders and ordinances applicable thereto and when commenced shall be prosecuted to completion with due diligence. The Company covenants and agrees (a) to make any reasonable repairs and restorations required to be made to the Project because of the construction of, addition to, alteration or removal of said additional buildings or improvements, and (b) to promptly and with due diligence either raze and remove or repair,

replace or restore any of said additional buildings and improvements as may from time to time be damaged by fire or other casualty. The Company shall pay all *ad valorem* taxes and assessments payable with respect to such additional buildings and improvements which remain the property of the Company. If for any reason the County Assessor determines that such additional buildings and improvements are not subject to *ad valorem* taxes based upon City ownership of the Project, the Company shall make payments in lieu of taxes in an amount equal to the taxes that would otherwise be due on such additional buildings and improvements, subject to the rights of the Company to contest the same in accordance with applicable laws.

Section 8.2. Removal and Replacement of Project Equipment.

(a) The Company may, if no uncured Event of Default (as defined in **Section 12.1** hereof) exists and is continuing, remove from the Project Site and sell, exchange, replace or otherwise dispose of, without responsibility or accountability to the City or the Trustee with respect thereto, any items of machinery and equipment, or parts thereof, which constitute a part of the Project Equipment and which have become inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary or which, in the sound discretion of the Company, are otherwise no longer useful to the Company in its operations. Before any such removal of any items of equipment or machinery with a then-market value of greater than $3,000,000 in the aggregate within any one calendar year, the Company shall deliver to the City and the Trustee a certificate signed by an Authorized Company Representative containing a complete description of any machinery or equipment that the Company proposes to remove. Upon request by the Company, the City will execute and deliver a bill of sale that transfers full and complete title to the Company of the Project Equipment removed. Notwithstanding anything contained herein to the contrary, title to any item of the Project removed from the Project Site shall automatically vest in the Company without further instrument or action, and such vesting of title shall be self-operative effective upon removal. Any Project Equipment removed from the Project Site shall no longer be entitled to the tax exemption afforded by virtue of the City's ownership thereof.

(b) In all cases, the Company shall pay all of the costs and expenses of any such removal. The Company's right under this Section to remove machinery and equipment constituting a part of the Project Equipment is intended only to permit the Company to maintain an efficient operation by the removal of machinery and equipment that is no longer suitable for any of the reasons set forth in this Section, and such right is not to be construed to permit a removal under any other circumstances and specifically is not to be construed to permit the Company to make a wholesale removal of the Project Equipment.

(c) If the Company makes additions to the Project Equipment or otherwise replaces any Project Equipment for the purpose of repairing damage or normal wear and tear, such additions and/or replacements shall become part of the Project Equipment and shall be entitled to the tax exemption afforded by virtue of the City's ownership of the Project Equipment.

Section 8.3. Permits and Authorizations. The Company shall not do or permit others under its control to do any work on the Project Site related to any repair, rebuilding, restoration, replacement, modification or addition to the Project, or any part thereof, unless all requisite municipal and other governmental permits and authorizations shall have been first procured. The City agrees to act promptly on all requests for such municipal permits and authorizations. All such work shall be done in a good and workmanlike manner and in material compliance with all applicable material building and zoning laws and governmental regulations and requirements, and in accordance with the requirements, rules and regulations of all insurers under the policies required to be carried under the provisions of **Article VII** hereof.

Section 8.4. Mechanics' Liens.

(a) The Company will not directly or indirectly create, incur, assume or suffer to exist any lien on or with respect to the Project, except Permitted Encumbrances, and the Company shall promptly notify the City of the imposition of such lien of which the Company is aware and shall promptly, at its own expense, take such action as may be necessary to fully discharge or release any such lien. Whenever and as often as any mechanics' or other similar lien is filed against the Project, or any part thereof, purporting to be for or on account of any labor done or materials or services furnished in connection with any work in or about the Project Site, the Company shall discharge the same of record. Notice is hereby given that the City shall not be liable for any labor or materials furnished to the Company or anyone claiming by, through or under the Company upon credit, and that no mechanics' or other similar lien for any such labor, services or materials shall attach to or affect the reversionary or other estate of the City in and to the Project or any part thereof.

(b) Notwithstanding paragraph (a) above, the Company may contest any such mechanics' or other similar lien if the Company (1) promptly notifies the City and the Trustee in writing of its intention so to do, (2) diligently prosecutes such contest, (3) at all times effectively stays or prevents any official or judicial sale of the Project, or any part thereof or interest therein, under execution or otherwise, (4) promptly pays or otherwise satisfies any final judgment adjudging or enforcing such contested lien claim and (5) thereafter promptly procures the record release or satisfaction thereof. The Company may permit the lien so contested to remain unpaid during the period of any such contest and any appeal therefrom, so long as the Project is not subject to loss or forfeiture. The Company shall save and hold harmless the City from any loss, costs or expenses the City may actually incur related to any such contest. The Company shall reimburse the City for the actual expenses incurred by it in connection with the imposition of any such lien or in order to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim. The City shall cooperate fully with the Company in any such contest.

ARTICLE IX

DAMAGE, DESTRUCTION AND CONDEMNATION

Section 9.1. Damage or Destruction.

(a) If the Project is damaged or destroyed by fire or any other casualty, whether or not covered by insurance, the Company, as promptly as is reasonably practicable, shall either (i) make the determination described in subsection (f) below, or (ii) repair, restore, replace or rebuild the same so that upon completion of such repairs, restoration, replacement or rebuilding the Project is of a value not less than the value thereof immediately before the occurrence of such damage or destruction or, at the Company's option, construct upon the Project Site new buildings and improvements thereafter together with all new machinery, equipment and fixtures which are either to be attached to or are to be used in connection with the operation or maintenance thereof, provided that (A) the value thereof shall not be less than the value of such destroyed or damaged Project immediately before the occurrence of such damage or destruction and (B) the nature of such new buildings, improvements, machinery, equipment and fixtures will not impair the character of the Project as an enterprise permitted by the Act.

If the Company elects to repair, restore or replace the Project, for all purposes of this Lease, any reference to the words "Project Improvements" shall be deemed to also include any such new buildings, improvements and fixtures and all additions thereto and all replacements and alterations thereof and any

reference to the words "Project Equipment" shall be deemed to also include any such new machinery and equipment.

Unless the Company makes the determination described in subsection (f) below, the Net Proceeds of casualty insurance required by **Article VII** hereof received with respect to such damage or loss to the Project shall be used to pay the cost of repairing, restoring, replacing or rebuilding the Project or any part thereof. Insurance monies in an amount less than $1,000,000 may be paid to or retained by the Company to be held in trust and used as provided herein. Insurance monies in any amount of $1,000,000 or more shall be (i) paid to the Trustee and deposited in the Project Fund and shall be disbursed as provided in **Section 4.4** hereof to pay the cost of repairing, restoring, replacing or rebuilding the Project or any part thereof, or (ii) if determined by the Owners of 100% in principal amount of the Bonds Outstanding, applied as directed by, or on behalf of, such Owners of 100% in principal amount of the Bonds Outstanding. If the Company makes the determination described in subsection (f) below, the Net Proceeds shall be deposited with the Trustee and used to redeem Bonds as provided in subsection (f).

(b) If any of the insurance monies paid by the insurance company as hereinabove provided remain after the completion of such repairs, restoration, replacement or rebuilding, and this Lease has not been terminated, the excess shall be deposited in the Bond Fund, subject to the rights of any leasehold mortgagee or Financing Party. Completion of such repairs, restoration, replacement or rebuilding shall be evidenced by a certificate of completion in accordance with the provisions of **Section 4.5** hereof. Unless the Company makes the determination described in subsection (f) below, if the Net Proceeds are insufficient to pay the entire cost of such repairs, restoration, replacement or rebuilding, the Company shall pay the deficiency.

(c) Except as otherwise provided in this Lease, in the event of any such damage by fire or any other casualty, the provisions of this Lease shall be unaffected and the Company shall remain and continue liable for the payment of all Basic Rent and Additional Rent and all other charges required hereunder to be paid by the Company, as though no damage by fire or any other casualty has occurred.

(d) The City and the Company agree that they will cooperate with each other, to such extent as such other party may reasonably require, in connection with the prosecution or defense of any action or proceeding arising out of, or for the collection of any insurance monies that may be due in the event of, any loss or damage, and that they will execute and deliver to such other parties such instruments as may be required to facilitate the recovery of any insurance monies.

(e) The Company agrees to give prompt notice to the City and the Trustee with respect to all fires and any other casualties occurring in, on, at or about the Project Site causing (in the Company's opinion) damage of more than $1,000,000.

(f) If the Company determines that rebuilding, repairing, restoring or replacing the Project is not practicable or desirable, or if the Company does not have the right under any Leasehold Security Agreement to use any Net Proceeds for repair or restoration of the Project, any Net Proceeds of casualty insurance required by **Article VII** hereof received with respect to such damage or loss shall, after payment of all Additional Rent then due and payable, be paid into the Bond Fund and shall be used to redeem Bonds on the earliest practicable redemption date or to pay the principal of any Bonds as the same become due, all subject to rights of the mortgagee under the Leasehold Security Agreement (if any) and the Financing Party under the Financing Documents (if any). The Company agrees to be reasonable in exercising its judgment pursuant to this subsection (f). Alternatively, if the Company is the sole owner of the Bonds and it has determined that rebuilding, repairing, restoring or replacing the Project is not

practicable or desirable, it may tender Bonds to the Trustee for cancellation in a principal amount equal to the Net Proceeds of the casualty insurance, and retain such proceeds for its own account.

(g) The Company shall not, by reason of its inability to use all or any part of the Project during any period in which the Project is damaged or destroyed or is being repaired, rebuilt, restored or replaced, nor by reason of the payment of the costs of such rebuilding, repairing, restoring or replacing, be entitled to any reimbursement from the City, the Trustee or the Owners or to any abatement or diminution of the rentals payable by the Company under this Lease or of any other obligations of the Company under this Lease except as expressly provided in this Section.

Section 9.2. Condemnation.

(a) If during the Lease Term, title to, or the temporary use of, all or any part of the Project is condemned by or sold under threat of condemnation to any authority possessing the power of eminent domain, to such extent that the claim or loss resulting from such condemnation is greater than $1,000,000, the Company shall, within 90 days after the date of entry of a final order in any eminent domain proceedings granting condemnation or the date of sale under threat of condemnation, notify the City, the Trustee, the mortgagee under the Leasehold Security Agreement (if any) and the Financing Party under the Financing Documents (if any) in writing as to the nature and extent of such condemnation or loss of title and whether it is practicable and desirable to acquire and install or construct substitute improvements and/or equipment.

(b) If the Company determines that such substitution is practicable and desirable, the Company shall proceed promptly with and complete with reasonable dispatch the acquisition, installation or construction of such substitute improvements and/or equipment, so as to place the Project in substantially the same condition as existed before the exercise of the said power of eminent domain, including the acquisition, installation or construction of other improvements suitable for the Company's operations at the Project (which improvements will be deemed a part of the Project and available for use and occupancy by the Company without the payment of any rent other than herein provided, to the same extent as if such other improvements were specifically described herein and demised hereby); provided, that such improvements will be acquired by the City subject to no liens, security interests or encumbrances before the lien and/or security interest afforded by the Indenture and this Lease other than Permitted Encumbrances. In such case, any Net Proceeds received from any award or awards with respect to the Project or any part thereof made in such condemnation or eminent domain proceedings, or of the sale proceeds, shall be applied in the same manner as provided in **Section 9.1** hereof (with respect to the receipt of casualty insurance proceeds).

(c) If the Company determines that it is not practicable or desirable to acquire, install or construct substitute improvements or equipment, any Net Proceeds of condemnation awards received by the Company shall, after payment of all Additional Rent then due and payable, be paid into the Bond Fund and shall be used to redeem Bonds on the earliest practicable redemption date or to pay the principal of any Bonds as the same becomes due and payable, provided that if the Company is the sole owner of the Bonds and it has determined that acquiring and constructing substitute improvements is not practicable or desirable, it may tender Bonds to the Trustee for cancellation in a principal amount equal to the Net Proceeds of the condemnation awards, and retain such proceeds for its own account, all subject to the rights of the mortgagee under the Leasehold Security Agreement (if any) and Financing Party under the Financing Documents (if any).

(d) The Company shall not, by reason of its inability to use all or any part of the Project during any such period of restoration or acquisition nor by reason of the payment of the costs of such restoration or acquisition, be entitled to any reimbursement from the City, the Trustee or the Owners or to any abatement or diminution of the rentals payable by the Company under this Lease nor of any other obligations hereunder except as expressly provided in this Section.

(e) The City shall cooperate fully with the Company in the handling and conduct of any prospective or pending condemnation proceedings with respect to the Project or any part thereof, and shall, to the extent it may lawfully do so, permit the Company to litigate in any such proceeding in the name and on behalf of the City. In no event will the City voluntarily settle or consent to the settlement of any prospective or pending condemnation proceedings with respect to the Project or any part thereof without the prior written consent of the Company.

Section 9.3. Bondowner Approval. Notwithstanding anything to the contrary contained in this **Article IX**, the proceeds of any insurance received subsequent to a casualty or of any condemnation proceedings (or threats thereof) shall before the application thereof by the City or the Trustee be applied as directed by the Owners of 100% of the principal amount of Bonds Outstanding, subject and subordinate to (a) the rights of the City and the Trustee to be paid all their expenses (including reasonable attorneys' fees, trustee's fees and any extraordinary expenses of the City and the Trustee) incurred in the collection of such gross proceeds and (b) the rights of the City to any amounts then due and payable under the Performance Agreement.

ARTICLE X

SPECIAL COVENANTS

Section 10.1. No Warranty of Condition or Suitability by the City; Exculpation and Indemnification. The City makes no warranty, either express or implied, as to the condition of the Project or that it will be suitable for the Company's purposes or needs. The Company releases the City and the Trustee from, agrees that the City and the Trustee shall not be liable for and agrees to hold the City and the Trustee harmless against, any loss or damage to property or any injury to or death of any Person that may be occasioned by any cause whatsoever pertaining to the Project or the Company's use thereof, unless such loss is the result of the City's or the Trustee's gross negligence or willful misconduct. This provision shall survive termination of this Lease.

Section 10.2. Surrender of Possession. Upon accrual of the City's right of re-entry to the Project Site to the extent provided in **Section 12.2(b)**, the Company shall peacefully surrender possession of the Project to the City in reasonably good condition and repair; provided, however, the Company may within 90 days (or such later date as the City may agree to) after the termination of this Lease remove from the Project Site any buildings, improvements, furniture, trade fixtures, machinery and equipment owned by the Company and not constituting part of the Project which have not already been removed during the Term. All repairs to and restorations of the Project required to be made because of such removal shall be made by and at the sole cost and expense of the Company, and during said 90-day (or extended) period the Company shall bear the sole responsibility for and bear the sole risk of loss for said buildings, improvements, furniture, trade fixtures, machinery and equipment owned by the Company and not constituting part of the Project. All buildings, improvements, furniture, trade fixtures, machinery and

equipment owned by the Company and which are not so removed from the Project before the expiration of said period shall be the separate and absolute property of the City.

Section 10.3. City's Right of Access to the Project. The City may conduct such periodic inspections of the Project as may be generally provided in the City's code. In addition, the Company agrees that the City and the Trustee and their duly authorized agents may, at reasonable times during normal business hours and, except in the event of emergencies, upon not less than two Business Day's prior notice, subject to the Company's usual business propriety, safety, confidentiality and security requirements, enter upon the Project Site (a) to examine and inspect the Project without interference or prejudice to the Company's operations, (b) to monitor the purchase and installation provided for in **Section 4.2** hereof as may be reasonably necessary, (c) to examine all files, records, books and other materials in the Company's possession pertaining to the purchase, installation or maintenance of the Project, and (d) upon the occurrence and continuance of an Event of Default, to enforce the remedies provided in in **Section 12.2** hereof.

Section 10.4. Granting of Easements; Leasehold Security Agreements and Financing Arrangements.

(a) Subject to **Sections 10.4(c)** and **(d)**, if no Event of Default under this Lease has happened and is continuing beyond any applicable grace period, the Company may at any time or times (i) grant subleases (as permitted in **Section 13.1(c)** hereof), easements, licenses, rights-of-way (including the dedication of public highways) and other rights or privileges in the nature of easements that are for the direct use of the Project, or part thereof, by the grantee, (ii) release or terminate existing subleases, easements, licenses, rights-of-way and other rights or privileges, all with or without consideration and upon such terms and conditions as the Company shall determine, or (iii) incur Permitted Encumbrances. The Company may take such actions and may execute any applicable documents in the Company's own name. No separate signature of or authorization from the City shall be required for the execution and delivery of any such document, although the City agrees to execute and deliver such confirming documents as are described below, under the procedures described below, if the Company chooses to make such a request. All third parties entering into agreements with the Company or receiving delivery of or the benefit of such agreements or documents shall be entitled to rely upon the same as having been executed and delivered by the City, unless such third party has actual or constructive notice, expressly in writing, that the agency herein granted by the City to the Company has been terminated by the City because of an uncured Event of Default hereunder. The City agrees that it will execute and deliver and will cause and direct the Trustee to execute and deliver any instrument necessary or appropriate to confirm and grant, release or terminate any such sublease, easement, license, right-of-way or other right or privilege or any such agreement or other arrangement, upon receipt by the City and the Trustee of: (i) a copy of the instrument of grant, release or termination or of the agreement or other arrangement, (ii) a written application signed by an Authorized Company Representative requesting such instrument, and (iii) a certificate executed by an Authorized Company Representative stating that such grant or release is not detrimental to the proper conduct of the business of the Company, will not impair the effective use or interfere with the efficient and economical operation of the Project, will not materially adversely affect the security intended to be given by or under the Indenture and will be a Permitted Encumbrance or release of a Permitted Encumbrance. If no Event of Default has happened and is continuing beyond any applicable grace period, any payments or other consideration received by the Company for any such grant or with respect to or under any such agreement or other arrangement shall be and remain the property of the Company; but, subject to **Sections 10.4(c)** and **(d)**, upon (i) termination of this Lease for any reason other than the redemption of the Bonds and/or the purchase of the Project by the Company or (ii) the occurrence and continuance of an Event of Default by the Company, all rights then

existing of the Company with respect to or under such grant shall inure to the benefit of and be exercisable by the City and the Trustee.

(b) The Company may mortgage the leasehold estate created by this Lease, with prior notice to but without the consent of the City, provided and upon condition that a duplicate original or certified copy or photostatic copy of each such mortgage, and the note or other obligation secured thereby, is delivered to the City within thirty (30) days after the execution thereof. The sale of the Company's leasehold estate at a foreclosure sale or trustee's sale under the Leasehold Security Agreement or any assignment in lieu thereof shall not require the consent of the City, if (i) written notice of the proposed sale or assignment is provided to the City at least fifteen (15) days prior thereto, and (ii) before such sale or assignment, all payments then owing to the City under the Performance Agreement are paid.

(c) The City acknowledges and agrees that the Company may finance and refinance its rights and interests in the Project, this Lease and the leasehold estate created hereby and, in connection therewith, the Company may execute Financing Documents with one or more Financing Parties. Notwithstanding anything contained to the contrary in this Lease, the Company may, at any time and from time to time, with prior notice to but without the consent of the City, (i) execute one or more Financing Documents upon the terms contained in this **Section 10.4** and (ii) sublease or assign this Lease, the leasehold estate, any sublease and rights in connection therewith, and/or grant liens or security interests therein, to any Financing Party. Any further sublease or assignment by any Financing Party shall be subject to the provisions of **Section 13.1(c)**. At the expense of the Company, the City agrees to cooperate fully with the Company and take all actions as reasonably requested by the Company in connection with any financing or refinancing of the Company's rights and interests in the Project, including but not limited to the granting of security interests in the Project, the Bonds and the leasehold estate created hereunder, as may from time to time be reasonably requested by any of the Financing Parties.

(d) Upon notice by the Company to the City in writing that it has executed one or more Financing Documents under which it has granted rights in this Lease to a Financing Party, which includes the name and address of such Financing Party, then the following provisions shall apply in respect of each such Financing Party:

(1) there shall be no merger of this Lease or of the leasehold estate created hereby with the fee title to the Project, notwithstanding that this Lease or said leasehold estate and said fee title shall be owned by the same Person or Persons, without the prior written consent of such Financing Party;

(2) the City shall serve upon each such Financing Party (at the address, if any, provided to the City) a copy of each notice of the occurrence of an Event of Default and each notice of termination given to the Company under this Lease, at the same time as such notice is served upon the Company. No such notice to the Company shall be effective unless a copy thereof is thus served upon each Financing Party;

(3) each Financing Party shall have the same period of time which the Company has, after the service of any required notice upon it, within which to remedy or cause to be remedied any payment default under this Lease which is the basis of the notice plus thirty (30) days, and the City shall accept performance by such Financing Party as timely performance by the Company;

(4) the City may exercise any of its rights or remedies with respect to any other Event of Default by the Company, subject to the rights of the Financing Parties under this **Section 10.4(d)** as to such other events of default. Without limiting the generality of the foregoing, the holder of the Leasehold Security Agreement may cause the sale of the leasehold interest of the Company to be sold at foreclosure sale conducted in accordance with applicable law and the terms of the Leasehold Security Agreement, to accept assignment of this Lease in lieu of foreclosure and to appoint a receiver for the Project, all without obtaining the prior written consent of the City but subject to the provisions of **Section 10.4(b)**;

(5) upon the occurrence and continuance of an Event of Default by the Company under this Lease beyond any applicable grace period, other than a default in the payment of money, the City shall take no action to effect a termination of this Lease by service of a notice or otherwise, without first giving notice thereof to each such Financing Party and permitting such Financing Party (or its designee, nominee, assignee or transferee) a reasonable time within which to remedy such default in the case of an Event of Default which is susceptible of being cured (provided that the period to remedy such Event of Default shall continue beyond any period set forth in the Lease to effect said cure so long as the Financing Party (or its designee, nominee, assignee or transferee) is diligently prosecuting such cure); provided that the Financing Party (or its designee, nominee, assignee or transferee) shall pay or cause to be paid to the City and the Trustee all expenses, including reasonable counsel fees, court costs and disbursements incurred by the City or the Trustee in connection with any such default; and

(6) the Financing Parties (and their designees, nominees, assignees or transferees) shall have the right to enter, possess and use the Project at such reasonable times and manner as are necessary or desirable to effectuate the remedies and enforce their respective rights under the Financing Documents and this Lease may not be modified, amended, canceled or surrendered by agreement between the City and the Company, without prior written consent of such Financing Party.

(e) In connection with the execution of one or more Financing Documents, upon the request of the Company, the City agrees to execute such documents as shall be reasonably requested by a Financing Party and which are usual and customary in connection with the closing of the financing or refinancing pursuant to the Financing Documents. The Company agrees to reimburse the City for any and all costs and expenses incurred by the City pursuant to this Section, including reasonable attorneys' fees and expenses, in complying with such request, up to a maximum of $10,000 with respect to any one request.

(f) Notwithstanding the foregoing, the City may agree to other provisions and documents requested by the Company or any Financing Party not contemplated by this **Section 10.4**, subject to approval by ordinance of the City Council.

Section 10.5. Indemnification of City and Trustee. The Company shall indemnify and save and hold harmless the City and the Trustee and their governing body members, officers, agents and employees from and against all claims, demands, costs, liabilities, damages or expenses that they may actually incur (including reasonable attorneys' fees and costs incurred in the defense and settlement of claims), by or on behalf of any Person, firm or corporation arising from the issuance of the Bonds and the execution of the Performance Agreement, this Lease, the Bond Purchase Agreement or the Indenture (including any violation by the Company of, or failure by the Company to comply with, any federal or state securities laws in connection with the Bonds) and from the conduct or management of, or from any work or thing done in or on the Project during the Lease Term, and against and from all claims, demands,

costs, liabilities, damages or expenses that they may actually incur (including reasonable attorneys' fees and costs incurred in the defense and settlement of claims), arising during the Lease Term from (a) any condition of the Project, (b) any breach or default on the part of the Company in the performance of any of its obligations under the Performance Agreement, this Lease or any related document, (c) any contract entered into in connection with the purchase and installation of the Project, (d) any act of negligence of the Company or of any of its agents, contractors, servants, employees or licensees, (e) unless the Company has been released from liability pursuant to **Section 13.1(c)**, any act of negligence of any assignee or sublessee of the Company, or of any agents, contractors, servants, employees or licensees of any assignee or sublessee of the Company, (f) obtaining any applicable state and local sales and use tax exemptions for materials or goods that become part of the Project, and (g) any claim relating to the presence, release or use of any hazardous substance or other material regulated by any applicable Environmental Law on the Project Site where such presence, release or use occurred prior to or during the Lease Term, or any claim relating to compliance with any applicable Environmental Law prior to or during the Lease Term (except where the presence, release or use of such substances was caused by the City, and provided further that the Company shall not be required to indemnify the City with respect to the actions of (i) any assignee of this Lease that agrees to assume the Company's obligations pursuant to **Section 13.1(c)** of this Lease, or (ii) any person or entity unrelated to the Company to which the Company has conveyed the Project Site after the termination of this Lease), including claims relating to personal injury or damage to property; provided, however, the indemnification contained in this **Section 10.5** shall not extend to the City to the extent that such claims, demands, costs, liabilities, damages or expenses, including reasonable attorneys' fees, are the result of work being performed at the Project Site by employees or agents of the City, and shall not extend to the City or Trustee to the extent such claims, demands, costs, liabilities, damages or expenses are the result of negligence or willful misconduct by the City or the Trustee, or their respective employees or agents. Upon written notice from the City or the Trustee of any such claims or demand, the Company shall defend them or either of them in any such action or proceeding; provided, that the indemnified party shall cooperate with the Company and provide reasonable assistance in such defense. All costs related to the defense of the City and/or the Trustee shall be paid by the Company, except to the extent caused by an unreasonable demand or unreasonable failure to cooperate by the City or Trustee, as applicable. This **Section 10.5** shall survive any termination of the Performance Agreement and this Lease and the satisfaction and discharge of the Indenture. The Company shall not be liable for any settlement of any such action effected without its consent by the City or the Trustee, but if settled with the consent of the Company or if there be a final judgment for the plaintiff in any such action against the Company, the City or the Trustee, beyond any period for appeal, with or without the consent of the Company, then provided that the Company was given written notice and the ability to assume the defense thereof as required by this paragraph, the Company agrees to indemnify and hold harmless the City and/or the Trustee to the extent provided herein.

Section 10.6. Depreciation, Investment Tax Credit and Other Tax Benefits. The City agrees that any depreciation, investment tax credit or any other tax benefits with respect to the Project or any part thereof shall be made available to the Company, and the City will fully cooperate with the Company in any effort by the Company to avail itself of any such depreciation, investment tax credit or other tax benefits.

Section 10.7. Company to Maintain its Corporate Existence. The Company agrees that until the Bonds are paid or payment is provided for in accordance with the terms of the Indenture, it will maintain its existence, and will not dissolve or otherwise dispose of all or substantially all of its assets; provided, however, that the Company may, without violating the agreement contained in this Section, consolidate with or merge into another Person or permit one or more other Persons to consolidate with or merge into it, or may sell or otherwise transfer to another Person all or substantially all of its assets as an entirety and thereafter cease operations, dissolve and/or convert into a different type of legal entity, if the

surviving, resulting or transferee Person expressly assumes in writing all the obligations of the Company contained in this Lease and the Performance Agreement.

Section 10.8. Security Interests. The City and the Company hereby authorize the Trustee to file all appropriate financing and continuation statements as may be required under the Uniform Commercial Code in order to fully preserve and protect the security of the Owners and the rights of the Trustee under the Indenture. Upon the written instructions of the Owners of 100% of the Bonds then Outstanding, the Trustee shall file all continuation instruments the Owners deem necessary to be filed and shall continue or cause to be continued such instruments for so long as the Bonds are Outstanding. The City and the Company shall cooperate with the Trustee in this regard by providing such information as the Trustee may require to renew such statements. The Trustee shall maintain a file showing a description of all Project Equipment, said file to be compiled from the certificates furnished to the Trustee pursuant to **Section 4.2(c)**, **Section 4.4** and **Section 8.2** hereof. At the written request of all of the Owners of the Bonds, the City, at the expense of the Company, and the Company further agree to enter into any other instruments necessary for the creation and perfection of (and continuance of the perfection of) the security interests in the Project benefiting the Owners of the Bonds then outstanding.

ARTICLE XI

OPTION AND OBLIGATION TO PURCHASE THE PROJECT

Section 11.1. Option to Purchase the Project.

(a) *Purchase of the Entire Project*. The Company shall have, and is hereby granted, the option to purchase the Project at any time, upon payment of the purchase price described below, provided that the Company, at its option, may deliver the Outstanding Bonds in payment of that portion of the purchase price described in subsection (a)(1), below. To exercise such option the Company shall give written notice to the City and to the Trustee, and shall specify therein the date of closing such purchase, which date shall be not less than 15 nor more than 90 days from the date such notice is mailed, and in case of a redemption of the Bonds in accordance with the provisions of the Indenture, the Company shall make arrangements satisfactory to the Trustee for the giving of the required notice of redemption. Notwithstanding the forgoing, if the City or the Trustee provides a Remedies Notice to the Company, the Company shall be deemed to have exercised its repurchase option under this Section on the 29th day following the issuance of the Remedies Notice without any further action by the Company; provided said Remedies Notice has not been rescinded by such date (such option to take place on the 29th day following the issuance of the Remedies Notice). The Company may rescind such exercise by providing written notice to the City and the Trustee on or prior to the 29th and by taking such action as may be required to cure the default that led to the giving of the Remedies Notice. The purchase price payable by the Company in the event of its exercise of the option granted in this subsection shall be the sum of the following:

(1) an amount of money which, when added to the amount then on deposit in the Bond Fund, will be sufficient to redeem all the then outstanding Bonds on the earliest redemption date next succeeding the closing date, including, without limitation, principal and interest to accrue to said redemption date and redemption expense; plus

(2) an amount of money equal to the Trustee's agreed to and reasonable fees, charges and expenses under the Indenture accrued and to accrue until such redemption of the Bonds; plus

(3) an amount of money equal to all payments due and payable pursuant to the Performance Agreement through the end of the calendar year in which the date of purchase occurs; plus

(4) an amount of money equal to the City's reasonable fees and expenses for its counsel in connection with such purchase of the Project; plus

(5) the sum of $10.00.

At its option, to be exercised at least 5 days prior to the date of closing such purchase, the Company may deliver to the Trustee for cancellation Bonds not previously paid, and the Company shall receive a credit against the purchase price payable by the Company in an amount equal to 100% of the principal amount of the Bonds so delivered for cancellation, plus the accrued interest thereon.

(b) *Purchase of Project Equipment*. The Company shall have, and is hereby granted, the option to purchase all or a portion of the Project Equipment at any time, upon payment in full of a portion of the Bonds then outstanding or provision for their payment having been made pursuant to **Article XIII** of the Indenture, in the amount described in this subsection. To exercise such option the Company shall give written notice to the City and to the Trustee, and shall specify therein the date of closing such purchase, which date shall be not less than 15 nor more than 90 days from the date such notice is mailed, and in case of a redemption of Bonds in accordance with the provisions of the Indenture, the Company shall make arrangements satisfactory to the Trustee for the giving of the required notice of redemption. The purchase price payable by the Company in the event of its exercise of the option granted in this subsection shall be the sum of the following:

(1) the amount of money equal to the portion of the Cumulative Outstanding Principal Amount on the closing date for such purchase that is attributable to the portion of the Project Equipment to be removed, which shall be determined by dividing (i) the total Project Costs paid with respect to such Project Equipment under **Section 4.4** hereof, by (ii) the total of all Project Costs paid under **Section 4.4** hereof, and then multiplying such quotient by the Cumulative Outstanding Principal Amount at the time of the closing date for such purchase and rounding such product to the nearest $1,000, which amount shall be deposited to the Bond Fund and applied to redeem outstanding Bonds in an equal principal amount on the earliest redemption date next succeeding the closing date); plus

(2) an amount of money equal to the interest to accrue to such redemption date on the Bonds to be redeemed pursuant to paragraph (1) immediately above and redemption expense, which amount shall be deposited to the Bond Fund; plus

(3) an amount of money equal to the Trustee's agreed to and reasonable fees, charges and expenses under the Indenture accrued and to accrue until such redemption of the Bonds; plus

(4) an amount of money equal to the City's reasonable fees and expenses for its counsel in connection with such purchase of Project Equipment; plus

(5) the sum of $10.00.

At its option, to be exercised at least 5 days prior to the date of closing such purchase, the Company may deliver to the Trustee for cancellation Bonds not previously paid, and the Company shall receive a credit against the purchase price payable by the Company in an amount equal to 100% of the principal amount of the Bonds so delivered for cancellation, plus the accrued interest thereon.

Upon payment of the purchase price relating to all or a portion of the Project Equipment, the Trustee shall note in its records the removal of such portion of the Project Equipment from the Project. The Company shall deliver to the City UCC Termination Statements and a bill of sale for such portion of the Project Equipment to be executed and delivered by the City upon deposit of such purchase price in the Bond Fund. If the Project Equipment is to be physically removed from the Project, the Company shall pay all the costs and expenses of any such removal and shall immediately repair at its expense all damage to the remaining Project caused thereby.

Section 11.2. Conveyance of the Project. At the closing of the purchase of the entire or all remaining portions of the Project pursuant to this Article, the City will upon receipt of the purchase price deliver to the Company the following:

(a) A release from the Trustee of the Project from the lien and/or security interest of the Indenture and this Lease and appropriate termination of financing statements as required under the Uniform Commercial Code; and

(b) Documents, including without limitation a special warranty deed as to the Project Site, conveying to the Company legal title to the Project, as it then exists, in recordable form, subject to the following: (i) those liens and encumbrances, if any, to which title to the Project was subject when conveyed to the City; (ii) those liens and encumbrances created by the Company or to the creation or suffering of which the Company consented; (iii) those liens and encumbrances resulting from the failure of the Company to perform or observe any of the agreements on its part contained in this Lease; (iv) Permitted Encumbrances other than the Indenture, this Lease and the Performance Agreement; and (v) if the Project or any part thereof is being condemned, the rights and title of any condemning authority.

Section 11.3. Relative Position of Option and Indenture. The option to purchase the Project granted to the Company in this Article shall be and remain prior and superior to the Indenture and may be exercised whether or not the Company is in default under this Lease or the Indenture, provided that such default will not result in nonfulfillment of any condition to the exercise of any such option (including the payment of all amounts specified in **Section 11.1** hereof) and further provided that all options herein granted shall terminate upon the termination of this Lease.

Section 11.4. Obligation to Purchase the Project.

(a) The Company hereby agrees to purchase, and the City hereby agrees to sell, the Project upon the occurrence of (a) the expiration of the Lease Term following full payment of the Bonds or provision for payment thereof having been made in accordance with the provisions of the Indenture, and (b) the final payments due under the Performance Agreement. The amount of the purchase price under this Section shall be $10.00 plus an amount sufficient to redeem all the then Outstanding Bonds, plus accrued interest and the reasonable fees and expenses of the City and the Trustee.

(b) The Company shall purchase the Project pursuant to the provisions of **Section 11.1(a)** at the time of, and in connection with, any redemption of Bonds required by the mandatory redemption provision set out in **Section 301(c)** of the Indenture.

ARTICLE XII

DEFAULTS AND REMEDIES

Section 12.1. Events of Default. If any one or more of the following events occurs and is continuing beyond any applicable notice and/or cure period, it is hereby defined as and declared to be and to constitute an "Event of Default" under this Lease:

(a) Default in the due and punctual payment of Basic Rent or Additional Rent within 10 days after written notice thereof from the City or the Trustee to the Company that the Company failed to make such payment. Anything herein to the contrary notwithstanding, no failure or default specified in paragraph (a) of this **Section 12.1** shall constitute an Event of Default until actual notice of such failure to make such payment by registered or certified mail shall be given by the City or the Trustee to the Company and the Company shall have had ten (10) days after receipt of such notice to correct said failure and shall not have corrected said failure within such period; or

(b) Default in the due observance or performance of any other covenant, agreement, obligation or provision of this Lease on the Company's part to be observed or performed, and such default shall continue for 60 days after the City or the Trustee has given the Company written notice specifying such default (or such longer period as is reasonably required to cure such default; provided that (1) the Company has commenced such cure within said 60-day period, and (2) the Company diligently prosecutes such cure to completion); or

(c) The Company: (1) admits in writing its inability to pay its debts as they become due; or (2) files a petition in bankruptcy or for reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the Bankruptcy Code as now or in the future amended or any other similar present or future federal or state statute or regulation, or files a pleading asking for such relief; or (3) makes an assignment for the benefit of creditors; or (4) consents to the appointment of a trustee, receiver or liquidator for all or a major portion of its property or fails to have the appointment of any trustee, receiver or liquidator made without the Company's consent or acquiescence, vacated or set aside; or (5) is finally adjudicated as bankrupt or insolvent under any federal or state law; or (6) is subject to any proceeding, or suffers the entry of a final and non-appealable court order, under any federal or state law appointing a trustee, receiver or liquidator for all or a major part of its property or ordering the winding-up or liquidation of its affairs, or approving a petition filed against it under the Bankruptcy Code, as now or in the future amended, which order or proceeding, if not consented to by it, is not dismissed, vacated, denied, set aside or stayed within 90 days after the day of entry or commencement; or (7) suffers a writ or warrant of attachment or any similar process to be issued by any court against all or any substantial portion of its property, and such writ or warrant of attachment or any similar process is not contested, stayed, or is not released within 60 days after the final entry, or levy or after any contest is finally adjudicated or any stay is vacated or set aside; or

(d) The occurrence and continuance of an "Event of Default" by the Company under the Performance Agreement, following any applicable notice and grace period provided in the Performance Agreement.

Section 12.2. Remedies on Default. If any Event of Default referred to in **Section 12.1** hereof has occurred and continues beyond the period provided to cure, then the City may at the City's election

(subject, however, to any restrictions against acceleration of the maturity of the Bonds or termination of this Lease in the Indenture), then or at any time thereafter, and while such default continues, take any one or more of the following actions:

(a) cause all amounts payable with respect to the Bonds for the remainder of the term of this Lease to become due and payable, as provided in the Indenture; provided that if the Company has paid all obligations due and owing under the Indenture, this Lease and the Performance Agreement, the City shall convey the Project to the Company in accordance with **Section 11.2** hereof; or

(b) give the Company written notice of intention to terminate this Lease on a date specified therein, which date shall not be earlier than 60 days after such notice is given, and if all defaults have not then been cured, on the date so specified, the Owners shall tender or be deemed to have tendered the Outstanding principal amount of the Bonds for cancellation with instruction that such tender is in lieu of payment in accordance with **Section 11.1(a)** hereof, the Company's rights to possession of the Project shall cease and this Lease shall thereupon be terminated, and the City may enter the Project Site and take possession of the Project and if the Company has paid all obligations due and owing under the Indenture, this Lease and the Performance Agreement, the City shall convey the Project to the Company in accordance with **Section 11.2** hereof.

Section 12.3. Survival of Obligations. The Company covenants and agrees with the City and Owners that its obligations under this Lease shall survive the cancellation and termination of this Lease, for any cause, and that the Company shall continue to pay the Basic Rent and Additional Rent (to the extent the Bonds remain Outstanding) and perform all other obligations provided for in this Lease, all at the time or times provided in this Lease; provided, however, that except for the indemnification contained in **Section 10.5** hereof, upon the payment of all Basic Rent and Additional Rent required under **Article V** hereof, and upon the satisfaction and discharge of the Indenture under **Section 1301** thereof, and upon the Company's exercise of the purchase option contained in **Article XI** hereof or upon the events provided in **Section 12.2(b)** hereof, the Company's obligation under this Lease shall thereupon cease and terminate in full, except that obligations with respect to compensation and indemnification of the City and the Trustee shall not so terminate.

Section 12.4. Performance of the Company's Obligations by the City. Upon an Event of Default, the City, or the Trustee in the City's name, may (but shall not be obligated so to do) upon the continuance of such failure on the Company's part for 60 days after written notice of such failure is given the Company by the City or the Trustee, and without waiving or releasing the Company from any obligation hereunder, as an additional but not exclusive remedy, make any such payment or perform any such obligation, and all reasonable sums so paid by the City or the Trustee and all necessary incidental reasonable costs and expenses incurred by the City or the Trustee (including, without limitation, reasonable attorney's fees and expenses) in performing such obligations shall be deemed Additional Rent and shall be paid to the City or the Trustee on demand, and if not so paid by the Company, the City or the Trustee shall have the same rights and remedies provided for in **Section 12.2** hereof in the case of default by the Company in the payment of Basic Rent.

Section 12.5. Rights and Remedies Cumulative. The rights and remedies reserved by the City and the Company hereunder are in addition to those otherwise provided by law and shall be construed as cumulative and continuing rights. No one of them shall be exhausted by the exercise thereof on one or more occasions. The City and the Company shall each be entitled to specific performance and injunctive or other equitable relief for any breach or threatened breach of any of the provisions of this Lease, notwithstanding the availability of an adequate remedy at law, and each party hereby waives the

right to raise such defense in any proceeding in equity. Notwithstanding anything in this **Section 12.5** or elsewhere in this Lease to the contrary, however, the Company's option to purchase the property as provided in **Article XI** above shall not be terminated upon an Event of Default unless and until this Lease is terminated to the extent permitted pursuant to **Section 12.2(b)** above.

Section 12.6. Waiver of Breach. No waiver of any breach of any covenant or agreement herein contained shall operate as a waiver of any subsequent breach of the same covenant or agreement or as a waiver of any breach of any other covenant or agreement, and in case of a breach by the Company of any covenant, agreement or undertaking by the Company, the City may nevertheless accept from the Company any payment or payments hereunder without in any way waiving City's right to exercise any of its rights and remedies provided for herein with respect to any such default or defaults of the Company which were in existence at the time such payment or payments were accepted by the City.

Section 12.7. Trustee's Exercise of the City's Remedies. Whenever any Event of Default has occurred and is continuing, the Trustee may, but except as otherwise provided in the Indenture shall not be obliged to, exercise any or all of the rights of the City under this Article, upon notice as required of the City unless the City has already given the required notice. In addition, the Trustee shall have available to it all of the remedies prescribed by the Indenture.

ARTICLE XIII

ASSIGNMENT AND SUBLEASE

Section 13.1. Assignment; Sublease.

(a) The Company may assign this Lease in whole or in part, without the necessity of obtaining the consent of the Trustee, subject, however, to each of the following conditions:

(i) The Company shall obtain the prior written consent of the City, which consent shall not be unreasonably withheld, conditioned or delayed, to each assignment, unless such sale, transfer or assignment is to an entity controlled by or under common control with or controlling the Company, or such sale, transfer or assignment is otherwise permitted under **Section 10.7** hereof, in which event no written consent of the City shall be required, but, in such event, the Company shall provide the City with advance written notice of such assignment.

(ii) The assignee shall assume the obligations of the Company hereunder to the extent of the interest assigned; and

(iii) Such assignment shall be in writing, duly executed and acknowledged by the assignor and in proper form for recording;

(iv) Such assignment shall include the entire then unexpired term of this Lease; and

(v) The Company shall, promptly following the completion of any such assignment, furnish or cause to be furnished to the City and to the Trustee a true and complete copy of each such assignment and assumption of obligations, as the case may be.

(b) Any assignee of all the rights of the Company shall agree to be bound by the terms of this Lease, the Performance Agreement and any other documents related to the issuance of the Bonds. Upon

such assignment of all the rights of the Company and agreement by the assignee to be bound by the terms of this Lease, the Performance Agreement and any other documents related to the Bonds, the Company shall be released from and have no further obligations under this Lease, the Performance Agreement or any agreement related to the issuance of the Bonds.

(c) The Company may sublet less than 10% of the Project to a single entity for any lawful purpose under the Act without the consent of the City, and may sublet any greater portion of the Project with the prior written consent of the City. The Company shall, within 10 days after the delivery thereof, furnish or cause to be furnished to the City and the Trustee a true and correct copy of each such sublease. Any sublease of less than 10% of the Project may provide, at the Company's option, that the City's consent shall not be required in respect of any further subletting thereunder if such further subletting is for a similar purpose as the original sublease and is for a purpose permissible under the Act.

Section 13.2. Assignment of Revenues by City. The City shall assign and pledge any rents, revenues and receipts receivable under this Lease and all interest in the Project, to the Trustee pursuant to the Indenture as security for payment of the principal of, interest and premium, if any, on the Bonds and the Company hereby consents to such pledge and assignment.

Section 13.3. Prohibition Against Fee Mortgage of Project. Unless requested by the Company, the City shall not mortgage its fee interest in the Project, but may assign its interest in and pledge any moneys receivable under this Lease to the Trustee pursuant to the Indenture as security for payment of the principal of and interest on the Bonds.

Section 13.4. Restrictions on Sale or Encumbrance of Project by City. During this Lease Term, the City agrees that, except to secure the Bonds to be issued pursuant to the Indenture, it will not sell, assign, encumber, transfer or convey the Project or any interest therein, but may assign its interest in and pledge any moneys receivable under this Lease to the Trustee pursuant to the Indenture as security for payment of the principal of and interest on the Bonds.

ARTICLE XIV

AMENDMENTS, CHANGES AND MODIFICATIONS

Section 14.1. Amendments, Changes and Modifications. Except as otherwise provided in this Lease or in the Indenture, subsequent to the issuance of Bonds and before the payment in full of the Bonds (or provision for the payment thereof having been made in accordance with the provisions of the Indenture), this Lease may not be effectively amended, changed, modified, altered or terminated without the prior written consent of the parties hereto, the Trustee (given in accordance with the provisions of the Indenture, which consent, however, shall not be unreasonably withheld), and the written consent of all of the Owners.

ARTICLE XV

MISCELLANEOUS PROVISIONS

Section 15.1. Notices. All notices, certificates or other communications required or desired to be given hereunder shall be in writing and shall be governed by **Section 1403** of the Indenture.

Section 15.2. City Shall Not Unreasonably Withhold Consents and Approvals. Wherever in this Lease it is provided that the City shall, may or must give its approval or consent, or execute supplemental agreements or schedules, the City shall not unreasonably, arbitrarily or unnecessarily withhold, delay or refuse to give such approvals or consents or refuse to execute or delay in executing such supplemental agreements or schedules; provided, however, that nothing in this Lease shall be interpreted to affect the City's rights to approve or deny any additional project or matter unrelated to the Project subject to zoning, building permit or other regulatory approvals by the City.

Section 15.3. Net Lease. The parties hereto agree (a) that this Lease shall be deemed and construed to be a net lease, (b) that the payments of Basic Rent are designed to provide the City and the Trustee funds adequate in amount to pay all principal of and interest accruing on the Bonds as the same become due and payable, (c) that to the extent that the payments of Basic Rent are not sufficient to provide the City and the Trustee with funds sufficient for the purposes aforesaid, the Company shall be obligated to pay, and it does hereby covenant and agree to pay, upon demand therefor, as Additional Rent, such further sums of money, in cash, as may from time to time be required for such purposes, and (d) that if after the principal of and interest on the Bonds and all costs incident to the payment of the Bonds (including the fees and expenses of the City and the Trustee) have been paid in full the Trustee or the City holds unexpended funds received in accordance with the terms hereof such unexpended funds shall, after payment therefrom of all sums then due and owing by the Company under the terms of this Lease, and except as otherwise provided in this Lease and the Indenture, become the absolute property of and be paid over forthwith to the Company.

Section 15.4. Limitation on Liability of City. No provision, covenant or agreement contained in this Lease, the Indenture or the Bonds, or any obligation herein or therein imposed upon the City, or the breach thereof, shall constitute or give rise to or impose upon the City a pecuniary liability or a charge upon the general credit or taxing powers of the City or the State of Missouri.

Section 15.5. Governing Law. This Lease shall be construed in accordance with and governed by the laws of the State of Missouri.

Section 15.6. Binding Effect. This Lease shall be binding upon and shall inure to the benefit of the City and the Company and their respective successors and assigns.

Section 15.7. Severability. If for any reason any provision of this Lease shall be determined to be invalid or unenforceable, the validity and enforceability of the other provisions hereof shall not be affected thereby.

Section 15.8. Execution in Counterparts. This Lease may be executed in several counterparts, each of which shall be deemed to be an original and all of which shall constitute but one and the same instrument.

Section 15.9. Electronic Storage. The parties hereto agree that the transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

Section 15.10 Complete Agreement. THE COMPANY AND THE CITY UNDERSTAND THAT ORAL OR UNEXECUTED AGREEMENTS OR COMMITMENTS TO LOAN MONEY,

EXTEND CREDIT OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT INCLUDING PROMISES TO EXTEND OR RENEW SUCH DEBT ARE NOT ENFORCEABLE. TO PROTECT THE COMPANY AND THE CITY FROM MISUNDERSTANDING OR DISAPPOINTMENT, ANY AGREEMENTS THE COMPANY AND THE CITY REACH COVERING SUCH MATTERS ARE CONTAINED IN THIS LEASE AND THE PERFORMANCE AGREEMENT, WHICH ARE THE COMPLETE AND EXCLUSIVE STATEMENTS OF THE AGREEMENT BETWEEN THE COMPANY AND THE CITY, EXCEPT AS THE COMPANY AND THE CITY MAY LATER AGREE IN WRITING TO MODIFY THIS LEASE OR THE PERFORMANCE AGREEMENT.

Section 15.11. City Consents. The Mayor of the City is authorized, unless expressly provided herein, to grant on behalf of the City such consents and waivers relating to the Bonds, the Indenture, the Performance Agreement or this Lease as may be requested during the term thereof; provided, such consents and/or waivers shall not increase the principal amount of the Bonds, increase the term of this Lease or the tax exemption as provided for herein, or materially change the nature of the transaction.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed in their respective names by their duly authorized signatories, all as of the date first above written.

CITY OF JOPLIN, MISSOURI

By: _____
Name: Gary Shaw
Title: Mayor

[SEAL]

ATTEST:

By: _____
Name: Barbara Gollhofer
Title: City Clerk

Approved as to form:

_____
City Attorney

CASEY'S MARKETING COMPANY,
an Iowa corporation

By: _____
Name:
Title:

EXHIBIT A

PROJECT SITE

The following described real estate located in Jasper County, Missouri:

[**INSERT LEGAL DESCRIPTION**]

EXHIBIT B

PROJECT IMPROVEMENTS

The Project Improvements consist of the following, to the extent paid for in whole with Bond proceeds:

The purchase and construction of a warehouse and distribution facility including buildings, site improvements and related fixtures and improvements.

PROJECT EQUIPMENT

The Project Equipment consists of the following, to the extent paid for in whole with Bond proceeds:

All items of machinery, equipment and parts or other personal property installed or acquired in the Project Improvements or elsewhere on the Project Site, and replacements thereof and additions thereto as provided in the Indenture and the Lease; provided that, each item of personal property that becomes a part of the Project Equipment shall constitute Project Equipment for no more than 5 tax years, starting with the tax year after the calendar year in which such personal property is acquired by the Company.

EXHIBIT C

FORM OF REQUISITION CERTIFICATE

Requisition No. _____
Date: _____

REQUISITION CERTIFICATE

TO: UMB BANK, N.A., AS TRUSTEE UNDER A TRUST INDENTURE DATED AS OF DECEMBER 1, 2019, BETWEEN CITY OF JOPLIN, MISSOURI, AND THE TRUSTEE, AND THE LEASE AGREEMENT DATED AS OF DECEMBER 1, 2019, BETWEEN CITY OF JOPLIN, MISSOURI AND CASEY'S MARKETING COMPANY, AN IOWA CORPORATION.

The undersigned Authorized Company Representative hereby states and certifies that:

1. A total of $_____ is requested to pay for Project Costs (as defined in the Indenture) of the Project Improvements and/or Project Equipment. The total amount of this requisition and all prior requisitions are as follows:

Date of Project Costs	***Amount Submitted in this Requisition***	***Requisitions Submitted to Date (Including this Requisition)***

2. Said Project Costs shall be paid in whole from Bond proceeds in such amounts, to such payees and for such purposes as set forth on **Schedule 1** hereto.

3. Each of the items for which payment is requested are or were desirable and appropriate in connection with the purchase, installation or equipping of the Project (as defined in the Trust Indenture), have been properly incurred and are a proper charge against the Project Fund, and have been paid by the Company or are justly due to the Persons whose names and addresses are stated on **Schedule 1**, and have not been the basis of any previous requisition from the Project Fund.

4. As of this date, except for the amounts referred to above, to the best of my knowledge there are no outstanding disputed statements for which payment is requested for labor, wages, materials, supplies or services in connection with the purchase, installation or equipping of the Project which, if unpaid, might become the basis of a vendors', mechanics', laborers' or materialmen's statutory or similar lien upon the Project or any part thereof.

CASEY'S MARKETING COMPANY

By: _____
Authorized Company Representative

Approved this _____ day of _____, 20___.

CITY OF JOPLIN, MISSOURI

By: _____
Authorized City Representative

SCHEDULE 1 TO REQUISITION CERTIFICATE

PROJECT COSTS

Payee and Address	Description	Amount

With respect to any personal property described in this Requisition Certificate and for which Project Costs are disbursed pursuant to this Requisition Certificate, in consideration of such disbursement, such personal property is hereby BARGAINED and SOLD, and the Company by these presents does now GRANT and CONVEY, unto the CITY OF JOPLIN, MISSOURI, and its successors and assigns, all of its right, title and interest, if any, in and to such personal property, and such personal property shall constitute a portion of the "Project" as defined under the Lease Agreement dated as of December 1, 2019, between the Company and the City. The property is being conveyed "as is," "where is" and "with all faults" as of the date of this Requisition Certificate, without any representation or warranty whatsoever as to its condition, fitness for any particular purpose, merchantability, or any other warranty, express or implied.

APPENDIX I

PERFORMANCE AGREEMENT

PERFORMANCE AGREEMENT

Dated as of December 1, 2019

BETWEEN

THE CITY OF JOPLIN, MISSOURI

AND

CASEY'S MARKETING COMPANY

PERFORMANCE AGREEMENT

THIS PERFORMANCE AGREEMENT, dated as of December 1, 2019, as from time to time amended and supplemented in accordance with the provisions hereof (this "Agreement"), between the **CITY OF JOPLIN, MISSOURI**, a constitutional charter city organized and existing under the laws of the State of Missouri (the "City"), and **CASEY'S MARKETING COMPANY**, an Iowa corporation (the "Company").

RECITALS:

1. The City is authorized and empowered pursuant to the provisions of Article VI, Section 27(b) of the Missouri Constitution and Sections 100.010 through 100.200, inclusive, of the Revised Statutes of Missouri, as amended (collectively, the "Act"), to purchase, construct, extend, improve and equip certain "projects" (as defined in the Act) and to issue industrial development revenue bonds for the purpose of providing funds to pay the costs of such projects and to lease or otherwise dispose of such projects to private persons or businesses for manufacturing, commercial, research and development, warehousing and industrial development purposes upon such terms and conditions as the City shall deem advisable;

2. Pursuant to the Act, the City Council passed an ordinance (the "Ordinance") on December 2, 2019, authorizing the City to issue its Taxable Industrial Development Revenue Bonds (Hearthstone Project), Series 2019, in the maximum principal amount of $51,400,000 (the "Bonds"), for the purpose of acquiring, constructing, improving, purchasing, equipping and installing a warehouse and distribution facility on approximately 40 acres of land located at 2715 Prosperity Road in the City (the "Project Site"), including such land and the associated buildings, structures and fixtures (the "Project Improvements") and equipment (the "Project Equipment," with the Project Site, the Project Improvements, and the Project Equipment collectively being the "Project");

3. Pursuant to the Ordinance, the City is authorized to enter into a Trust Indenture with UMB Bank, N.A. (the "Trustee") for the purpose of issuing and securing the Bonds, as therein provided, and to enter into a Lease Agreement of even date herewith (the "Lease Agreement"), under which the City will acquire, purchase, construct, improve and equip the Project and will lease the Project to the Company, as tenant under the Lease Agreement, in consideration of rental payments by the Company which will be sufficient to pay the principal of and interest on the Bonds; and

4. In connection with the foregoing, the City desires to enter into this Agreement with the Company, in consideration of the Company's desire to cause the purchase, construction, improvement, equipping and installation of the Project as more fully described in the Lease Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual representations, covenants and agreements herein contained, the City and the Company hereby represent, covenant and agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1. Definitions of Words and Terms. In addition to the words and terms defined in the Recitals, the Indenture and the Lease Agreement, the following words and terms as used herein shall have the following meanings:

"Additional PILOT Payment" means an amount (in addition to the PILOT Payments set out in **Section 3.2**) that becomes due under **Section 3.3(a)** or **(b)**.

"Agreement" means this Performance Agreement dated as of December 1, 2019, between the City and the Company, as from time to time amended and supplemented in accordance with the provisions hereof.

"Annual Jobs Report" means the report required to be filed by the Company pursuant to **Section 3.6** hereof in the form of **Exhibit A** hereto.

"Base Wage" means $39,816 per year, provided that, starting with the September 30, 2023 Test Date, and on every Test Date thereafter that falls in an even-numbered year, the Base Wage shall be adjusted by entering in the Consumer Price Index Inflation Calculator available at http://www.bls.gov/data/inflation_calculator.htm (or similar website maintained by the United States Bureau of Labor Statistics) an initial amount of $39,816, a starting date of December 2019 and an ending date that is the same month and year as the Test Date in question (the Base Wage for odd year Test Dates shall be the same as the Base Wage for the immediately prior even year); *provided that*, if the United States Bureau of Labor Statistics no longer provides a Consumer Price Index Inflation Calculator similar to that provided at such website, the amount of $39,816 shall be multiplied by the aggregate increase in the average Consumer Price Index, as reported by the United States Bureau of Labor Statistics, for the time period elapsed between December 2019 and the applicable Test Date.

"CBA" means the Cost Benefit Analysis attached to the Plan for an Industrial Development Project for a Distribution Facility (Hearthstone Project) dated October 28, 2019 and approved by the City in connection with the Project.

"Chamber" means the Joplin Area Chamber of Commerce.

"County" means Jasper County, Missouri.

"Event of Default" means any Event of Default as provided in **Section 6.1** hereof.

"Exemption" has the meaning given in **Section 3.1** hereof.

"Indenture" means the Trust Indenture executed by the City in connection with the issuance of the Bonds.

"Job" means a full-time equivalent employment position of the Company of not less than 35 hours per week at the Project Site (provided that part time positions can be aggregated to equal a full time equivalent position, i.e. two 0.5 full-time equivalent employment positions equals one Job), which includes employee benefits offered by the Company to similarly situated employees (which shall include the Company paying at least 50% of such employee's health insurance premiums) and all such Jobs, when averaged together, pay an average wage equivalent (when aggregated to a full time basis) equal to

or greater than the current Base Wage. Positions filled by workers who are not directly employed by the Company do not qualify as "Jobs" for purposes of this definition. Accordingly, Jobs may be full time or part time. Jobs may pay more or less than Base Wage, provided all Jobs, when averaged together, equal or exceed the Base Wage.

"Lease Agreement" means the Lease Agreement between the City and the Company dated as of the date hereof.

"PILOT Payments" means the payments in lieu of taxes provided for in **Section 3.2** hereof and shown on **Exhibit B** hereto.

"Project" means, collectively, the Project Site, the Project Improvements and the Project Equipment and all additions (and taking into account any subtractions), modifications, improvements, replacements and substitutions made to the Project pursuant to the Lease Agreement as they may exist from time to time.

"Project Costs" means all costs of acquiring, purchasing, equipping, constructing and installing the Project Site, the Project Improvements and the Project Equipment.

"Project Equipment" has the meaning given in the Lease Agreement.

"Project Improvements" has the meaning given in the Lease Agreement.

"Project Site" means the land upon which the Project Improvements and Project Equipment will be situated, as described in the Lease Agreement.

"Property Taxes" has the meaning given in **Section 3.1** hereof.

"Required Number of Jobs" means 100 Jobs.

"Taxes Otherwise Due" means, for any given calendar year, the ad valorem property taxes that would otherwise have been due in such year on the Project if the Project were not exempt by virtue of the Exemption, as calculated by applying the ad valorem tax rates assessed by all local governments or taxing districts for such calendar year to the assessed valuation that would have been attributable to the Project for such calendar year if the City did not hold title to such property.

"Test Date" means September 30 of each year, beginning on September 30, 2023, and ending on September 30, 2033.

"Trustee" means UMB Bank, N.A., as trustee under the Indenture.

ARTICLE II

ISSUANCE OF BONDS

Section 2.1. Issuance of the Bonds. As described herein, the City will issue the Bonds under the Act for the purpose of paying Project Costs. In connection with the issuance of the Bonds and the payment of Project Costs from the proceeds of the Bonds, the City will acquire the fee simple interest in the Project Site at the time of the issuance of the Bonds and will acquire title to the Project Improvements and the Project Equipment as acquired and constructed.

ARTICLE III

PROPERTY TAX EXEMPTION; PILOT PAYMENTS

Section 3.1. Property Tax Exemption. So long as the City owns the Project, the Project will be exempt from all ad valorem taxes assessed by all state and local governments and taxing districts (collectively "Property Taxes") on real and personal property (the "Exemption").

Section 3.2. Payments in Lieu of Taxes. The City and the Company covenant and agree that the Project purchased with the proceeds of the Bonds is exempt from Property Taxes by reason of the City's ownership thereof. The Company will annually pay to the City (or to the County if so directed by the City) payments in-lieu-of tax (the "PILOT Payments") with respect to the Project for each year that any portion of the Project is owned by the City in the amounts for each year as set out on **Exhibit B** hereto (except as adjusted as described in **Section 3.3(d)** herein).

Each PILOT Payment shall be due on December 1st of each year. In the event the PILOT Payments are not paid by December 31st of any particular year, such PILOT Payments shall bear interest commencing such December 31st at the rate of 5% per annum until paid. Each PILOT Payment shall be paid to the City at the address set forth in **Section 1403** of the Indenture.

Section 3.3. Additional PILOT Payments; Adjustments to PILOT Payments.

(a) In the event the Company fails to spend at least $41,000,000 (approximately 80% of anticipated Project Costs) on the Project on or before September 30, 2022 (as certified to the Trustee and the City through requisition certificates submitted to the Trustee in accordance with the Lease Agreement), the Company shall make Additional PILOT Payments in an amount equal to the Investment Deficiency Percentage (calculated as shown below) multiplied by the amount of the difference between the PILOT Payments and the Taxes Otherwise Due during the year in which the failure occurs and any subsequent year in which such failure persists as of September 30 of such year and during which the Exemption applies by virtue of City ownership. The Investment Deficiency Percentage shall be calculated, beginning at zero percent (0%) for compliance, in accordance with the following formula, with the result expressed as a percentage:

Investment Deficiency Percentage = (1 – (certified Project Costs / $41,000,000)) x 100.

(b) In the event the Company fails to maintain the Required Number of Jobs at the Project Site on the Test Date for any two consecutive Test Dates, measured by determining the highest actual number of Jobs during the 90-day period ending on such Test Dates, the Company shall make an Additional PILOT Payment for the year in which the second of such Test Dates falls in an amount equal to the Jobs Deficiency Percentage for such year (calculated as shown below) multiplied by the amount of the difference between the PILOT Payments and the Taxes Otherwise Due. The Jobs Deficiency Percentage shall be calculated, beginning at zero percent (0%) for compliance, in accordance with the following formula, with the result expressed as a percentage:

Jobs Deficiency Percentage = (1 – (a / b)) x 100, where

a = Highest number of Jobs during the 90 day period ending on Test Date, and

b = Required Number of Jobs for the Test Date.

Notwithstanding the foregoing, upon recommendation of the Chamber and certification by the Company that unforeseeable business conditions have caused the Company to employ fewer Jobs than projected at the time this Agreement was executed, the City Council may by ordinance waive the Additional PILOT Payments, or any portion thereof, otherwise required by this subsection.

(c) Each Additional PILOT Payment shall be due on December 1 of the year in which the failure giving rise to the Additional PILOT Payment occurs (and on December 1 of each subsequent year in which such failure persists as of September 30 of such year). In no event shall the sum of the Additional PILOT Payments payable under this Section, together with the PILOT Payments pursuant to **Section 3.2** hereof, for any given tax year exceed 100% of the Taxes Otherwise Due. Additional PILOT Payments shall not apply retrospectively to any years prior to the year in which a failure occurs and shall not accrue prospectively for future years based on current or past failures.

(d) In the event that any Additional PILOT Payment becomes due under this Agreement, the assessed valuation for purposes of calculating the Taxes Otherwise Due shall be determined by adding the following amounts:

(1) the amount shown as the "Estimated Assessed Value of Site Only (Assuming Project Occurs)" for the applicable year on page 4 of the CBA; *plus*

(2) the amount shown as the "Estimated Assessed Value of Project Improvements" for the applicable year on page 5 of the CBA; *plus*

(3) the cost (without freight, installation or sales tax) of the current Project Equipment (as certified to the Trustee and the City through requisition certificates submitted to the Trustee in accordance with the Lease Agreement), depreciated for each item of Project Equipment from its placed-in-service date in accordance with the 7-year recovery period shown in the "Project Assumptions" provided on page 1 of the CBA;

provided that, the Company, by providing notice to the City of such request by November 15th of the year for which the applicable Additional PILOT Payment would be due, may request that the Assessor of Jasper County, Missouri provide an estimated assessed value of the Project in lieu of the calculation shown above, provided further that (i) the Company agrees to pay to the Assessor the actual costs (including employee time) incurred by the Assessor in determining the estimated assessed valuation, and (ii) if the Assessor is unable to make such determination on or prior to December 15th of such year, the assessed valuation for purposes of determining the Taxes Otherwise Due for such year shall be calculated as shown above.

Section 3.4. Obligation to Effect Tax Abatement. The City shall take all actions, subject only to limitations imposed by applicable law, to obtain and/or maintain in effect the Exemption, including any timely filing required with any governmental authorities ("Abatement Obligations"); provided that the City shall not be liable for any failure of any other governmental taxing authority to recognize the exemption provided herein. Notwithstanding the forgoing, the City shall only be required to instigate litigation to effect the Exemption if the Company agrees in writing that the Company shall be responsible for the costs of such litigation actually incurred by the City. In the event that the Exemption is not recognized by any taxing authority, the amount paid to the City for PILOT Payments and Additional PILOT Payments shall be reduced by the amount of Property Taxes actually paid, if any, and the amount paid in PILOT Payments and Additional PILOT Payments shall be applied by the City, to the extent necessary, to the payment of such Property Taxes.

The City covenants that it will not act or fail to act in a manner that may cause or induce the Exemption to not be recognized. The City covenants that it will not act or fail to act in a manner that may cause or induce any levy or assessment of Property Taxes on the Project. In the event such a levy or assessment of Property Taxes should occur, the City shall, at the Company's request and at the Company's expense, cooperate with the Company in all reasonable ways to prevent and/or remove any levy or assessment of Property Taxes against the Project. Nothing herein shall prevent the Company from paying any such levy or assessment of Property Taxes under protest.

Section 3.5. Other Property Taxes in Connection with the Project; Credits. The Exemption provided by the City's ownership of the Project shall apply to all interests in the Project during the period they are owned by the City. If any Property Taxes are levied by or on behalf of any taxing jurisdiction against any interest in the Project during the period the City owns the Project (including, without limitation, any ad valorem taxes levied against the Company's rights in the Lease Agreement), the amount of Property Tax payments related to such levy or levies that are paid by Company and received by the City, the County, or any other Missouri taxing jurisdiction shall be credited against and reduce on a dollar for dollar basis the amount payable by the Company to the City for PILOT Payments and Additional PILOT Payments pursuant to this Agreement. The Company shall be responsible for any taxes related to any interest in the improvements or equipment on the Project Site which the Company owns in its own name or possession of which is granted to the Company other than pursuant to the Lease Agreement. There shall be no reduction in PILOT Payments or Additional PILOT Payments for any sales taxes imposed by any governmental authority, including the Missouri Department of Revenue, in connection with the Company's acquisition of construction materials for the Project Improvements or the Company's acquisition of the Project Equipment.

Section 3.6. Annual Jobs Report. On or before November 15th after each Test Date, the Company shall provide to the City and the Chamber a completed Annual Jobs Report, in the form attached hereto as **Exhibit A**. A failure to provide any Annual Jobs Report in a timely fashion may result in an Event of Default as described in **Section 6.1(d)**.

Section 3.7. No Abatement on Special Assessments, Licenses or Fees. The City and the Company hereby agree that the Exemption described in this Agreement shall not apply to special assessments except to the extent that such are Property Taxes or are levied in lieu of Property Taxes ("Special Assessments") and shall not serve to reduce or eliminate any other licenses or fees owing to the City or any other taxing jurisdiction with respect to the Project so long as such special assessments, licenses or fees are not applied in a manner that discriminates against the Company on the basis of the tax abatement incentives received by the Company by virtue of the Exemption. The Company hereby agrees to make payments with respect to all Special Assessments, licenses and fees which would otherwise be due with respect to the Project if the Project were not owned by the City. Notwithstanding the foregoing, nothing herein shall waive the Company's right to any notice required under law or limit the ability of the Company from protesting any Special Assessments, licenses or fees.

Section 3.8. Company's Right to Protest Taxes. No provision of this Agreement shall be construed to limit or in any way restrict the availability of any provision of Missouri law which confers upon the Company the appeal, protest or otherwise contest any property tax valuation, assessment or classification of the Project. In addition, the parties agree that the Company may, in its own name or in the City's name, contest the validity or amount of any tax, assessment, valuation, or classification related to the Project. The City agrees, at the Company's expense, to cooperate fully with the Company in connection with any and all administrative or judicial proceedings related to any such tax, assessment, valuation, classification or other governmental charge relating to the Project.

Section 3.9 Additional Personal Property. The Company may acquire additional personal property on its own accord and such personal property need not be financed with the proceeds of the Bonds or become part of the Project Equipment and shall not be subject to the terms of this Agreement; provided, however, any such personal property shall be subject to ad valorem taxes.

ARTICLE IV

COVENANTS, REPRESENTATIONS AND AGREEMENTS

Section 4.1. Inspection. The City may conduct such periodic inspections of the Project as may be generally provided in the City's code. In addition, the Company agrees that the City and its duly authorized agents may at reasonable times (during business hours but without disruption to the business), subject to at least two (2) business days' advance written notice and in observance of the Company's usual business proprietary, safety and security requirements, to enter upon the Project Site to examine and inspect the Project and the records of the Company that demonstrate compliance with this Agreement.

Section 4.2. Representations and Warranties.

(a) The Company represents that as of the date of this Agreement and during the term of this Agreement, or such shorter period as may be expressly provided for below:

(1) The Company is a corporation duly formed and existing under the laws of the State of Iowa, has power and authority to own its properties (and interests therein) and carry on its business as now being conducted, and is duly qualified to do such business in the State of Missouri;

(2) The Company has the right, power and authority to enter into, execute, deliver and perform its duties and obligations under this Agreement;

(3) The execution, delivery and performance by the Company of this Agreement has been duly authorized by all necessary action, and does not violate the articles of organization or operating agreement of the Company, as the same may be amended and supplemented, or to the Company's knowledge, any applicable provision of law, nor to the Company's knowledge does it constitute a breach of or default under or require any consent under any agreement, instrument or document to which the Company is now a party or by which the Company is now or may become bound;

(4) To the Company's knowledge, there are no actions or proceedings by or before any court, governmental commission, board, bureau or any other administrative agency pending, threatened or affecting the Company that would impair its ability to enter into or perform its material obligations under this Agreement;

(5) To the Company's knowledge, the Company has obtained (or prior to the applicable time required will obtain) and will maintain all government permits, certificates and consents (including without limitation appropriate environmental approvals) necessary to conduct its business and to complete the Project; and

(6) To the Company's knowledge, the Project is and will be in material compliance with all applicable federal, state and local laws, statutes, ordinances, rules, regulations, executive

orders and codes pertaining to or affecting the Project, including environmental laws, subject to all applicable rights of the Company to contest the same.

(b) The City represents that as of the date of this Agreement and during the term of this Agreement, or such shorter period as may be expressly provided for below:

(1) The City is a constitutional charter city duly organized and validly existing under the laws of the State of Missouri;

(2) The execution, delivery and performance by the City of this Agreement has been duly authorized by all necessary City actions;

(3) The City has the right, power and authority to enter into, execute, deliver and perform its duties and obligations under this Agreement; and

(4) To the best of the City's knowledge, there are no actions or proceedings by or before any court, governmental commission, board, bureau or any other administrative agency pending, threatened or affecting the City that would impair its ability to enter into or perform its obligations under this Agreement.

Section 4.3. Survival of Covenants. All obligations of the Company to make payments or indemnify the City contained herein, to the extent that the same accrue or arise during the term of this Agreement, shall survive termination of this Agreement for any reason.

Section 4.4. Sales and Use Tax Exemption.

(a) *Construction Materials*. Upon request after issuance of the Bonds, the City will provide a project exemption certificate to the Company for the acquisition of construction materials for the Project. This project exemption certificate shall be used by the Company solely for the acquisition of construction materials to be incorporated into the Project and the Company shall not apply such project exemption certificate to the acquisition of any other personal property.

(b) *DED Approved Personal Property.* The City recognizes that the Company has applied to the Missouri Department of Economic Development ("DED") for certification of the extent to which certain personal property other than construction materials constitutes eligible tangible personal property for purposes of exemption from sales and use tax. The City will cooperate with the Company and take reasonable efforts to facilitate the exemption of such personal property as is approved by DED (the "DED Approved Personal Property"). Upon receipt by the City of a conditional approval letter from DED (and proof that the Company has provided its tax clearance letter to the Missouri Department of Revenue and has complied with any other requirements of the conditional approval letter), the City will provide the Company with a project exemption certificate for the DED Approved Personal Property. Such project exemption certificate shall not be used by the Company in connection with the acquisition of any personal property other than the DED Approved Personal Property, as approved in the DED conditional approval letter.

(c) *Liability for Sales Determined to be Taxable.* Upon a determination by the Missouri Department of Revenue that any purchase made by the Company using a project exemption certificate described herein was not exempt from sales or use tax, the Company shall pay to the Missouri Department of Revenue all sales or use taxes so determined to be due

(whether by virtue of failure of the Company to comply with the terms of this Agreement or the procedures and requirements of DED or otherwise). The Company shall indemnify and defend the City and its respective officers, employees and agents against and from any and all causes of action or actions in law or equity, liens, claims damages, loss, costs or expenses of any nature whatsoever by any person or entity, arising out of the City's furnishing of the project exemption certificates to the Company or its affiliates. There shall be no reduction in PILOT Payments or Additional PILOT Payments for any sales or use taxes paid by the Company in connection with the Project.

ARTICLE V

SALE AND ASSIGNMENT

The benefits granted by the City to the Company pursuant to this Agreement shall belong solely to the Company, and such benefits shall not be transferred, assigned, pledged or in any other manner hypothecated, except as provided in **Section 13.1** of the Lease Agreement.

ARTICLE VI

DEFAULT AND REMEDIES

Section 6.1. Events of Default. If any one or more of the following events occurs and is continuing, it is hereby defined as and declared to be and to constitute an Event of Default hereunder:

(a) The Company fails to make any PILOT Payment or Additional PILOT Payment required to be paid hereunder, and such failure continues for 10 business days following written notice to the Company from the City of such failure;

(b) The Company fails to perform any of its material obligations hereunder for a period of 30 days (or such longer period as the City may agree in writing) following written notice to the Company from the City of such failure, or if such failure is not subject to cure within such 30 days after such notice, the Company fails to initiate action to cure the default within such 30 days after such notice and fails to pursue such action diligently;

(c) Either (1) any representation of the Company contained herein proves to be materially false or erroneous and is not corrected or brought into compliance within 30 days (except for situations described in subsection 6.1(c)(2), below), or such longer period as the City may agree in writing, after the City has given written notice to the Company specifying the false or erroneous representation and requiring it to be remedied, or (2) if such matter is not subject to cure within such 30 days after such notice, the Company fails to initiate action to cure the default within such 30 days after such notice and fails to pursue such action diligently; or

(d) The Company both (i) fails to provide any Annual Jobs Report on or before November 15th of the applicable year, *and* (ii) after notice of such failure is provided to the Company by the City or the Chamber, fails to provide such Annual Jobs Report within 10 business days of the postmarked date of such notice.

Section 6.2. Remedies on Default. Any Event of Default referred to in **Section 6.1** hereof shall also constitute an Event of Default under the Lease Agreement, affording the City the remedies specified therein.

Section 6.3. Interest on Late Payments. Any amounts due hereunder which are not paid when due shall bear interest at the interest rate of 5% per annum from the date 30 days after such payment was first due.

Section 6.4. Enforcement. In addition to the remedies specified in **Section 6.2**, upon the occurrence of an Event of Default, the City or any taxing jurisdictions that would benefit from the PILOT Payments and Additional PILOT Payments provided for in this Agreement may bring an action for specific performance to enforce such payments. In the event of litigation pertaining to the enforcement of this Agreement, the losing party shall pay all costs of litigation, including reasonable attorneys' fees.

ARTICLE VII

TERM OF AGREEMENT

Section 7.1. Term of Agreement. This Agreement shall become effective upon execution by the parties hereto and shall terminate upon the earliest to occur of the following:

(a) the payment in full of the Bonds (or any bonds issued to refund the Bonds) and the payment of all amounts due under this Agreement;

(b) the occurrence and continuance of an Event of Default (beyond any applicable cure period) and the subsequent termination of this Agreement pursuant to the provisions of the Lease Agreement and this Agreement;

(c) the expiration of the Lease Term set forth in **Section 3.2** of the Lease Agreement; or

(d) the exercise by the Company of its option to purchase all of the Project.

Section 7.2. Payments in Last Year. The foregoing provisions of **Section 7.1** shall not relieve the Company of its obligation to make any PILOT Payment or Additional PILOT Payment owing during the year in which the Bonds are paid, to the extent the Company receives the tax abatement contemplated for that year and such PILOT Payment or Additional PILOT Payment is due under this Agreement.

ARTICLE VIII

MISCELLANEOUS PROVISIONS

Section 8.1. Mutual Assistance. The City and the Company agree to take such actions as may be necessary or appropriate to carry out the terms, provisions and intent of this Agreement and to aid and assist each other in carrying out said terms, provisions and intent.

Section 8.2. Notices. All notices, certificates or other communications required or desired to be given hereunder shall be given in the manner specified in the Lease Agreement.

Section 8.3. Severability; Effect of Invalidity. If for any reason any provision of this Agreement shall be determined to be invalid or unenforceable, such invalid or unenforceable term will be

deemed severed from this Agreement and the validity and enforceability of the other provisions hereof shall not be affected thereby (except in the event that the Exemption is determined to be invalid or unenforceable, then the provisions requiring any PILOT Payments or Additional PILOT Payments shall also be deemed invalid and unenforceable). If this Agreement, or any portion hereof, or any agreements related hereto, are determined to be invalid, the City may not recover or recapture any taxes subject to abatement as provided herein or benefits accruing to the Company prior to such determination if the Company has paid the PILOT Payments and Additional PILOT Payments due under this Agreement prior to such date.

Section 8.4. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Missouri.

Section 8.5. Execution in Counterparts. This Agreement may be executed simultaneously in several counterparts, each of which shall be deemed to be an original and all of which shall constitute but one and the same instrument.

Section 8.6. Waiver. The City and the Company acknowledge and agree that the amounts payable hereunder shall constitute payments due the City under the Lease Agreement executed in connection with the Bonds. The Company shall not be entitled to any extension of payment of such amounts as a result of a filing by or against the Company or any affiliate in any bankruptcy court.

Section 8.7. Entire Agreement. This Agreement, together with the Lease Agreement, the Indenture and any other documents entered into of even date herewith in connection with the issuance of the Bonds, constitute the entire agreement of the parties with respect to the subject matter hereof and supersede all prior agreements, representations, negotiations and understandings, both written and oral, between the City and the Company with respect to the subject matter hereof.

Section 8.8. Electronic Storage. The parties agree that the transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

Section 8.9. Employee Verification. The Company will comply with and satisfy the requirements of Section 285.530.2, RSMo. with respect to the Project, which requires (1) any business entity receiving tax abatement to, by sworn affidavit and provision of documentation, annually affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the Project, and (2) every such business entity to annually sign an affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the Project. The Company shall provide such affidavits and documentation to the City on or before December 1 of each year during the term of this Agreement, beginning December 1, 2020.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in their respective corporate names by their duly authorized officers, all as of the date first above written.

CITY OF JOPLIN, MISSOURI

By: _____
Name: Gary Shaw
Title: Mayor

[SEAL]

ATTEST:

By: _____
Name: Barbara Gollhofer
Title: City Clerk

Approved as to form:

_____
City Attorney

CASEY'S MARKETING COMPANY,
an Iowa corporation

By: _____
Name:
Title:

EXHIBIT A

ANNUAL JOBS REPORT –CASEY'S MARKETING COMPANY PROJECT

To be filed with the City and the Chamber on or before November 15 of each year during the term of the Lease Agreement, starting on November 15, 2023:

Business Name **CASEY'S MARKETING COMPANY**	MO. Tax I.D. Number
County, State, Zip Code	Federal Employer I.D. Number (FEIN)
Highest number of Jobs during the 90 day period ending on Test Date:_____	"Test Date" (during the Reporting Period)
PILOT Payment Due Per Section 3.3 (if applicable)	Report Due

The undersigned, duly authorized representative of CASEY'S MARKETING COMPANY hereby states and certifies that the information set forth in this report is true and correct.

Authorized Signature	Date
Contact Name	Phone Number

For questions, please contact Rob O'Brian at (417) 624-4150 or email at rob@joplincc.com.

Please send form to:

Toby Teeter
President of Joplin Area Chamber of Commerce
320 East 4th Street
Joplin, Missouri 64801

EXHIBIT B

SCHEDULE OF PILOT PAYMENTS

Year	PILOT Payment
2019	$282
2020	915
2021	933
2022	933
2023	952
2024	952
2025	971
2026	971
2027	990
2028	990
2029	1,010
2030	1,010
2031	1,030
2032	1,030
2033	1,051

BILL NO. _____ ORDINANCE NO. _____

AN ORDINANCE APPROVING A PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT CONSISTING OF THE ACQUISITION, CONSTRUCTION, IMPROVEMENT AND EQUIPPING OF A WAREHOUSE AND DISTRIBUTION FACILITY; AUTHORIZING THE CITY OF JOPLIN, MISSOURI TO ISSUE ITS TAXABLE INDUSTRIAL DEVELOPMENT REVENUE BONDS IN A PRINCIPAL AMOUNT NOT TO EXCEED $51,400,000 TO FINANCE THE COSTS OF SUCH PROJECT; AUTHORIZING AND APPROVING CERTAIN DOCUMENTS; AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION WITH THE ISSUANCE OF THE BONDS.

WHEREAS, the City of Joplin, Missouri (the "City") is a constitutional charter city and municipal corporation of the State of Missouri, duly created, organized and existing under and by virtue of the Constitution and laws of the State of Missouri; and

WHEREAS, the City is authorized under the provisions of Article VI, Section 27(b) of the Missouri Constitution, as amended, and Sections 100.010 to 100.200, inclusive, of the Revised Statutes of Missouri, as amended (collectively, the "Act"), to purchase, construct, extend, improve and equip certain projects (as defined in the Act) for the purposes set forth in the Act and to issue industrial development revenue bonds for the purpose of providing funds to pay the costs of such projects and to lease or otherwise dispose of such projects to private persons or corporations for manufacturing, commercial, warehousing and industrial development purposes upon such terms and conditions as the City shall deem advisable; and

WHEREAS, Casey's Marketing Company, an Iowa corporation (the "Company"), has proposed a project consisting of acquiring, constructing, improving, purchasing, equipping and installing a warehouse and distribution facility on approximately 40 acres of land located at 2715 Prosperity Road in the City (the "Project"); and

WHEREAS, the City, in accordance with Section 100.050 of the Act, prepared a plan for industrial development (the "Plan"), gave notice of the Plan on October 28, 2019 by mail to the taxing jurisdictions in accordance with Section 100.059.1 of the Act, and held a public hearing regarding the Plan on November 18, 2019, during which hearing those in attendance were given the opportunity to provide comments with respect to the Plan; and

WHEREAS, the City now desires to approve the Plan; and

WHEREAS, the City desires to finance the costs of the Project out of the proceeds of industrial development revenue bonds to be issued under the Act (the "Bonds"); and

WHEREAS, the City has and does hereby find and determine that it is desirable for the economic development of the City and within the public purposes of the Act that the City proceed with the issuance of the Bonds for the purpose described above; and

WHEREAS, Section 4.23 of the City Charter requires that all bonds sold by the City be sold at public sale upon sealed proposals after at least fifteen days' notice in a newspaper published in Joplin, Missouri; and

WHEREAS, a notice of sale was published in the *Joplin Globe* on _____ __, 2019 inviting potential bond purchasers to submit bids for the Bonds and the City has received one bid for the bonds; and

WHEREAS, the City further finds and determines that it is necessary and desirable in connection with approval of the Plan and the issuance of the Bonds that the City enter into certain documents, and that the City take certain other actions and approve the execution of certain other documents as herein provided;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI:

Section 1. Promotion of Economic Development. The Council hereby finds and determines that the Project will promote the economic welfare and the development of the City, and the issuance of the Bonds by the City to pay the costs of the Project will be in furtherance of the public purposes set forth in the Act.

Section 2. Approval of Plan. The Council hereby approves the Plan attached hereto as **Exhibit A** in accordance with Section 100.050 of the Act.

Section 3. Authorization and Sale of the Bonds. The City is hereby authorized to issue and sell its Taxable Industrial Development Revenue Bonds (Hearthstone Project), in an aggregate principal amount not to exceed $51,400,000, for the purpose of providing funds to pay the costs of the Project. The Bonds shall be issued and secured pursuant to the herein authorized Trust Indenture and shall bear such date, shall mature at such time, shall be in such denominations, shall bear interest at such rate, shall be in such form, shall be subject to redemption, shall have such other terms and provisions, shall be issued, executed and delivered in such manner and shall be subject to such provisions, covenants and agreements as are specified in the Trust Indenture upon the execution thereof, and the signatures of the officers of the City executing the Trust Indenture shall constitute conclusive evidence of their approval and the City's approval thereof.

The City hereby determines that the sealed proposal for purchase of the bonds submitted by the Company was the only bid submitted at the public sale of the Bonds and that it is in the best interest of the City to accept the bid submitted by the Company. The sale of the Bonds to the Company at the interest rate and upon the terms set forth in the Trust Indenture is hereby approved.

Section 4. Limited Obligations. The Bonds and the interest thereon shall be limited obligations of the City payable solely out of the payments, revenues and receipts derived by the City from the herein authorized Lease Agreement, and such payments, revenues and receipts shall be pledged and assigned to the Trustee as security for the payment of the Bonds as provided in the Trust Indenture. The Bonds and the interest thereon shall not be deemed to constitute a debt or liability of the City within the meaning of any constitutional provision, statutory limitation or City Charter provision and shall not constitute a pledge of the full faith and credit of the City. The issuance of the Bonds shall not, directly, indirectly or contingently, obligate the City to levy any form of taxation therefore or to make any appropriation for their payment.

Section 5. Approval and Authorization of Documents. The following documents (the "City Documents") are hereby approved in substantially the forms presented to the Council at this meeting (copies of which documents shall be filed in the records of the City), and the City is hereby authorized to execute and deliver the City Documents with such changes therein as shall be approved by the officials of the City executing such documents, such officials' signatures thereon being conclusive evidence of their approval thereof:

(a) Trust Indenture dated as of the date set forth therein (the "Trust Indenture"), between the City and UMB Bank, N.A., as trustee (the "Trustee"), pursuant to which the Bonds shall be issued and the City shall pledge and assign the payments, revenues and receipts received pursuant to the Lease Agreement to the Trustee for the benefit and security of the owners of the Bonds upon the terms and conditions as set forth in the Trust Indenture;

(b) Lease Agreement dated as of the date set forth therein (the "Lease Agreement"), between the City and the Company, under which the City will provide funds for the acquisition, construction, improvement and equipping of the Project and lease the Project to the Company pursuant to the terms and conditions in the Lease Agreement, in consideration of rental payments by the Company which will be sufficient to pay the principal of, premium, if any, and interest on the Bonds;

(c) Bond Purchase Agreement dated as of the date set forth therein, between the City and the Company, pursuant to which the Company agrees to purchase the Bonds;

(d) Performance Agreement dated as of the date set forth therein, between the City and the Company, pursuant to which the City has granted the Company certain rights with respect to the abatement of ad valorem real property taxes on the Project in consideration for the Company's agreement to pay certain payments in lieu of taxes; and

Section 6. Execution of Documents. The Mayor of the City is hereby authorized and directed to execute the Bonds and to deliver the Bonds to the Trustee for authentication for and on behalf of and as the act and deed of the City in the manner provided in the Indenture. The Mayor, City Manager or Finance Director of the City is hereby authorized and directed to execute the City Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance, for and on behalf of and as the act and deed of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City to the Bonds and the City Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

Section 7. Further Authority. The Mayor, City Manager, Finance Director, City Clerk and other officials, agents and employees of the City as required are hereby authorized and directed to take such further action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance and to carry out, comply with and perform the duties of the City with respect to the Bonds and the City Documents. The Mayor is authorized to grant on behalf of the City such consents and waivers relating to the Bonds, the Trust Indenture, the Performance Agreement or the Lease Agreement as may be requested during the term thereof and as the Mayor may deem appropriate with the advice and counsel of city staff; provided, such consents and/or waivers shall not increase the principal amount of the Bonds, increase the term of the Lease or the tax exemption as provided for therein, or materially change the nature of the transaction.

Section 8. Effective Date. This Ordinance shall take effect and be in full force from and after its passage and adoption by the City Council and approval by the Mayor.

PASSED by the City Council of the City of Joplin, Missouri and APPROVED by the Mayor this _____ day of December, 2019.

[SEAL] MAYOR

ATTEST:

CITY CLERK

Approved as to form:

CITY ATTORNEY

EXHIBIT A

PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT

JOPLIN CITY COUNCIL
NOVEMBER 4, 2019 MEETING MINUTES

CALL TO ORDER

The regular meeting of the Joplin City Council was called to order at 6:00 p.m.by Mayor Gary Shaw.

INVOCATION was read by City Clerk Barbara Gollhofer.

PLEDGE OF ALLEGIANCE to the United States of America was led by Mr. Brown.

ROLL CALL

Answering Roll Call were Council Members: Taylor Brown, Melodee Colbert-Kean, Keenan Cortez, Doug Lawson, Anthony Monteleone, Diane Reid Adams, Gary Shaw, Ryan Stanley, and Phil Stinnett. Also, in attendance were Interim City Manager Dan Pekarek and City Attorney Peter Edwards.

PRESENTATIONS

Terry Wachter, Co-Chair of the Citizen Prop B Task Force presented a short informational video to educate the voters about the proposed ½ cent sales tax increase that will be dedicated to funding the public safety retirement plan to help improve recruitment and retention of Joplin police officers and firefighters. Ms. Wachter thanked all those involved for their efforts to help inform the public on the proposal that will be voted on tomorrow, November 5.

Also speaking on behalf of the proposal was task force member Scott Vorhees, who expressed his thanks to everyone for the collaborative effort on the part of the city, community, and police and fire on the way this issue was handled.

Jeremie Humphrey, president of Joplin Firefighters Local 59, presented a short video that supported the Prop B proposal. He stated Prop B will help with public safety recruitment and retention. He also thanked everyone, especially the citizens who got involved with this issue.

FINALIZATION OF CONSENT AGENDA

There being no further business to come before the Council, the Consent Agenda was finalized.

REPORTS AND COMMUNICATIONS

CITIZEN REQUESTS AND PETITIONS

PUBLIC HEARINGS

Public Hearing Procedures were read by City Clerk Barbara Gollhofer

Public Hearing for Council Bill No. 2019-281

Mayor Shaw opened the Public Hearing.

Brad Fagan, 1002 Carrington Terrace, Joplin, appeared in favor of this item.

No one appeared in opposition to this item.

The Public Hearing was closed.

Mr. Stinnett introduced Council Bill No.2019 -281- an ordinance amending Ordinance No. 2004-256, passed by the Council of the City of Joplin, Missouri, November 15, 2004, by removing from District R-1 and including in District C-1 property as described below and located 2818, 2824, 2828, and 2832 E 19th St., City of Joplin, Jasper County, Missouri. Motion by Mr. Stinnett, second by Dr. Reid Adams that Council Bill No.2019- 281 be passed on First Reading and advanced to Second and Third Reading. Voting in favor were Council Members: Brown, Colbert-Kean, Cortez, Lawson, Monteleone, Reid Adams, Shaw, Stanley and Stinnett, 9. Nays: 0. The Council Bill was read as **Council Bill No. 2019-281**

CONSENT AGENDA
Motion by Mr. Stanley, second by Mr. Cortez to approve the Consent Agenda. Voting in favor were Council Members: Brown, Colbert-Kean, Cortez, Lawson, Monteleone, Reid Adams, Shaw, Stanley and Stinnett, 9 Nays: 0.

October 21, 2019 Informal Council Meeting Notes

Minutes of the October 21, 2019 City Council Meeting

COUNCIL BILL NO. 2019-403 - an ordinance approving an Agreement between the City of Joplin, Missouri, and Keenoy Preservation; authorizing the City Manager to execute same on behalf of the City. **Ordinance No. 2019-167**

RESOLUTIONS

ORDINANCES – EMERGENCY
Mr. Lawson introduced Council Bill No. 2019-008 - an ordinance approving a Purchase Order to be issued to Superion to cover the annual support payment for the Public Safety and Financial software and related systems as budgeted in the Annual Budget of the City of Joplin for the Fiscal Year 2019-2020 as adopted by Ordinance 2019-166 on October 21, 2019; and containing an emergency clause. Motion by Mr. Lawson, second by Dr. Reid Adams that Council Bill No. 2019-008 be approved on an emergency basis. Voting in favor were Council Members: Brown, Colbert-Kean, Cortez, Lawson, Monteleone, Reid Adams, Shaw, Stanley, and Stinnett, 9. Nays: 0. The Council Bill was declared adopted and entitled **Ordinance No. 2019-168**

ORDINANCES – FIRST READING
Mr. Stanley introduced Council Bill No.2019-405 - an ordinance approving an Agreement between the City of Joplin, Missouri, and the Economic Security Corporation that pertains to 2019 CDBG public service grant funds in the amount of $25,000.00; authorizing the City Manager to execute same on behalf of the City. Motion by Mr. Stanley, second by Mr. Stinnett to approve Council Bill No. 2019-405 on First Reading and advance to Second and Third Reading. Voting in favor were Council Members: Brown, Colbert-Kean, Cortez, Lawson, Monteleone, Reid Adams, Shaw, Stanley, and Stinnett, 9. Nays: 0. The Council Bill was read as **Council Bill No. 2019-405**.

Mr. Cortez introduced Council Bill No. 2019-406 - an ordinance approving an Agreement between the City of Joplin, Missouri and the Homeless Coalition that pertains to 2019 CDBG public service grant funds in the amount of $17,000.00; authorizing the City Manager to execute same on behalf of the City. Motion by Mr. Cortez, second by Mr. Brown to approve Council Bill No. 2019-406 on First Reading and advance to Second and Third Reading. Voting in favor were Council Members: Brown, Colbert-Kean, Cortez, Lawson, Monteleone, Reid Adams, Shaw, Stanley, and Stinnett, 9. Nays: 0. The Council Bill was read as **Council Bill No. 2019-406**.

ORDINANCES – SECOND READING AND THIRD READING

UNFINISHED BUSINESS

NEW BUSINESS

News from the Public Information Officer, Lynn Onstot

To celebrate America Recycles Day, the Joplin Recycling Center will host a shredding event on Saturday, November 16, at no cost to area residents. Midwest Fibre Sales will have their mobile shred truck at the Center from 10 a.m. to 2 p.m**.** for residents to rid themselves of personal papers that are no longer needed without worry of identity theft. This free event is sponsored by the City's Recycling Division, Region M Waste Management District, and the Missouri Department of Natural Resources.

Everyone is invited to Main Street this Saturday, November 9th for Joplin's 32nd Annual Veterans Day Parade! It starts at 10 a.m., beginning at 15th Street and heading north to 3rd Street. From there it turns west, and then goes south on Joplin Avenue to Memorial Hall.

Citizens interested in running for a City Council seat in April 2020 may pick up their nominating petitions from the City Clerk starting Tuesday, November 19, 2019. Petitions must be returned to the City Clerk by 5 p.m., Tuesday, January 14, 2020 to be eligible for the April 7, 2020 election.

The Downtown Lighting Celebration in Joplin will be Monday, November 25. Main Street will be closed from 2nd to 7th Street for people to enjoy a fun evening with friends and family. Festivities begin at 5 p.m., with Parks and Recreation staff hosting crafts for the kids at Spiva Park, while waiting for Santa's arrival at 5:30. At 6, the official lighting of Spiva Park will illuminate the park with holiday scenes and songs! At 6:30 p.m. a holiday-themed movie will be shown on Main Street near City Hall at 6th Street. As people walk along Main Street, they'll enjoy more holiday entertainment and festive window decorations. Be sure to vote for your favorites in the contest hosted by the Downtown Joplin Alliance. Ballots can be dropped off at City Hall that evening, while writing letters to Santa and having cocoa and cookies. This holiday evening celebration will end at 8:30 p.m. More details can be found on our website and in the City's newsletter.

The City will begin its Residential Leaf Pick Up Program, weather permitting on December 2. More details about this service will be sent out and posted later this week.

Citizens are reminded that tomorrow is a Municipal Election for Joplin. Polls in Joplin will be open from 6 a.m. to 7 p.m. and we encourage citizens to please take time to vote.

Comments from Council:
Mayor Shaw asked Police Chief Stewart to speak on a recent event that involved a motorcycle Officer, Dalton Farmer. Officer Farmer helped with an event hosted by Veterans in Defense and Liberty Riders of America, which is a motorcycle run from Springfield MO to Perryville MO in honor of POW-MIA's and Vietnam Veterans. Officer Farmer received a plaque and two challenge coins for his participation.

Mr. Stanley stated the Rotary Sculpture Garden event last Sunday, October 27 and the Mohaska Trail and St. John's Trail ribbon cutting on Friday, November 1 were successful events.

Mayor Shaw stated he had the privilege of representing the city council by presenting proclamations at the following events: Rotary Sculpture Garden grand opening; the ribbon cutting of the Mohaska Trail and St. John's Trail; the groundbreaking of the JUMP program; National Weatherization Day and demonstration, and the suicide prevention awareness walk.

Mayor Shaw extended congratulations to the Joplin Eagles football team on another victory.

Mayor Shaw thanked all the teams who worked together to education the public on Prop B.

There being no further business, the meeting adjourned at 6:40 p.m.

Respectfully,

Barbara J. Gollhofer, City Clerk

Minutes of the Special City Council Meeting
November 11, 2019

Call to order
The Special Meeting of the Joplin City Council was called to order at 6:00 p.m. by Mayor Gary L. Shaw.

Invocation: Given by Mayor Shaw

Pledge of Allegiance: Led by Mr. Cortez

Roll Call: Present: Taylor Brown, Melodee Colbert-Kean, Keenan Cortez, Doug Lawson, Anthony Monteleone, Diane Reid Adams, Mayor Gary Shaw, Ryan Stanley and Phil Stinnett, 9. Also in attendance were City Attorney Peter Edwards and Interim City Manager Dan Pekarek.

Reading of the Special Call.
Notice is hereby given that the Joplin City Council will hold a Special Meeting beginning at 6:00 p.m. on Monday, November 11, 2019 at Joplin City Hall in the 5th floor Council Chambers, 602 S. Main, Joplin, Missouri for the purposes stated below.

Resolution No. 2019-012. Mr. Stanley introduced Resolution No. 2019-012 - a resolution declaring that Main Street Axe Company LLC has complied with the City of Joplin's requirements for a license for the sale of intoxicating liquor and that the City Council's consent is hereby given under RSMo § 311.080. Motion by Mr. Stanley, second by Mrs. Colbert-Kean to approve Resolution No. 2019-012. Voting in favor were Council Members: Brown, Colbert-Kean, Cortez, Lawson, Monteleone, Reid Adams, Stanley and Stinnett, 8. Nays: Shaw, 1. Resolution No. 2019-012 was approved.

Canvass Results of the November 5, 2019 Special Election
The City Clerk's office received the official returns of the November 5, 2019 Special Election, as certified by the County Clerks of Jasper and Newton Counties. It is found and declared that the results are as follows:

For the City of Joplin, Proposition B received 3352 YES votes and 974 NO votes**.**

This measure needed a simple majority for passage. Proposition B was approved .

For the record, 4,326 ballots were cast in this election. This record is on file in the City Clerk's office.

Motion by Mr. Cortez, second by Mr. Brown to accept the results of the November 5, 2019 Special Election as read by City Clerk Barbara Gollhofer. Voting in favor were: Brown, Colbert–Kean, Cortez, Lawson, Monteleone, Reid Adams, Shaw, Stanley, and Stinnett, 9. Nays: 0.

Review Waste Water Rate Study and 5 Year Plan
The City of Joplin retained Burns & McDonnell to perform a wastewater rate study including financial planning and rate analysis for the City's wastewater system. Assistant Public Works Director of Operations Lynden Lawson, Burns McDonnell consultant David Nauman, and Finance Director Leslie Haase made the presentation.

The study provides a five-year financial plan that evaluates the sufficiency of revenues under existing rates to meet future operating and capital costs of the utility. If revenues are insufficient to meet funding requirements, recommendations are made to increase rates sufficiently to meet the utility's revenue requirements. Throughout the report various years were referenced regarding the City's financial plan. The years referenced are the City's fiscal years. To meet the study objective, Burns & McDonnell conducted the analysis in a two-step approach: 1)Financial Planning and 2)Rate Design. It was suggested to increase rates 5% annually for the next five years to sufficiently fund future wastewater costs. A public hearing will be held at the December 2 city council meeting to seek approval of the proposed rate changes.

Director Haase discussed the Winter Quarter Average, stating residents are currently assessed a usage fee based on their winter quarter average for December, January and February. The city average has been used by policy rather than by ordinance. The actual average varies annually and can be calculated. City staff would like to bring an ordinance to council that will change certain language to improve sewer billing and collection procedures. The change has been factored in the wastewater rate study and staff would like to present this ordinance along with the other fee ordinances at the November 18 city council meeting.

Vote to go into closed session, which shall pertain to legal action, causes of action, or litigation including a public governmental body and any confidential or privileged communications between a governmental body or its representatives and its attorneys pursuant to state law; and which shall pertain to leasing, purchasing or sale of real estate by a public governmental body where public knowledge of the transaction might adversely affect the legal consideration therefore; and the hiring, firing, disciplining, or promotion of an employee or particular employees of a governmental body involving personal information as set forth in Section 610.021 (1) (2) (3) RSMo, as amended, 2018. This meeting, record, and vote to be closed to the extent provided by law. The City Council shall adjourn at the end of the session. Motion by Mr. Cortez, second by Mr. Stanley to go into closed session. Voting in favor were Council Members: Brown, Colbert-Kean, Cortez, Lawson, Monteleone, Reid Adams, Shaw, Stanley and Stinnett, 9.

There being no further business to come before council the meeting was adjourned at 7:11 p.m.

Respectfully submitted,

Barbara J. Gollhofer, City Clerk

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM:
CB 2019-281-Rezone to Neighborhood Commercial District (C-1)

MEETING DATE:
November 4, 2019

ORIGINATING DEPARTMENT:
Planning, Development and Neighborhood Services

REVIEWED BY:
Director of Planning, Development & Neighborhood Services-Troy Bolander, Director of Finance-Leslie Haase, City Attorney- Peter Edwards, Interim City Manager- Daniel Pekarek.

SUMMARY REQUEST:
Case 037-19: 2818, 2824, 2828, and 2832 E. 19th St. – A request to remove from District R-1 (Single-family Residential) and include in District C-1 (Neighborhood Commercial) for future commercial development. – Brad Fagan

BACKGROUND:
This property has been on the market for some time and has had very little interest for development single family residences. The applicant's request to rezone to a C-1 Neighborhood Commercial zone is not inappropriate for this property considering the intent of C-1 districts is to provide neighborhood level uses such as banks, offices, and small shops. Uses in this district are to not generate large amounts of traffic commonly seen in the intense commercial uses along Range Line Road.

This zoning change should not detrimentally affect nearby property. There is adequate space on the site in which any potential developer can mitigate the conflict of commercial uses with other uses in accordance with the City's buffer requirements. Uses in these districts are restricted to light uses that generate little traffic and nuisance

PLANNING & ZONING COMMISSION TESTIMONY:
Mr. Brad Fagan, 1002 Carrington Terrace, Joplin, MO 64804, owner of the property described in the rezoning request. Mr. Fagan stated that The City Comprehensive Plan identifies 20th Street between Range Line Road and Schifferdecker Ave. as a Planned Development corridor with intent that post-tornado redevelopment would focus on commercial uses. Design Standards have been established by the Planning & Zoning Department to guide the planned commercial development of the 20th Street Corridor.

A significant investment has been made in widening E. 20th Street to a five-lane arterial street and to construct a railroad overpass at 20th and Michigan to facilitate commercial development. The requested zoning change would be a positive step towards the commercial development.

PUBLIC COMMENT;
None.

FUNDING SOURCE:
These payments are included in the FY 2018-19 budget of the Community Planning Fund.

RECOMMENDATIONS:
Planning & Zoning Commission recommends approval, 5 in Favor, 0 Nays, 2 Abstained.
Staff recommends approval of Case 037-19.

ATTACHMENTS
CB 2019- 281, Staff Planning Report, P&Z Commission Minutes

CB 2019-281

Mr. Dermott read the procedures for the public hearing.

Mr. Eastman and Mr. Dermott has abstained themselves from Case 037-19. Ms. Brueckner-Sears conducted the public hearing for case 037-19.

Case 037-19: 2818, 2824, 2828, and 2832 E. 19th St. – A request to remove from District R-1 (Single-family Residential) and include in District C-1 (Neighborhood Commercial) for future commercial development. – Brad Fagan

Mr. Brad Fagan, 1002 Carrington Terrace, Joplin, MO 64804, owner of the property described in the rezoning request. Mr. Fagan stated that The City Comprehensive Plan identifies 20th Street between Range Line Road and Schifferdecker Ave. as a Planned Development corridor with intent that post-tornado redevelopment would focus on commercial uses.

The redevelopment guidelines created by the Citizens Advisory Recovery Team (CART) and presented to the City Council support the planning goals in the City Comprehensive Plan relative to commercial development of East 20th Street. Also, design standards have been established by the Planning & Zoning Department to guide the planned commercial development of the 20th Street Corridor.

A significant investment has been made in widening E. 20th Street to a five-lane arterial street and to construct a railroad overpass at 20th and Michigan to facilitate commercial development. The requested zoning change would be a positive step towards the commercial development.

MS. STEEL MOVED, SECONDED BY MR. MCCULLOUGH, FOR CASE 037-19 BE FORWARDED TO THE CITY COUNCIL WITH THE RECOMMENDATION FOR APPROVAL. MOTION CARRIED, MRS. KOELKEBECK, MRS. STEELE, MS. BRUCKNER-SEARS, AND MR. MCCULLOUGH, VOTING "AYE. (4 IN FAVOR, 0 NAYS, 1 ABSENT, 2 ABSTAINED).

Z&P Meeting: October 14, 2019
City Council Meeting: November 4, 2019

STAFF PLANNING REPORT
Rezoning

CASE 037-19 A request to rezone from R-1 (Single-family Residential) to C-1 (Neighborhood Commercial) for future commercial development.

LOCATION 2818, 2824, 2828, & 2832 E. 19th St.

APPLICANT Brad Fagan

EXISTING CONDITIONS

Zoning	Land Use	Property Size
R-1	Vacant	1.3 acres

SITE CONTEXT

	North	East	South	West
Existing Zoning	R-1	C-3-PD	R-1	R-1
Land Use	Single-family Residential	Strip Commercial	Single-family/Vacant	Vacant

FUTURE LAND USE

The City of Joplin's future land use map classifies this area as future low-density residential.

TRANSPORTATION

Streets with access	Classification	Right-of-way width
E. 20th St.	Arterial	150'
E. 19th St.	Local	50'
S. Highview Ave.	Local	60'

UTILITIES Improvements on these lots will likely result in the abandonment or replacement of existing sanitary sewer piping or structures.

FLOOD PLAIN This property is partially in the flood plain. Stormwater management applies

(i.e. water quality/detention). Any structure proposed within the flood plain is subject to the City's Flood Plain Ordinance requirements.

STAFF ANALYSIS

CONSISTENT WITH DEVELOPMENT POLICIES OF THE COMPREHENSIVE PLAN?

Yes.

THE SUITABILITY OF THE SUBJECT PROPERTY FOR THE USES TO WHICH IT HAS BEEN RESTRICTED

The site as zoned R-1 is suitable for future residential development. The R-1 district does restrict the intensity of residential development and prohibits many uses. This property has been on the market for some time and has had little to no interest in its current state.

THE EXTENT THAT THE ZONING CHANGE WILL DETRIMENTALLY AFFECT NEARBY PROPERTY

This zoning change should not detrimentally affect nearby property. There is adequate space on the site in which any potential developer can mitigate the conflict of commercial uses with other uses in accordance with the City's buffer requirements. The C-1 district is designed to be used amongst residential uses, hence its title, Neighborhood Commercial. Uses in these districts are restricted to light uses that generate little traffic and nuisance. In addition, any stormwater concerns due to the parts of the property being within the flood plain would be governed under the City's Flood Plain Ordinance.

DISCUSSION

This property has been on the market for some time and has had very little interest for development single family residences. The applicant's request to rezone to a C-1 Neighborhood Commercial zone is not inappropriate for this property considering the intent of C-1 districts is to provide neighborhood level uses such as banks, offices, and small shops. Uses in this district are to not generate large amounts of traffic commonly seen in the intense commercial uses along Range Line Road, for instance.

In addition, considering the property's frontage along 20th St., a major arterial connecting two sides of Joplin, a commercial use oriented toward this street is appropriate. It is likely that this street frontage is what is dampening interest in the development of this property under its current zoning.

This property is subject to the City of Joplin's Zoning Code requirements.

Staff recommends approval of Case 037-19.

ATTACHMENTS

- Application
- Map

REZONING APPLICATION FORM

RECEIVED 9/13/19

Return Form to:
Planning / Community Development Specialist.
Joplin City Hall
602 South Main Street
Joplin, Missouri 64801
417-624-0820 Ext. 511
FAX 417-625-4738

For Office Use Only

Case No.: 037-19
Filing Fee: $500.00 - pd 09-13-2019
Date Advertised:
Date Notices Sent
Public Hearing Date: 10-14-19

APPLICANT: Brad Fagan PHONE: (417) 850-6498
ADDRESS: 1002 Carrington Terrace, Joplin, MO ZIP: 64804
OWNER: Fagan Holdings and Investments, Inc. PHONE: (417) 850-6498
ADDRESS: 313 West 13th Street, Joplin, MO ZIP: 64804
LOCATION OF PROPERTY: Four Lots: 2818, 2824, 2828 and 2832 East 19th
LEGAL DESCRIPTION: See attached Legal Description and Survey by Tri-State Engineering dated 05-15-2014.

Present Zoning R-1 Requested Zoning: C-1 Acreage: 1.3
Present Use of Property: Vacant Lots

SURROUNDING LAND USE AND ZONING:

	Land Use	Zoning
North	Residential	R-1
South	Residential	R-1
East	Commercial	C3-PD
West	Residential	R-1

CHARACTER OF THE NEIGHBORHOOD: Residential and Commercial. Parcel consists of 4 vacant lots fronting East 20th which the City has designated for future commercial uses.

RELATIONSHIP TO EXISTING ZONING PATTERN:

1. Would proposed change create a small, isolated district unrelated to surrounding districts?
   No. Property to the east is zoned C-3.
2. Are there substantial reasons why the property cannot be used in accord with existing zoning?
   If yes, explain: Parcel is in an area designated for future commercial.

CONFORMANCE WITH COMPREHENSIVE PLAN:

1. Consistent with Development Policies? Yes. See City of Joplin Development Policies.
2. Consistent with Future Land Use Map? Yes. See City of Joplin Future Land Use Map.

THE FOLLOWING MUST ACCOMPANY YOUR APPLICATION:

1. One copy of a legal description of the property proposed to be rezoned.
2. One copy of a statement describing the reasoning for the rezoning, the impact of the proposed change, including any traffic conditions that may result; any danger from fire hazards; how the proposed change may effect the character of the surrounding properties; and how the proposed change will benefit the City of Joplin.
3. Owner Affidavit, if applicant applying for the rezoning is not the owner of the property be rezoned

TRAFFIC CONDITIONS:

1. Street(s) with Access to Property: East 20th Street and South Highview.
2. Classification of Street(s):
   Arterial_____ Collector_____ Local _____
3. Right-of-Way Width: _____
4. Will turning movements caused by the proposed use create an undue traffic hazard?
   _____

IS PLATTING OR REPLATTING REQUIRED TO PROVIDE FOR:

1. Appropriately Sized Lots?_____
2. Properly Sized Street Right-of-Way?_____
3. Drainage Easements?_____
4. Utility Easements:
   - Electricity?_____
   - Gas?_____
   - Sewers?_____
   - Water?_____
5. Additional Comments:_____

UNIQUE CHARACTERISTIC OF PROPERTY AND ADDITIONAL COMMENT:

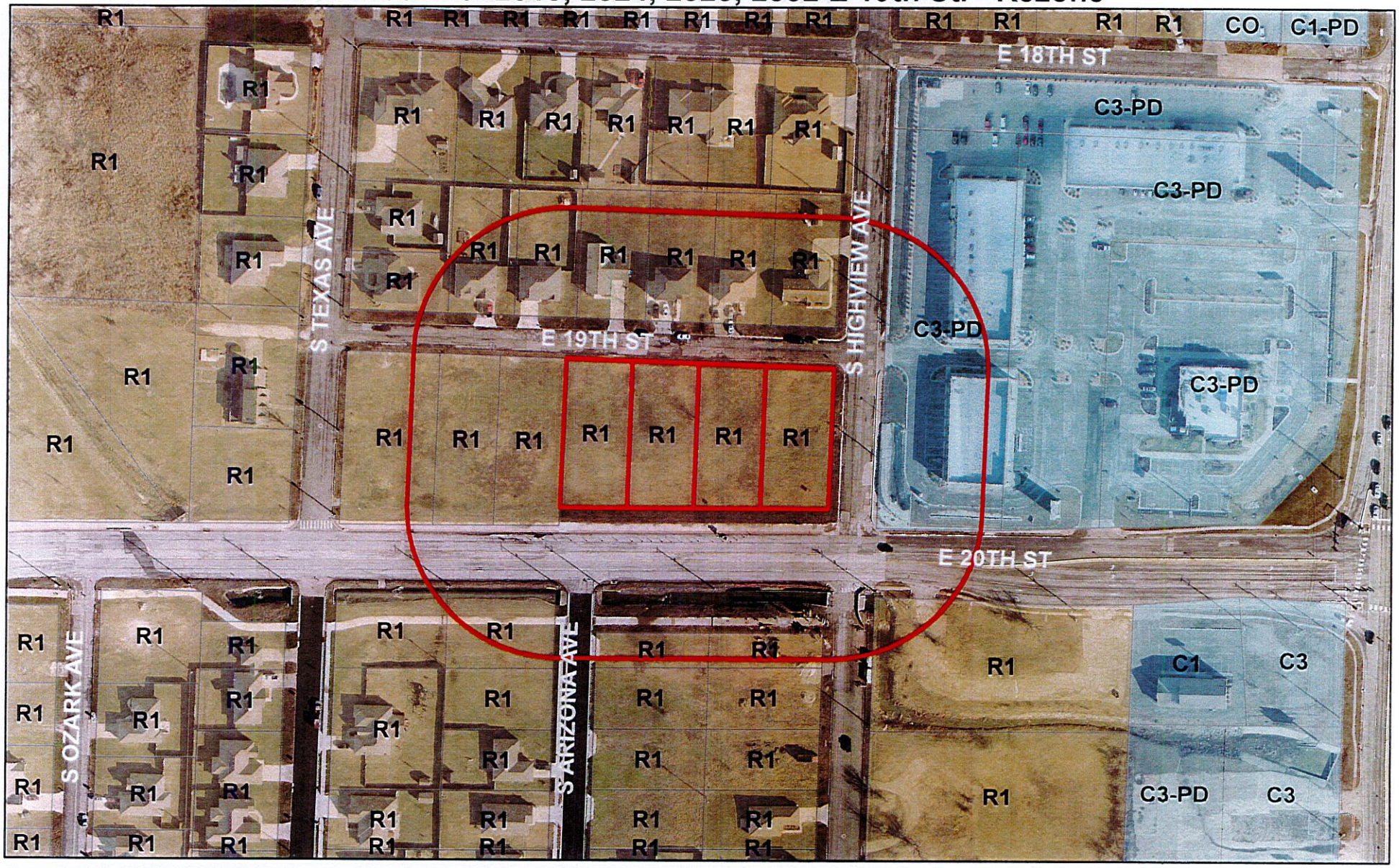
The City recently installed sidewalks on the South and East sides of the parcel. The City of Joplin Planning has determined that Commercial development is the best use for the area that the parcel is located in.

SIGNATURE: Fagan Holdings and Investments, Inc. DATE: September 5, 2019

BY: Brad Fagan

TITLE: President

Case 037-19: 2818, 2824, 2828, 2832 E 19th St. - Rezone



Case 037-19: 2818, 2824, 2828, 2832 E 19th St. - A request to remove from District R-1 and include in District C-1 for the purpose of future commercial development - Brad Fagan

0 75 150 300 450 600 Feet

N

P & Z Case 037-19
Brad Fagan
(P & Z Recommended Approval)

COUNCIL BILL NO. 2019-281 ORDINANCE NO.

AN ORDINANCE amending Ordinance No. 2004-256, passed by the Council of the City of Joplin, Missouri, November 15, 2004, by removing from District R-1 and including in District C-1 property as described below and located 2818, 2824, 2828, and 2832 E 19th St., City of Joplin, Jasper County, Missouri.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, as follows:

Section 1. Having referred the subject matter of this ordinance to the City Planning and Zoning Commission and having given at least fifteen days' notice of time and place of hearing on same by publication in the Joplin Globe, Ordinance No. 2004-256 is hereby amended by the following described property and including in District C-1:

All of the East 37.00 feet of lot numbered 28 and all of the West 43.00 feet of lot numbered 27 in Dowell's First Addition to the City of Joplin, Jasper County, Missouri, according to the recorded plat thereof, except the South 32.00 feet for road Right-of-Way; and all of the West 26 feet of lot numbered 26 and the East 52 feet of lot numbered 27 in Dowell's First Addition to the City of Joplin, Jasper County, Missouri, according to the recorded plat thereof, except the South 32.00 feet for road Right-of-Way; and the West 13 feet of lot numbered 25 and the east 67 feet of lot numbered 26 in Dowell's First Addition to the City of Joplin, Jasper County, Missouri, according to the recorded plat thereof, except the south 32.00 feet for road Right-of-Way; and all of the East 82 feet of lot numbered 25 in Dowell's First Addition to the City of Joplin, Jasper County, Missouri, according to the recorded plat thereof, except the South 32.00 feet thereof taken for road Right-of-Way, containing 1.3 acres more or less.

Section 2. That the City Clerk is hereby ordered to file this ordinance with the Zoning District Map maintained in her office and to note the changes herein provided thereon.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this the _____ day of_____, 2019, by a vote of _____.

_____
Gary L. Shaw, Mayor

ATTEST:

_____
Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM:
Council Bill 2019-405 – Approving a public service agreement between The City of Joplin and Economic Security Corporation to fund the Coordinated Entry Program.

ORIGINATING DEPARTMENT:
Planning, Development, and Neighborhood Services

MEETING DATE;
November 4, 2019

REVIEWED BY;
Director of Planning, Development and Neighborhood Services- Troy Bolander, Director of Finance-Leslie Haase, City Attorney- Peter Edwards, Interim City Manager-Dan Pekarek.

SUMMARY;
The following agreement is between the City of Joplin and Economic Security Corporation for 2019 Community Development Block Grant funds.

BACKGROUND;
The Coordinated Entry Program is a critical tool to address the issue of homelessness and meet the needs of the City homeless. The program is the point of contact for the framework of local organizations to assess need, shelter, transition, and permanently house participants. The entry program streamlines the referral network of poverty and homelessness organization as well as provides data for the Homeless Management Information Database system. The attached agreement is a renewal of funding for Economic Security Corporation to continue to administer the Coordinated Entry Program. The funds will be used to pay for personnel and office expenses.

FUNDING SOURCE
This Council Bill provides Twenty-Five Thousand Dollars and Zero Cents ($25,000.00) from Community Development Block Grant B19MC290008.

RECOMMENDATION
These activities have received prior approval from the Council as part of the 2019 Action Plan.

Staff recommends approval of the agreement so ESC can continue with administering the Coordinated Entry Program under the CDBG program.

ATTACHMENTS
CB 2019-405, Coordinated Entry Agreement

CDBG RECIPIENT AGREEMENT
BETWEEN

THE CITY OF JOPLIN
AND

ECONOMIC SECURITY CORPORATION

FOR
2019 CDBG PROGRAM YEAR

THIS AGREEMENT, entered this ___ day of _____, 2019 by and between the City of Joplin (herein called the "Grantee") and Economic Security Corporation (herein called the "Recipient").

WHEREAS, the Grantee has applied for and received funds from the United States Government under Title I of the Housing and Community Development Act of 1974, as amended (HCD Act), Public Law 93-383; and

WHEREAS, the Grantee wishes to engage the Recipient to assist the Grantee in utilizing such funds;

NOW, THEREFORE, it is agreed between the parties hereto that;

I. SCOPE OF SERVICE

A. Activities

The Recipient will be responsible for administering a CDBG Year 2019 public service activity in a manner satisfactory to the Grantee and consistent with any standards required as a condition of providing these funds. Such program will include the following activities eligible under the Community Development Block Grant program:

Program Delivery

Activity: Recipient will use CDBG funding to cover personnel and office expenses related to the Coordinated Entry Program. The Coordinated Entry Program allows for a more-efficient referral network to better service and house the homeless population of the City of Joplin.

General Administration

The Recipient will maintain program and financial records documenting eligibility, provisions of services, and Recipient's expenses relative to the project as a result of assistance provided through the CDBG program.

B. National Objectives

All activities funded with CDGB funds must meet one of the CDBG program's National Objectives: benefit low- and moderate-income persons; aid in the prevention or elimination of

slums or blight; or meet community development needs having a particular urgency, as defined in 24 CFR 570.208.

The Recipient certifies that the activity (is) carried out under this Agreement will meet an Activity Benefitting Low- and Moderate (L/M) Income Persons.

The National Objective will be documented with data collected in the HMIS system, and a monthly report on the number of persons met or serviced.

C. Levels of Accomplishment – Goals and Performance Measures

- Collect, input and analyze data using HMIS and Housing Connect
- Document eligible expenses for reimbursement from the City of Joplin

D. Staffing

The Recipient shall assign the following staff as key personal to this project.

Staff Member & Title	General Program Duties	Time Allocation
Tammy Walker	Oversight and Reporting	N/A
Shonna Greninger	Housing Resource Coordinator	

"Any changes in the Key Personnel assigned or their general responsibilities under this project are subject to the prior approval of the Grantee."

D. Performance Monitoring

The Grantee will monitor the performance of the Recipient against goals and performance standards required herein. Substandard performance as determined by the Grantee will constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by the Recipient within a reasonable period of time after being notified by the Grantee, contract suspension or termination procedures will be initiated.

II. TIME OF PERFORMANCE

Services of the Recipient shall start on the ___ day of_____, 2019 and end on the 31st day of December of 2020.

Funds will not be available to the Recipient from the Community Development Block Grant Program (B-19-MC-29-0008) after the completion date, unless otherwise approved by Grantee.

III. BUDGET

Funding ($25,000.00) will be reimbursed for items related to the operation of the Housing Connect (Coordinated Entry) Program.

Any indirect costs charged must be consistent with the conditions of Paragraph VIII (C) (2) of this Agreement. Any amendments to the budget must be approved in writing by both the Grantee and the Recipient.

IV. PAYMENT

It is expressly agreed and understood that the total amount to be paid by the Grantee under this Agreement shall not exceed:

Twenty Five Thousand Dollars and no cents $ 25,000.00

Drawdowns for the payment of eligible expenses shall be made against the budget specified in Paragraph III herein and in accordance with performance. Expenses for general administration (If Applicable) shall also be paid against the budget specified in Paragraph III and in accordance with performance.

Payments may be contingent upon certification of the Recipient's financial management system in accordance with the standards specified in 24 CFR 84.21.

V. NOTICES

Notices required by this Agreement shall be in writing and delivered via mail (postage prepaid), commercial courier, or personal delivery or sent by facsimile or other electronic means. Any notice delivered or sent as aforesaid shall be effective on the date of delivery or sending. All notices and other written communications under this Agreement shall be addressed to the individuals in the capacities indicated below, unless otherwise modified by subsequent written notice.

Communication and details concerning this contract shall be directed to the following contract representatives:

Grantee	Recipient
Name: Troy Bolander	Name: John Joines
Title: Director of Planning, Development And Neighborhood Services	Title: Chief Executive Officer
Grantee: City of Joplin	Recipient: Economic Security Corporation
602 S. Main Street	302 S Joplin
Joplin, Missouri 64801	Joplin, Missouri 64801
Phone: (417) 624-0820	Phone: 417 782-4453
Fax: 1-417-625-4738	Fax: 417-7825-1690

VI. SPECIAL CONDITIONS

This Agreement contains no special conditions specific to the particular activity or individual Recipient.

VII. GENERAL CONDITIONS

The following requirements are applicable to all activities undertaken with Community Development Block Grant (CDBG) funds.

A. General Compliance

The Recipient agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the U.S. Housing and Urban Development regulations concerning Community Development Block Grants (CDBG)) including subpart K of these regulations, except that (1) the Recipient does not assume the recipient's environmental responsibilities described in 24 CFR 570.604 and (2) the Recipient does not assume the recipient's responsibility for initiating the review process under the provisions of 24 CFR Part 52. The Recipient also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this contract. The Recipient further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

B. "Independent Contractor"

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Recipient shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. The Grantee shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation Insurance, as the Recipient is an independent contractor.

C. Hold Harmless

The Recipient shall hold harmless, defend and indemnify the Grantee from any and all claims, actions, suits, charges and judgments whatsoever that arise out of the Recipient's performance or nonperformance of the services or subject matter called for in this Agreement.

D. Workers' Compensation

The Recipient shall provide Workers' Compensation Insurance coverage for all of its employees involved in the performance of this Agreement.

E. Insurance & Bonding

The Recipient shall carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud and/or undue physical damage, and as a minimum shall purchase a blanket fidelity bond covering all employees in an amount equal to cash advances from the Grantee.

The Recipient shall comply with the bonding and insurance requirements of 24 CFR 84.31 and 84.48, Bonding and Insurance.

F. Grantee Recognition

The Recipient shall insure recognition of the role of the Grantee in providing services through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, the Recipient will include a reference to the support provided herein in all publications made possible with funds made available under this Agreement.

G. Amendments

The Grantee or Recipient may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of each organization, and approved by the Grantee's governing body. Such amendments shall not invalidate this Agreement, nor relieve or release the Grantee or Recipient from its obligations under this Agreement.

The Grantee may, in its discretion, amend this Agreement to conform with Federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both Grantee and Recipient.

H. Suspension or Termination

In accordance with 24 CFR 85.43, the Grantee may suspend or terminate this Agreement if the Recipient materially fails to comply with any terms of this Agreement, which include (but are not limited to), the following:

1. Failure to comply with any of the rules, regulations or provisions referred to herein, or such statutes, regulations, executive orders, and HUD guidelines, policies or directives as may become applicable at any time;
2. Failure, for any reason, of the Recipient to fulfill in a timely and proper manner its obligations under this Agreement;
3. Ineffective or improper use of funds provided under this Agreement; or
4. Submission by the Recipient to the Grantee reports that are incorrect or incomplete in any material respect.

In accordance with 24 CFR 85.44, this Agreement may also be terminated for convenience by either the Grantee or the Recipient, in whole or in part, by setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if in the case of a partial termination, the Grantee determines that the remaining portion of the award will not accomplish the purpose for which the award was made, the Grantee may terminate the award in its entirety.

VIII. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. Accounting Standards

The Recipient agrees to comply with 24 CFR 84.21−28 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles

The Recipient shall administer its program in conformance with OMB Circulars A-122, "Cost Principles for Non-Profit Organizations," or A-21, "Cost Principles for Educational Institutions," as applicable. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

B. Documentation and Record Keeping

1. Records to be Maintained

The Recipient shall maintain all records required by the Federal regulations specified in 24 CFR 570.506 that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

a. Records providing a full description of each activity undertaken;
b. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;
c. Records required to determine the eligibility of activities;
d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
e. Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;
f. Financial records as required by 24 CFR 570.502, and 24 CFR 84.21−28; and
g. Other records necessary to document compliance with Subpart K of 24 CFR Part 570.

2. Retention

The Recipient shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the Agreement for a period of four (4) years. The retention period begins on the date of the submission of the Grantee's annual performance and evaluation report (CAPER) to HUD in which the activities assisted under the Agreement are reported on for the final time. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the four-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the four-year period, whichever occurs later.

3. Client Data

The Recipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to Grantee monitors or their designees for review upon request.

4. Disclosure

The Recipient understands that client information collected under this contract is private and the use or disclosure of such information, when not directly connected with the administration of the Grantee's or Recipient's responsibilities with respect to services provided under this contract, is prohibited unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.

5. Close-outs

The Recipient's obligation to the Grantee shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, deobligation of unused funds, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the Grantee), and determining the

custodianship of records. Not withstanding the foregoing, the terms of this Agreement shall remain in effect during any period that the Recipient has control over CDBG funds, including program income.

6. Audits & Inspections

All Recipient records with respect to any matters covered by this Agreement shall be made available to the Grantee, grantor agency, and the Comptroller General of the United States or any of their authorized representatives, at any time during normal business hours, as often as deemed necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the Recipient within 30 days after receipt by the Recipient. Failure of the Recipient to comply with the above audit requirements will constitute a violation of this contract and may result in the withholding of future payments. The Recipient hereby agrees to have an annual agency audit conducted in accordance with current Grantee policy concerning Recipient audits and OMB Circular A-133.(A-133 Audit required if the Recipient receives $500,000 or more in federal funds)

C. Reporting and Payment Procedures

1. Program Income

The Recipient shall report all program income (as defined at 24 CFR 570.500(a)) generated by activities carried out with CDBG funds made available under this contract. All unexpended program income shall be returned to the Grantee at the end of the contract period. Any interest earned on cash advances from the U.S. Treasury and from funds held in a revolving fund account is not program income and shall be remitted promptly to the Grantee.

2. Indirect Costs

If indirect costs are charged, the Recipient will develop an indirect cost allocation plan for determining the appropriate Recipient's share of administrative costs and shall submit such plan to the Grantee for approval, in a form specified by the Grantee.

3. Payment Procedures

The Grantee will pay to the Recipient funds available under this Agreement based upon information submitted by the Recipient and consistent with any approved budget and Grantee policy concerning payments. With the exception of certain advances, payments will be made for eligible expenses actually incurred by the Recipient, and not to exceed actual cash requirements. Payments will be adjusted by the Grantee in accordance with advance fund and program income balances available in Recipient accounts. In addition, the Grantee reserves the right to liquidate funds available under this contract for costs incurred by the Grantee on behalf of the Recipient.

4. Progress Reports

The Recipient shall submit regular Progress Reports to the Grantee in the form, content, and frequency as required by the Grantee.

D. Procurement

1. Compliance

The Recipient shall comply with current Grantee policy concerning the purchase of equipment, materials and/or services. The Recipient shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All program assets (unexpended program income, property, equipment, etc.) shall revert to the Grantee upon termination of this Agreement.

2. OMB Standards

Unless specified otherwise within this agreement, the Recipient shall procure all materials, property, or services in accordance with the requirements of 24 CFR 84.40−48.

E. Use and Reversion of Assets

The use and disposition of real property and equipment under this Agreement shall be in compliance with the requirements of 24 CFR Part 84 and 24 CFR 570.502, 570.503, and 570.504, as applicable, which include but are not limited to the following:

1. The Recipient shall transfer to the Grantee any CDBG funds on hand and any accounts receivable attributable to the use of funds under this Agreement at the time of expiration, cancellation, or termination.

2. Real property under the Recipient's control that was acquired or improved, in whole or in part, with funds under this Agreement in excess of $25,000 shall be used to meet one of the CDBG National Objectives pursuant to 24 CFR 570.208 until five (5) years after expiration of this Agreement. If the Recipient fails to use CDBG-assisted real property in a manner that meets a CDBG National Objective for the prescribed period of time, the Recipient shall pay the Grantee an amount equal to the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, or improvement to, the property. Such payment shall constitute program income to the Grantee. The Recipient may retain real property acquired or improved under this Agreement after the expiration of the five-year period.

3. In all cases in which equipment acquired, in whole or in part, with funds under this Agreement is sold, the proceeds shall be program income (prorated to reflect the extent to that funds received under this Agreement were used to acquire the equipment). Equipment not needed by the Recipient for activities under this Agreement shall be (a) transferred to the Grantee for the CDBG program or (b) retained after compensating the Grantee [an amount equal to the current fair market value of the equipment less the percentage of non-CDBG funds used to acquire the equipment].

IX. RELOCATION, REAL PROPERTY ACQUISITION AND ONE-FOR-ONE HOUSING REPLACEMENT

The Recipient agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR 570.606(b); (b) the requirements of 24 CFR 570.606(c) governing the Residential Anti-displacement and Relocation Assistance Plan under section 104(d) of the HCD Act; and (c) the requirements in 24 CFR 570.606(d) governing optional relocation policies. The Recipient shall provide relocation assistance to displaced persons as defined by 24 CFR 570.606(b) (2) that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-assisted project. The Recipient also agrees to comply with applicable Grantee ordinances, resolutions and policies concerning the displacement of persons from their residences.

X. PERSONNEL & PARTICIPANT CONDITIONS

A. Civil Rights

1. Compliance

The Recipient agrees to comply with and with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and Executive Order 11246 as amended by Executive Orders 11375, 11478, 12107 and 12086.

2. Nondiscrimination

The Recipient agrees to comply with the non-discrimination in employment and contracting opportunities laws, regulations, and executive orders referenced in 24 CFR 570.607, as revised by Executive Order 13279. The applicable non-discrimination provisions in Section 109 of the HCDA are still applicable.

3. Land Covenants

This contract is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P. L. 88-352) and 24 CFR 570.601 and 570.602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this contract, the Recipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the Grantee and the United States are beneficiaries of and entitled to enforce such covenants. The Recipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

4. Section 504

The Recipient agrees to comply with all Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), which prohibits discrimination against the individuals with disabilities or handicaps in any Federally assisted program.

B. Affirmative Action

1. Approved Plan

The Recipient agrees that it shall be committed to carry out an Affirmative Action Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1966.This Executive order applies to all federally assisted construction contracts and subcontracts. It provides that no person shall be discriminated against on the basis of race. The Recipient shall submit a plan for an Affirmative Action Program to the grantee for approval.

2. Women- and Minority-Owned Businesses (W/MBE)

The Recipient will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this contract. As used in this contract, the terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15 U.S.C. 632), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Recipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

3. Access to Records

The Recipient shall furnish and cause each of its own Recipients or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the Grantee, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

4. Notifications

The Recipient will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of the Recipient's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

5. Equal Employment Opportunity and Affirmative Action (EEO/AA) Statement

The Recipient will, in all solicitations or advertisements for employees placed by or on behalf of the Recipient; state that it is an Equal Opportunity or Affirmative Action employer.

6. Subcontract Provisions

The Recipient will include the provisions of Paragraphs X.A, Civil Rights, and B, Affirmative Action, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own Recipients or subcontractors.

C. Employment Restrictions

1. Prohibited Activity

The Recipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; inherently religious activities; lobbying; political patronage; and nepotism activities.

2. Labor Standards

The Recipient agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act (40 U.S.C. 327 *et seq.*) and all other applicable Federal, state and

local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. The Recipient agrees to comply with the Copeland Anti-Kick Back Act (18 U.S.C. 874 *et seq.*) and it's implementing regulations of the U.S. Department of Labor at 29 CFR Part 5. The Recipient shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the Grantee for review upon request.

3. "Section 3" Clause

a. Compliance

Compliance with the provisions of Section 3 of the HUD Act of 1968, as amended, and as implemented by the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this contract, shall be a condition of the Federal financial assistance provided under this contract and binding upon the Grantee, the Recipient and any of the Recipient's Recipients and subcontractors. Failure to fulfill these requirements shall subject the Grantee, the Recipient and any of the Recipient's Recipients and subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which Federal assistance is provided. The Recipient certifies and agrees that no contractual or other disability exists that would prevent compliance with these requirements.

The Recipient further agrees to comply with these "Section 3" requirements and to include the following language in all subcontracts executed under this Agreement:

> "The work to be performed under this Agreement is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701). Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low- and very low-income residents of the project area, and that contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located."

The Recipient further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to business concerns that provide economic opportunities to low- and very low-income residents within the service area or the

neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.

The Recipient certifies and agrees that no contractual or other legal incapacity exists that would prevent compliance with these requirements.

b. Notifications

The Recipient agrees to send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

c. Subcontracts

The Recipient will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor agency. The Recipient will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

4. Federal Work Authorization Program "FWAP"

Contractor represents and agrees that it is enrolled and participating a Federal Work Authorization Program ("FWAP") that ensures that all of its employees or agents have the legal right to work in the United States, as defined in 8 U.S.C. 1324a(h)(3) and RSMo § 285.525-285.555, and that it will maintain this compliance for the entire duration of its contract with the City of Joplin. Contractor agrees that it does not knowingly employee any unauthorized alien in connection with the contracted services with the City. Contractor agrees to provide an Affidavit of Compliance stating that they are in enrolled and participating in a FWAP, and that Contractor does not knowingly employee any unauthorized aliens in connection with the contracted services, upon execution of this Agreement. All Subcontractors shall state, in writing, in their contracts with Contractor, that they are not in violation of RSMo § 285.530.1 and shall not thereafter be in violation, or subcontractor may submit a sworn affidavit to this effect. Contractor agrees to hold harmless and indemnify the City for any liability due to Contractor's failure to maintain compliance with FWAP or for violations of the Missouri Unauthorized Alien Workers Act.

D. Conduct

1. Assignability

The Recipient shall not assign or transfer any interest in this Agreement without the prior written consent of the Grantee thereto; provided, however, that claims for money due or to become due to the Recipient from the Grantee under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Grantee.

2. Subcontracts

a. Approvals

The Recipient shall not enter into any subcontracts with any agency or individual in the performance of this contract without the written consent of the Grantee prior to the execution of such agreement.

b. Monitoring

The Recipient will monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

c. Content

The Recipient shall cause all of the provisions of this contract in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

d. Selection Process

The Recipient shall undertake to insure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis in accordance with applicable procurement requirements. Executed copies of all subcontracts shall be forwarded to the Grantee along with documentation concerning the selection process.

3. Hatch Act

The Recipient agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the U.S.C.

4. Conflict of Interest

The Recipient agrees to abide by the provisions of 24 CFR 84.42 and 570.611, which include (but are not limited to) the following:

a. The Recipient shall maintain a written code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by Federal funds.

b. No employee, officer or agent of the Recipient shall participate in the selection, or in the award, or administration of, a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.

c. No covered persons who exercise or have exercised any functions or responsibilities with respect to CDBG-assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest in any contract, or

have a financial interest in any contract, subcontract, or agreement with respect to the CDBG-assisted activity, or with respect to the proceeds from the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (1) year thereafter. For purposes of this paragraph, a "covered person" includes any person who is an employee, agent, consultant, officer, or elected or appointed official of the Grantee, the Recipient, or any designated public agency.

5. Lobbying

The Recipient hereby certifies that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and

c. It will require that the language of paragraph (d) of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all Recipients shall certify and disclose accordingly:

6. Copyright

If this contract results in any copyrightable material or inventions, the Grantee and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for governmental purposes.

7. Religious Activities

The Recipient agrees that funds provided under this Agreement will not be utilized for inherently religious activities prohibited by 24 CFR 570.200(j), such as worship, religious instruction, or proselytization.

XI. ENVIRONMENTAL CONDITIONS

A. Air and Water

The Recipient agrees to comply with the following requirements insofar as they apply to the performance of this Agreement:

- Clean Air Act, 42 U.S.C. , 7401, *et seq*.;
- Federal Water Pollution Control Act, as amended, 33 U.S.C., 1251, *et seq.*, as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued hereunder;
- Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50, as amended.
- Executive Order 11990, Protection of Wetlands;
- The Wild and Scenic Rivers Act of 1968, as amended, (16 U.S.C.S. 1271);
- The Safe Drinking Water Act of 1974, as amended (42 U.S.C.S. 30f et. seq.);
- The Clean Water Act of 1977 (Public Law 95-217);

B. Flood Disaster Protection

In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001), the Recipient shall assure that for activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

C. Lead-Based Paint

The Recipient agrees that any construction or rehabilitation of residential structures with assistance provided under this Agreement shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35, Subpart B. Such regulations pertain to all CDBG-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken. The regulations further require that, depending on the amount of Federal funds applied to a property, paint testing, risk assessment, treatment and/or abatement may be conducted.

D. Historic Preservation

The Recipient agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this agreement.

In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

E. Other provisions

The Recipient agrees to comply with the following requirements insofar as they apply to the performance of this Agreement:

- The National Environmental Policy Act of 1969 (42 U.S.C. Sect. 4321 et. seq.) and

24 CFR Part 58;
- The Endangered Species Act of 1973, as amended (16 U.S.C.S. 1531 et. seq.);
- The Fish and Wildlife Coordination Act of 1958, as amended, (16 U.S.C.S. 661 et. seq.);
- The Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (re U.S.C.S. 6901 et. seq.).

XII. SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

XIII. SECTION HEADINGS AND SUBHEADINGS

The section headings and subheadings contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.

XIV. WAIVER

The Grantee's failure to act with respect to a breach by the Recipient does not waive its right to act with respect to subsequent or similar breaches. The failure of the Grantee to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

XV. ENTIRE AGREEMENT

This agreement constitutes the entire agreement between the Grantee and the Recipient for the use of funds received under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the Grantee and the Recipient with respect to this Agreement.

____ Day of _____, 2019

IN WITNESS WHEREOF, the Parties have executed this contract as of the date first written above.

City of Joplin, Missouri
A Municipal Corporation

_____

Troy Bolander
Director of Planning, Development, and
Neighborhood Services

ATTEST:

_____

Thomas Walters
Planner

Economic Security Corporation

_____

Name: John Joines, Chief Executive Officer

[NOTE: For the above sections, if the Recipient is a governmental or quasi-governmental agency, the applicable sections of 24 CFR Part 85, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," and OMB Circular A-87 would apply.]

STATE OF _____)
) ss.
COUNTY OF _____)

AFFIDAVIT OF COMPLIANCE
(Missouri Unauthorized Alien Workers Act)

My name is ____ John Joines _____ and I am the __Chief Executive Officer____ of ___Economic Security Corporation). I hereby represent, affirm and certify to the City of Joplin that my company does not knowingly employ any person who is an unauthorized alien in connection with contracted services with the City. I further affirm that my company is actively enrolled and participating in a federal work authorization program with respect to all employees working in connection with the contract services provided to the City.

_____
Affiant

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal this _____ day of _____, 20____.

_____
Notary Public

My commission expires:

_____

COUNCIL BILL NO. 2019-405 ORDINANCE NO.

AN ORDINANCE approving an Agreement between the City of Joplin, Missouri, and the Economic Security Corporation that pertains to 2019 CDBG public service grant funds in the amount of $25,000.00; authorizing the City Manager to execute same on behalf of the City.

WHEREAS, the City of Joplin and the Economic Security Corporation (ESC), are desirous of entering into an agreement whereby ESC will administer the Coordinated Entry Program to benefit the Joplin homeless through the Community Development Block Grant Program (CDBG).

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF JOPLIN, MISSOURI, AS FOLLOWS:

Section 1. That an Agreement between the City of Joplin, Missouri, and Economic Security Corporation is entered into that describes the expenditure of 2019 CDBG public service funds in the amount of $25,000.00, a copy of same, or copy in substantially similar form, attached hereto and incorporated herein, be and the same is hereby approved.

Section 2. That the City Manager of the City of Joplin, or his designee, Director of Planning, Development & Neighborhood Services, is hereby authorized and directed, upon recommendation and approval of the City Council, to execute said Agreement or Agreement in substantially similar form, by and on behalf of the City of Joplin, Missouri.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____ day of _____, 2019, by a _____vote.

_____
Gary L. Shaw, Mayor

ATTEST:

_____
Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2019-406 – approving a public service agreement to fund the Homeless Management Information System

MEETING DATE
November 4, 2019

REVIEWED BY
Director of Planning, Development & Neighborhood Services-Troy Bolander, Director of Finance-Leslie Haase, City Attorney- Peter Edwards, Interim City Manager- Daniel Pekarek.

SUMMARY
The following agreement is between the City of Joplin and The Joplin Homeless Coalition for 2019 Community Development Block Grant funds.

BACKGROUND
The Homeless Management Information System (HMIS) database tracks the total number, special conditions, needs and demographics of the homeless. This database is an important tool to address the issue of homelessness and meet the needs of the City homeless. This database is also critical in demonstrating need in the process of leveraging non-City funds for the organizations who work for the prevention and the assistance of homelessness. The attached agreement is a renewal of funding for the Joplin Homeless Coalition to continue to manage the Homeless Management Information System. The funds will be used to offset licensing expenses as well as expenses related to the collection and reporting of data.

FUNDING SOURCE
This Council Bill provides Seventeen Thousand Dollars and Zero Cents ($17,000.00) from Community Development Block Grant B19MC290008.

RECOMMENDATION
These activities have received prior approval from the Council as part of the 2019 Action Plan.

Staff recommends approval of the agreement, so the Homeless Coalition can continue with HMIS database management under the CDBG program.

ATTACHMENTS
CB 2019-406, 2019 Public Service Agreement

CDBG RECIPIENT AGREEMENT
BETWEEN

THE CITY OF JOPLIN
AND

HOMELESS COALITION

FOR
2019 CDBG PROGRAM YEAR

THIS AGREEMENT, entered this ___ day of _____, 2019 by and between the City of Joplin (herein called the "Grantee") and Homeless Coalition (herein called the "Recipient").

WHEREAS, the Grantee has applied for and received funds from the United States Government under Title I of the Housing and Community Development Act of 1974, as amended (HCD Act), Public Law 93-383; and

WHEREAS, the Grantee wishes to engage the Recipient to assist the Grantee in utilizing such funds;

NOW, THEREFORE, it is agreed between the parties hereto that;

I. SCOPE OF SERVICE

A. Activities

The Recipient will be responsible for administering a CDBG Year 2019 public service activity in a manner satisfactory to the Grantee and consistent with any standards required as a condition of providing these funds. Such program will include the following activities eligible under the Community Development Block Grant program:

Program Delivery

Activity: Recipient will manage and operate the Homeless Management Information System (HMIS) database on the homeless population in Joplin.

General Administration

The Recipient will maintain program and financial records documenting eligibility, provisions of services, and Recipient's expenses relative to the project as a result of assistance provided through the CDBG program.

B. National Objectives

All activities funded with CDGB funds must meet one of the CDBG program's National Objectives: benefit low- and moderate-income persons; aid in the prevention or elimination of slums or blight; or meet community development needs having a particular urgency, as defined in 24 CFR 570.208.

The Recipient certifies that the activity (is) carried out under this Agreement will meet an Activity Benefitting Low- and Moderate (L/M) Income Persons.

The National Objective will be documented with data collected in the HMIS system.

C. Levels of Accomplishment – Goals and Performance Measures

- Collect data for HMIS system
- Input data into HMIS system
- Provide HMIS final report to Grantee
- Document expenses related HMIS system

D. Staffing

The Recipient shall assign the following staff as key personal to this project.

Staff Member & Title	General Program Duties	Time Allocation
Robin Smith	Chair	N/A

"Any changes in the Key Personnel assigned or their general responsibilities under this project are subject to the prior approval of the Grantee."

D. Performance Monitoring

The Grantee will monitor the performance of the Recipient against goals and performance standards required herein. Substandard performance as determined by the Grantee will constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by the Recipient within a reasonable period of time after being notified by the Grantee, contract suspension or termination procedures will be initiated.

II. TIME OF PERFORMANCE

Services of the Recipient shall start on the ___ day of_____, 2019 and end on the 30th day of June of 2020.

Funds will not be available to the Recipient from the Community Development Block Grant Program (B-19-MC-29-0008) after the completion date, unless otherwise approved by Grantee.

III. BUDGET

Funding ($17,000.00) will be reimbursed for items related to the operation of the HMIS system.

Any indirect costs charged must be consistent with the conditions of Paragraph VIII (C) (2) of this Agreement. Any amendments to the budget must be approved in writing by both the Grantee and the Recipient.

IV. PAYMENT

It is expressly agreed and understood that the total amount to be paid by the Grantee under this Agreement shall not exceed:

Seventeen Thousand Dollars and no cents $ 17,000.00

Drawdowns for the payment of eligible expenses shall be made against the budget specified in Paragraph III herein and in accordance with performance. Expenses for general administration (If Applicable) shall also be paid against the budget specified in Paragraph III and in accordance with performance.

Payments may be contingent upon certification of the Recipient's financial management system in accordance with the standards specified in 24 CFR 84.21.

V. NOTICES

Notices required by this Agreement shall be in writing and delivered via mail (postage prepaid), commercial courier, or personal delivery or sent by facsimile or other electronic means. Any notice delivered or sent as aforesaid shall be effective on the date of delivery or sending. All notices and other written communications under this Agreement shall be addressed to the individuals in the capacities indicated below, unless otherwise modified by subsequent written notice.

Communication and details concerning this contract shall be directed to the following contract representatives:

Grantee	Recipient
Name: Troy Bolander	Name: Robin Smith
Title: Director of Planning, Development And Neighborhood Services	Title: Chair
Grantee: City of Joplin	Recipient: Homeless Coalition
602 S. Main Street	1027 S. Main Street, Suite 7
Joplin, Missouri 64801	Joplin, Missouri 64801
Phone: (417) 624-0820	Phone: 417 782-4453
Fax: 1-417-625-4738	Fax: 417-7825-1690

VI. SPECIAL CONDITIONS

This Agreement contains no special conditions specific to the particular activity or individual Recipient.

VII. GENERAL CONDITIONS

The following requirements are applicable to all activities undertaken with Community Development Block Grant (CDBG) funds.

A. General Compliance

The Recipient agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the U.S. Housing and Urban Development regulations concerning Community Development Block Grants (CDBG)) including subpart K of these regulations, except that (1) the Recipient does not assume the recipient's environmental responsibilities described in 24 CFR 570.604 and (2) the Recipient does not assume the recipient's responsibility for initiating the review process under the provisions of 24 CFR Part 52. The Recipient also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this contract. The Recipient further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

B. "Independent Contractor"

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Recipient shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. The Grantee shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation Insurance, as the Recipient is an independent contractor.

C. Hold Harmless

The Recipient shall hold harmless, defend and indemnify the Grantee from any and all claims, actions, suits, charges and judgments whatsoever that arise out of the Recipient's performance or nonperformance of the services or subject matter called for in this Agreement.

D. Workers' Compensation

The Recipient shall provide Workers' Compensation Insurance coverage for all of its employees involved in the performance of this Agreement.

E. Insurance & Bonding

The Recipient shall carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud and/or undue physical damage, and as a minimum shall purchase a blanket fidelity bond covering all employees in an amount equal to cash advances from the Grantee.

The Recipient shall comply with the bonding and insurance requirements of 24 CFR 84.31 and 84.48, Bonding and Insurance.

F. Grantee Recognition

The Recipient shall insure recognition of the role of the Grantee in providing services through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, the Recipient will include a reference to the support provided herein in all publications made possible with funds made available under this Agreement.

G. Amendments

The Grantee or Recipient may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of each organization, and approved by the Grantee's governing body. Such amendments shall not invalidate this Agreement, nor relieve or release the Grantee or Recipient from its obligations under this Agreement.

The Grantee may, in its discretion, amend this Agreement to conform with Federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both Grantee and Recipient.

H. Suspension or Termination

In accordance with 24 CFR 85.43, the Grantee may suspend or terminate this Agreement if the Recipient materially fails to comply with any terms of this Agreement, which include (but are not limited to), the following:

1. Failure to comply with any of the rules, regulations or provisions referred to herein, or such statutes, regulations, executive orders, and HUD guidelines, policies or directives as may become applicable at any time;
2. Failure, for any reason, of the Recipient to fulfill in a timely and proper manner its obligations under this Agreement;
3. Ineffective or improper use of funds provided under this Agreement; or
4. Submission by the Recipient to the Grantee reports that are incorrect or incomplete in any material respect.

In accordance with 24 CFR 85.44, this Agreement may also be terminated for convenience by either the Grantee or the Recipient, in whole or in part, by setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if in the case of a partial termination, the Grantee determines that the remaining portion of the award will not accomplish the purpose for which the award was made, the Grantee may terminate the award in its entirety.

VIII. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. Accounting Standards

The Recipient agrees to comply with 24 CFR 84.21−28 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles

The Recipient shall administer its program in conformance with OMB Circulars A-122, "Cost Principles for Non-Profit Organizations," or A-21, "Cost Principles for Educational Institutions," as applicable. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

B. Documentation and Record Keeping

1. Records to be Maintained

The Recipient shall maintain all records required by the Federal regulations specified in 24 CFR 570.506 that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

a. Records providing a full description of each activity undertaken;
b. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;
c. Records required to determine the eligibility of activities;
d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
e. Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;
f. Financial records as required by 24 CFR 570.502, and 24 CFR 84.21−28; and
g. Other records necessary to document compliance with Subpart K of 24 CFR Part 570.

2. Retention

The Recipient shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the Agreement for a period of four (4) years. The retention period begins on the date of the submission of the Grantee's annual performance and evaluation report (CAPER) to HUD in which the activities assisted under the Agreement are reported on for the final time. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the four-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the four-year period, whichever occurs later.

3. Client Data

The Recipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to Grantee monitors or their designees for review upon request.

4. Disclosure

The Recipient understands that client information collected under this contract is private and the use or disclosure of such information, when not directly connected with the administration of the Grantee's or Recipient's responsibilities with respect to services provided under this contract, is prohibited unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.

5. Close-outs

The Recipient's obligation to the Grantee shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, deobligation of unused funds, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the Grantee), and determining the

custodianship of records. Not withstanding the foregoing, the terms of this Agreement shall remain in effect during any period that the Recipient has control over CDBG funds, including program income.

6. Audits & Inspections

All Recipient records with respect to any matters covered by this Agreement shall be made available to the Grantee, grantor agency, and the Comptroller General of the United States or any of their authorized representatives, at any time during normal business hours, as often as deemed necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the Recipient within 30 days after receipt by the Recipient. Failure of the Recipient to comply with the above audit requirements will constitute a violation of this contract and may result in the withholding of future payments. The Recipient hereby agrees to have an annual agency audit conducted in accordance with current Grantee policy concerning Recipient audits and OMB Circular A-133.(A-133 Audit required if the Recipient receives $500,000 or more in federal funds)

C. Reporting and Payment Procedures

1. Program Income

The Recipient shall report all program income (as defined at 24 CFR 570.500(a)) generated by activities carried out with CDBG funds made available under this contract. All unexpended program income shall be returned to the Grantee at the end of the contract period. Any interest earned on cash advances from the U.S. Treasury and from funds held in a revolving fund account is not program income and shall be remitted promptly to the Grantee.

2. Indirect Costs

If indirect costs are charged, the Recipient will develop an indirect cost allocation plan for determining the appropriate Recipient's share of administrative costs and shall submit such plan to the Grantee for approval, in a form specified by the Grantee.

3. Payment Procedures

The Grantee will pay to the Recipient funds available under this Agreement based upon information submitted by the Recipient and consistent with any approved budget and Grantee policy concerning payments. With the exception of certain advances, payments will be made for eligible expenses actually incurred by the Recipient, and not to exceed actual cash requirements. Payments will be adjusted by the Grantee in accordance with advance fund and program income balances available in Recipient accounts. In addition, the Grantee reserves the right to liquidate funds available under this contract for costs incurred by the Grantee on behalf of the Recipient.

4. Progress Reports

The Recipient shall submit regular Progress Reports to the Grantee in the form, content, and frequency as required by the Grantee.

D. Procurement

1. Compliance

The Recipient shall comply with current Grantee policy concerning the purchase of equipment, materials and/or services. The Recipient shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All program assets (unexpended program income, property, equipment, etc.) shall revert to the Grantee upon termination of this Agreement.

2. OMB Standards

Unless specified otherwise within this agreement, the Recipient shall procure all materials, property, or services in accordance with the requirements of 24 CFR 84.40−48.

3. Travel

The Recipient shall obtain written approval from the Grantee for any travel outside the metropolitan area with funds provided under this Agreement.

E. Use and Reversion of Assets

The use and disposition of real property and equipment under this Agreement shall be in compliance with the requirements of 24 CFR Part 84 and 24 CFR 570.502, 570.503, and 570.504, as applicable, which include but are not limited to the following:

1. The Recipient shall transfer to the Grantee any CDBG funds on hand and any accounts receivable attributable to the use of funds under this Agreement at the time of expiration, cancellation, or termination.

2. Real property under the Recipient's control that was acquired or improved, in whole or in part, with funds under this Agreement in excess of $25,000 shall be used to meet one of the CDBG National Objectives pursuant to 24 CFR 570.208 until five (5) years after expiration of this Agreement. If the Recipient fails to use CDBG-assisted real property in a manner that meets a CDBG National Objective for the prescribed period of time, the Recipient shall pay the Grantee an amount equal to the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, or improvement to, the property. Such payment shall constitute program income to the Grantee. The Recipient may retain real property acquired or improved under this Agreement after the expiration of the five-year period.

4. In all cases in which equipment acquired, in whole or in part, with funds under this Agreement is sold, the proceeds shall be program income (prorated to reflect the extent to that funds received under this Agreement were used to acquire the equipment). Equipment not needed by the Recipient for activities under this Agreement shall be (a) transferred to the Grantee for the CDBG program or (b) retained after compensating the Grantee [an amount equal to the current fair market value of the equipment less the percentage of non-CDBG funds used to acquire the equipment].

IX. RELOCATION, REAL PROPERTY ACQUISITION AND ONE-FOR-ONE HOUSING REPLACEMENT

The Recipient agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR 570.606(b); (b) the requirements of 24 CFR 570.606(c) governing the Residential Anti-displacement and Relocation Assistance Plan under section 104(d) of the HCD Act; and (c) the requirements in 24 CFR 570.606(d) governing optional relocation policies. The Recipient shall provide relocation assistance to

displaced persons as defined by 24 CFR 570.606(b) (2) that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-assisted project. The Recipient also agrees to comply with applicable Grantee ordinances, resolutions and policies concerning the displacement of persons from their residences.

X. PERSONNEL & PARTICIPANT CONDITIONS

A. Civil Rights

1. Compliance

The Recipient agrees to comply with and with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and Executive Order 11246 as amended by Executive Orders 11375, 11478, 12107 and 12086.

2. Nondiscrimination

The Recipient agrees to comply with the non-discrimination in employment and contracting opportunities laws, regulations, and executive orders referenced in 24 CFR 570.607, as revised by Executive Order 13279. The applicable non-discrimination provisions in Section 109 of the HCDA are still applicable.

3. Land Covenants

This contract is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P. L. 88-352) and 24 CFR 570.601 and 570.602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this contract, the Recipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the Grantee and the United States are beneficiaries of and entitled to enforce such covenants. The Recipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

5. Section 504

The Recipient agrees to comply with all Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), which prohibits discrimination against the individuals with disabilities or handicaps in any Federally assisted program.

B. Affirmative Action

1. Approved Plan

The Recipient agrees that it shall be committed to carry out an Affirmative Action Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1966.This Executive order applies to all federally assisted construction contracts and subcontracts. It provides that no person shall be discriminated against on the

basis of race. The Recipient shall submit a plan for an Affirmative Action Program to the grantee for approval.

2. Women- and Minority-Owned Businesses (W/MBE)

The Recipient will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this contract. As used in this contract, the terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15 U.S.C. 632), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Recipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

3. Access to Records

The Recipient shall furnish and cause each of its own Recipients or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the Grantee, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

4. Notifications

The Recipient will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of the Recipient's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

5. Equal Employment Opportunity and Affirmative Action (EEO/AA) Statement

The Recipient will, in all solicitations or advertisements for employees placed by or on behalf of the Recipient; state that it is an Equal Opportunity or Affirmative Action employer.

6. Subcontract Provisions

The Recipient will include the provisions of Paragraphs X.A, Civil Rights, and B, Affirmative Action, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own Recipients or subcontractors.

C. Employment Restrictions

1. Prohibited Activity

The Recipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; inherently religious activities; lobbying; political patronage; and nepotism activities.

2. Labor Standards

The Recipient agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act (40 U.S.C. 327 *et seq.*) and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. The Recipient agrees to comply with the Copeland Anti-Kick Back Act (18 U.S.C. 874 *et seq.*) and it's implementing regulations of the U.S. Department of Labor at 29 CFR Part 5. The Recipient shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the Grantee for review upon request.

3. "Section 3" Clause

a. Compliance

Compliance with the provisions of Section 3 of the HUD Act of 1968, as amended, and as implemented by the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this contract, shall be a condition of the Federal financial assistance provided under this contract and binding upon the Grantee, the Recipient and any of the Recipient's Recipients and subcontractors. Failure to fulfill these requirements shall subject the Grantee, the Recipient and any of the Recipient's Recipients and subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which Federal assistance is provided. The Recipient certifies and agrees that no contractual or other disability exists that would prevent compliance with these requirements.

The Recipient further agrees to comply with these "Section 3" requirements and to include the following language in all subcontracts executed under this Agreement:

> "The work to be performed under this Agreement is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701). Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low- and very low-income residents of the project area, and that contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located."

The Recipient further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project to business concerns that

provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to business concerns that provide economic opportunities to low- and very low-income residents within the service area or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.

The Recipient certifies and agrees that no contractual or other legal incapacity exists that would prevent compliance with these requirements.

b. Notifications

The Recipient agrees to send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

c. Subcontracts

The Recipient will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor agency. The Recipient will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

4. Federal Work Authorization Program "FWAP"

Contractor represents and agrees that it is enrolled and participating a Federal Work Authorization Program ("FWAP") that ensures that all of its employees or agents have the legal right to work in the United States, as defined in 8 U.S.C. 1324a(h)(3) and RSMo § 285.525-285.555, and that it will maintain this compliance for the entire duration of its contract with the City of Joplin. Contractor agrees that it does not knowingly employee any unauthorized alien in connection with the contracted services with the City. Contractor agrees to provide an Affidavit of Compliance stating that they are in enrolled and participating in a FWAP, and that Contractor does not knowingly employee any unauthorized aliens in connection with the contracted services, upon execution of this Agreement. All Subcontractors shall state, in writing, in their contracts with Contractor, that they are not in violation of RSMo § 285.530.1 and shall not thereafter be in violation, or subcontractor may submit a sworn affidavit to this effect. Contractor agrees to hold harmless and indemnify the City for any liability due to Contractor's failure to maintain compliance with FWAP or for violations of the Missouri Unauthorized Alien Workers Act.

D. Conduct

1. Assignability

The Recipient shall not assign or transfer any interest in this Agreement without the prior written consent of the Grantee thereto; provided, however, that claims for money due or to

become due to the Recipient from the Grantee under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Grantee.

2. Subcontracts

a. Approvals

The Recipient shall not enter into any subcontracts with any agency or individual in the performance of this contract without the written consent of the Grantee prior to the execution of such agreement.

b. Monitoring

The Recipient will monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

c. Content

The Recipient shall cause all of the provisions of this contract in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

d. Selection Process

The Recipient shall undertake to insure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis in accordance with applicable procurement requirements. Executed copies of all subcontracts shall be forwarded to the Grantee along with documentation concerning the selection process.

3. Hatch Act

The Recipient agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the U.S.C.

4. Conflict of Interest

The Recipient agrees to abide by the provisions of 24 CFR 84.42 and 570.611, which include (but are not limited to) the following:

a. The Recipient shall maintain a written code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by Federal funds.

b. No employee, officer or agent of the Recipient shall participate in the selection, or in the award, or administration of, a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.

c. No covered persons who exercise or have exercised any functions or responsibilities with respect to CDBG-assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest in any contract, or have a financial interest in any contract, subcontract, or agreement with respect to the CDBG-assisted activity, or with respect to the proceeds from the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (1) year thereafter. For purposes of this paragraph, a "covered person" includes any person who is an employee, agent, consultant, officer, or elected or appointed official of the Grantee, the Recipient, or any designated public agency.

5. Lobbying

The Recipient hereby certifies that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and

c. It will require that the language of paragraph (d) of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all Recipients shall certify and disclose accordingly:

6. Copyright

If this contract results in any copyrightable material or inventions, the Grantee and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for governmental purposes.

7. Religious Activities

The Recipient agrees that funds provided under this Agreement will not be utilized for inherently religious activities prohibited by 24 CFR 570.200(j), such as worship, religious instruction, or proselytization.

XI. ENVIRONMENTAL CONDITIONS

A. Air and Water

The Recipient agrees to comply with the following requirements insofar as they apply to the performance of this Agreement:

- Clean Air Act, 42 U.S.C. , 7401, *et seq.*;
- Federal Water Pollution Control Act, as amended, 33 U.S.C., 1251, *et seq.*, as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued hereunder;
- Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50, as amended.
- Executive Order 11990, Protection of Wetlands;
- The Wild and Scenic Rivers Act of 1968, as amended, (16 U.S.C.S. 1271);
- The Safe Drinking Water Act of 1974, as amended (42 U.S.C.S. 30f et. seq.);
- The Clean Water Act of 1977 (Public Law 95-217);

B. Flood Disaster Protection

In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001), the Recipient shall assure that for activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

C. Lead-Based Paint

The Recipient agrees that any construction or rehabilitation of residential structures with assistance provided under this Agreement shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35, Subpart B. Such regulations pertain to all CDBG-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken. The regulations further require that, depending on the amount of Federal funds applied to a property, paint testing, risk assessment, treatment and/or abatement may be conducted.

D. Historic Preservation

The Recipient agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this agreement.

In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

E. Other provisions

The Recipient agrees to comply with the following requirements insofar as they apply to the performance of this Agreement:

- The National Environmental Policy Act of 1969 (42 U.S.C. Sect. 4321 et. seq.) and 24 CFR Part 58;
- The Endangered Species Act of 1973, as amended (16 U.S.C.S. 1531 et. seq.);
- The Fish and Wildlife Coordination Act of 1958, as amended, (16 U.S.C.S. 661 et. seq.);
- The Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (re U.S.C.S. 6901 et. seq.).

XII. SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

XIII. SECTION HEADINGS AND SUBHEADINGS

The section headings and subheadings contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.

XIV. WAIVER

The Grantee's failure to act with respect to a breach by the Recipient does not waive its right to act with respect to subsequent or similar breaches. The failure of the Grantee to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

XV. ENTIRE AGREEMENT

This agreement constitutes the entire agreement between the Grantee and the Recipient for the use of funds received under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the Grantee and the Recipient with respect to this Agreement.

____ Day of _____, 2019

IN WITNESS WHEREOF, the Parties have executed this contract as of the date first written above.

City of Joplin, Missouri
A Municipal Corporation

_____

Troy Bolander
Director of Planning, Development, and
Neighborhood Services

ATTEST:

_____

Thomas Walters
Planner

The Homeless Coalition

_____

Name: Robin Smith, Economic Security Corp

[NOTE: For the above sections, if the Recipient is a governmental or quasi-governmental agency, the applicable sections of 24 CFR Part 85, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," and OMB Circular A-87 would apply.]

STATE OF _____)
) ss.
COUNTY OF _____)

AFFIDAVIT OF COMPLIANCE
(Missouri Unauthorized Alien Workers Act)

My name is ____ Robin Smith _____(Name) and I am the __Chair____(Title) of the ___Homeless Coalition__(Company Name). I hereby represent, affirm and certify to the City of Joplin that my company does not knowingly employ any person who is an unauthorized alien in connection with contracted services with the City. I further affirm that my company is actively enrolled and participating in a federal work authorization program with respect to all employees working in connection with the contract services provided to the City.

_____
Affiant

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal this _____ day of _____, 20____.

_____
Notary Public

My commission expires:

_____

COUNCIL BILL NO. 2019-406 ORDINANCE NO.

AN ORDINANCE approving an Agreement between the City of Joplin, Missouri, and the Homeless Coalition that pertains to 2019 CDBG public service grant funds in the amount of $17,000.00; authorizing the City Manager to execute same on behalf of the City;

WHEREAS, the City of Joplin and the Homeless Coalition, are desirous of entering into an agreement whereby the Homeless Coalition will manage the Homeless Management Information System to benefit the Joplin homeless and the organizations that support them through the Community Development Block Grant Program (CDBG).

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF JOPLIN, MISSOURI, AS FOLLOWS:

Section 1. That an Agreement between the City of Joplin, Missouri, and the Homeless Coalition is entered into that describes the expenditure of 2019 CDBG public service funds in the amount of $17,000.00, a copy of same, or copy in substantially similar form, attached hereto and incorporated herein, be and the same is hereby approved.

Section 2. That the City Manager of the City of Joplin, or his designee, Director of Planning, Development & Neighborhood Services, is hereby authorized and directed, upon recommendation and approval of the City Council, to execute said Agreement or Agreement in substantially similar form, by and on behalf of the City of Joplin, Missouri.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____ day of _____, 2019, by a _____vote.

_____
Gary L. Shaw, Mayor

ATTEST:

_____
Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Resolution 2019-013 – Initiating the required 45-day public information period of the cost information for the transition from the policemen's and firemen's pension plan to LAGERS

MEETING DATE
November 18, 2019

ORIGINATING DEPT
Finance

ATTACHMENTS
Resolution 2019-013; Cost Statement from LAGERS; Cost Statement from Policemen's and Firemen's Pension Plan

REVIEWED BY
Department Head: Leslie Haase; City Attorney: Peter Edwards; City Manager: Dan Pekarek

SUMMARY
This Resolution initiates the required 45-day period public inspection period of the cost information for the transition from the policemen's and firemen's pension plan to LAGERS.

BACKGROUND
On November 5, 2019, the voters approved a ½-cent sales tax to close the existing public safety pension plan to new hires and transition those employees to the Missouri Local Government Employees Retirement System (LAGERS). In August the pension membership approved this plan pending voter approval of the sales tax.

The next step in this process is to place the cost statements from the actuary for LAGERS and the pension plan on file in the City Clerk's office for public inspection for 45-days prior to the adoption of the ordinances approving the retirement plan changes. With approval of this resolution, the reports will be on file in the City Clerk's office.

It is anticipated the ordinances will be presented to Council at the first meeting in December on first reading. The pension plan will close to new hires on February 1, 2020 and those Tier II employees electing to migrate to LAGERS will be effective on February 29, 2020.

FUNDING SOURCE
This item is not applicable to this resolution.

RECOMMENDATION
Staff recommends approval of this resolution.

RESOLUTION NO. 2019-013

A RESOLUTION initiating the required 45-day public information period of the actuary reports for the transition from the policemen's and firemen's pension plan to the Missouri Local Government Employees Retirement System (LAGERS) for public safety employees.

WHEREAS, the City of Joplin obtained cost information from the Policemen's and Firemen's Pension Plan Actuary (GRS) to close the plan to new hires and transition certain Tier II employees to LAGERS; and,

WHEREAS, the City of Joplin obtained cost information from the LAGERS Actuary (GRS) to move public safety new hires to this retirement plan; and,

WHEREAS, the voters of Joplin approved a ½-cent sales tax dedicated to close the pension plan to new hires and transition public safety employees to LAGERS; and,

WHEREAS, the City is required to make the cost reports available to the public for a 45-day period; and,

WHEREAS, the City wishes to make these reports available to the public.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, as follows:

Section 1. The City Council of the City of Joplin has received cost information for closing the policemen's and firemen's pension plan to new public safety hires and transition those employees to the Missouri Local Government Employees Retirement System (LAGERS).

Section 2. In accordance with Section 105.675 Revised Statutes of Missouri, said cost information shall be made available for public inspection for at least 45 calendar days from today prior to adoption of membership.

Section 3. Interested parties may view a copy of this cost information at the City Clerk's Office at 602 South Main Street, Joplin, Missouri.

Section 4. That this Resolution shall be in full force and effect from and after the date of its passage and approval.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Joplin, Missouri to be affixed this 18th day of November 2019.

_____
Gary L. Shaw, Mayor

ATTEST:

_____
Barbara J. Gollhofer, City Clerk

GRS Retirement Consulting

800.521.0498 | P: 248.799.9000 | F: 248.799.9020 | www.grsconsulting.com

October 22, 2019 E-Mail

Mr. Jeff Pabst
Education and Outreach Coordinator
Missouri Local Government
Employees Retirement System
P.O. Box 1665
Jefferson City, Missouri 65102

Re: The City of Joplin (#3166) – Police and Fire Departments

Dear Jeff:

As you requested, we have determined the initial computed employer contribution rate for the City of Joplin Police and Fire departments based upon the benefit provisions being considered by the subdivision (L-11, 5 year FAC, non-contributory, and regular retirement). The cost to the employer is shown under three scenarios for members if the departments were to join LAGERS. The first scenario assumes that **only new members** would be covered under LAGERS. The second scenario assumes that all Tier II members would join LAGERS and that prior service would be granted for **eligibility purposes only**. The third scenario assumes that all Tier II members would join LAGERS and that prior service would be granted for **eligibility and benefit purposes**.

	New Employees Only		Tier II Members (Prior Service for Vesting Only)		Tier II Members (Prior Service for Vesting & Benefits)	
As of August 31, 2019	Police	Fire	Police	Fire	Police	Fire
Current Service Cost	15.4%	18.6%	15.4%	18.6%	15.4%	18.6%
Disability Cost	1.0	1.2	1.0	1.2	1.0	1.2
Prior Service Cost	0.0	0.0	2.2	2.0	5.5	6.8
Total Employer Contribution Rate	16.4%	19.8%	18.6%	21.8%	21.9%	26.6%
Increase in Unfunded Actuarial Accrued Liability	$0	$0	$1,162,306	$952,365	$2,939,725	$3,215,576

The results above are based upon a 30-year amortization of the increase in the unfunded actuarial accrued liability (UAAL). A summary of the active member data used for the initial valuation is shown below:

Active Tier II Members as of August 31, 2019

Division	Number	Payroll	Avg. Payroll	Avg. Age	Avg. Service
Police	70	$3,036,200	$43,374	31.6 years	3.9 years
Fire	63	$2,692,812	$42,743	33.0 years	5.1 years

Below are projections needed to comply with Missouri state disclosure requirements (Section 105.665 of the RSMo) regarding the adoption of LAGERS benefits by a political subdivision. The following projections correspond with the second scenario and assume that all Tier II members would join LAGERS and that prior service would be granted for **eligibility purposes only**.

Police Division:

L-11 Benefit Program, Non-contributory, 5 year FAS, Normal Retirement

		L-11 Benefit Program		
		Estimated Employer Contribution		Unfunded Actuarial
Valuation Year	Estimated Projected Payroll	As a % of Payroll	Annual Dollars	Accrued Liability
2019	$ 3,036,200	18.6%	$564,733	$ 1,162,306
2020	3,134,877	18.6	583,087	1,178,229
2021	3,236,761	18.6	602,038	1,193,086
2022	3,341,956	18.6	621,604	1,206,726
2023	3,450,570	18.6	641,806	1,218,987
2024	3,562,714	18.6	662,665	1,229,693
2025	3,678,502	18.6	684,201	1,238,651
2026	3,798,053	18.6	706,438	1,245,651
2027	3,921,490	18.6	729,397	1,250,468
2028	4,048,938	18.6	753,102	1,252,856

Fire Division:

L-11 Benefit Program, Non-contributory, 5 year FAS, Normal Retirement

		L-11 Benefit Program		
		Estimated Employer Contribution		Unfunded Actuarial
Valuation Year	Estimated Projected Payroll	As a % of Payroll	Annual Dollars	Accrued Liability
2019	$ 2,692,812	21.8%	$587,033	$ 952,365
2020	2,780,328	21.8	606,112	965,412
2021	2,870,689	21.8	625,810	977,585
2022	2,963,986	21.8	646,149	988,762
2023	3,060,316	21.8	667,149	998,809
2024	3,159,776	21.8	688,831	1,007,581
2025	3,262,469	21.8	711,218	1,014,921
2026	3,368,499	21.8	734,333	1,020,657
2027	3,477,975	21.8	758,199	1,024,604
2028	3,591,009	21.8	782,840	1,026,560



The following projections correspond with the third scenario and assume that all Tier II members would join LAGERS and that prior service would be granted for **eligibility and benefit purposes**.

Police Division:

L-11 Benefit Program, Non-contributory, 5 year FAS, Normal Retirement

		L-11 Benefit Program		
		Estimated Employer Contribution		Unfunded Actuarial
Valuation Year	Estimated Projected Payroll	As a % of Payroll	Annual Dollars	Accrued Liability
2019	$ 3,036,200	21.9%	$664,928	$ 2,939,725
2020	3,134,877	21.9	686,538	2,979,999
2021	3,236,761	21.9	708,851	3,017,575
2022	3,341,956	21.9	731,888	3,052,075
2023	3,450,570	21.9	755,675	3,083,087
2024	3,562,714	21.9	780,234	3,110,164
2025	3,678,502	21.9	805,592	3,132,819
2026	3,798,053	21.9	831,774	3,150,525
2027	3,921,490	21.9	858,806	3,162,708
2028	4,048,938	21.9	886,717	3,168,747

Fire Division:

L-11 Benefit Program, Non-contributory, 5 year FAS, Normal Retirement

		L-11 Benefit Program		
		Estimated Employer Contribution		Unfunded Actuarial
Valuation Year	Estimated Projected Payroll	As a % of Payroll	Annual Dollars	Accrued Liability
2019	$ 2,692,812	26.6%	$716,288	$ 3,215,576
2020	2,780,328	26.6	739,567	3,259,629
2021	2,870,689	26.6	763,603	3,300,731
2022	2,963,986	26.6	788,420	3,338,468
2023	3,060,316	26.6	814,044	3,372,390
2024	3,159,776	26.6	840,500	3,402,008
2025	3,262,469	26.6	867,817	3,426,789
2026	3,368,499	26.6	896,021	3,446,156
2027	3,477,975	26.6	925,141	3,459,482
2028	3,591,009	26.6	955,208	3,466,088

It is our understanding that the City of Joplin is considering making a lump sum payment to cover a portion of its unfunded actuarial accrued liability. By paying off a portion of its unfunded actuarial accrued liability, the prior service cost component of the computed employer contribution rate becomes smaller. A lump sum contribution of $1,000,000 for the Police division would reduce the computed employer contribution rate by 1.90% of payroll. A lump sum contribution of $1,000,000 for the Fire division would reduce the computed employer contribution rate by 2.10% of payroll.

The long term cost (C) of providing retirement benefits depends only on the benefits (B) that are paid to participants, the expenses (E) of administering the plan, and the investment return (I) generated on invested assets: C = B + E – I. For a given level of benefits, the cost of providing those benefits is lowered if administrative expenses are lowered or investment income is increased.

The long term costs are financed by a series of employer and member contributions. The series of contributions is flexible. If more is contributed in early years, less has to be contributed in later years, and vice-versa. Over time the series of contributions has to have the same value as benefits and expenses. The actuary determines each year's contribution based on a funding method and a set of actuarial assumptions. The chosen funding method and assumptions do not affect the long term cost of providing retirement benefits, but have a strong impact on the series of contributions made to fund the benefits.

The methods and assumptions used were the same as those used in the annual actuarial valuations as of February 28, 2019. In particular, the assumed rate of investment return was 7.25% and the assumed rate of payroll growth was 3.25%.

If the City participates in LAGERS for the Police and Fire Departments, the actuarial valuations will be prepared using the LAGERS assumptions, as adopted by the LAGERS Retirement Board. If future experience follows the LAGERS assumptions, the contribution rates calculated in this report will remain approximately level. If future experience is worse than the LAGERS assumptions, the contribution rates will gradually increase over time.

Mita D. Drazilov is a Member of the American Academy of Actuaries (MAAA) and meets the Qualification Standards of the Academy of Actuaries to render the actuarial opinions herein. GRS provides consulting services to both LAGERS and the City of Joplin Policemen's and Firemen's Pension Plan although the signing actuaries are different individuals. It is my opinion that my ability to act fairly in this assignment has not been impaired.

Please call if you have any questions.

Sincerely,

Mita Drazilov

Mita D. Drazilov, ASA, FCA, MAAA

MDD:rmg

GRS Retirement Consulting

800.521.0498 | P: 248.799.9000 | F: 248.799.9020 | www.grsconsulting.com

March 27, 2019

Ms. Leslie Haase, Finance Director
City of Joplin Policemen's and Firemen's Pension Plan
602 S. Main Street
Joplin, Missouri 64801

Re: Pension Plan Review

Dear Ms. Haase:

Enclosed are the results of the Pension Plan Review to measure the financial effects of closing the City of Joplin Policemen's and Firemen's Pension Plan to new members and to determine the approximate cost to fully fund the Plan in its current form. One of the scenarios requested involves a transfer of Tier 2 employees to LAGERS.

GRS provides consulting services to both LAGERS and the City of Joplin Policemen's and Firemen's Pension Plan although the signing actuaries are different individuals. It is my opinion that my ability to act fairly in this assignment has not been impaired.

Respectfully submitted,

Brad Lee Armstrong, ASA, EA, FCA, MAAA

BLA:sc
Enclosure

One Towne Square | Suite 800 | Southfield, Michigan 48076-3723

City of Joplin
Pension Plan Review
as of October 31, 2018

Requested By:	Ms. Leslie Haase, Finance Director City of Joplin Policemen's and Firemen's Pension Plan
Date:	March 27, 2019
Submitted By:	Brad Lee Armstrong, ASA, EA, FCA, MAAA Abra D. Hill, ASA, MAAA Derek Henning, ASA, MAAA Gabriel, Roeder, Smith & Company

This report contains the results of a supplemental actuarial valuation to review the fiscal impact of proposed plan changes to the City of Joplin Policemen's and Firemen's Pension Plan. The first Proposal (Proposal 1) would continue benefit eligibility for current Tier 1 and Tier 2 members and close the Plan to new hires. The second Proposal (Proposal 2) would only allow for Tier 1 members to remain in the Plan while current Tier 2 members, along with their allocated contributions to date, would be transferred to the Missouri Local Government Employees Retirement System (LAGERS).

Supplemental valuations do not predict the results of future actuarial valuations. (Future activities can affect future valuation results in an unpredictable manner.) Rather, supplemental valuations give an indication of the probable effect of the **change only** on future valuations without comment on the complete end result of the future valuations.

Brad Lee Armstrong, Abra D. Hill and Derek Henning are Members of the American Academy of Actuaries (MAAA) and meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinions contained herein.

The valuations were based upon data furnished by the City for the October 31, 2018 actuarial valuation. Unless otherwise noted, actuarial methods and assumptions were the same as those used in the valuation. In particular:

- The assumed rate of interest under the current plan is 6.75%.
- The assumed rate of interest under Proposal 1 is 6.25%.
- The assumed rate of interest under Proposal 2 is 5.75%.
- The assumed rate of wage inflation is 2.50% for all scenarios.

A brief summary of the member data used in this valuation is shown below:

Actives Members

			Averages		
Benefit Tier	**Number**	**Payroll**	**Payroll**	**Age**	**Service**
Tier 1	69	$3,939,938	$57,101	43.5 years	14.8 years
Tier 2	116	$4,818,927	$41,542	32.1 years	4.5 years
Total	185	$8,758,865	$47,345	36.4 years	8.3 years

Retired Members

		Averages		
Number	**Benefits**	**Benefits**	**Age**	**Age Retired**
161	$3,373,811	$20,955	65.5 years	49.4 years

Item One

To satisfy Item One of the City's request, we performed impact statements and cash flow projections of the current plan and the following proposals:

- **Current Plan –** The City of Joplin Policemen's and Firemen's Pension Plan is open to new hires.
- **Proposal 1 –** Close the Pension Plan to new hires while current Tier 1 and Tier 2 members remain in the Plan.
- **Proposal 2 –** Close the Pension Plan to new hires while current Tier 1 members remain in the Pension Plan and current Tier 2 members, along with their allocated contributions to date, transfer to the Missouri Local Government Employees Retirement System (LAGERS).
- **The Unfunded Accrued Liability (UAL) and Employer Present Value of Future Normal Cost (PVFNC) are amortized as a level dollar amount over a closed 10-year period for all three scenarios.**
  - **Amortizing both the UAL and Employer PVFNC over 10 years produces a higher contribution dollar amount than the current funding policy.**
  - **The current funding policy amortizes the UAL as a level dollar amount over a closed 18-year period. The Employer PVFNC is financed over a member's service life.**

The projected fiscal impact of each proposal is shown on pages 3 through 5.

Additional questions and the actuary's response are on page 6.

The cash flow projections of each proposal are shown on page 7.

Actuarial Statement - Overview

Current Plan

- **To fully fund both the Unfunded Actuarial Accrued Liability (UAAL) and the Employer Present Value of Future Normal Costs (PVFNC) as of the valuation date:**
  - Would require a lump sum contribution of $29,959,303
    - $25,493,195 for the UAAL
    - $4,466,108 for the Employer PVFNC
  - The Normal Costs for New Members would be funded as they arise in future years.
- **To finance both the Unfunded Actuarial Accrued Liability (UAAL) and the Employer Present Value of Future Normal Costs (PVFNC) over 10 years (beginning with the Fiscal Year 2020 contribution)**
  - Would require a level dollar amount of $3,973,415
    - $3,419,691 for the UAAL
    - $553,724 for the Employer PVFNC
  - The Normal Costs for New Members would be funded as they arise in future years.

Proposed Plan 1 (Closing the Plan to New Hires)

- **To fully fund both the Unfunded Actuarial Accrued Liability (UAAL) and the Employer Present Value of Future Normal Costs (PVFNC) as of the valuation date:**
  - Would require a lump sum contribution of $35,206,858
    - $29,239,601 for the UAAL
    - $5,967,257 for the Employer PVFNC
- **To finance both the Unfunded Actuarial Accrued Liability (UAAL) and the Employer Present Value of Future Normal Costs (PVFNC) over 10 years (beginning with the Fiscal Year 2020 contribution)**
  - Would require a level dollar amount of $4,627,698
    - $3,889,822 for the UAAL
    - $737,876 for the Employer PVFNC

Proposed Plan 2 (Closing the Plan to New Hires + Transfer of Tier 2 Members to LAGERS)

- **To fully fund both the Unfunded Actuarial Accrued Liability (UAAL) and the Employer Present Value of Future Normal Costs (PVFNC) as of the valuation date:**
  - Would require a lump sum contribution of $33,580,087
    - $30,742,026 for the UAAL
    - $2,838,061 for the Employer PVFNC
- **To finance both the Unfunded Actuarial Accrued Liability (UAAL) and the Employer Present Value of Future Normal Costs (PVFNC) over 10 years (beginning with the Fiscal Year 2020 contribution)**
  - Would require a level dollar amount of $4,505,436
    - $4,183,688 for the UAAL
    - $321,748 for the Employer PVFNC

Actuarial Statement – Proposal 1

Valuation Date	**October 31, 2018**
Contributions for Fiscal Year Ending	**October 31, 2020**

Unfunded Actuarial Accrued Liability	**Current Plan**	**Proposal 1**	**Impact**
Actuarial Accrued Liability (AAL)	$66,406,387	$70,152,793	$3,746,406
Market Value of Assets (MVA)	40,913,192	40,913,192	0
Unfunded Actuarial Accrued Liability	**$25,493,195**	**$29,239,601**	$3,746,406
Funded Ratio (MVA/AAL)	61.6%	58.3%	(3.3)%
Present Value of Future Normal Cost (PVFNC)			
Present Value of Future Benefits	$79,358,754	$84,848,028	$5,489,274
Actuarial Accrued Liability (AAL)	$66,406,387	$70,152,793	$3,746,406
Present Value of Future Normal Cost	$12,952,367	$14,695,235	$1,742,868
PV of Future Member Contribs.	$8,486,259	$8,727,978	$241,719
Employer PV Future Normal Cost	**$4,466,108**	**$5,967,257**	$1,501,149
Present Value of Future Benefits (PVFB)			
Employer PV Future Benefits (AAL + ER PVFNC)	**$70,872,495**	**$76,120,050**	$5,247,555
Funded Ratio (MVA/ER PVFB)	57.7%	53.7%	(4.0)%
Contributions			
UAAL $ (Financed over 10 years)	**$3,419,691**	**$3,889,822**	$470,131
Future Normal Cost (Financed over 10 years)	**$553,724**	**$737,876**	$184,152

Illustrative only. Estimated employer contribution amounts shown are based on the Employer Total Contribution rate shown and the valuation payroll projected two years to the applicable fiscal year using the valuation assumption of 2.5% per year. Contributions shown above exclude the administrative expense load.

Please note that the employer contributions would fluctuate from deviations from assumptions (gains or losses). This risk is explored in **Item 2** of this report.

Actuarial Statement – Proposal 2

Contributions for Fiscal Year Ending **October 31, 2020**

Unfunded Actuarial Accrued Liability	**Current Plan**	**Proposal 2**	**Impact**
Actuarial Accrued Liability (AAL)	$66,406,387	$68,841,311	$2,434,924
Market Value of Assets (MVA)	40,913,192	38,099,285	(2,813,907)
Unfunded Actuarial Accrued Liability	$25,493,195	$30,742,026	$5,248,831
Funded Ratio (MVA/AAL)	61.6%	55.3%	(6.3)%
Present Value of Future Normal Cost (PVFNC)			
Present Value of Future Benefits	$79,358,754	$75,342,714	$(4,016,040)
Actuarial Accrued Liability (AAL)	$66,406,387	$68,841,311	$2,434,924
Present Value of Future Normal Cost	$12,952,367	$6,501,403	$(6,450,964)
PV of Future Member Contribs.	$8,486,259	$3,663,342	(4,822,916)
Employer PV Future Normal Cost	**$4,466,108**	**$2,838,061**	**$(1,628,048)**
Present Value of Future Benefits (PVFB)			
Employer PV Future Benefits (AAL + ER PVFNC)	**$70,872,495**	**$71,679,372**	$806,876
Funded Ratio (MVA/ER PVFB)	57.7%	53.2%	(4.6)%
Contributions			
UAAL $ (Financed over 10 years)	**$3,419,691**	**$4,183,688**	$763,998
Future Normal Cost (Financed over 10 years)	**$553,724**	**$321,748**	$(231,976)

Illustrative only. Estimated employer contribution amounts shown are based on the Employer Total Contribution rate shown and the valuation payroll projected two years to the applicable fiscal year using the valuation assumption of 2.5% per year. Under Proposal 2, the payroll is projected two years assuming cessation of employment, and a declining payroll, based on current valuation assumptions. Contributions shown above exclude the administrative expense load.

For purposes of this study, the transfer of Tier 2 members (and their contributions) to LAGERS was assumed to take place on the valuation date. The Market Value of Assets was reduced by $2,813,907 to model the transfer of Tier 2 contributions, and was determined as follows:

(a)	*AAL - Tier 2*	*$4,417,436*
(b)	*Funded Ratio (Current Plan)*	*63.7%*
(a) x (b)	*Computed Transfer*	*$2,813,907*

Please note that the employer contributions would fluctuate from deviations from assumptions (gains or losses). This risk is explored in **Item 2** of this report.

Additional questions regarding <u>Item One</u>, and the actuary's response, are below:

<u>Questions:</u>

- **Does the City need to estimate the timing of the cash payments over time to the closed pension plan?**

  Not initially in our opinion since existing assets are invested in primarily, if not entirely, in liquid securities.

- **Is it appropriate to use the current plan assumptions and methods?**

  No, we recommend lowering the interest rate as the average demographic profile of the group matures. Eventually the asset valuation method needs to be set equal to the market value.

Cash Flow Projections

Financing the Unfunded Actuarial Accrued Liability Over a 10-Year Period

	Current Plan					Proposal 1				Proposal 2			
	Estimated Employer Contribution[1]					Estimated Employer Contribution[1]				Estimated Employer Contribution[1]			
	To Fund Current Members		To Fund New Members		Employer PVFB	To Fund Current Members			Employer PVFB	To Fund Current Members			Employer PVFB
Valuation Date	UAAL	Employer Normal Cost	Employer Normal Cost	Total Dollars	Funded Percent	UAAL	Employer Normal Cost	Total Dollars	Funded Percent	UAAL	Employer Normal Cost	Total Dollars	Funded Percent
2018	$ 3,419,691	$ 553,724	$ 45,350	**$ 4,018,764**	57.7%	$ 3,889,822	$ 737,876	**$ 4,627,698**	53.7%	$ 4,183,688	$ 321,748	**$ 4,505,436**	53.2%
2019	3,419,691	553,724	76,926	**4,050,340**	59.7%	3,889,822	737,876	**4,627,698**	55.4%	4,183,688	321,748	**4,505,436**	52.3%
2020	3,419,691	553,724	111,094	**4,084,509**	63.5%	3,889,822	737,876	**4,627,698**	59.5%	4,183,688	321,748	**4,505,436**	56.2%
2021	3,419,691	553,724	142,320	**4,115,735**	66.8%	3,889,822	737,876	**4,627,698**	63.3%	4,183,688	321,748	**4,505,436**	59.8%
2022	3,419,691	553,724	169,902	**4,143,317**	70.3%	3,889,822	737,876	**4,627,698**	67.2%	4,183,688	321,748	**4,505,436**	63.5%
2023	3,419,691	553,724	195,917	**4,169,331**	74.0%	3,889,822	737,876	**4,627,698**	71.3%	4,183,688	321,748	**4,505,436**	67.7%
2024	3,419,691	553,724	223,595	**4,197,010**	77.9%	3,889,822	737,876	**4,627,698**	75.6%	4,183,688	321,748	**4,505,436**	72.1%
2025	3,419,691	553,724	254,293	**4,227,708**	81.9%	3,889,822	737,876	**4,627,698**	80.0%	4,183,688	321,748	**4,505,436**	76.8%
2026	3,419,691	553,724	289,947	**4,263,362**	86.1%	3,889,822	737,876	**4,627,698**	84.7%	4,183,688	321,748	**4,505,436**	81.9%
2027	3,419,691	553,724	325,752	**4,299,167**	90.4%	3,889,822	737,876	**4,627,698**	89.4%	4,183,688	321,748	**4,505,436**	87.2%
2028	-	-	356,289	**356,289**	95.0%	-	-	**-**	94.5%	-	-	**-**	93.2%
2029	-	-	383,409	**383,409**	100.0%	-	-	**-**	100.0%	-	-	**-**	100.0%

(1) *The Estimated Employer Contribution is projected to the fiscal year in which it will be contributed, which is the second year after the valuation date. The employer normal costs shown exclude the administrative expense load.*

Item Two

Item Two addresses the cost to fully fund the Plan to 100% on a Market Value Basis using the current plan assumptions:

- **To fully fund Unfunded Actuarial Accrued Liability (as of the valuation date):**
  - Would require a lump sum contribution of $25,493,195
  - Plus the Normal Costs arising from future benefit accruals

The City also requested analysis of the likelihood that the Pension Plan will remain 100% funded. To satisfy this request, we performed stochastic projections to illustrate the potential future outcomes of two funding policies.

- **Funding Policy 1**
  - Fully fund the Pension Plan with a lump sum contribution.
  - The City contributes a minimum of the Employer Normal Cost, even in years with a funding surplus.
  - The active members continue to contribute to the Plan.
  - Funding deficits are amortized over a closed period of 20 years when they arise, and remain open once reaching 10 years.
  - The amortization period resets when there is a funding surplus.
- **Funding Policy 2**
  - Fully fund the Pension Plan with a lump sum contribution.
  - The City contributes the no more and no less than Employer Normal Cost, whether there is a funding surplus or deficit (similar to a fixed rate contribution).
  - The active members continue to contribute to the Plan.

Additional questions and the actuary's response are on page 9.

The stochastic projections of each funding policy are shown on pages 10 through 12.

Additional questions regarding <u>Item Two</u>, and the actuary's response, are below:

<u>Questions:</u>

- **What would the normal cost percentage of payroll be if the pension plan is 100% funded?**

  The total normal cost is projected to be 20.79% for the fiscal year 2020 and is anticipated to trend down to an ultimate rate of 16.3% in future years.

  The current plan provisions require both City and Member contributions.

- **How long will it take for the normal cost to include only Tier 2 employees?**

  Under current assumptions, the Tier 2 employees will replace the remaining Tier 1 employees within 10 to 15 years.

- **Is it appropriate to use current plan assumptions and methods?**

  Yes, however, lowering the assumed investment rate of return is encouraged to help reduce contribution rate volatility, especially for Funding Policy 2 with a fixed rate.

- **What is the likelihood that the pension plan will remain at the normal cost (fully funded) into the future after it is fully funded?**

  Under Funding Policy 1, the likelihood that the pension plan contributions will remain at normal cost is approximately 40%.

  Under Funding Policy 2, the likelihood that the plan will remain 100% funded with fixed normal cost contributions trends from approximately 50% to 35% from the beginning to the end of the projection period.

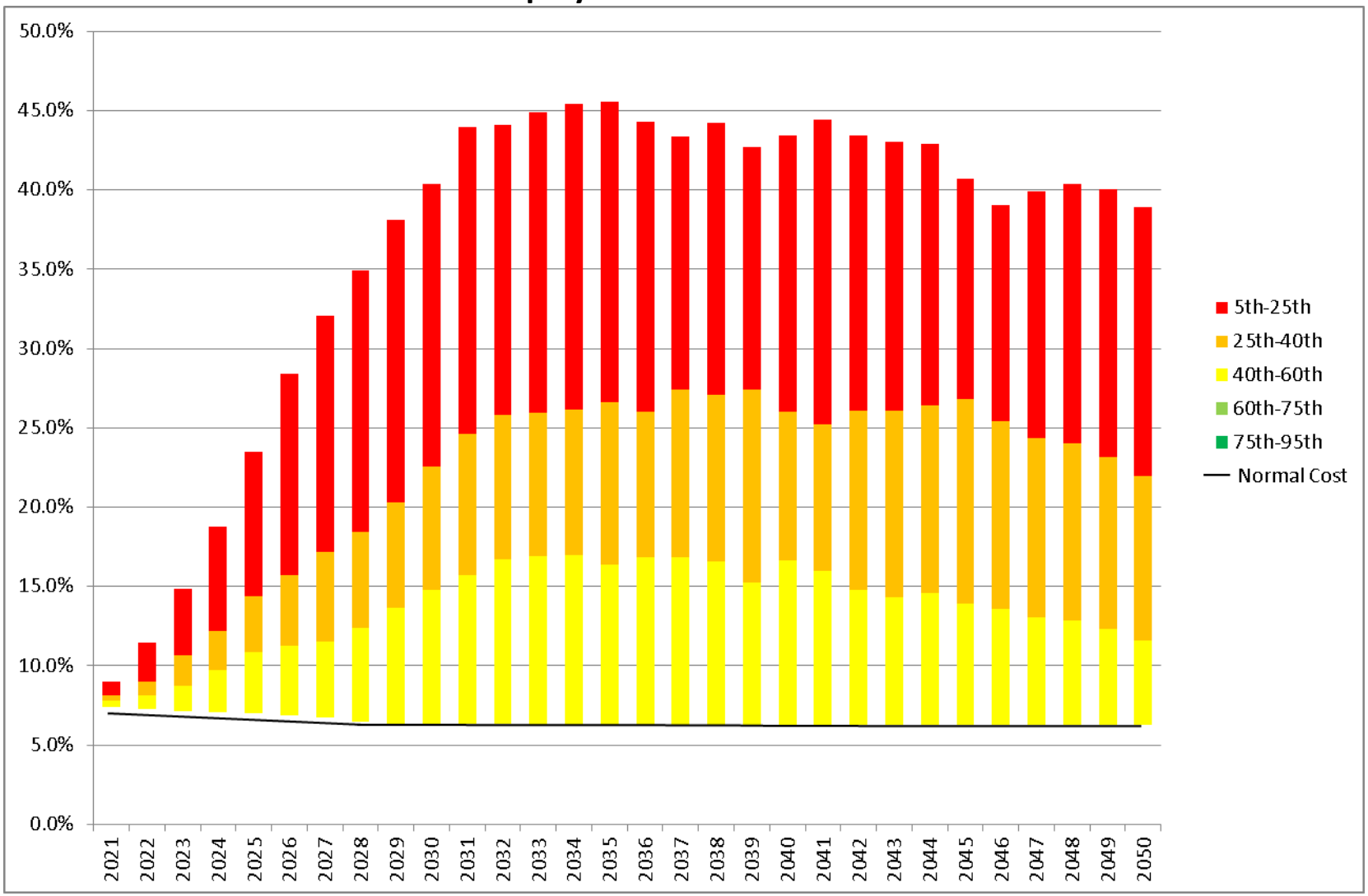
- **What components affect this likelihood?**

  The volatility associated with investment markets and the volatility associated with demographic behavior affect this likelihood. If actual experience deviates from actuarial assumptions, gains and losses will occur. Lowering the assumed investment rate of return and conducting regular experience studies (at least every 5 years) would increase this likelihood of employer contributions remaining at the normal cost.

Stochastic Projections

Funding Policy 1

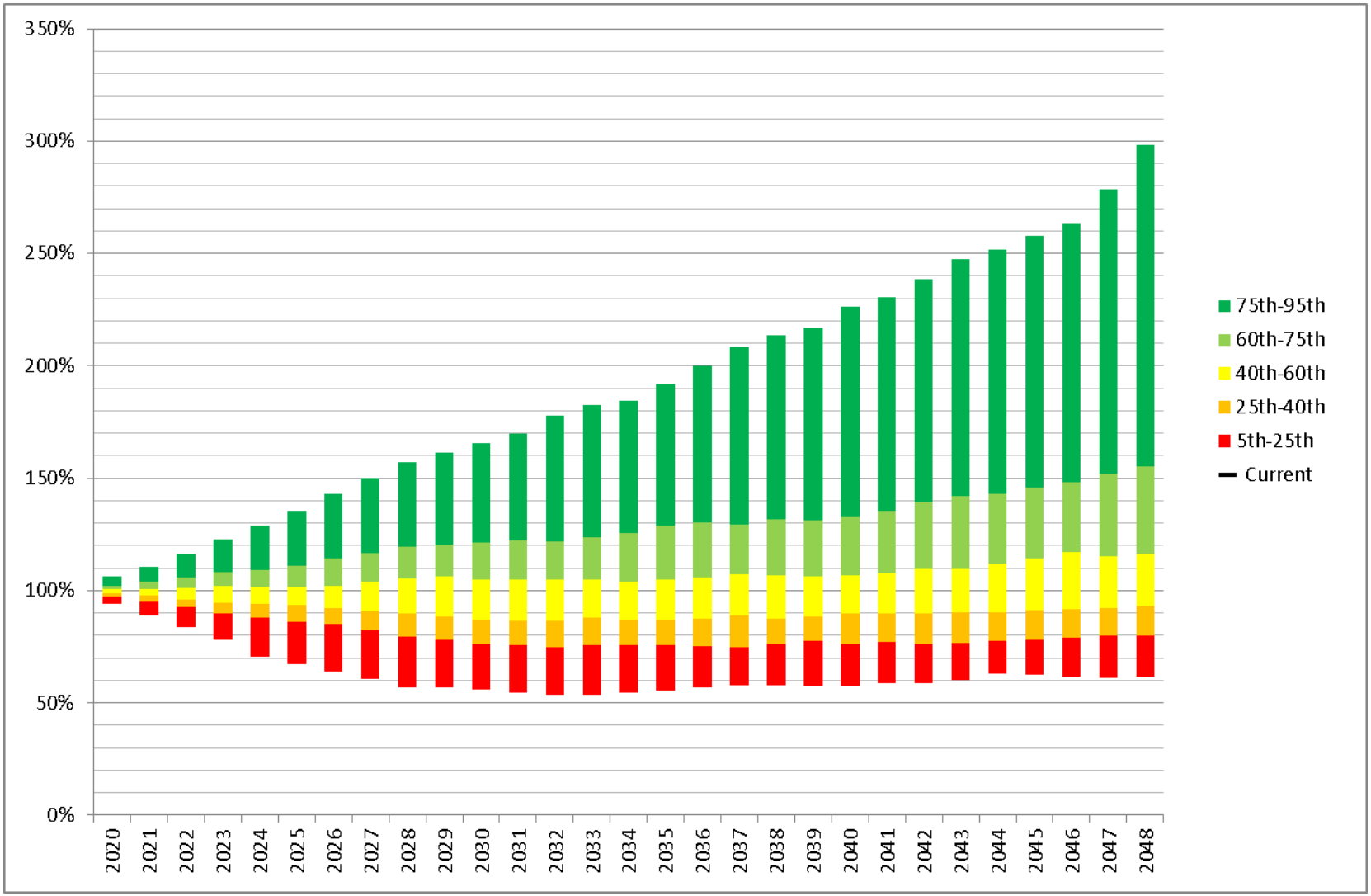
Employer Contribution Rate



Stochastic Projections

Funding Policy 1

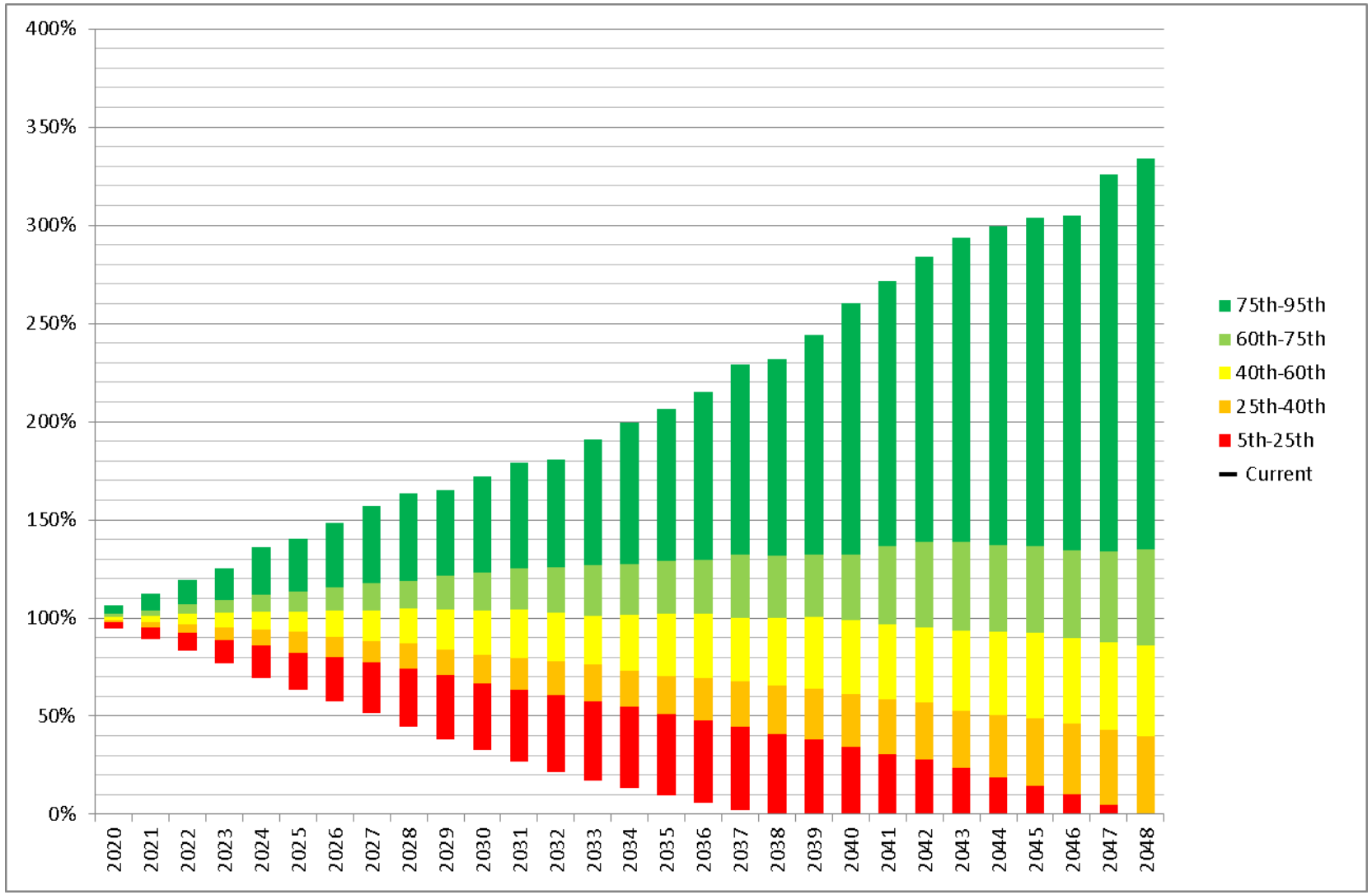
Funded Ratio



Stochastic Projections

Funding Policy 2 – Fixed Normal Cost Contributions

Funded Ratio



Comments on Actuarial Statement

Comment 1 — The stochastic models use the lognormal distribution to simulate interest rate scenarios. The assumptions for the model include a mean of 6.30% and a standard deviation of 10.50%, which comes from our Capital Market Modeling tool using the asset allocation for the Pension Plan. The Pension Plan's current investment return assumption is 6.75%. An additional 2% is added to the standard deviation in our model to approximate deviations of the actuarial accrued liability. The model randomly generates 500 series of investment returns over the next 30 years.

Comment 2 — No statement in this report is intended to be interpreted as a recommendation in favor of the changes, or in opposition to them.

Comment 3 — This report is intended to describe the financial effect of the proposed plan changes on the Retirement System. Except as otherwise noted, potential effects on other benefit plans were not considered.

Comment 4 — If you have reason to believe that the information provided in this report is inaccurate, or is in any way incomplete, or if you need further information in order to make an informed decision on the subject matter of this report, please contact the authors of the report prior to making such decision.

Comment 5 — Future actuarial measurements may differ significantly from the current measurements presented in this report due to such factors as the following: plan experience differing from that anticipated by the economic or demographic assumptions; changes in economic or demographic assumptions; increases or decreases expected as part of the natural operation of the methodology used for these measurements (such as the end of an amortization period or additional cost or contribution requirements based on the plan's funded status); and changes in plan provisions or applicable law. Due to the limited scope of the actuary's assignment, the actuary did not perform an analysis of the potential range of such future measurements.

Comment 6 — This calculation is based upon present and proposed plan provisions that are outlined in the report. If you have reason to believe that the assumptions that were used are unreasonable, that the plan provisions are incorrectly described, that important plan provisions relevant to this proposal are not described, or that conditions have changed since the calculations were made, you should contact the authors of this report prior to relying on information in the report. Also, in the event that more than one plan change is being considered, it is very important to remember that the results of separate actuarial valuations cannot generally be added together to produce a correct estimate of the combined effect of all of the changes. The total can be considerably greater than the sum of the parts due to the interaction of various plan provisions with each other, and with the assumptions that must be used.

Risk Commentary

The determination of the accrued liability and the actuarially determined contribution (i.e., total employer contribution rate) requires the use of assumptions regarding future economic and demographic experience. Risk measures, as illustrated in this report, are intended to aid in the understanding of the effects of future experience differing from the assumptions used in the course of the actuarial valuation. Risk measures may also help with illustrating the potential volatility in the accrued liability and the actuarially determined contribution that result from the differences between actual experience and the actuarial assumptions.

Future actuarial measurements may differ significantly from the current measurements presented in this report due to such factors as the following: plan experience differing from that anticipated by the economic or demographic assumptions; changes in economic or demographic assumptions due to changing conditions; increases or decreases expected as part of the natural operation of the methodology used for these measurements (such as the end of an amortization period, or additional cost or contribution requirements based on the Plan's funded status); and changes in plan provisions or applicable law. The scope of an actuarial valuation does not include an analysis of the potential range of such future measurements.

Examples of risk that may reasonably be anticipated to significantly affect the plan's future financial condition include:

1. **Investment Risk** – actual investment returns may differ from the expected returns;
2. **Asset/Liability Mismatch Risk** – changes in asset values may not match changes in liabilities, thereby altering the gap between the accrued liability and assets and consequently altering the funded status and contribution requirements;
3. **Contribution Risk** – actual contributions may differ from expected future contributions. For example, actual contributions may not be made in accordance with the plan's funding policy or material changes may occur in the anticipated number of covered employees, covered payroll, or other relevant contribution base;
4. **Salary and Payroll Risk** – actual salaries and total payroll may differ from expected, resulting in actual future accrued liability, contributions and contribution rates differing from expected;
5. **Longevity Risk** – members may live longer or shorter than expected and receive pensions for a period of time other than assumed; and
6. **Other Demographic Risks** – members may terminate, retire or become disabled at times or with benefits other than assumed resulting in actual future accrued liability and contributions differing from expected.

The effects of certain trends in experience can generally be anticipated. For example if the investment return since the most recent actuarial valuation is less (or more) than the assumed rate, the cost of the plan can be expected to increase (or decrease). Likewise if longevity is improving (or worsening), increases (or decreases) in cost can be anticipated.

The computed contribution rates shown on pages 4 thru 12 may be considered as a minimum contribution rate for the selected benefit provisions that complies with the Board's funding policy. The timely receipt of the actuarially determined contributions is critical to support the financial health of the plan. Users of this report should be aware that contributions made at the actuarially determined rate do not necessarily guarantee benefit security.

Risk Commentary (Concluded)

PLAN MATURITY MEASURES

Risks facing a pension plan evolve over time. A young plan with virtually no investments and paying few benefits may experience little investment risk. An older plan with a large number of members in pay status and a significant trust may be much more exposed to investment risk. Generally accepted plan maturity measures are described below.

RATIO OF MARKET VALUE OF ASSETS TO PAYROLL

The relationship between assets and payroll is a useful indicator of the potential volatility of contributions. For example, if the market value of assets is 2.0 times the payroll, a return on assets 5% different than assumed would equal 10% of payroll. A higher (lower) or increasing (decreasing) level of this maturity measure generally indicates a higher (lower) or increasing (decreasing) volatility in plan sponsor contributions as a percentage of payroll.

RATIO OF ACTUARIAL ACCRUED LIABILITY TO PAYROLL

The relationship between actuarial accrued liability and payroll is a useful indicator of the potential volatility of contributions for a fully funded plan. A funding policy that targets a funded ratio of 100% is expected to result in the ratio of assets to payroll and the ratio of liability to payroll converging over time.

The ratio of liability to payroll may also be used as a measure of sensitivity of the liability itself. For example, if the actuarial accrued liability is 2.5 times the payroll, a change in liability 2% other than assumed would equal 5% of payroll. A higher (lower) or increasing (decreasing) level of this maturity measure generally indicates a higher (lower) or increasing (decreasing) volatility in liability (and also plan sponsor contributions) as a percentage of payroll.

RATIO OF NET CASH FLOW TO MARKET VALUE OF ASSETS

A positive net cash flow means contributions exceed benefits and expenses. A negative cash flow means existing funds are being used to make payments. A certain amount of negative net cash flow is generally expected to occur when benefits are prefunded through a qualified trust. Large negative net cash flows as a percent of assets may indicate a super-mature plan or a need for additional contributions.

DURATION OF ACTUARIAL ACCRUED LIABILITY

The duration of the actuarial accrued liability may be used to approximate the sensitivity to a 1% change in the assumed rate of return. For example, duration of 10 indicates that the liability would increase approximately 10% if the assumed rate of return were lowered 1%.

ADDITIONAL RISK ASSESSMENT

Additional risk assessment is outside the scope of the annual actuarial valuation. Additional assessment may include scenario tests, sensitivity tests, stochastic modeling, stress tests, and a comparison of the present value of accrued benefits at low-risk discount rates with the actuarial accrued liability.

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2019-156: Operating Assistance Grant Agreement.

MEETING DATE
November 18, 2019

ORIGINATING DEPARTMENT
Public Works - Operations

REVIEWED BY
Director of Public Works -David Hertzberg; Director of Finance - Leslie Haase; City Attorney - Peter Edwards; Interim City Manager - Daniel Pekarek

ATTACHMENTS
Council Bill No. 2019-156; Agreement from Missouri Highways and Transportation Commission.

SUMMARY
Approval of an Ordinance authorizing the acceptance of a Missouri Highways and Transportation Commission Public Transit Operating Assistance Grant Agreement for State funds of Eleven thousand five hundred ten dollars and No/100 ($11,510.00) to be used for operating assistance for the Metro Area Public Transit System (MAPS), and containing an emergency clause.

BACKGROUND
The City of Joplin has operated the Metro Area Public Transit System (MAPS) since 1998 and the Sunshine Lamp Trolley since 2007. MAPS provides curb-to-curb public transit to residents of the Metropolitan Planning Organization (MPO) and the Sunshine Lamp Trolley provides deviated fixed route service within the City of Joplin.

DISCUSSION
MAPS and the Sunshine Lamp Trolley are funded by a combination of rider fares, donations, and the financial participation of other communities in the MPO. Additionally, the Federal Transit Administration (FTA) reimburses the City for capital and operational expenses at 80% and 50% respectively. These FTA funds require a local match to qualify. The funds being offered by the State of Missouri are unique in that they do not require local matching funds. The State is offering $11,510.00 in grant funds for the State's FY2020.

RECOMMENDATION
City staff recommends approval of Council Bill 2019-156 to accept a MoDOT Grant and be approved on an emergency basis per Section 2.12 (4) of the Joplin City Charter.

COUNCIL BILL NO.2019-156 ORDINANCE NO.

AN ORDINANCE authorizing the acceptance of a Missouri Highways and Transportation Commission Public Transit Operating Assistance Grant Agreement for state funds of eleven thousand five hundred ten dollars and No/100 ($11,510.00) to be used for operating assistance for the Metro Area Public Transit System (MAPS), and containing an emergency clause.

BE IT ORDAINED by the Council of the City of Joplin, Missouri, as follows:

Section 1. That the agreement by and between the City of Joplin and the Missouri Highways and Transportation Commission for state funds in the amount of eleven thousand five hundred ten dollars and No/100 ($11,510.00) to be used for operating assistance for the Metro Area Public Transit and Sunshine Lamp Trolley Systems, a copy of which is attached hereto and incorporated herein, be and the same is, hereby approved.

Section 2. That the City Manager is hereby authorized and directed to execute said Agreement by and on behalf of the City of Joplin, Missouri.

Section 3. That the City of Joplin, Missouri, understands that the grant funds do not require a local match.

Section 4. That this Ordinance is an emergency within the meaning of Section 2.12(4) of the Home Rule Charter of the City of Joplin, Missouri, and, shall be in full force and effect immediately after its passage and approval.

Passed by the Council of the City of Joplin, Missouri, this _____ day of _____, 2019, by a _____ vote.

_____

ATTEST: Gary L. Shaw, Mayor

_____

Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM:

_____

Peter C. Edwards, City Attorney

CCO Form: MO79
Approved: 06/96 (RMH)
Revised: 03/17 (MWH)
Modified:

Contract No:
2019-10-53890

MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION
PUBLIC TRANSIT OPERATING
ASSISTANCE GRANT AGREEMENT

THIS AGREEMENT is entered into between the Missouri Highways and Transportation Commission (hereinafter, "Commission") and City of Joplin (hereinafter, "Grantee").

WITNESSETH:

WHEREAS, the purpose of this Agreement is to provide financial assistance to the Grantee as appropriated from the State Fund and to set forth the conditions upon which the assistance will be provided;

NOW, THEREFORE, in consideration of the mutual covenants, promises, and representations in this Agreement, the parties agree as follows:

(1) SCOPE OF WORK: The Grantee shall provide general public transportation in accordance with the "Missouri State Transit Assistance Application" which is attached and made a part of this Agreement as Attachment A.

(2) AMOUNT OF GRANT: The Commission awards the Grantee the sum of **eleven thousand five hundred ten dollars ($11,510) during the period from July 1, 2019 to June 30, 2020.**

(3) PERFORMANCE OF AGREEMENT: The Grantee shall immediately notify the Commission in writing of any condition or event which may significantly affect its ability to perform the required activities in accordance with the provisions of this Agreement.

(4) RETENTION AND AUDIT OF RECORDS:

(A) The Grantee shall maintain all records relating to this Agreement, including but not limited to invoices, payrolls, etc. These records must be available at all reasonable times at no charge to the Commission and/or its representatives during the period of this Agreement and any extension thereof, and for three (3) years after the date of final payment made under this Agreement.

(B) The Grantee shall submit to the Commission such data, reports, documents, and other information relating to the Grantee's activities as the Commission may require at any time.

(C) At any time during or after the grant period provided in this Agreement, the Commission may inspect, copy and audit all records possessed by or available to the Grantee, which may be pertinent to this Agreement. If the Commission notifies the Grantee of its specific intention to inspect, copy or audit any of these records, then the Grantee shall retain all of the records pertinent to this Agreement until the Commission notifies the Grantee that it has completed its inspection, copying or audit.

(5) THIRD PARTY CONTRACTS:

(A) Prior to execution by either party, the Grantee shall submit to the Commission for review, comment and approval all contracts for services included in the Public Transportation Budget and Service Statement to be provided to the Grantee by a third party.

(B) The Commission shall not be liable to contractors or subcontractors of the Grantee or any other person not a party to this Agreement in connection with the performance of the project.

(6) PAYMENTS:

(A) Limitations on Commission Contribution: Funds made available to the Commission and the Grantee are subject to appropriations made by the General Assembly. In the event state funds available to the Commission are reduced so that the Commission is incapable of completely satisfying its obligations to all the Grantees for the current state fiscal year, the Commission may recompute and reduce this grant. When added to federal operating assistance funds available and applied to the same operating period, the maximum Commission payment on any monthly or quarterly request shall not cause the total of state and federal operating assistance to exceed the amount of operating assistance for which the Grantee would have qualified in federal funds had additional federal funds been available.

(B) Progress Payments: Progress payments, based upon actual allowable costs, for not less than one (1) month and for no more than three (3) months may be made upon receipt of an itemized invoice from the Grantee in an appropriate format approved by the Commission. The itemized invoice shall be reviewed by the Commission prior to payment and must include a certification that costs have been incurred in the performance of the Agreement and a record of the actual costs. Any costs deemed ineligible for reimbursement by the Commission in accordance with the terms of this Agreement shall be deducted from the itemized invoice before payment is made. Any rejected or unaccepted costs shall be borne by the Grantee.

(C) Availability of Funds: The Commission's duty to pay the Grantee as provided in this Agreement is subject to the availability of funds appropriated by the Missouri General Assembly to and from the State Transportation Fund and any subsequent directives mandated by the Governor regarding the withholding of appropriations.

(7) ASSIGNMENT: The Grantee shall not assign, transfer or delegate any interest in this Agreement, or its performance of any work required by this Agreement, without the prior written consent of the Commission.

(8) INDEMNIFICATION:

(A) To the extent allowed or imposed by law, the Grantee shall defend, indemnify and hold harmless the Commission, including its members and department employees, from any claim or liability whether based on a claim for damages to real or personal property or to a person for any matter relating to or arising out of the Grantee's wrongful or negligent performance of its obligations under this Agreement.

(B) The Grantee will require any contractor procured by the Grantee to work under this Agreement:

(1) To obtain a no cost permit from the Commission's district engineer prior to working on the Commission's right-of-way, which shall be signed by an authorized contractor representative (a permit from the Commission's district engineer will not be required for work outside of the Commission's right-of-way); and

(2) To carry commercial general liability insurance and commercial automobile liability insurance from a company authorized to issue insurance in Missouri, and to name the Commission, and the Missouri Department of Transportation and its employees, as additional named insureds in amounts sufficient to cover the sovereign immunity limits for Missouri public entities ($500,000 per claimant and $3,000,000 per occurrence) as calculated by the Missouri Department of Insurance, Financial Institutions and Professional Registration, and published annually in the Missouri Register pursuant to Section 537.610, RSMo.

(C) In no event shall the language of this Agreement constitute or be construed as a waiver or limitation for either party's rights or defenses with regard to each party's applicable sovereign, governmental, or official immunities and protections as provided by federal and state constitution or law.

(9) RIGHT OF COMMISSION TO TERMINATE AGREEMENT: Upon written notice to the Grantee, the Commission may suspend or terminate all or part of the financial assistance provided for in this Agreement when the Grantee is, or has been, in violation of any of the terms of this Agreement.

(10) COMMISSION'S REPRESENTATIVE: The Commission's chief engineer is designated as the Commission's representative for the purpose of administering the provisions of this Agreement. The Commission's representative may designate by written notice other persons having the authority to act on behalf of the Commission in furtherance of the performance of this Agreement.

(11) NONDISCRIMINATION CLAUSE: The Grantee shall comply with all state and federal statutes applicable to the Grantee relating to nondiscrimination, including, but not limited to, Chapter 213, RSMo; Title VI and Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. §2000d and §2000e, *et seq*.); and with every applicable provision of the "Americans with Disabilities Act" (42 U.S.C. §12101, *et seq*.).

(12) LAW OF MISSOURI TO GOVERN: This Agreement shall be construed according to the laws of the State of Missouri. The Grantee shall comply with all local, state and federal laws and regulations relating to the performance of this Agreement.

(13) VENUE: It is agreed by the parties that any action at law, suit in equity, or other judicial proceeding to enforce or construe this Agreement, or respecting its alleged breach, shall be instituted only in the Circuit Court of Cole County, Missouri.

(14) NONSOLICITATION: The Grantee warrants that it has not employed or retained any company or person, other than a bona fide employee working for the Grantee, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the Commission shall have the right to annul this Agreement without liability, or in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gifts, or contingent fee.

(15) AMENDMENTS: Any change in this Agreement, whether by modification or supplementation, must be accomplished by a formal contract amendment or supplemental agreement signed and approved by the duly authorized representatives of the Grantee and the Commission.

(16) DISPUTES: Any disputes that arise under this Agreement shall be decided by the Commission or its representative.

(17) LACK OF WAIVER: In no event shall payment of grant funds to the Grantee by the Commission constitute or be construed as a waiver by the Commission of any breach of covenants, or any default which may exist on the part of the Grantee, and the making of any such payment by the Commission while any

such breach or default shall exist shall in no way impair or prejudice any right or remedy available to the Commission with respect to such breach or default.

(18) NOTICES: Any notice or other communication required or permitted to be given hereunder shall be in writing and shall be deemed given three (3) days after delivery by United States mail, regular mail postage prepaid, or upon receipt by personal or facsimile delivery, addressed as follows:

(A) To the Grantee:
City of Joplin
123 S. Main
Joplin, MO 64801
Facsimile No.:417-625-4747

(B) To the Commission:
Missouri Department of Transportation
105 W. Capitol Ave.
Jefferson City, MO 65102
Facsimile No.:573-751-6555

or to such other place as the parties may designate in accordance with this Agreement. To be valid, facsimile delivery shall be followed by delivery of the original document, or a clear and legible copy thereof, within three (3) business days of the date of facsimile transmission of that document.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the parties have entered into this Agreement on the last date written below.

Executed by the Grantee this _____(date).

Executed by the Commission this _____(date).

Missouri Highways and Transportation Commission

_____
Michelle Kratzer
Director, Multimodal Operations

Attest:

_____
Secretary to the Commission

Approved as to Form:

_____
Counsel for the Commission

City of Joplin

By _____

Title _____

Attest:

By _____

Title _____

Approved as to Form:

_____
Counsel

_____
Ordinance Number (if applicable)

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2019-157 – authorizing the City of Joplin to enter into an Airport Agreement with American Airlines, Inc. to establish operational guidelines and fees in the Commercial Terminal at the Joplin Regional Airport; authorizing the City Manager to execute the same by and on behalf of the City of Joplin; and containing an emergency clause.

MEETING DATE
November 18, 2019

ORIGINATING DEPT
Public Works/Airport

ATTACHMENTS
CB2019-157 Ordinance; Airline Operational Agreement

REVIEWED BY
Dept. Head: David Hertzberg; Director of Finance: Leslie Haase; City Attorney: Peter Edwards; Interim City Manager: Dan Pekarek

SUMMARY
This Council Bill approves an Airport Agreement for the operation of commercial Airline service by and between the City of Joplin and American Airlines, Inc.

BACKGROUND
American Airlines is to occupy space and operate commercial air service in the Commercial Terminal Building at the Joplin Regional Airport. This agreement outlines the certain premises and facilities, rights, licenses, services and privileges in connection with and on the Airport, subject to the terms and conditions set forth within the agreement for ticket counter area, office area, and baggage handling area along with the compensation for the ARFF/Security and landing fees.

The lease term is retroactive to begin July 1, 2019 for a term of 5 years.

FUNDING SOURCE
N/A

RECOMMENDATION
Staff recommends adoption of this Council Bill on an Emergency basis, being an Ordinance dealing with a general appropriation, within the meaning of Section 2.12(4) of the Home Rule Charter of the City of Joplin, Missouri, and, as such, this Ordinance shall become effective immediately upon its passage.

COUNCIL BILL NO. 2019-157 **ORDINANCE NO.**

AN ORDINANCE authorizing the City of Joplin to enter into an Airport Agreement with American Airlines, Inc. to establish operational guidelines and fees in the Commercial Terminal at the Joplin Regional Airport; authorizing the City Manager to execute the same by and on behalf of the City of Joplin; and containing an emergency clause.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, as follows:

Section 1. That the agreement by and between the City of Joplin and American Airlines, Inc. for the purpose of establishing operational guidelines and fees in the Commercial Terminal at the Joplin Regional Airport, a true and accurate copy of said agreement being attached hereto and incorporated as "Exhibit A," be and the same is hereby approved.

Section 2. That the City Manager of the City of Joplin, Missouri, or his designee, is hereby authorized and directed to execute said agreement, or agreement in substantially similar form, by and on behalf of the City of Joplin.

Section 3. That the City hereby declares that this Ordinance, being an Ordinance dealing with a general appropriation, is considered an emergency within the meaning of Section 2.12(4) of the Home Rule Charter of the City of Joplin, Missouri, and, as such, this Ordinance shall become effective immediately upon its passage.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____ day of _____, 2019, by a _____ vote.

_____
Gary L. Shaw, Mayor

ATTEST:

_____
Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM

_____
Peter C. Edwards, City Attorney

AIRPORT AGREEMENT

THIS INDENTURE OF LEASE, made and entered into this __ day of _____, 2019 (the "Effective Date") by and between the CITY OF JOPLIN, MISSOURI, a Municipal Corporation (hereinafter called "LESSOR"), and **AMERICAN AIRLINES**, INC., a Delaware corporation (hereinafter called "LESSEE"),

WITNESSETH:

WHEREAS, LESSOR does own and is now operating certain real property located in the County of Jasper, State of Missouri, known as the Joplin Regional Airport (hereinafter called "AIRPORT") and LESSEE is engaged in the business of transporting persons, property, cargo and mail by air; and LESSOR desires to lease and grant, and LESSEE desires to hire and obtain certain premises and facilities on the AIRPORT, together with certain rights, licenses and privileges thereon:

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, LESSOR does hereby demise and let unto LESSEE, and LESSEE does hereby hire and take from LESSOR certain premises and facilities, rights, licenses, services and privileges in connection with and on the AIRPORT, subject to the terms and conditions hereinafter set forth, to wit:

1. PREMISES:

a. Use of AIRPORT. LESSEE shall have the right to use the AIRPORT and its appurtenances including, but not limited to, the landing field, runways, aprons, taxiways, sewage and water facilities, floodlights, landing lights, control tower, signals, radio aids, and all conveniences for flying, landing and takeoffs of aircraft of LESSEE, which shall include:

LESSEE's right to operate a transportation system by aircraft for the carriage of persons, property, cargo, and mail, including without limitation, the landing, take off, parking, servicing, repairing, storing, testing, loading and unloading of LESSEE's aircraft; the right to load and unload persons, property, cargo and mail at the AIRPORT by such motor cars, buses, trucks or other means of conveyance as LESSEE may require in the conduct of its business; and the right to install, maintain, use and operate such fuel, radio communications, meteorological and aerial navigation equipment and facilities, in, on, or about the premises herein leased as may be deemed necessary by LESSEE for its operations, as well as the right to install advertising signs, and the conduct of any other operation or activity reasonably necessary to the conduct by LESSEE of air transportation or training.

b. Exclusive Space in Terminal Building. LESSEE shall have the right to the exclusive use of the following space consisting of 985 square feet, more or less, in the Terminal Building. See Exhibit "B".

c. Nonexclusive Space in Terminal Building. LESSEE shall have the right to the nonexclusive use, in common with other scheduled airlines, of the following space consisting of 860 square feet, more or less, in the Terminal Building. See Exhibit "B".

In addition to the exclusive space leased to LESSEE herein, as detailed in Paragraph 1(b) above, LESSEE shall have the option of taking exclusive use of additional space in any new administration building or passenger terminal building which LESSOR may construct during the term hereof, said space to be mutually agreed upon between LESSOR and LESSEE for such uses as LESSEE finds necessary to its operation of an air transportation system. LESSEE's rights hereunder shall include, without limitation, the right to use the premises demised hereunder for the sale of tickets, manifesting of passengers and cargo, handling of mail, baggage and cargo, and the operation of a traffic, operation and communications office. LESSEE, its employees, passengers, guests, patrons and invitees shall also have the use, in common with others, of any public space now available in the Administration Building, or which may hereafter be made available, including, but not limited to, waiting rooms, restrooms and auto parking space adjacent to the Administration Building.

d. Miscellaneous Rights of LESSEE included but not by Way of Limitation.

LESSEE shall have (1) the right of complete ingress and egress to and from the premises outlined in Paragraphs a, b, and c above, as shall its employees, passengers, guests, patrons, invitees, suppliers of materials and furnishers of service; (2) the right to purchase or otherwise obtain property, facilities or services deemed by LESSEE to be required by, or incident to its operations from any persons or organizations it may choose; (3) except as herein otherwise specifically provided, the right to use the AIRPORT and appurtenances free of any charges or fees by LESSOR of any nature, direct or indirect, or any discriminatory restrictions by LESSOR against LESSEE or its suppliers or contractors of property, facilities or services, for the privilege of using the AIRPORT and appurtenances including, without limitation, the privilege of purchasing, selling, using, storing, withdrawing, handling, consuming, loading, unloading, or delivering any such property or of transporting the same to, from, or on the Airport; and (4) the right to recover from LESSOR any taxes, or special assessments upon the leased premises of an unusual or discriminatory nature, which LESSEE may be required to pay LESSOR during the term of this AGREEMENT and which are not anticipated at the time of the execution of this Agreement. LESSEE shall also have the right to install, at LESSEE's expense, identifying signs on LESSEE's exclusive space in the Terminal Building, the number, type, size, design, and location of all such signs is to be subject to the prior written approval of the AIRPORT Manager, such approval not to be arbitrarily withheld, conditioned or delayed.

2. TERM. This Agreement shall run and be in full force and effect for a period of five (5) years commencing __July 1, 2019__ and ending __June 30, 2024__.

3. RENTALS AND FEES: LESSEE agrees to pay to LESSOR for the use of the premises, facilities, rights, licenses, services and privileges granted hereunder, rentals, fees and charges (there being no other rentals, fees or charges, and no tolls payable by LESSEE unless otherwise specifically provided herein) according to terms specified in Exhibit A, attached hereto, of this Agreement and made a part hereof.

4. ADDITIONAL REPORTS: In the event that LESSOR or any of its agencies or instrumentalities shall, during the term of this Agreement or any extension or renewal thereof, own or operate one or more airports in the vicinity of the City of Joplin, Missouri, in addition to or in lieu of

the AIRPORT, LESSEE shall have the option, by giving written notice to the LESSOR, to hire and take from LESSOR with respect to said additional airport or airports (subject to the same terms and conditions as are provided in this Agreement) exclusive space up to an amount equal to that provided in this Agreement with respect to the AIRPORT, and other premises, facilities, rights, licenses, services and privileges comparable with those provided herein, the rentals, fees and charges for such space, premises, facilities, rights, licenses, services and privileges not to exceed those provided herein.

5. MAINTENANCE OF AIRPORT BY LESSOR: LESSOR shall operate, maintain and keep in good repair the AIRPORT, Administration Building, and all appurtenances, facilities, and services now or hereafter connected with the foregoing, and shall maintain and operate the AIRPORT in all respects in a manner at least equal to the highest standards or ratings for airports of similar size and character issued by the Federal Aviation Administration. Without limiting the generality of the foregoing, the maintenance provided for herein shall include the keeping of runways, aprons, strips, and ramps free of snow and other obstructions insofar as reasonably possible. LESSEE shall maintain its office space in good repair, normal wear and tear, unavoidable incident, and fire excepted (provided, however, that LESSEE shall not be obligated to repair any damages to said office space because of structural defects in the Administration Building); nor shall LESSEE be required to make any substantial repairs, which repairs were not occasioned by damage caused by LESSEE.

6. BUILDING BY LESSEE: LESSEE, at its own expense, may construct, install, alter, modify, repair, and maintain in or on any space, which is or may be exclusively leased by LESSEE hereunder, any buildings, structures or improvements, including equipment and above ground storage tanks that it shall determine to be necessary for use in connection with its business, subject to the approval of the Director of Public Works of the LESSOR, which approval shall not be unreasonably withheld, conditioned or delayed. No restrictions shall be placed upon LESSEE as to the architects, contractors or materialmen who may be employed by it in connection therewith, who shall have free ingress and egress to and from the said premises. LESSOR, at its expense, shall bring or cause to be brought all public utility service up to the property line of all premises leased hereunder on which buildings, structures and improvements have been, or may from time to time be, constructed or installed by LESSEE and LESSEE shall have the right to make connection therewith.

7. NONLIABILITY: LESSOR shall not be liable to LESSEE for any loss of revenue to LESSEE resulting from LESSOR 'S acts, omissions, or neglect in the maintenance of the AIRPORT and its facilities or providing same with utility services. LESSOR shall not be required to perform maintenance and make repairs occasioned by the negligence of LESSEE or its employees, agents, passengers, guests, patrons, invitees, or licensees. If LESSEE shall fail to do anything required to be done by it under the terms of this Agreement, LESSOR may at its sole option after giving sixty (60) days' written notice to LESSEE, do such act or thing on behalf of LESSEE, and upon notification to LESSEE of the cost thereof (including overhead) by LESSOR, LESSEE shall promptly pay LESSOR the amount of that cost.

8. TRASH AND GARBAGE: LESSOR shall provide and use suitable covered metal receptacles for all garbage, trash, and other refuse on or in connection with the leased premises. Piling of boxes, cartons, barrels or other similar items in an unsafe or unsightly manner in or on the leased premises shall not be permitted.

9. LIABILITY: LESSEE agrees to save and keep LESSOR harmless from any and all liability, injury or damage due to the negligence of LESSEE or any of its employees or agents resulting from the use and

occupancy of said premises by said LESSEE; provided, however, that LESSEE shall not be liable for any injuries to or death of persons, or damage to property or loss occasioned by the negligence or willful misconduct of LESSOR, its officials, officers, employees or agents, and that LESSEE shall not be liable for loss and/or damage to LESSOR's property caused by fire or anything covered by an extended coverage endorsement, including vandalism and/or malicious mischief.

In the event the premises covered by this lease are wholly or partially destroyed or damaged so as to render the whole or a substantial part thereof unfit for occupancy, and the same cannot be repaired with reasonable diligence within one hundred and twenty (120) days after the happening of such destruction or damage, then this lease at the option of the LESSEE or LESSOR, shall cease and terminate as of the date of such destruction or damage. Upon such termination, LESSOR shall repay to the LESSEE any rents theretofore paid by LESSEE with respect to any period subsequent to the date of such termination, and thereon LESSEE shall surrender possession of the premises to LESSOR. If such destruction or damage can be repaired within one hundred and twenty (120) days, LESSOR shall forthwith repair the same with all reasonable diligence, and at its own expense, and this lease shall continue in force and effect. During the period of such repair, the rent shall be abated in the same ratio as that portion of the premises, which is rendered unfit for occupancy bearers to the whole.

A. LESSEE, at its expense, shall procure and keep in force at all times during the term of this Agreement from a financially sound and reputable company that has an A.M. Best Company rating of at least an "A-" rating, or similar rating by another insurance rating company, and is and authorized to conduct business and pay claims in the State of Missouri, comprehensive general liability insurance, with independent contractor's coverage and contractual liability endorsement, including but not limited to aircraft liability, airport premises liability, and automobile liability coverage insuring LESSEE, the City of Joplin, and the Airport for bodily injury and property damage, and such other insurance necessary to protect Airport from all such claims and actions described in the preceding subsection. Without limiting its liability, LESSEE agrees to carry and keep in force insurance with single limit liability for bodily injury or death and property damage in a sum not less than $1,000,000.00 per person and $2,500,000.00 per occurrence

B. LESSEE shall furnish current certificates of insurance to LESSOR and LESSOR shall furnish current certificates of insurance to LESSEE as regards fire or extended coverage endorsements, including vandalism and/or malicious mischief.

Said insurance policies shall not be canceled or materially modified or non-renewed except upon thirty (30) days advance written notice to Airport (ten (10) days' notice for non-payment of premium). Coverage is to be written on the broadest liability form that is customarily available at reasonable cost. The insurance carrier shall not avoid liability under such policies by claiming Airport governmental immunity. Airport shall be a named additional insured upon all such policies, but shall have no obligation for the payment of any premiums for such coverage. In the event the scope of the Airport's tort liability as a governmental entity described in

Section 537.600 through .650, RSMo., inclusive, is broadened or increased during the term of this Agreement by subsequent legislative or court action, Airport, upon written notice to LESSEE, may require LESSEE to provide additional coverage sufficient to protect the Airport and the City of Joplin's interests to the extent of any such change. If the Airport's current limitations upon tort liability are abolished entirely, Airport may require LESSEE to provide such coverage to protect the Airport and the City of Joplin's interests as may be reasonable and prudent for the risks associated with the activities allowed under this Agreement. Statutory Workers' Compensation required by the Labor Code of the State of Missouri and Employers' Liability Insurance in an amount not less than $1,000,000 per occurrence. Both the Workers' Compensation and Employers' Liability policies shall contain the insurer's waiver of subrogation in favor of City of Joplin/Joplin Regional Airport, its elected officials, officers, employees, agents and volunteers;

C. Non-limitation. Nothing contained herein shall be deemed to limit or otherwise reduce LESSEE'S liability hereunder to the insurance limits herein provided.

D. Independent Contractor. LESSEE is an independent business and not an agent or employee of Airport with respect to its acts, errors, or omissions.

10. CANCELLATION BY LESSOR: LESSOR may cancel this Agreement by giving LESSEE thirty (30) days' advance written notice, upon or after the happening of any of the following events:

The filing by LESSEE of a voluntary petition in bankruptcy; the adjudication of LESSEE as a bankrupt pursuant to such proceedings; the appointment of a receiver of LESSEE's assets; the divesture of LESSEE's estate herein by other operations of law; the abandonment by LESSEE of its conduct of air transportation at the AIRPORT; the default by LESSEE in the performance of any covenant or agreement herein required to be performed by LESSEE and the failure of LESSEE to remedy such default for a period of thirty (30) days after receipt from LESSOR of written notice to remedy the same; provided, however, that no notice of cancellation, as above provided, shall be of any force or effect if LESSEE shall have remedied the default prior to receipt of LESSOR's notice of cancellation, or if such default cannot be cured within such thirty (30) day period and LESSEE has in good faith commenced and is attempting to remedy same, provided LESSEE promptly remedies such default thereafter.

No waiver of default by LESSOR of any of the terms or conditions hereof to be performed, kept and observed by LESSEE, shall be construed to be or act as a waiver of any subsequent default of any of the terms and conditions herein contained to be performed, kept and observed by LESSEE.

11. CANCELLATION BY LESSEE: LESSEE, in addition to any other rights of

cancellation given herein or by law, may cancel this Agreement in whole or in part (only insofar as it relates to any buildings) and terminate all or any of its obligations hereunder at any time that LESSEE is not in default in its payments to LESSOR, hereunder, by giving LESSOR thirty (30) days' advance written notice, upon or after the happening of any one of the following events:

The order or the action of the Federal Aviation Administration terminating, suspending, or relieving LESSEE's right or obligations to operate into and from the AIRPORT; the termination of LESSEE's obligation or right (imposed by contract or otherwise) to the Federal Government for the carriage of United States airmail to, from, or through the Joplin, Missouri area or its environs, for the receiving and dispatching of United States airmail; the expiration or termination of any Essential Air Service contract (EAS Contract) between LESSEE and the United States Department of Transportation (DOT) or any governmental agency succeeding to the jurisdiction of the DOT, under which EAS Contract LESSEE has or had agreed to provide Essential Air Services to THE CITY OF JOPLIN, Missouri; authorization by the Federal Aviation Administration of another airport for service by LESSEE to Joplin, Missouri; issuance by any court of competent jurisdiction of any injunction in any way preventing or restraining the use of the AIRPORT or any part thereof for AIRPORT purposes, and the remaining in force of such injunction for a period of at least thirty (30) days; any action of the Federal Aviation Administration refusing to permit LESSEE to operate into, from or through the AIRPORT such aircraft as LESSEE may reasonably desire to operate thereon; the breach by LESSOR of any of the covenants or agreements herein contained and the failure of LESSOR to remedy such breach for a period of thirty (30) days after receipt of a written notice of the existence of such breach; the inability of LESSEE to use said premises and facilities continuing for a period of thirty (30) days or more due to (i) any deficiency of the AIRPORT or unsafe condition for operating at the AIRPORT of the type of aircraft then being flown by LESSEE or (ii) any law, order, rule, or regulation of any appropriate governmental authority having jurisdiction over the operations of LESSEE (iii) or war, or other casualty; the assumption by the United States Government or any authorized agency thereof of the operations of the AIRPORT; the erection of any obstacle on or in the vicinity of the AIRPORT, which would occasion a modification of LESSEE's air carrier operating certificate or similar authorization establishing minimum safety standards for the operation of LESSEE.

No waiver of default by LESSEE of any of the terms, covenants or conditions hereof to be performed, kept and observed by LESSOR shall be construed to be or act as a waiver by LESSEE of any subsequent default of any of the terms, covenants and conditions herein contained to be performed, kept and observed by LESSOR.

12. FAVORED NATIONS: Except as provided for under the conditions of an approved air service development program, LESSOR agrees not to enter into any lease, license, contract or other agreement with any other 14 CFR Part 121 scheduled air carrier containing more favorable terms than this Agreement (including its methodology of establishing rates, fees and charges) or to grant to such scheduled air carrier rights or privileges with respect to the AIRPORT that are not accorded to LESSEE hereunder unless the same rights, terms and privileges are concurrently made available to LESSEE. Any scheduled air carrier will be required to lease counter and office space sufficient to support their operation. The foregoing notwithstanding, LESSOR may offer alternate terms to a carrier operating under 14 CFR Part 135, or as a public charter under 14 CFR Chapter II, Subchapter D, Part 380 so long as such charter operates less than once per week.

13. QUIET ENJOYMENT: LESSOR represents that it has the right to lease the

AIRPORT, together with the facilities, rights, licenses and privileges herein granted, and has full power and authority to enter into this Agreement in respect thereof. LESSOR agrees that on payment of the rent and performance of the covenants and agreements hereunder by LESSEE, LESSEE shall peacefully have and enjoy the leased premises and all rights and privileges of the AIRPORT, its appurtenances and facilities.

14. REGULATIONS: LESSEE agrees to observe and obey all reasonable regulations imposed by LESSOR during the term hereof, provided the same are consistent with safety and security and do not conflict with the regulations and procedures prescribed by the Federal Aviation Administration for operations of LESSEE's aircraft at the AIRPORT and further provided same do not conflict with the express terms of this Agreement.

15. LEGAL RESPONSIBILITY: In the event any action, suit or proceeding is brought to collect fees, rents or charges due hereunder, to obtain possession of any premises in the Terminal or Cargo Building used or occupied hereunder, to enforce compliance with the Agreement, or for failure to observe any of the covenants of this Agreement, the prevailing party in such suit or action shall be entitled to such sum as the court may adjudge reasonable as attorney's fees to be allowed in such suit, action or proceeding, or in the event of an appeal as allowed by the appellate court.

16. NOTICES: All notices or other communications relative to matters covered by this Agreement shall be deemed to be properly served if sent by certified mail to the last address previously furnished by the parties hereto. Until hereafter changed by a party by notice in writing to the other party, notices shall be sent to LESSOR addressed to the Public Works Director, 602 South Main Street, Joplin, Missouri, 64801, and to LESSEE addressed to: **AMERICAN AIRLINES**, INC., Attn: Vice President Corporate Affairs, 1 Skyview Drive MD 8E100, FORT WORTH , TX 76155.

17. ASSIGNMENT OF LEASE: LESSEE shall not assign this Agreement or any of its rights hereunder, nor sublet the premises or any part thereof demised hereby, to any person without the written consent of the LESSOR first had and obtained (such consent not to be unreasonably withheld, conditioned or delayed); provided that the foregoing shall not prevent the assignment of this Agreement to any corporation with which LESSEE may merge or consolidate, or which may succeed to the business of LESSEE, or, to which the business and properties of the LESSEE or substantially all of the same may be sold or transferred by the LESSEE.

18. NONDISCRIMINATION:

a. The LESSEE, for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this lease for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the LESSEE shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

b. The LESSEE, for himself, his personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant

running with the land that:

(1) No person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in use of said facilities.

(2) That in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination.

(3) That the LESSEE shall use the premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

19. AFFIRMATIVE ACTION: The LESSEE assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The LESSEE assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. The LESSEE assures that it will require that its covered sub-organizations provide assurances to the LESSEE that they similarly will undertake affirmative action programs and that they will require assurances from their sub-organizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

20. EXCLUSIVE RIGHT:

a. It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of 49 U.S.C. § 40103(e).

b. LESSEE agrees to furnish service on a fair, equal and not unjustly discriminatory basis to all users thereof, and to charge fair, reasonable and not unjustly discriminatory prices for each unit or service; PROVIDED, that LESSEE may make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

21. INVALID PROVISION: It is further expressly understood and agreed by and between the parties hereto that in the event of any covenant, condition or provision herein contained is held to be invalid by any court of competent jurisdiction, the invalidity of any such covenant, condition or provision shall in no way affect any other covenant, condition or provision herein contained; provided, however, that the invalidity of any such covenant, condition or provision does not materially prejudice either the LESSOR or the LESSEE in their respective rights and obligations contained in the valid covenants, conditions or provisions in the Agreement.

22. CHOICE OF LAW: This Agreement has been made, and its validity, performance and effect shall be determined, in accordance with the laws of the State of Missouri and venue for litigation between the parties shall be solely and exclusively in Jasper County, Missouri, or the United States District Court for the Western District of Missouri.

23. HEADINGS: The headings of paragraphs in this Agreement are for convenience only. The headings form no part of this Agreement and shall not affect its interpretation.

24. ENTIRE AGREEMENT: This Agreement (including any Exhibits) contains the entire understanding of the parties with respect to the subject matter hereof. It may not be altered or amended except by an agreement in writing signed by both parties.

25. WAIVER OR BREACH: Waiver of any provision of this Agreement or breach of this Agreement shall not thereafter be deemed to be a consent by the waiving party to any further waiver, modification or breach by the other party, whether new or continuing, of the same or any other covenant, condition or provision of this Agreement. Failure by one of the parties to this Agreement to assert its rights for any breach of this Agreement shall not be deemed a waiver of such rights.

26. REPRESENTATIONS: The signatories hereto represent and warrant that they are fully authorized in the capacities shown and that they are executing the same voluntarily and solely for the consideration described herein.

AMERICAN AIRLINES, INC.

By: _____
Chris Collison, Director- Real Estate

ATTEST:

By: _____
_____, Secretary
(Print Name)

CITY OF JOPLIN, MISSOURI

By: _____
Dan Pekarek, Interm City Manager

ATTEST:

By: _____
Barbara Golhoffer, City Clerk

APPROVED AS TO FORM:

By: _____
Peter Edwards, City Attorney

STATE OF _____)
)
COUNTY OF_____)

On this _____ day of _____, 2019, before me, personally appeared _____, to me known to be the person described in and who acknowledges that he/she, as President of _____, executed the foregoing instrument, and acknowledged that he/she executed the same as his/her free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal in my office in _____, _____, the day and year last above written.

_____
Notary

My Commission Expires:

_____

STATE OF MISSOURI)
)
COUNTY OF JASPER)

On this _____ day of _____, 2019, before me personally appeared Dan Pekarek and to me personally known who being by me duly sworn did state that he is the City Manager of the City of Joplin, Missouri, that the seal affixed to the foregoing instrument is the Corporate Seal of said Corporation, and that said instrument was signed on behalf of said corporation by authority of its City Council pursuant to Ordinance No. _____, passed by the City Council of the City of Joplin, Missouri on _____for the consideration stated therein and no other, and the said City Manager acknowledges said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid the day and year first above written.

_____
Notary

My Commission Expires:_____

EXHIBIT "A"
RENTAL FEES

1. The right to the exclusive use of approximately 985 square feet of ticket counter and office space in the Terminal Building located on the AIRPORT.

LESSEE agrees to pay to LESSOR for the use of 985 square feet of exclusive space located on the first floor of the Terminal Building, from __July 1, 2019__ to __June 30, 2024__, the sum of $14.85 per square foot per annum in monthly installments, covering the preceding fiscal month.

2. The right to the nonexclusive use of 860 square feet of operational and baggage space in the Terminal Building located on the AIRPORT.

LESSEE agrees to pay to LESSOR for the use of 860 square feet of nonexclusive space indicated above, from __July 1, 2019__ to __June 30, 2024__, the sum of $7.50 per square foot per annum in monthly installments, covering the preceding fiscal month.

3. As rental fees and charges for the use of the AIRPORT facilities herein granted, other than those specified above and including the operation of aircraft into, upon and from the AIRPORT, LESSEE shall pay to LESSOR the following charges:

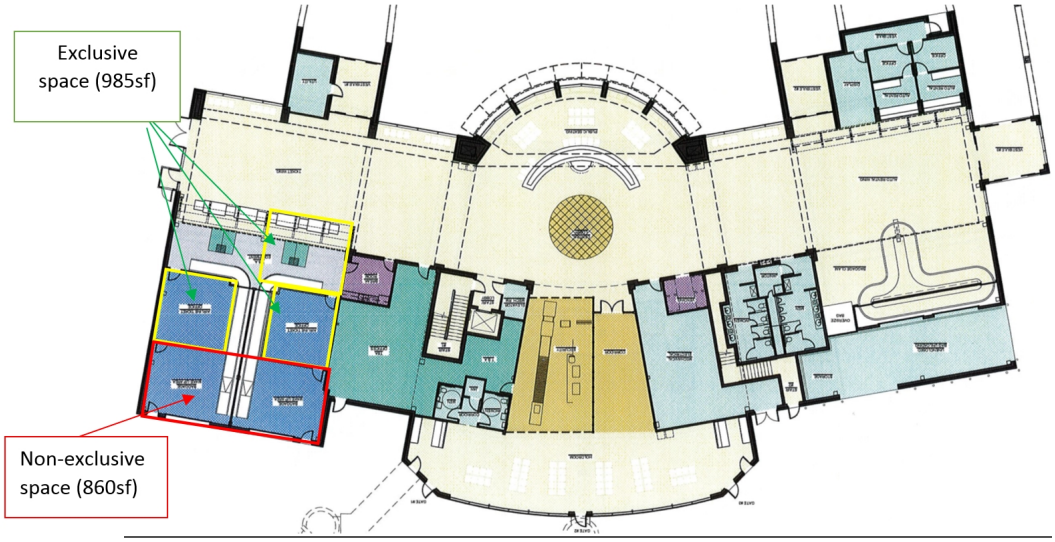
a. From __July 1, 2019__ to __June 30, 2024__, the LESSEE shall pay forty-two ($.42) cents per thousand pounds of maximum gross landing weight over 12,500 pounds on all landings made by an aircraft being used by LESSEE ("Landing Fee"), subject to a minimum Landing Fee of $7.00 per landing.

b. From __July 1, 2019__ to __June 30, 2024__, the LESSEE shall pay, in addition to the Landing Fee set forth above, fifty dollars ($50.00) per landing made by an aircraft being used by LESSEE to help cover the cost of Aircraft Rescue and Firefighting (ARFF) services and AIRPORT security (the "ARFF/Security Fee"). Notwithstanding anything to the contrary contained in the Agreement, including this Exhibit "A", if another 14 CFR Part 121 scheduled air carrier begins operations at the AIRPORT after the Effective Date, the ARFF/Security Fee shall thereupon be reduced to equitably spread the cost of providing such ARFF services and AIRPORT security among all 14 CFR Part 121 scheduled air carriers operating at the AIRPORT.

c. A list of all landings and the specified maximum gross landing weight of the aircraft making such landings shall be submitted to the AIRPORT Manager's Office by the fifth (5th) day of each month, for all landings made during the preceding month. The maximum gross landing weight for aircraft, as used herein, shall be the maximum gross landing weight for such aircraft as determined by the Federal Aviation Administration.

d. All such charges shall be payable in monthly installments covering the preceding fiscal month. LESSOR shall, on or before the tenth (10th) day of each month, transmit to LESSEE a statement of the rentals, fees and charges incurred by LESSEE during the previous month, and the same shall be paid by LESSEE prior to the first day of the following month.

EXHIBIT "B"
EXCLUSIVE and NONEXCLUSIVE SPACE



CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2019-158 – authorizing the City of Joplin to establish the Airport Police Department and empower its Uniformed Officers at the Joplin Regional Airport; authorizing the City Manager to execute the same by and on behalf of the City of Joplin; and containing an emergency clause.

MEETING DATE
November 18, 2019

ORIGINATING DEPT
Public Works/Airport

ATTACHMENTS
CB2019-158 Ordinance

REVIEWED BY
Dept. Head: David Hertzberg; Director of Finance: Leslie Haase; City Attorney: Peter Edwards; Interim City Manager: Dan Pekarek

SUMMARY
The City Council of the City of Joplin does hereby establish the Airport Police Department and empowers its uniformed officers, within their jurisdiction which is defined as the land and improvements known as the Joplin Regional Airport, to preserve peace and order, enforce the ordinances of the city, prevent crime, detect and apprehend violators of all laws and ordinances, regulate traffic and perform such other duties relating to public peace, order, and safety as the city council shall prescribe. The Uniformed Police Officers and other representatives as designated by the Airport Manager are empowered to require compliance with FAA/DHS and City ordinances. The Airport Manager is authorized to interpret and construe the regulations wherever necessary, by directives of general or specific application.

BACKGROUND
In order to operate the Airport Police Department as a separate standalone entity, the Department must be empowered and established by the Joplin City Council under Sec. 22-33 of the City Code. Once the Department has the been formally established, we will apply for an Originating Agency Number (ORI) through the Missouri State Highway Patrol.

FUNDING SOURCE
N/A

RECOMMENDATION
Staff recommends adoption of this Council Bill on an Emergency basis, being an Ordinance dealing with a general appropriation, within the meaning of Section 2.12(4) of the Home Rule Charter of the City of Joplin, Missouri, and, as such, this Ordinance shall become effective immediately upon its passage.

COUNCIL BILL NO. 2019-158 ORDINANCE NO.

AN ORDINANCE authorizing the City of Joplin to establish the Airport Police Department and empower its Uniformed Officers at the Joplin Regional Airport; authorizing the City Manager to execute the same by and on behalf of the City of Joplin; and containing an emergency clause.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, as follows:

Section 1. That City Council of the City of Joplin, in accordance with Section 3.08 of the Joplin City Code, does hereby establish the Airport Police Department and empowers its uniformed officers, within their jurisdiction which is defined as the land and improvements known as the Joplin Regional Airport, to preserve peace and order, enforce the ordinances of the city, prevent crime, detect and apprehend violators of all laws and ordinances, regulate traffic, and perform such other duties relating to public peace, order, and safety as the city council shall prescribe. The Uniformed Police Officers and other representatives as designated by the Airport Manager are empowered to require compliance with FAA/DHS and City ordinance. The Airport Manager is authorized to interpret and construe the regulations wherever necessary, by directives of general or specific application.

Section 2. That the City hereby declares that this Ordinance, being an Ordinance dealing with a general appropriation, is considered an emergency within the meaning of Section 2.12(4) of the Home Rule Charter of the City of Joplin, Missouri, and, as such, this Ordinance shall become effective immediately upon its passage.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____ day of _____, 2019, by a _____ vote.

_____
Gary L. Shaw, Mayor

ATTEST:

_____
Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM

_____
Peter C. Edwards, City Attorney

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2019-522 – Approving a request to grant a 2% wage increase to various council employees on their anniversary date.

MEETING DATE
November 18, 2019

ORIGINATING DEPT
Finance

ATTACHMENTS
CB 2019-522 Ordinance; Exhibit "A" Council Employee Raise

REVIEWED BY
Department Head: Leslie Haase; City Attorney: Peter Edwards; City Manager: Dan Pekarek

SUMMARY
This Council Bill approves a wage adjustment for the City Attorney, City Clerk and Public Defender as Council employees on their anniversary dates to correspond with the step increase granted for city employees.

BACKGROUND
In July of 2018, council adopted a new step pay plan for city employees effective in August. The new pay plan includes 2% between steps. For fiscal year 2020, eligible city employees are receiving the 2% step increase on their anniversary date.

Council employees are not included in the Salary Administration Plan. Wage increases for council employees are granted through a separate ordinance. As such, this ordinance approves a corresponding 2% wage increase for certain council employees on their anniversary dates as shown in Exhibit "A".

FUNDING SOURCE
The council employee raises are included in the FY 2020 general fund budget.

RECOMMENDATION
Staff recommends approval of this council bill on an emergency basis.

COUNCIL BILL NO. 2019-522 **ORDINANCE NO**.

AN ORDINANCE adopting and establishing pay rates for certain Unclassified Council Employees; and, containing an emergency clause.

WHEREAS, the Council of the City of Joplin, Missouri, desires to grant a wage increase of 2% for the City Attorney, City Clerk and the Public Defender on their anniversary dates to correspond with the step increase granted to city employees for fiscal year 2020; and,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, as follows:

Section 1. That the Annual Salary for the City Attorney, City Clerk and the Public Defender be increased as shown in Exhibit "A".

Section 2. That additional compensation to members of the Unclassified service shall be based upon length of service and paid in accordance with the Longevity Pay Plan currently in effect.

Section 3. That this Ordinance, being an Ordinance affecting current expenditures of the City government and having to do with the expenditure of public funds, is an emergency within the meaning of Section 2.12(3)(4) of the HOME RULE CHARTER of the City of Joplin, Missouri, and as such shall become effective immediately upon its approval and passage.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____

day of _____, 2019, by a _____ vote.

_____
Gary L. Shaw, Mayor

ATTEST:

_____
Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

EXHIBIT "A"

CITY OF JOPLIN
COUNCIL EMPLOYEE ANNUAL PAY
1-Nov-19

POSITION	NAME	PERCENTAGE INCREASE	EFFECTIVE DATE
CITY ATTORNEY	EDWARDS, PETER	2.0%	18-Aug-20
CITY CLERK	GOLLHOFER, BARBARA	2.0%	3-Jan-20
PUBLIC DEFENDER	BHEND, JON	2.0%	1-Jan-20

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2019-532 – Approving a budget amendment for FY 2020

MEETING DATE
November 18, 2019

ORIGINATING DEPT
Finance

ATTACHMENTS
CB 2019-532 Ordinance; Schedule "A" Budget Amendment

REVIEWED BY
Department Head: Leslie Haase; City Attorney: Peter Edwards; Interim City Manager: Dan Pekarek

SUMMARY
This Council Bill amends the adopted 2019-2020 Budget of the City of Joplin.

BACKGROUND
In compliance with Charter regulations and accounting principles, the proposed adjustment is required to ensure that department expenditures do not exceed approved budget appropriations.

Here is the explanation for the items in Schedule A:

- Amend the CVB budget in the amount of $200,000.00 for a portion of the airport flight revenue guarantee as discussed at a May council work session.
- Amend the TST budget in the amount of $200,000.00 for a portion of the airport flight revenue guarantee as discussed at a May council work session.
- Amend the Airport budget revenue in the amount of $600,000.00 to reflect the city portion and the Chamber portion of the airport flight revenue guarantee. Amend the Airport expense budget in the amount of $600,000.00 for the flight revenue guarantee.

The purpose of the budget amendment is to recognize changes that have occurred since the annual budget was adopted. This budget amendment increases revenues by $600,000.00 and expenses by $1,000,000.00.

FUNDING SOURCE
This item is not applicable for budget amendments.

RECOMMENDATION
Staff recommends approval of this council bill on an emergency basis.

COUNCIL BILL NO. 2019-532 **ORDINANCE NO.**

AN ORDINANCE amending the Annual Budget of the City of Joplin for the Fiscal Year 2019-2020 as adopted by Ordinance 2019-166 on October 21, 2019, to adjust appropriations and containing an emergency clause.

WHEREAS, the City of Joplin, Missouri passed Ordinance 2019-166 on October 21, 2019, which estimated revenues and appropriated funds for the fiscal year 2019-2020, and

WHEREAS, the Council of the City of Joplin has previously approved the programs and projects which require additional appropriations for completion.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, as follows:

Section 1. That fiscal year 2019-2020 budgeted appropriations as adopted by Ordinance 2019-166 be amended by increasing revenue by the total amount of Six Hundred Thousand Dollars and No Cents ($600,000.00) and by increasing appropriations by the total amount of One Million Dollars and No Cents ($1,000,000.00) for the purposes and amounts as shown in Schedule "A" attached hereto.

Section 2. That the Director of Finance is hereby directed to make all necessary entries on the City records to show the increase in appropriations.

Section 3. This Ordinance is declared by the City Council to be an emergency within this meaning of Section 2.12 (4), of the Home Rule Charter of the City of Joplin, Missouri, in order to continue the day-to-day operations of the City and as such shall become effective immediately upon its passage.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____ day

of _____, 2019, by a _____vote.

_____
Gary L. Shaw, Mayor

ATTEST:

_____
Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

SCHEDULE A

CITY OF JOPLIN
BUDGET AMENDMENT
2019-2020 ADOPTED BUDGET
18-Nov-19

FUND	ACTIVITY	ACCOUNT	DESCRIPTION		REVENUES	EXPENDITURES
105	CVB Fund					
	Transfers Out	105-4001-560-9035	Airport Subsidy	$	-	200,000
	Total CVB Fund			$	-	200,000
140	TST Fund					
	Transfers Out	140-9003-530-9040	Airport Subsidy	$		200,000
	Total TST Fund			$	-	200,000
405	Airport Fund					
	Other Income	405-0000-450-0629	Flight Revenue Guarantee	$	600,000	
	Airport Operations	405-5004-520-7090	Flight Revenue Guarantee			600,000
	Total Airport Fund			$	600,000	600,000
	Grand Total			$	600,000	1,000,000

City of Joplin **City Council Agenda Item**

REQUESTED COUNCIL MEETING DATE: November 18, 2019 (Ch 100 hearing/1st reading)
December 2, 2019 (final readings)

ITEM: Council Bill No. 2019-009 approving a Chapter 100 plan, authorizing the City of Joplin, Missouri, to issue its Taxable Industrial Development Revenue Bonds and authorizing the execution of other documents connected therewith.

ORIGINATING DEPARTMENT: Legal Department
ATTACHMENTS: Council Bill No. 2019-009; copy of Chapter 100 Plan, Bond Purchase Agreement; Trust Indenture; Lease Agreement; Performance Agreement.

DEPARTMENT HEAD:	Peter C. Edwards	**DATE:**
CITY MANAGER:	Daniel Pekarek	**DATE:**
PUBLIC WORKS:	David Hertzberg	**DATE:**
FINANCE DIRECTOR:	Leslie Haase	**DATE:**

INTRODUCTION:

The Council Bill approves a plan for industrial development, or "Chapter 100 plan"; authorizes the execution of documents; and authorizes the issuance of Bonds for the purpose of acquiring, constructing, improving, purchasing, equipping and installing a new warehouse and distribution facility (the "Project") for Casey's Marketing Company (the "Company"), an affiliate of Casey's General Stores, Inc. The Project will be located at 2715 Prosperity Road, Joplin, Missouri (the "Project Site") and used in the storage and distribution of products for the Company's various retail stores. The Council Bill authorizes the City to enter into certain agreements in connection with the issuance of the Bonds.

DISCUSSION:

The project involves the construction of a 200,000 (approx.) square foot facility with an estimated cost of $40,900,000 for land and real property improvements (the "Project Improvements") and the acquisition and installation of approximately $10,400,000 in equipment and other personal property (the "Project Equipment").

No Abatement on Land Value

The Project Site will not be subject to abatement. The Company will pay a fixed schedule of payments in lieu of taxes ("PILOTs") calculated to equal 100% of the estimated taxes that would otherwise be due on the land were it not for the Chapter 100 incentive. The PILOT for 2020 will be $915 and will increase by 2% in each odd year so that the final PILOT in 2033 will be $1,051.

Abatement on Project Improvements

The Project Improvements will be subject to 100% abatement starting in 2019 or 2020 (depending on the issue date of the Chapter 100 Bonds) and ending with tax year 2033. This is calculated to provide 12 years of abatement after completion of the Project Improvements. The estimated value of abatement for the Project Improvements is $1,532,187.

Abatement on Project Equipment

The Project Equipment will be subject to 100% abatement for five years, on a rolling basis, meaning that Project Equipment purchased in 2021 will receive abatement for tax years 2022, 2023, 2024, 2025 and 2026 and go on the tax rolls starting with tax year 2027, and Project Equipment purchased in subsequent years will receive five years of abatement in a similar manner. The estimated value of abatement for the Project Equipment is $377,116.

Total Chapter 100 Incentive

The Company will also receive the benefit of applying the City's tax exemption certificate to purchases of construction materials for the Project and purchases of certain personal property approved by the Missouri Department of Economic Development ("DED"). Because DED has not yet approved the personal property that may be acquired, it is not possible to estimate that portion of the incentive. The total estimated benefit of the local portion of the Chapter 100 incentive to the Company is as follows:

Abatement on Project Improvements	$1,532,187
Abatement on Project Equipment	377,116
Sales Tax Exemption – Construction Materials	926,000
Total Estimated Local Incentive	$2,835,303

Jobs and Wage Requirements

The Company is expected to add 108 jobs to the Joplin economy in connection with the Project. Under the Performance Agreement, the Company is required to create 100 jobs at the Facility in order to retain the abatement at the levels described above. The jobs must pay an average wage of $39,816 (the county average wage), which is increased with inflation every other year, and the Company must cover at least 50% of the employees' health insurance premiums. If these requirements are not met, the Company will be required to make penalty payments to the taxing jurisdictions proportionate to the percentage of failure. Additionally, if the Company ceases invests less than 80% of the amounts discussed above in the Project, the Company will be required to make penalty payments to the taxing jurisdictions proportionate to the percentage of under-investment.

Other Benefits to the Joplin Area

The Company has represented that it will utilize local contractors and suppliers to the greatest degree possible, so long as pricing, availability, and timing align with project goals. Additionally, the Company represents itself as a great community partner that has a long-standing reputation of giving back to communities in which its facilities are located. The Company represents that last year it contributed $4.5 Million to various community and charitable organizations and events.

Chapter 100 Bonds

Chapter 100 Bonds will be offered at a public sale in accordance with the City's charter. It is anticipated that the Company or an affiliate or a related entity will place a bid to purchase the Bonds in the estimated aggregate principal amount of $51,400,000 to pay for the project costs and the costs of completing the Chapter 100 Bond transaction.

Chapter 100 Bonds are authorized pursuant to Chapter 100 of the Missouri Revised Statutes. This tax abatement tool provides for the City to be the actual owner of the Project. The Project is then leased to the Company. During the time the Bonds remain unpaid and the City owns the Project, it is exempt from property taxes because title is held by the City as a tax-exempt entity. Chapter 100 Bonds are paid solely from revenue received from the lease of the Project and such Bonds are not an obligation or debt of the City, except for the obligation to apply lease payments to the bond debt service. Thus, in the unlikely event that the Company was to default on the payment of its obligations under the Bond documents, the City is not liable to make such payments from any source other than revenue received from the lease. In addition, because such Bonds do not constitute a debt of the City within the meaning of any constitutional or statutory limitation, the bonding capacity of the City is not affected by their issuance.

Under the Bond documents, the Company agrees to indemnify the City against any losses or liability that might arise out of the City's ownership of the Project. The Company is also required to carry liability insurance to cover the City in an amount equal to the Missouri limits for waiver of sovereign immunity.

RECOMMENDATION:

Staff recommends this council bill be placed on First Reading.

`

NOTICE TO TAXING JURISDICTIONS ON ATTACHED LIST

Re: Notice of Public Hearing – Industrial Development Project

On behalf of the City of Joplin, Missouri (the "City"), please find enclosed a copy of the proposed Plan for Industrial Development Project for a Distribution Facility (the "Plan"), which also contains a Cost Benefit Analysis on the affected taxing jurisdictions.

The City anticipates considering the first reading of an ordinance to approve the Plan following a public hearing on the Plan at a meeting on Monday, November 18, 2019 at 6:00 PM at City Hall located at 602 S. Main St., Joplin, MO 64801.

The City invites all affected taxing districts to attend the public hearing and to make oral comments on the proposed Plan to the City or to provide written comments to the City on the Plan prior to the hearing. All comments of the taxing districts will be fairly and duly considered by the City.

A copy of the Plan and Cost Benefit Analysis for the proposed project is enclosed and also will be on file in the office of the City Clerk and will be available for public inspection during normal business hours.

Any questions should be directed to Tobias Teeter, President of The Joplin Area Chamber of Commerce, at 417-625-6600.

Dated: October 28, 2019

CITY OF JOPLIN, MISSOURI
602 S. Main St.
Joplin, MO 64801

TAX ENTITY MAILING LIST

Jasper County, Missouri Presiding Commissioner Jasper County Courthouse 302 South Main Street, Room 101 Carthage, MO 64836	**Jasper County Assessor** Jasper County Courthouse 302 S. Main, Room 201B Carthage, MO 64836
Jasper County Collector Jasper County Courthouse 302 S. Main-Room 107 Carthage, MO 64836	**Jasper County Mental Health Fund Board** Attn: Neina Bellm P. 0. Box 2526 Joplin, MO 64803
City of Joplin, Missouri City Clerk 602 S. Main St. Joplin, MO 64801	**Jasper County Sheltered Facilities Board** Attn: Alecia Archer 1727 W 26th St. Joplin, MO 64804
Joplin Schools Board of Education Attn: Superintendent 825 Pearl Ave Joplin, MO 64801	**Joplin Special Road District** 1016 Picher Joplin, MO 64801
Missouri Department of Revenue Tax Administration Bureau Harry S Truman State Office Building 301 West High Street Jefferson City MO 65101 1-573-751-4249	**Department of Economic Development** Development Finance Missouri Department of Economic Development 301 West High Post Office Box 118 – Room 770 Jefferson City MO 65102 1-573-751-4962
Missouri Department of Economic Development Director Post Office Box 118 – Room 770 Jefferson City MO 65102 1-573-751-4962	**Missouri Department of Revenue** County Tax Section State Blind Pension Fund Harry S Truman State Office Building *P.O. Box 453* 301 West High Street Jefferson City MO 65101

BEFORE THE

CITY COUNCIL

OF THE

CITY OF JOPLIN, MISSOURI

PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT FOR A DISTRIBUTION FACILITY (HEARTHSTONE PROJECT)

October 28, 2019

PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT
FOR A DISTRIBUTION FACILITY

TO: THE CITY COUNCIL OF THE CITY OF JOPLIN, MISSOURI

A plan for an industrial development project as described herein has been proposed to the City of Joplin, Missouri (the "City"), for approval, to be carried out pursuant to Article VI, Section 27(b) of the Missouri Constitution, as amended, Sections 100.010 to 100.200, inclusive, of the Missouri Revised Statutes, as amended, and in support of said application the following is submitted:

1. Description of the Project. The Project consists of acquiring, constructing, improving, purchasing, equipping and installing a warehouse and distribution facility on approximately 40 acres of land in the City, including the land and associated buildings, structures, fixtures and equipment (the "Project"). The Project is designed to be used for the storage and distribution of inventory for a regional retail chain. The Project will be located at 2715 Prosperity Road, Joplin, Missouri, and will be operated for commercial purposes.

2. Estimate of the Cost of the Project. The total cost of the Project is estimated to be $51,300,000 (approximately $40,900,000 for land and real property improvements and approximately $10,400,000 for personal property). The Project involves the acquisition of real property and the construction of a warehousing and distribution facility enclosing approximately 200,000 square feet of space. The personal property to be acquired will be installed in the facility.

3. Source of Funds to be Expended for the Project. The source of funds to be expended for the Project will be the proceeds of $51,400,000 estimated aggregate principal amount of taxable industrial revenue bonds in one or more series (collectively, the "Bonds"), to be issued by the City for the Project and to pay costs of issuing the Bonds.

4. Statement of the Terms Upon Which the Project is to be Leased and Otherwise Disposed of by the City. The City will take title to the land underlying the Project. The Project will be leased by the City (with an option to purchase the City's interest in the Project) to a company (the "Company"). The lease payments collectively will equal the principal and interest on the Bonds plus certain payments in lieu of taxes, as applicable. The Bonds will be payable solely from the revenues derived by the City from the lease to the Company or other disposition of the Project and the Bonds will not be an indebtedness or general obligation, debt or liability of the City.

5. Bond Purchase Arrangements. The Bonds will be offered at a public sale in accordance with the City's charter. It is anticipated that the Company or an affiliate or a related entity will place a bid to purchase the Bonds in the estimated aggregate principal amount of $51,400,000.

6. Affected School District, Community College District, County, City and Emergency Services District. The Joplin R-VIII School District of Jasper County, Missouri; the City; and Jasper County, Missouri, will be affected by the Project as well as the other taxing jurisdictions shown on the attached Cost Benefit Analysis. There is no community college district affected by the Project. No ambulance district board operating under chapter 190 or fire protection district board operating under chapter 321 is affected by the Project.

7. **Equalized Assessed Valuation.** The most recent equalized assessed valuation of the real property underlying the Project is $6,020 (2019). The most recent equalized assessed valuation of the personal property to be included in the Project is $-0-. The total equalized assessed valuation of the real property and improvements included in the Project after construction is estimated at $2,256,374. The total equalized assessed valuation of the personal property to be included in the Project is estimated at $2,752,833.

8. **Cost/Benefit Analysis.** Attached hereto as **Exhibit A** is the Cost Benefit Analysis for the affected taxing jurisdictions, which assumes a total period of 12 years of tax abatement from the first year in which real property improvements will be completed and subject to taxation, at a rate of 100% abatement. Personal property acquired as part of the Project will be subject to 100% abatement for a period of 5 years.

9. **Payments in Lieu of Taxes.** The Company will agree to make payments in lieu of taxes during each year in which title to the Project is held by the City. The amounts shown below represent the value of such payments in lieu of taxes. The payments in lieu of taxes represent the value of taxes that would have been due on the land underlying the Project (which land is not subject to abatement pursuant to this Plan).

	Year	Payment in Lieu of Taxes
Pre-Construction	2019	$282
Construction phase	2020	915
Construction phase	2021	933
Abatement Year 1	2022	933
Abatement Year 2	2023	952
Abatement Year 3	2024	952
Abatement Year 4	2025	971
Abatement Year 5	2026	971
Abatement Year 6	2027	990
Abatement Year 7	2028	990
Abatement Year 8	2029	1,010
Abatement Year 9	2030	1,010
Abatement Year 10	2031	1,030
Abatement Year 11	2032	1,030
Abatement Year 12	2033	1,051

10. Sales and Use Tax Exemption on Construction Materials. Qualified building materials purchased for the construction of the Project are expected to be exempt from sales and use tax pursuant to the provisions of Section 144.062 of the Revised Statutes of Missouri and the underlying bond documents upon delivery of a project exemption certificate by the City to the Company. For purposes of determining the impact of the sales and use tax exemption of the qualified building materials on the affected taxing jurisdictions, the following assumptions were made:

Total Amount of qualified building materials:	$17,800,000
Amount to be purchased within the State of Missouri (but outside Jasper County):	6,900,000
Amount to be purchased within Jasper County (but outside City of Joplin):	1,000,000
Amount to be purchased within the City of Joplin:	4,200,000

Please note that any variance in these assumptions will alter the fiscal impact of the sales and use tax exemptions on the affected taxing jurisdictions.

Based on the assumptions set forth above, the fiscal impact on the affected taxing jurisdictions of the sales and use tax exemption on qualified building materials is as follows:

	Sales Tax Rate	Estimated Sales Tax Revenues Subject to Exemption	Use Tax Rate	Estimated Use Tax Revenues Subject to Exemption
State of Missouri	4.225%	$511,225	4.225%	$240,825
City of Joplin				
General Revenue	1.000	42,000	0	0
Capital Improvement	0.375	15,750	0	0
Public Safety	0.500	21,000	0	0
Parks & Stormwater	0.250	10,500	0	0
Transportation	0.500	21,000	0	0
Jasper County				
General Revenue	0.375	19,500	0	0
General - Bridge	0.250	13,000	0	0
Emergency Services	0.100	5,200	0	0
Law Enforcement	0.250	13,000	0	0
Juvenile Center / Courthouse	0.250	13,000	0	0
Total	8.075%	$685,175	4.225%	$240,825

11. **Application for Sales and Use Tax Exemption on Personal Property.** The Company intends to apply to the Missouri Department of Economic Development ("DED") for certification of the extent to which eligible tangible personal property integral to the company's activities at the Project qualifies for exemption from sales and use tax. DED, through its internal review procedures, will determine the dollar amount of purchases that may qualify for the exemption, which exemption will be contingent upon compliance with DED procedures and ultimate approval by DED of the Company's application for exemption. The Company does not anticipate that a significant portion of the acquisitions will occur within Jasper County or even the State of Missouri based on the specialized nature of the personal property to be acquired. For this reason, and due to the lack of a use tax imposed within the City or Jasper County, any personal property exemption that may be approved by DED is not anticipated to have a significant effect on local sales or use tax.

* * *

EXHIBIT A

COST/BENEFIT ANALYSIS

The accompanying spreadsheet shows the detailed cost/benefit amounts of the proposed Project. It assumes a fixed schedule of payments in lieu of taxes for real property taxes relating to the land included in the Project for the duration of the abatement period for the real property. No payments in lieu of tax will be made with respect to the improvements or personal property included in the Project.

The personal property is assumed to be depreciated over a 7 year period. The depreciated value of personal property is based on depreciation schedules designated by Section 137.122 of the Revised Statutes of Missouri for such property.

The 2019 ad valorem tax levy rates were utilized for all taxing jurisdictions. Amounts shown as payments in lieu of taxes attributable to any particular taxing jurisdiction are subject to change based on the then-current levy rates of all relevant taxing jurisdictions.

City of Joplin, Missouri
(Hearthstone Project)

COST BENEFIT ANALYSIS
PLAN FOR INDUSTRIAL DEVELOPMENT PROJECT

GILMORE BELL
GILMORE & BELL, P.C.

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This information is provided based on the factual information and assumptions provided to Gilmore & Bell, P.C. by a party to or a representative of a party to the proposed transaction. This information is intended to provide factual information only and is provided in conjunction with our legal representation. It is not intended as financial advice or a financial recommendation to any party. Gilmore & Bell, P.C. is not a financial advisor or a "municipal advisor" as defined in the Securities Exchange Act of 1934, as amended.

Project Assumptions

- Appraised value of property improvements $ 7,000,000
- Appraised value of personal property $ 9,250,000
- Bi-annual growth rate of appraised value of site 2.0%
- Assessed value as a percentage of appraised value (Agricultural) - 2019 12.0%
- Assessed value as a percentage of appraised value (Commercial) 32.0%
- Assessed value as a percentage of appraised value (Personal Property) 33.33%
- 2019 Assessed value of project site (Agricultural) $ 6,020
- 2020 Assessed value of project site (Commercial) $ 16,053
- 2021 Assessed value of project site (Commercial) $ 16,374
- Assessed value of property improvements $ 2,240,000
- Terms of abatement:

Site	
Years 1 to 15	0%
Commercial property improvements	
Years 1 to 12	100%
Personal property	
Years 1 to 5	100%

- Personal Property is depreciated using the following 7 year recovery period schedule:

Year	Recovery Period in Years					
	3	5	7	10	15	20
0	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%
1	75.00%	85.00%	89.29%	92.50%	95.00%	96.25%
2	37.50%	59.50%	70.16%	78.62%	85.50%	89.03%
3	12.50%	41.65%	55.13%	66.83%	76.95%	82.35%
4	5.00%	24.99%	42.88%	56.81%	69.25%	76.18%
5	5.00%	10.00%	30.63%	48.07%	62.32%	70.46%
6	5.00%	10.00%	18.38%	39.33%	56.09%	65.18%
7	5.00%	10.00%	10.00%	30.59%	50.19%	60.29%
8	5.00%	10.00%	10.00%	21.85%	44.29%	55.77%
9	5.00%	10.00%	10.00%	15.00%	38.38%	51.31%
10	5.00%	10.00%	10.00%	15.00%	32.48%	46.85%
11	5.00%	10.00%	10.00%	15.00%	26.57%	42.38%
12	5.00%	10.00%	10.00%	15.00%	20.67%	37.92%
13	5.00%	10.00%	10.00%	15.00%	15.00%	33.46%
14	5.00%	10.00%	10.00%	15.00%	15.00%	29.00%
15	5.00%	10.00%	10.00%	15.00%	15.00%	24.54%
16	5.00%	10.00%	10.00%	15.00%	15.00%	20.08%
17	5.00%	10.00%	10.00%	15.00%	15.00%	20.00%

Summary of Tax Impact Analysis
(Real and Personal Property)

Taxing Jurisdiction	Tax Rate	Projected Tax Revenues for Site Without Project	Projected PILOT Amount With Project	Projected Tax Revenue With Project (No Abatement)	Value of Abatement
State Blind Pension	0.0300	$ 29	$ 74	$ 10,803	$ 10,729
Jasper County	0.1195	115	295	43,031	42,735
Sheltered Workshop	0.0865	83	214	31,148	30,934
Mental Health	0.0865	83	214	31,148	30,934
R-VIII School District	3.6964	3,564	9,133	1,331,036	1,321,902
Joplin Road District	0.2270	219	561	81,740	81,179
City of Joplin	0.4342	419	1,073	117,786	116,713
Surtax	1.0200	-	2,459	276,635	274,176
	5.7001	$ 4,513	$ 14,023	$ 1,923,326	$ 1,909,303

Projected Tax Revenues for Site Without Project

Estimated Assessed Value of Project Site Without Project		$ 6,020	$ 6,020	$ 6,140	$ 6,140	$ 6,263	$ 6,263	$ 6,388	$ 6,388
Taxing Jurisdiction	Tax Rate per $100	2019	2020	2021	2022	2023	2024	2025	2026
State Blind Pension	0.0300	$ 2	$ 2	$ 2	$ 2	$ 2	$ 2	$ 2	$ 2
Jasper County	0.1195	7	7	7	7	7	7	8	8
Sheltered Workshop	0.0865	5	5	5	5	5	5	6	6
Mental Health	0.0865	5	5	5	5	5	5	6	6
R-VIII School District	3.6964	223	223	227	227	232	232	236	236
Joplin Road District	0.2270	14	14	14	14	14	14	15	15
City of Joplin	0.4342	26	26	27	27	27	27	28	28
	4.6801	$ 282	$ 282	$ 287	$ 287	$ 293	$ 293	$ 299	$ 299

Estimated Assessed Value of Project Site Without Project		$ 6,516	$ 6,516	$ 6,647	$ 6,647	$ 6,779	$ 6,779	$ 6,915	
Taxing Jurisdiction	Tax Rate per $100	2027	2028	2029	2030	2031	2032	2033	Total
State Blind Pension	0.0300	$ 2	$ 2	$ 2	$ 2	$ 2	$ 2	$ 2	$ 29
Jasper County	0.1195	8	8	8	8	8	8	8	115
Sheltered Workshop	0.0865	6	6	6	6	6	6	6	83
Mental Health	0.0865	6	6	6	6	6	6	6	83
R-VIII School District	3.6964	241	241	246	246	251	251	256	3,564
Joplin Road District	0.2270	15	15	15	15	15	15	16	219
City of Joplin	0.4342	28	28	29	29	29	29	30	419
	4.6801	$ 305	$ 305	$ 311	$ 311	$ 317	$ 317	$ 324	$ 4,513

Projected Tax Revenues for Site Only (Assuming Project Occurs)

Estimated Assessed Value of Site Only (Assuming Project Occurs)		$ 6,020	$ 16,053	$ 16,374	$ 16,374	$ 16,701	$ 16,701	$ 17,036	$ 17,036
Taxing Jurisdiction	Tax Rate per $100	2019	2020	2021	2022	2023	2024	2025	2026
State Blind Pension	0.0300	$ 2	$ 5	$ 5	$ 5	$ 5	$ 5	$ 5	$ 5
Jasper County	0.1195	7	19	20	20	20	20	20	20
Sheltered Workshop	0.0865	5	14	14	14	14	14	15	15
Mental Health	0.0865	5	14	14	14	14	14	15	15
R-VIII School District	3.6964	223	593	605	605	617	617	630	630
Joplin Road District	0.2270	14	36	37	37	38	38	39	39
City of Joplin	0.4342	26	70	71	71	73	73	74	74
Surtax	1.0200	-	164	167	167	170	170	174	174
	5.7001	$ 282	$ 915	$ 933	$ 933	$ 952	$ 952	$ 971	$ 971

Estimated Assessed Value of Site Only (Assuming Project Occurs)		$ 17,376	$ 17,376	$ 17,724	$ 17,724	$ 18,078	$ 18,078	$ 18,440	
Taxing Jurisdiction	Tax Rate per $100	2027	2028	2029	2030	2031	2032	2033	Total
State Blind Pension	0.0300	$ 5	$ 5	$ 5	$ 5	$ 5	$ 5	$ 6	$ 74
Jasper County	0.1195	21	21	21	21	22	22	22	295
Sheltered Workshop	0.0865	15	15	15	15	16	16	16	214
Mental Health	0.0865	15	15	15	15	16	16	16	214
R-VIII School District	3.6964	642	642	655	655	668	668	682	9,133
Joplin Road District	0.2270	39	39	40	40	41	41	42	561
City of Joplin	0.4342	75	75	77	77	79	79	80	1,073
Surtax	1.0200	177	177	181	181	184	184	188	2,459
	5.7001	$ 990	$ 990	$ 1,010	$ 1,010	$ 1,030	$ 1,030	$ 1,051	$ 14,023

Projected Tax Revenues Without Abatement
on Project Improvements

Estimated Assessed Value of Project Improvements		$2,240,000	$2,240,000	$2,240,000	$2,240,000	$2,240,000	$2,240,000	$2,240,000	$2,240,000	$2,240,000	$2,240,000	$2,240,000	$2,240,000	
Taxing Jurisdiction	Tax Rate per $100	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	Total
State Blind Pension	0.0300	$ 672	$ 672	$ 672	$ 672	$ 672	$ 672	$ 672	$ 672	$ 672	$ 672	$ 672	$ 672	$ 8,064
Jasper County	0.1195	2,677	2,677	2,677	2,677	2,677	2,677	2,677	2,677	2,677	2,677	2,677	2,677	32,122
Sheltered Workshop	0.0865	1,938	1,938	1,938	1,938	1,938	1,938	1,938	1,938	1,938	1,938	1,938	1,938	23,251
Mental Health	0.0865	1,938	1,938	1,938	1,938	1,938	1,938	1,938	1,938	1,938	1,938	1,938	1,938	23,251
R-VIII School District	3.6964	82,799	82,799	82,799	82,799	82,799	82,799	82,799	82,799	82,799	82,799	82,799	82,799	993,592
Joplin Road District	0.2270	5,085	5,085	5,085	5,085	5,085	5,085	5,085	5,085	5,085	5,085	5,085	5,085	61,018
City of Joplin	0.4342	9,726	9,726	9,726	9,726	9,726	9,726	9,726	9,726	9,726	9,726	9,726	9,726	116,713
Surtax	1.0200	22,848	22,848	22,848	22,848	22,848	22,848	22,848	22,848	22,848	22,848	22,848	22,848	274,176
	5.7001	$ 127,682	$ 127,682	$ 127,682	$ 127,682	$ 127,682	$ 127,682	$ 127,682	$ 127,682	$ 127,682	$ 127,682	$ 127,682	$ 127,682	$1,532,187

Projected PILOT Amount
(Real Property)

Estimated Value of Project Site	$ 6,020	$ 16,053	$ 16,374	$ 16,374	$ 16,701	$ 16,701	$ 17,036	$ 17,036
PILOT Payment on Project Site	100%	100%	100%	100%	100%	100%	100%	100%
Estimated Assessed Value of Project Improvements				$ 2,240,000	$ 2,240,000	$ 2,240,000	$ 2,240,000	$ 2,240,000
PILOT Payment on Project Improvements				0%	0%	0%	0%	0%

Taxing Jurisdiction	Tax Rate per $100	2019	2020	2021	2022	2023	2024	2025	2026
State Blind Pension	0.0300	$ 2	$ 5	$ 5	$ 5	$ 5	$ 5	$ 5	$ 5
Jasper County	0.1195	7	19	20	20	20	20	20	20
Sheltered Workshop	0.0865	5	14	14	14	14	14	15	15
Mental Health	0.0865	5	14	14	14	14	14	15	15
R-VIII School District	3.6964	223	593	605	605	617	617	630	630
Joplin Road District	0.2270	14	36	37	37	38	38	39	39
City of Joplin	0.4342	26	70	71	71	73	73	74	74
Surtax	1.0200	-	164	167	167	170	170	174	174
	5.7001	$ 282	$ 915	$ 933	$ 933	$ 952	$ 952	$ 971	$ 971

Estimated Value of Project Site	$ 17,376	$ 17,376	$ 17,724	$ 17,724	$ 18,078	$ 18,078	$ 18,440	
PILOT Payment on Project Site	100%	100%	100%	100%	100%	100%	100%	
Estimated Assessed Value of Project Improvements	$ 2,240,000	$ 2,240,000	$ 2,240,000	$ 2,240,000	$ 2,240,000	$ 2,240,000	$ 2,240,000	
PILOT Payment on Project Improvements	0%	0%	0%	0%	0%	0%	0%	

Taxing Jurisdiction	Tax Rate per $100	2027	2028	2029	2030	2031	2032	2033	Total
State Blind Pension	0.0300	$ 5	$ 5	$ 5	$ 5	$ 5	$ 5	$ 6	$ 74
Jasper County	0.1195	21	21	21	21	22	22	22	295
Sheltered Workshop	0.0865	15	15	15	15	16	16	16	214
Mental Health	0.0865	15	15	15	15	16	16	16	214
R-VIII School District	3.6964	642	642	655	655	668	668	682	9,133
Joplin Road District	0.2270	39	39	40	40	41	41	42	561
City of Joplin	0.4342	75	75	77	77	79	79	80	1,073
Surtax	1.0200	177	177	181	181	184	184	188	2,459
	5.7001	$ 990	$ 990	$ 1,010	$ 1,010	$ 1,030	$ 1,030	$ 1,051	$ 14,023

Projected Tax Abatement on Project Site With Project

Estimated Assessed Value of Project Site	$ 6,020	$ 16,053	$ 16,374	$ 16,374	$ 16,701	$ 16,701	$ 17,036	$ 17,036
Abatement Percentage on Project Site	0%	0%	0%	0%	0%	0%	0%	0%
Estimated Assessed Value of Project Improvements				$ 2,240,000	$ 2,240,000	$ 2,240,000	$ 2,240,000	$ 2,240,000
Abatement Percentage on Project Improvements				100%	100%	100%	100%	100%

Taxing Jurisdiction	Tax Rate per $100	2019	2020	2021	2022	2023	2024	2025	2026
State Blind Pension	0.0300	$ -	$ -	$ -	$ 672	$ 672	$ 672	$ 672	$ 672
Jasper County	0.1195	-	-	-	2,677	2,677	2,677	2,677	2,677
Sheltered Workshop	0.0865	-	-	-	1,938	1,938	1,938	1,938	1,938
Mental Health	0.0865	-	-	-	1,938	1,938	1,938	1,938	1,938
R-VIII School District	3.6964	-	-	-	82,799	82,799	82,799	82,799	82,799
Joplin Road District	0.2270	-	-	-	5,085	5,085	5,085	5,085	5,085
City of Joplin	0.4342	-	-	-	9,726	9,726	9,726	9,726	9,726
Surtax	1.0200	-	-	-	22,848	22,848	22,848	22,848	22,848
	5.7001	$ -	$ -	$ -	$ 127,682	$ 127,682	$ 127,682	$ 127,682	$ 127,682

Estimated Assessed Value of Project Site	$ 17,376	$ 17,376	$ 17,724	$ 17,724	$ 18,078	$ 18,078	$ 18,440	
Abatement Percentage on Project Site	0%	0%	0%	0%	0%	0%	0%	
Estimated Assessed Value of Project Improvements	$ 2,240,000	$ 2,240,000	$ 2,240,000	$ 2,240,000	$ 2,240,000	$ 2,240,000	$ 2,240,000	
Abatement Percentage on Project Improvements	100%	100%	100%	100%	100%	100%	100%	

Taxing Jurisdiction	Tax Rate per $100	2027	2028	2029	2030	2031	2032	2033	Total
State Blind Pension	0.0300	$ 672	$ 672	$ 672	$ 672	$ 672	$ 672	$ 672	$ 8,064
Jasper County	0.1195	2,677	2,677	2,677	2,677	2,677	2,677	2,677	32,122
Sheltered Workshop	0.0865	1,938	1,938	1,938	1,938	1,938	1,938	1,938	23,251
Mental Health	0.0865	1,938	1,938	1,938	1,938	1,938	1,938	1,938	23,251
R-VIII School District	3.6964	82,799	82,799	82,799	82,799	82,799	82,799	82,799	993,592
Joplin Road District	0.2270	5,085	5,085	5,085	5,085	5,085	5,085	5,085	61,018
City of Joplin	0.4342	9,726	9,726	9,726	9,726	9,726	9,726	9,726	116,713
Surtax	1.0200	22,848	22,848	22,848	22,848	22,848	22,848	22,848	274,176
	5.7001	$ 127,682	$ 127,682	$ 127,682	$ 127,682	$ 127,682	$ 127,682	$ 127,682	$ 1,532,187

Projected Tax Revenues Without Abatement
(Personal Property)

Estimated Assessed Value of Personal Property		$2,752,833	$2,163,050	$1,699,672	$1,322,001	$ 944,331	
Taxing Jurisdiction	Tax Rate per $100	1	2	3	4	5	Total
State Blind Pension	0.0300	$ 826	$ 649	$ 510	$ 397	$ 283	$ 2,665
Jasper County	0.1195	3,290	2,585	2,031	1,580	1,128	10,614
Sheltered Workshop	0.0865	2,381	1,871	1,470	1,144	817	7,683
Mental Health	0.0865	2,381	1,871	1,470	1,144	817	7,683
R-VIII School District	3.6964	101,756	79,955	62,827	48,866	34,906	328,310
Joplin Road District	0.2270	6,249	4,910	3,858	3,001	2,144	20,162
	4.2459	$ 116,883	$ 91,841	$ 72,166	$ 56,131	$ 40,095	$ 377,116

Personal Property Assessed Value (7-Year Depreciation)					
	1	**2**	**3**	**4**	**5**
9,250,000	2,752,833	2,163,050	1,699,672	1,322,001	944,331

Projected PILOT Amount
(Personal Property)

Estimated Assessed Value of Personal Property		$ 2,752,833		$ 2,163,050		$ 1,699,672		$ 1,322,001		$ 944,331	
PILOT Payment			0%		0%		0%		0%		0%
Taxing Jurisdiction	Tax Rate per $100	1		2		3		4		5	Total
State Blind Pension	0.0300	$ -		$ -		$ -		$ -		$ -	$ -
Jasper County	0.1195	-		-		-		-		-	-
Sheltered Workshop	0.0865	-		-		-		-		-	-
Mental Health	0.0865	-		-		-		-		-	-
R-VIII School District	3.6964	-		-		-		-		-	-
Joplin Road District	0.2270	-		-		-		-		-	-
	4.2459	$ -		$ -		$ -		$ -		$ -	$ -

Projected Tax Abatement
(Personal Property)

Estimated Assessed Value of Personal Property		$2,752,833	$2,163,050	$1,699,672	$1,322,001	$ 944,331	
Abatement Percentage		100%	100%	100%	100%	100%	
Taxing Jurisdiction	Tax Rate per $100	1	2	3	4	5	Total
State Blind Pension	0.0300	$ 826	$ 649	$ 510	$ 397	$ 283	$ 2,665
Jasper County	0.1195	3,290	2,585	2,031	1,580	1,128	10,614
Sheltered Workshop	0.0865	2,381	1,871	1,470	1,144	817	7,683
Mental Health	0.0865	2,381	1,871	1,470	1,144	817	7,683
R-VIII School District	3.6964	101,756	79,955	62,827	48,866	34,906	328,310
Joplin Road District	0.2270	6,249	4,910	3,858	3,001	2,144	20,162
	4.2459	$ 116,883	$ 91,841	$ 72,166	$ 56,131	$ 40,095	$ 377,116

$51,400,000
(AGGREGATE MAXIMUM PRINCIPAL AMOUNT)
CITY OF JOPLIN, MISSOURI
TAXABLE INDUSTRIAL DEVELOPMENT REVENUE BONDS
(HEARTHSTONE PROJECT)
SERIES 2019

DATED AS OF DECEMBER 1, 2019

BOND PURCHASE AGREEMENT

Mayor and City Council
Joplin, Missouri

Ladies and Gentlemen:

On the basis of the representations, and covenants and upon the terms and conditions contained in this Bond Purchase Agreement, Casey's Marketing Company, an Iowa corporation (the "Purchaser"), offers to purchase from the City of Joplin, Missouri (the "City"), the above-referenced series of Taxable Industrial Development Revenue Bonds (the "Bonds"), to be issued by the City, under and pursuant to Ordinance No. _____ passed by the governing body of the City on December ___, 2019 (the "Ordinance") and a Trust Indenture dated as of December 1, 2019 (the "Indenture"), by and between the City and UMB Bank, N.A., Kansas City, Missouri, as trustee (the "Trustee"). Capitalized terms not otherwise defined herein shall have the meanings set forth in **Section 101** of the Indenture.

SECTION 1. REPRESENTATIONS AND AGREEMENTS

(a) By the City's acceptance hereof, the City hereby represents to the Purchaser that:

(1) The City is a constitutional charter city and municipal corporation duly organized and validly existing under the laws of the State of Missouri. The City is authorized under Article VI, Section 27(b) of the Missouri Constitution and Sections 100.010 through 100.200 of the Revised Statutes of Missouri, as amended, and its Charter to authorize, issue and deliver the Bonds and to consummate all transactions contemplated by this Bond Purchase Agreement, the Ordinance, the Indenture, the Lease, the Performance Agreement and any and all other agreements relating thereto. The proceeds of the Bonds shall be used to finance the Project for Casey's Marketing Company, an Iowa corporation (the "Company"), and to pay for the costs incurred in connection with the issuance of the Bonds;

(2) There is no controversy, suit or other proceeding of any kind pending or threatened wherein or whereby any question is raised or may be raised, questioning, disputing or affecting in any way the legal organization of the City or its boundaries, or the right or title of any of its officers to their respective offices, or the legality of any official act leading up to the issuance of the Bonds or the constitutionality or validity of the obligation represented by the Bonds or the validity of the Bonds, the Ordinance, the Lease, the Indenture or the Performance Agreement; and

(3) Any certificate signed by an authorized representative of the City and delivered to the Purchaser shall be deemed a representation and warranty by the City to such party as to the statements made therein.

(b) The Purchaser represents as follows:

(1) The Purchaser is a corporation duly organized, validly existing and in good standing under the laws of the State of Iowa and is in good standing under the laws of and is qualified to do business in the State of Missouri;

(2) The execution, delivery and performance of this Bond Purchase Agreement by the Purchaser has been duly authorized by all necessary action of the Purchaser and does not and will not conflict with or result in the breach of any of the terms, conditions or provisions of, or constitute a default under, its organizational documents, any law, court or administrative regulation, decree or order applicable to or binding upon the Purchaser, or, to the best of its knowledge, any agreement, indenture, mortgage, lease or instrument to which the Purchaser is a party or by which it is bound;

(3) When executed and delivered by the Purchaser, this Bond Purchase Agreement will be, and is, a legal, valid and binding obligation, enforceable in accordance with its terms, subject, as to enforcement, to any applicable bankruptcy, reorganization, insolvency, moratorium or other laws affecting the enforcement of creditors' rights generally and further subject to the availability of equitable remedies; and

(4) Any certificate signed by an authorized officer or agent of the Purchaser and delivered to the City shall be deemed a representation and warranty by the Purchaser to such party as to the statements made therein.

SECTION 2. PURCHASE, SALE AND DELIVERY OF THE BONDS

On the basis of the representations and covenants contained herein and in the other agreements referred to herein, and subject to the terms and conditions herein set forth and in the Indenture, the Purchaser agrees to purchase from the City and the City agrees to sell to the Purchaser the Bonds on the terms and conditions set forth herein.

The Bonds shall be sold to the Purchaser by the City on the Closing Date (hereinafter defined) upon payment of an amount equal to the Closing Price (hereinafter defined) for the Bonds, which amount shall be applied as provided in the Indenture and shall thereafter on the Closing Date immediately be applied to the payment of Project Costs as provided in the Lease. From time to time after the Closing Date as additional Project Costs are incurred, the Purchaser may make additional payments with respect to the Bonds ("Additional Payments") to the Trustee, which Additional Payments shall constitute the purchase price for corresponding additional principal amounts of the Bonds, and shall be applied to the payment of Project Costs or as otherwise provided in the Indenture, and the outstanding principal amount of the Bonds shall increase by each such Additional Payment; provided that the sum of the Closing Price and all such Additional Payments for the Bonds shall not, in the aggregate, exceed $51,400,000.

As used herein, the term "Closing Date" shall mean _____ ___, 20___, or such other date as shall be mutually agreed upon by the City and the Purchaser; the term "Closing Price" shall mean, with respect to the Bonds, that certain amount specified in writing by the Purchaser and agreed to by the City in the Certificate as to Closing Price.

The Bonds shall be issued under and secured as provided in the Ordinance, the Indenture and the Lease authorized thereby and the Bonds shall have the maturity, interest rate and shall be subject to redemption as set forth therein. The delivery of the Bonds shall be made in definitive form as a fully registered bond in the maximum aggregate principal denomination of $51,400,000; provided, that the principal amount of the Bonds outstanding at any time shall be that amount recorded in the official bond registration records of the Trustee and further provided that interest shall be payable on the Bonds only on the outstanding principal amount of the Bonds, as more fully provided in the Indenture.

SECTION 3. CONDITIONS TO THE PURCHASER'S OBLIGATIONS

The Purchaser's obligations hereunder shall be subject to the due performance by the City of the City's obligations and agreements to be performed hereunder on or prior to the Closing Date and to the accuracy of and compliance with the City's representations contained herein, as of the date hereof and as of the Closing Date, and are also subject to the following conditions:

(a) There shall be delivered to the Purchaser on or prior to the Closing Date a duly executed copy of the Ordinance, the Indenture, the Performance Agreement, this Agreement and the Lease and any other instrument contemplated thereby shall be in full force and effect and shall not have been modified or changed except as may have been agreed to in writing by the Purchaser;

(b) The City shall confirm on the Closing Date by a certificate that at and as of the Closing Date the City has taken all action necessary to issue the Bonds and that there is no controversy, suit or other proceeding of any kind pending or threatened wherein any question is raised affecting in any way the legal organization of the City or the legality of any official act shown to have been done in the transcript of proceedings leading up to the issuance of the Bonds, or the constitutionality or validity of the indebtedness represented by the Bonds or the validity of the Bonds or any proceedings in relation to the issuance or sale thereof;

(c) The Company shall execute a certificate, dated the Closing Date, to the effect that (i) no litigation, proceeding or investigation is pending against the Company or its affiliates or, to the knowledge of the Company, threatened which would (A) contest, affect, restrain or enjoin the issuance, validity, execution, delivery or performance of the Bonds, or (B) in any way contest the existence or powers of the Company, (ii) no litigation, proceeding or investigation is pending or, to the knowledge of the Company, threatened against the Company that could reasonably be expected to adversely affect its ability to perform its obligations hereunder, (iii) the representations and warranties of the Company herein were and are true and correct in all material respects and not misleading as of the date made and as of the Closing Date, and (iv) such other matters as are reasonably requested by the other parties in connection with the issuance of the Bonds; and

(d) Receipt by the Purchaser and the Company of an approving opinion from Gilmore & Bell, P.C., in form and substance satisfactory to the Purchaser and the Company.

SECTION 4. THE PURCHASER'S RIGHT TO CANCEL

The Purchaser shall have the right to cancel its obligation hereunder to purchase the Bonds by notifying the City in writing of its election to make such cancellation at any time prior to the Closing Date.

SECTION 5. CONDITIONS OF OBLIGATIONS

The obligations of the parties hereto are subject to the receipt of the approving opinion of Gilmore & Bell, P.C., Bond Counsel, with respect to the validity of the authorization and issuance of the Bonds.

SECTION 6. REPRESENTATIONS AND AGREEMENTS TO SURVIVE DELIVERY

All of the representations and agreements by either party shall remain operative and in full force and effect, and shall survive delivery of the Bonds to the Purchaser.

SECTION 7. PAYMENT OF EXPENSES

The Company shall pay all reasonable expenses and costs to effect the authorization, preparation, issuance, delivery and sale of the Bonds. To the best of the City's knowledge and belief, the only expenses payable by the Company in connection with the issuance of the Bonds (other than fees of the Company's counsel and advisors) are the following: (1) the legal fees of Gilmore & Bell, P.C., (2) recording costs of the memoranda of certain documents executed in connection with the transaction, (3) costs of publication of the notice of bond sale, and (4) the Trustee's initial acceptance fee and first year's administrative fee.

SECTION 8. NOTICE

Any notice or other communication to be given under this Agreement may be given by mailing or delivering the same in writing to the appropriate party or parties at the addresses for notice set out in the Indenture.

SECTION 9. APPLICABLE LAW; ASSIGNABILITY

This Bond Purchase Agreement shall be governed by the laws of the State of Missouri and may be assigned by the Purchaser with the written consent of the City, which consent shall not be unreasonably withheld, conditioned or delayed.

SECTION 10. EXECUTION OF COUNTERPARTS

This Bond Purchase Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same document.

[remainder of page intentionally left blank]

Executed as of the date first written above

Very truly yours,

CASEY'S MARKETING COMPANY,
an Iowa corporation,
as Purchaser

By: _____
Name:
Title:

Accepted and Agreed to as of the date first written above.

CASEY'S MARKETING COMPANY,
an Iowa corporation,
as Company

By: _____
Name:
Title:

Accepted and Agreed to as of the date first written above.

CITY OF JOPLIN, MISSOURI

By: _____
Name: Gary Shaw
Title: Mayor

[SEAL]

ATTEST:

By: _____
Name: Barbara Gollhofer
Title: City Clerk

Approved as to form:

_____
City Attorney

CITY OF JOPLIN, MISSOURI,
the City

AND

UMB BANK, N.A.,
as Trustee

TRUST INDENTURE

Dated as of December 1, 2019

Relating to:

$51,400,000
(Aggregate Maximum Principal Amount)
City of Joplin, Missouri
Taxable Industrial Development Revenue Bonds
(Hearthstone Project)
Series 2019

TRUST INDENTURE

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TRUST INDENTURE

THIS TRUST INDENTURE dated as of December 1, 2019 (the "Indenture"), is between the **CITY OF JOPLIN, MISSOURI**, a constitutional charter city and municipal corporation duly organized and existing under the laws of the State of Missouri (the "City"), and **UMB BANK, N.A.**, a national banking association duly organized and existing and authorized to accept and execute trusts of the character herein set forth under the laws of the United States of America, with a corporate trust office located in Kansas City, Missouri, as Trustee (the "Trustee");

RECITALS:

1. The City is authorized and empowered pursuant to the provisions of Article VI, Section 27(b) of the Missouri Constitution and Sections 100.010 through 100.200, inclusive, of the Revised Statutes of Missouri, as amended (collectively, the "Act"), to purchase, construct, extend, improve and equip certain "projects" (as defined in the Act) and to issue industrial development revenue bonds for the purpose of providing funds to pay the costs of such projects and to lease or otherwise dispose of such projects to private persons or businesses for manufacturing, commercial, research and development, warehousing and industrial development purposes upon such terms and conditions as the City shall deem advisable.

2. Pursuant to the Act, the City Council passed an ordinance (the "Ordinance") on December ___, 2019, authorizing the City to issue its Taxable Industrial Development Revenue Bonds (Hearthstone Project), Series 2019, in the maximum principal amount of $51,400,000 (the "Bonds"), for the purpose of acquiring, constructing, improving, purchasing, equipping and installing a warehouse and distribution facility on approximately 40 acres of land located at 2715 Prosperity Road in the City (the "Project Site," as more fully described on **Exhibit A** hereto), including such land and the associated buildings, structures and fixtures (the "Project Improvements," as more fully described on **Exhibit B** hereto) and equipment (the "Project Equipment," as more fully described on **Exhibit B** hereto, the Project Site, the Project Improvements, and the Project Equipment collectively being the "Project").

3. The Ordinance authorizes the City to lease the Project to Casey's Marketing Company, an Iowa corporation (the "Company").

4. Pursuant to the Ordinance, the City is authorized to execute and deliver (a) this Indenture for the purpose of issuing and securing the Bonds, (b) the Lease Agreement of even date herewith (the "Lease") with the Company, under which the City, as lessor, will, or will cause the Company to, construct, improve, purchase and install the Project and will lease the Project to the Company, as lessee, in consideration of rentals that will be sufficient to pay the principal of and interest on the Bonds, and (c) the Performance Agreement for the purpose of setting forth the terms and conditions of the Project's exemption from ad valorem real property taxes and certain payments in lieu of taxes to be made by the Company with respect to the Project.

5. All things necessary to make the Bonds, when authenticated by the Trustee and issued as provided in this Indenture, the valid and legally binding obligations of the City, and to constitute this Indenture a valid and legally binding pledge and assignment of the Trust Estate (defined herein) herein made for the security of the payment of the principal of and interest on the Bonds, have been done and performed, and the execution and delivery of this Indenture and the execution and issuance of the Bonds, subject to the terms hereof, have in all respects been duly authorized.

NOW, THEREFORE, THIS TRUST INDENTURE WITNESSETH:

GRANTING CLAUSES

That the City, in consideration of the premises, the acceptance by the Trustee of the trusts hereby created, the purchase and acceptance of the Bonds by the Owners (defined herein) thereof, and of other good and valuable consideration, the receipt of which is hereby acknowledged, and in order to secure the payment of the principal of and interest on all of the Bonds issued and Outstanding under this Indenture from time to time according to their tenor and effect, and to secure the performance and observance by the City of all the covenants, agreements and conditions herein and in the Lease (including but not limited to the purchase option described in the Lease) and in the Bonds contained, does hereby pledge and assign to the Trustee and its successors and assigns until this Indenture has been satisfied and discharged, the property described in paragraphs (a), (b) and (c) below (said property being herein referred to as the "Trust Estate"), to-wit:

(a) All right, title and interest of the City in and to the Project together with the tenements, hereditaments, appurtenances, rights, easements, privileges and immunities thereunto belonging or appertaining and, to the extent permissible, all permits, certificates, approvals and authorizations;

(b) All right, title and interest of the City in, to and under the Lease (excluding the Unassigned Rights), and all rents, revenues and receipts derived by the City from the Project including, without limitation, all rentals and other amounts to be received by the City and paid by the Company under and pursuant to and subject to the provisions of the Lease; and

(c) All moneys and securities from time to time held by or now or hereafter required to be paid to the Trustee under the terms of this Indenture, and any and all other real or personal property of every kind and nature from time to time hereafter, by delivery or by writing of any kind, pledged, assigned or transferred as and for additional security hereunder by the City or by anyone in its behalf, or with its written consent, to the Trustee, which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof.

TO HAVE AND TO HOLD, all and singular, the Trust Estate with all rights and privileges hereby pledged and assigned or agreed or intended so to be, to the Trustee and its successors and assigns forever;

IN TRUST NEVERTHELESS, upon the terms and subject to the conditions herein set forth, for the equal and proportionate benefit, protection and security of all Owners from time to time of the Bonds Outstanding under this Indenture, without preference, priority or distinction as to lien or otherwise of any of the Bonds over any other of the Bonds except as expressly provided in or permitted by this Indenture;

PROVIDED, HOWEVER, that if the City pays, or causes to be paid, the principal of and interest on the Bonds, at the time and in the manner mentioned in the Bonds, according to the true intent and meaning thereof, or provides for the payment thereof (as provided in **Article XIII** hereof), and pays or causes to be paid to the Trustee all other sums of money due or to become due to it in accordance with the terms and provisions hereof, then upon such final payments this Indenture and the rights hereby granted shall cease, determine and be void; otherwise, this Indenture shall be and remain in full force and effect.

THIS INDENTURE FURTHER WITNESSETH, and it is hereby expressly declared, covenanted and agreed by and between the parties hereto, that all Bonds issued and secured hereunder are to be issued, authenticated and delivered and that all the Trust Estate is to be held and applied under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed, and the City does hereby agree and covenant with the Trustee and with the respective Owners from time to time, as follows:

ARTICLE I

DEFINITIONS

Section 101. Definitions of Words and Terms. In addition to words and terms defined in the Lease, which definitions shall be deemed to be incorporated herein, and terms defined elsewhere in this Indenture, the following words and terms as used in this Indenture shall have the following meanings, unless some other meaning is plainly intended:

"Act" means, collectively, Article VI, Section 27(b) of the Missouri Constitution, as amended, and Sections 100.010 through 100.200 of the Revised Statutes of Missouri, as amended.

"Additional Rent" means the additional rental described in **Sections 5.2** and **6.2** of the Lease.

"Approved Investor" means (i) the Company, its successor and assigns, including but not limited to any entity receiving an assignment of the Lease as permitted pursuant to **Section 10.7** of the Lease, (ii) a "qualified institutional buyer" under Rule 144A promulgated under the Securities Act of 1933, or (iii) any general business corporation or enterprise with total assets in excess of $100,000,000.

"Authorized City Representative" means the Mayor, City Manager, Finance Director, City Clerk or such other person at the time designated to act on behalf of the City as evidenced by written certificate furnished to the Company and the Trustee containing the specimen signature of such person and signed on behalf of the City by its Mayor. Such certificate may designate an alternate or alternates each of whom shall be entitled to perform all duties of the Authorized City Representative.

"Authorized Company Representative" means the Person at the time designated to act on behalf of the Company as evidenced by written certificate furnished to the City and the Trustee containing the specimen signature of such Person and signed on behalf of the Company by an authorized officer of the Company. Such certificate may designate an alternate or alternates, each of whom shall be entitled to perform all duties of the Authorized Company Representative.

"Basic Rent" means the rental described in **Section 5.1** of the Lease.

"Bond" or **"Bonds"** means the Taxable Industrial Development Revenue Bonds (Hearthstone Project), Series 2019, in the maximum aggregate principal amount of $51,400,000, issued, authenticated and delivered under and pursuant to this Indenture.

"Bond Fund" means the "City of Joplin, Missouri, Bond Fund -- Hearthstone Project" created in **Section 501** of this Indenture.

"Bond Purchase Agreement" means the agreement by that name with respect to the Bonds, dated as of December 1, 2019, by and between the City and the Purchaser.

"Business Day" means any day other than a Saturday or Sunday or legal holiday or a day on which banks located in the city in which the principal corporate trust office or the principal payment office of the Trustee are required or authorized by law to remain closed.

"City" means the City of Joplin, Missouri, a constitutional charter city and municipal corporation duly organized and existing under the laws of the State of Missouri, and its successors and assigns.

"Closing Date" means the date identified in the Bond Purchase Agreement for the initial issuance and delivery of the Bonds.

"Closing Price" means the amount specified in writing by the Purchaser and agreed to by the City as the amount required to pay for the initial issuance of the Bonds on the Closing Date, which amount shall be equal to any Project Costs spent by the Company from its own funds before the Closing Date plus the costs of issuing the Bonds.

"Company" means Casey's Marketing Company, an Iowa corporation, and its successors or assigns.

"Completion Date" means the date of execution of the certificate required pursuant to **Section 4.5** of the Lease and **Section 504** hereof.

"Costs of Issuance Fund" means the "City of Joplin, Missouri, Costs of Issuance Fund -- Hearthstone Project" created in **Section 501** hereof.

"Cumulative Outstanding Principal Amount" means the aggregate principal amount of all Bonds Outstanding under the provisions of this Indenture, not to exceed $51,400,000, as reflected in the records maintained by the Trustee as provided in the Bonds and in this Indenture.

"Event of Default" means, with respect to this Indenture, any Event of Default as defined in **Section 901** hereof and, with respect to the Lease, any Event of Default as described in **Section 12.1** of the Lease.

"Financing Document" means any loan agreement, credit agreement, promissory note, security agreement, financing statement, mortgage, deed of trust, letter of credit, participation agreement, lease agreement, sublease, ground lease, hedging agreement or other document executed by or on behalf of, or for the benefit of, a Financing Party, and all amendments, modifications, restatements, extensions and renewals thereof.

"Financing Party" means any Person providing debt, lease or equity financing (including equity contributions or commitments) or hedging arrangements, or any renewal, extension or refinancing of any such financing or hedging arrangements, or any guarantee, insurance, letters of credit or credit support for or in connection with such financing or hedging arrangements, in connection with the ownership, lease, operation or maintenance of the Project or interests or rights in the Lease, or any part thereof, including any trustee or agent acting on any such Person's behalf.

"Government Securities" means direct obligations of, or obligations the payment of principal of and interest on which are unconditionally guaranteed by, the United States of America.

"Indenture" means this Trust Indenture, as from time to time amended and supplemented by Supplemental Indentures in accordance with the provisions of **Article XI** hereof.

"Investment Securities" means any of the following securities:

(a) Government Securities;

(b) obligations of the Government National Mortgage Association, the Federal Financing Bank, the Federal Intermediate Credit Corporation, Federal Banks for Cooperatives, Federal Land Banks, Federal Home Loan Banks, Farmers Home Administration and Federal Home Loan Mortgage Corporation;

(c) direct and general obligations of any state of the United States of America, to the payment of the principal of and interest on which the full faith and credit of such state is pledged, provided that at the time of their purchase under this Indenture such obligations are rated in either of the two highest rating categories by a nationally-recognized bond rating agency;

(d) certificates of deposit, whether negotiable or nonnegotiable, issued by any bank or trust company organized under the laws of any state of the United States of America or any national banking association (including the Trustee or any of its affiliates), provided that such certificates of deposit shall be either (1) continuously and fully insured by the Federal Deposit Insurance Corporation, or (2) continuously and fully secured by such securities as are described above in clauses (a) through (c), inclusive, which shall have a market value at all times at least equal to the principal amount of such certificates of deposit and shall be deposited with the Trustee or a custodian bank, trust company or national banking association. The bank, trust company or national banking association holding each such certificate of deposit required to be so secured shall furnish the Trustee written evidence satisfactory to it that the aggregate market value of all such obligations securing each such certificate of deposit will at all times be an amount at least equal to the principal amount of each such certificate of deposit and the Trustee shall be entitled to rely on each such undertaking;

(e) shares of a fund registered under the Investment Company Act of 1940, as amended, whose shares are registered under the Securities Act of 1933, as amended, having assets of at least $100,000,000, and which shares, at the time of purchase, are rated by S&P and Moody's in one of the two highest rating categories (without regard to any refinements or gradation of rating category by numerical modifier or otherwise) assigned by such rating agencies for obligations of that nature; or

(f) any other investment approved in writing by the Authorized City Representative and the Owners of all of the Outstanding Bonds.

"Lease" means the Lease Agreement dated as of December 1, 2019, between the City, as lessor, and the Company, as lessee, as from time to time amended and supplemented by Supplemental Leases in accordance with the provisions thereof and of **Article XII** of this Indenture.

"Lease Term" means the period from the effective date of the Lease until the expiration thereof pursuant to **Section 3.2** of the Lease.

"Leasehold Security Agreement" means any leasehold security agreement, leasehold deed of trust, assignment of rents and leases, security agreement or other agreement relating to the Project permitted pursuant to the provisions of **Section 10.4** of the Lease.

"Moody's" means Moody's Investors Service, Inc., its successors and assigns, and, if such corporation is dissolved or liquidated or no longer performs the functions of a securities rating agency, "Moody's" will be deemed to refer to any other nationally recognized securities rating agency designated by the Authorized Company Representative.

"Outstanding" means, when used with reference to Bonds, as of a particular date, all Bonds theretofore authenticated and delivered, except:

(a) Bonds subsequently cancelled by the Trustee or delivered to the Trustee for cancellation;

(b) Bonds deemed to be paid in accordance with the provisions of **Section 1302** hereof; and

(c) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered pursuant to this Indenture.

"Owner" or **"Bondowner"** means the registered owner of any Bond as recorded on the bond registration records maintained by the Trustee.

"Paying Agent" means the Trustee and any other bank or trust company designated by this Indenture as paying agent for the Bonds at which the principal of or interest on the Bonds shall be payable.

"Payment Date" means the date on which principal or interest on any Bond, whether at the stated maturity thereof or the redemption date thereof, is payable, which shall be December 1 of each year that the Bonds are Outstanding.

"Performance Agreement" means the Performance Agreement dated as of December 1, 2019, between the City and the Company, as amended and supplemented from time to time.

"Permitted Encumbrances" means, as of any particular time (a) liens for ad valorem taxes, special assessments and other governmental charges not then delinquent, or which are being contested in good faith in accordance with the Lease, (b) the Indenture, the Lease and the Performance Agreement, (c) liens or security interests granted pursuant to any Leasehold Security Agreement or any Financing Documents, all as now existing or hereafter granted pursuant to the Financing Documents, including any subsequent or additional security instruments relating to any future financings or refinancings, (d) such exceptions to title set forth in the title report included in the transcript of proceedings relating to the Bonds, and (e) any sublease, license or easement agreement between the Company and a third party allowing the use by such party of portions of the Project Site that are not occupied by the Project Improvements or the Project Equipment, so long as such use does not impair the use or operation of the Project.

"Person" means an individual, partnership, corporation, business trust, joint stock company, limited liability company, bank, insurance company, unincorporated association, joint venture or other entity of whatever nature.

"Project" means the Project Site, the Project Improvements and the Project Equipment as they may at any time exist, and all additions (and taking into account any subtractions), modifications, improvements, replacements and substitutions made to the Project pursuant to the Lease as they may exist from time to time.

"Project Costs" means all costs of purchasing, constructing, extending, improving and equipping the Project, including the following:

(a) all costs and expenses necessary or incident to the acquisition of the Project Site, the construction, extension and improvement of the Project Improvements located on the Project Site, and the acquisition and installation of the Project Equipment;

(b) fees and expenses of architects, appraisers, surveyors, consultants and engineers for estimates, surveys, soil borings and soil tests and other preliminary investigations and items necessary to the commencement of acquisition, purchase, construction, improvement and equipping, preparation of plans, drawings and specifications and supervision of construction and renovation, as well as for the performance of all other duties of architects, appraisers, surveyors and engineers in relation to the acquisition, purchase, construction, improvement and equipping of the Project or the issuance of the Bonds;

(c) all costs and expenses of every nature incurred in connection with the acquisition, purchase, construction and improvement of the Project Improvements and otherwise improving the Project Site and purchasing and installing the Project Equipment, including the actual cost of labor, materials, machinery, furnishings and equipment as payable to contractors, builders and materialmen in connection with the acquisition, purchase, construction, improvement and equipping of the Project;

(d) interest accruing on the Bonds during the construction period of the Project;

(e) the cost of title insurance reports, if any, and the cost of any other insurance maintained during the construction period in accordance with **Article VII** of the Lease;

(f) reasonable expenses of administration, supervision and inspection properly chargeable to the Project, legal fees and expenses, fees and expenses of accountants and other consultants, publication and printing expenses, and initial fees and expenses of the Trustee to the extent that said fees and expenses are necessary or incident to the issuance and sale of the Bonds or the construction and improvement of the Project;

(g) all other items of expense not elsewhere specified in this definition as may be necessary or incident to: (1) the authorization, issuance and sale of the Bonds, including costs of issuance of the Bonds; (2) the construction, improvement and equipping of the Project; and (3) the financing thereof; and

(h) reimbursement to the Company or those acting for it for any of the above enumerated costs and expenses incurred and paid by them before or after the execution of the Lease.

"Project Equipment" means the personal property to be purchased, constructed, installed and otherwise improved or located on the Project Site pursuant to **Article IV** of the Lease and paid for in whole or in part from the proceeds of Bonds, as described in **Exhibit B** attached hereto, and all additions (and taking into account any subtractions), alterations, modifications and improvements thereof made pursuant to the Lease.

"Project Fund" means the "City of Joplin, Missouri, Project Fund -- Hearthstone Project" created in **Section 501** hereof.

"Project Improvements" means the buildings, structures, improvements and fixtures to be purchased, constructed, installed and otherwise improved or located on the Project Site pursuant to **Article IV** of the Lease and paid for in whole or in part from the proceeds of Bonds, as described in **Exhibit B** attached hereto, and all additions, alterations, modifications and improvements thereof made pursuant to the Lease.

"Project Site" means all of the real estate as described in **Exhibit A** attached hereto and by this reference made a part hereof, including any existing improvements thereon.

"Purchaser" means the entity identified in the Bond Purchase Agreement as the purchaser of the Bonds.

"S&P" means Standard & Poor's Ratings Services, a division of McGraw Hill Financial, Inc., its successors and assigns, and if such corporation is dissolved or liquidated or no longer performs the functions of a securities rating agency, "S&P" will be deemed to refer to any other nationally recognized securities rating agency designated by the Authorized Company Representative.

"State" means the State of Missouri.

"Supplemental Indenture" means any indenture supplemental or amendatory to this Indenture entered into by the City and the Trustee pursuant to **Article XI** hereof.

"Supplemental Lease" means any supplement or amendment to the Lease entered into pursuant to **Article XII** hereof.

"Trust Estate" means the Trust Estate described in the Granting Clauses of this Indenture.

"Trustee" means UMB Bank, N.A., a national banking association duly organized and existing and authorized to accept and execute trusts of the character herein set forth under the laws of the United States of America, and its successor or successors and any other corporation which at the time may be substituted in its place pursuant to and at the time serving as Trustee under this Indenture.

"Unassigned Rights" means the City's rights under the Lease to receive moneys for its own account and the City's rights to indemnification or to be protected from liabilities by insurance policies required by the Lease, as provided in the Lease.

Section 102. Rules of Interpretation.

(a) Unless the context shall otherwise indicate, the words importing the singular number shall include the plural and vice versa, and words importing Persons shall include firms, associations and corporations, including public bodies, as well as natural Persons.

(b) Wherever in this Indenture it is provided that either party shall or will make any payment or perform or refrain from performing any act or obligation, each such provision shall, even though not so expressed, be construed as an express covenant to make such payment or to perform, or not to perform, as the case may be, such act or obligation.

(c) All references in this instrument to designated "Articles," "Sections" and other subdivisions are, unless otherwise specified, to the designated Articles, Sections and subdivisions of this instrument as originally executed. The words "herein," "hereof," "hereunder" and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or subdivision.

(d) Whenever an item or items are listed after the word "including", such listing is not intended to be a listing that excludes items not listed.

(e) The Table of Contents and the Article and Section headings of this Indenture shall not be treated as a part of this Indenture or as affecting the true meaning of the provisions hereof.

ARTICLE II

THE BONDS

Section 201. Title and Amount of Bonds. No Bonds may be issued under this Indenture except in accordance with the provisions of this Article. The Bonds authorized to be issued under this Indenture shall be designated as "City of Joplin, Missouri, Taxable Industrial Development Revenue Bonds (Hearthstone Project), Series 2019." The maximum total principal amount of Bonds that may be issued hereunder is hereby expressly limited to $51,400,000.

Section 202. Nature of Obligation. The Bonds and the interest thereon shall be special obligations of the City payable solely out of the rents, revenues and receipts derived by the City from the Project and the Lease, and not from any other fund or source of the City. The Bonds are secured by a pledge and assignment of the Trust Estate to the Trustee in favor of the Owners, as provided in this Indenture. The Bonds and the interest thereon shall not constitute general obligations of the City, the State or any political subdivision thereof, and neither the City, the State or related political subdivision thereof shall be liable thereon, and the Bonds shall not constitute an indebtedness within the meaning of any constitutional, charter or statutory debt limitation or restriction, and are not payable in any manner by taxation.

Section 203. Denomination, Number and Dating of the Bonds.

(a) The Bonds shall be issuable in the form of one fully-registered Bond, in substantially the form set forth in **Exhibit C** hereto, in the denomination of $0.01 or any multiple thereof.

(b) The Bonds shall be dated by the Trustee as of the date of initial delivery thereof as provided herein. If the Bonds are at any time thereafter transferred, any replacement Bonds shall be dated as of the date of authentication thereof.

Section 204. Method and Place of Payment of Bonds.

(a) The principal of and interest on the Bonds shall be payable in any coin or currency of the United States of America which on the respective dates of payment thereof is legal tender for payment of public and private debts.

(b) Payment of the principal of the Bonds shall be made upon the presentation and surrender of such Bonds at the principal payment office of any Paying Agent named in the Bonds. The payment of principal on the Bonds shall be noted on the Bonds on **Schedule I** thereto and the registration books maintained by the Trustee pursuant to **Section 206** hereof. Payment of the interest on the Bonds shall be made by the Trustee on each Payment Date to the Person appearing on the registration books of the Trustee hereinafter provided for as the Owner thereof on the fifteenth day (whether or not a Business Day) of the calendar month next preceding such Payment Date by check or draft mailed to such Owner at such Owner's address as it appears on such registration books.

(c) The Bonds and the original **Schedule I** thereto shall be held by the Trustee in trust, unless otherwise directed in writing by the Owner. If the Bonds are held by the Trustee, the Trustee shall, on each Payment Date, send a revised copy of **Schedule I** via facsimile or other electronic means to the Owner, the Company (if not the Owner) and the City. Absent manifest error, the amounts shown on **Schedule I** as noted by the Trustee shall be conclusive evidence of the principal amount paid on the Bonds.

(d) If there is one Owner of the Bonds, the Trustee is authorized to make the final or any interim payments of principal on such Bonds by internal bank transfer or by electronic transfer to an account at a commercial bank or savings institution designated in writing by such Owner and located in the continental United States. The Trustee is also authorized to make interest payments on such Bonds by internal bank transfer or by electronic transfer to an account at a commercial bank or savings institution designated by such Owner and located in the continental United States.

(e) If the Company is the sole Owner of the Bonds, then the Company may set-off (by book entry or other reasonable means) its obligation to the City as lessee under the Lease against the City's obligations to the Company as the bondholder under this Indenture. The Trustee may conclusively rely on the absence of any notice from the Company to the contrary as evidence that such set-off has occurred. On the final Payment Date, the Company may deliver to the Trustee for cancellation the Bonds and the Company shall receive a credit against the Basic Rent payable by the Company under **Section 5.1** of the Lease in an amount equal to the remaining principal on the Bond so tendered for cancellation plus accrued interest thereon.

Section 205. Execution and Authentication of Bonds.

(a) The Bonds shall be executed on behalf of the City by the manual or facsimile signature of its Mayor and attested by the manual or facsimile signature of the City Clerk, and shall have the corporate seal of the City affixed thereto or imprinted thereon. If any officer whose signature or facsimile thereof appears on the Bonds ceases to be such officer before the delivery of such Bond, such signature or facsimile thereof shall nevertheless be valid and sufficient for all purposes, the same as if such Person had remained in office until delivery. Any Bond may be signed by such Persons as at the actual time of the execution of such Bond are the proper officers to sign such Bond although at the date of such Bond such Persons may not have been such officers.

(b) The Bonds shall have endorsed thereon a Certificate of Authentication substantially in the form set forth in **Exhibit C** hereof, which shall be manually executed by the Trustee. No Bond shall be entitled to any security or benefit under this Indenture or shall be valid or obligatory for any purposes until such Certificate of Authentication has been duly executed by the Trustee. The executed Certificate of Authentication upon any Bond shall be conclusive evidence that such Bond has been duly authenticated and delivered under this Indenture. The Certificate of Authentication on any Bond shall be deemed to have been duly executed if signed by any authorized signatory of the Trustee.

Section 206. Registration, Transfer and Exchange of Bonds.

(a) The Trustee shall keep books for the registration and for the transfer of Bonds as provided in this Indenture.

(b) The Bonds may be transferred to an Approved Investor only upon the books kept for the registration and transfer of Bonds upon surrender thereof to the Trustee duly endorsed for transfer or accompanied by an assignment duly executed by the Owner or such Owner's attorney or legal representative in such form as shall be satisfactory to the Trustee. In connection with any such transfer of the Bonds, the City and the Trustee shall receive an executed representation letter signed by the proposed assignee in substantially the form of **Exhibit D** hereto. Upon any such transfer, the City shall execute and the Trustee shall authenticate and deliver in exchange for such Bond a new fully registered Bond or Bonds, registered in the name of the transferee, of any denomination or denominations authorized by this Indenture, in an aggregate principal amount equal to the Outstanding principal amount of such Bond, of the same maturity and bearing interest at the same rate.

(c) In all cases in which Bonds are exchanged or transferred hereunder the provisions of any legend restrictions on the Bonds shall be complied with and the City shall execute and the Trustee shall authenticate and deliver at the earliest practicable time Bonds in accordance with the provisions of this Indenture. All Bonds surrendered in any such exchange or transfer shall forthwith be cancelled by the Trustee. The City or the Trustee may make a reasonable charge for every such exchange or transfer of Bonds sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer, and such charge shall be paid before any such new Bond shall be delivered. Neither the City nor the Trustee shall be required to make any such exchange or transfer of Bonds during the 15 days immediately preceding a Payment Date on the Bonds or, in the case of any proposed redemption of Bonds, during the 15 days immediately preceding the selection of Bonds for such redemption or after such Bonds or any portion thereof has been selected for redemption.

(d) If any Owner fails to provide a certified taxpayer identification number to the Trustee, the Trustee may make a charge against such Owner sufficient to pay any governmental charge required to be

paid as a result of such failure, which amount may be deducted by the Trustee from amounts otherwise payable to such Owner under such Owner's Bond.

Section 207. Persons Deemed Owners of Bonds. As to any Bond, the Person in whose name the same is registered as shown on the bond registration books required by **Section 206** hereof shall be deemed and regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and interest on any such Bond shall be made only to or upon the order of the Owner thereof or a legal representative thereof. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond, including the interest thereon, to the extent of the sum or sums so paid.

Section 208. Authorization of the Bonds.

(a) The Bonds are authorized in the aggregate maximum principal amount of $51,400,000 for the purpose of providing funds to pay the costs of the Project, which Bonds shall be designated "City of Joplin, Missouri, Taxable Industrial Development Revenue Bonds (Hearthstone Project), Series 2019." The Bonds shall be dated as provided in **Section 203(b)** hereof, shall become due on **December 1, 2033** (subject to prior redemption as provided in **Article III** hereof) and shall bear interest as specified in **Section 208(f)** hereof, payable on the dates specified in **Section 208(f)** hereof.

(b) The Trustee is hereby designated as the Paying Agent. The Owners of a majority of Bonds then Outstanding may designate a different Paying Agent upon written notice to the City and the Trustee.

(c) The Bonds shall be executed without material variance from the form and in the manner set forth in **Exhibit C** hereto and delivered to the Trustee for authentication. Prior to or simultaneously with the authentication and delivery of the Bonds by the Trustee, there shall be filed with the Trustee the following:

(1) An original or certified copy of the ordinance passed by the City Council authorizing the issuance of the Bonds and the execution of this Indenture, the Performance Agreement, the Bond Purchase Agreement and the Lease;

(2) Original executed counterparts of this Indenture, the Lease, the Performance Agreement and the Bond Purchase Agreement;

(3) A representation letter from the Purchaser in substantially the form attached as **Exhibit D** hereto;

(4) A request and authorization to the Trustee on behalf of the City, executed by the Authorized City Representative, to authenticate the Bonds and deliver the same to or at the direction of the Purchaser upon payment to the Trustee, for the account of the City, of the purchase price thereof specified in the Bond Purchase Agreement. The Trustee shall be entitled to conclusively rely upon such request and authorization as to names of the purchaser and the amount of such purchase price;

(5) An opinion of counsel nationally recognized on the subject of municipal bonds to the effect that the Bonds constitute valid and legally binding limited and special revenue obligations of the City; and

(6) Such other certificates, statements, receipts, opinions and documents as the Trustee shall reasonably require for the delivery of the Bonds.

(d) When the documents specified in subsection (c) of this Section have been filed with the Trustee, and when the Bonds have been executed and authenticated as required by this Indenture, either:

(1) The Purchaser shall pay the Closing Price to the Trustee, and the Trustee shall endorse the Bonds in an amount equal to the Closing Price and then either hold the Bonds in trust or if so directed in writing deliver the Bonds to or upon the order of the Purchaser; or

(2) The Company shall submit a requisition certificate in accordance with **Section 4.4** of the Lease, in an amount equal to the Closing Price, and the Trustee shall authenticate and endorse the Bonds in an amount equal to the Closing Price and then either hold the Bonds in trust or if so directed in writing deliver the Bonds to the Company (or another purchaser designated by the Company).

In either case, the Purchaser shall be deemed to have paid over to the Trustee, and the Trustee shall be deemed to have deposited into the Project Fund, an amount equal to the Closing Price.

(e) Following the initial issuance and delivery of the Bonds, the Company may submit additional requisition certificates in accordance with **Section 4.4** of the Lease, and the Trustee shall, based solely of the amount set forth in the requisition, endorse the Bonds in an amount equal to the amount set forth in each requisition certificate. The date of endorsement of each Principal Amount Advanced (as defined in subsection (g) below) as set forth on **Schedule I** to the Bonds shall be the date of the City's approval of each requisition certificate. The Company shall be deemed to have paid over to the Trustee, and the Trustee shall be deemed to have deposited into the Project Fund, an amount equal to the amount of such requisition. The Trustee shall, at the time of each endorsement, send revised **Schedule I** to the Bonds via facsimile or electronic mail to the Purchaser and the Company (if not the sole Owner of the Bonds) and the City. The Trustee shall keep a record of the total requisitions submitted by the Company for the Project, and shall notify the Company and the City in writing if the requisitions submitted exceed the maximum principal amount of the Bonds.

(f) The Bonds shall bear interest at the rate of 5.00% per annum on the Cumulative Outstanding Principal Amount of the Bonds. Such interest shall be payable in arrears on each December 1, commencing on December 1, 2020, and continuing thereafter until the Cumulative Outstanding Principal Amount is paid in full; provided that the aggregate maximum principal amount shall not exceed $51,400,000 and further provided that the Bonds shall be paid in full no later than **December 1, 2033**. Interest shall be calculated on the basis of a year of 360 days consisting of twelve months of 30 days each.

(g) The Trustee shall keep and maintain a record of the amount deposited or deemed to be deposited into the Project Fund pursuant to the terms of this Indenture as "Principal Amount Advanced" and shall enter the aggregate principal amount of the Bonds then Outstanding on its records as the "Cumulative Outstanding Principal Amount." On each date upon which a portion of the Cumulative Outstanding Principal Amount is paid to the Owners, pursuant to the redemption provisions of this Indenture, the Trustee shall enter on its records the principal amount paid on the Bonds as "Principal Amount Redeemed," and shall enter the then Outstanding principal amount of the Bonds as "Cumulative Outstanding Principal Amount." The records maintained by the Trustee as to amounts deposited into the Project Fund or principal amounts paid on the Bonds shall be the official records of the Cumulative Outstanding Principal Amount for all purposes, absent manifest error, and shall be in substantially the

form of the Table of Cumulative Outstanding Principal Amount as set out in the form of Bonds in **Exhibit C** hereto. If any moneys are deposited by the Trustee into the Project Fund, then the Trustee shall provide a statement of receipts and disbursements with respect thereto to the City and the Company on a monthly basis. After the Project has been completed and the certificate of payment of all costs is filed as provided in **Section 504** hereof, the Trustee, to the extent it has not already done so pursuant to this Section or **Section 1012** hereof, shall file a final statement of receipts and disbursements with respect thereto with the City and the Company.

Section 209. Mutilated, Lost, Stolen or Destroyed Bonds. If any Bond becomes mutilated, or is lost, stolen or destroyed, the City shall execute and the Trustee shall authenticate and deliver a new Bond of like series, date and tenor as the Bond mutilated lost, stolen or destroyed; provided that, in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Trustee, and in the case of any lost, stolen or destroyed Bond, there shall be first furnished to the City and the Trustee evidence of such loss, theft or destruction satisfactory to the Trustee, together with indemnity satisfactory to the Trustee to save each of the City and the Trustee harmless. If any such Bond has matured, instead of delivering a substitute Bond, the Trustee may pay the same without surrender thereof. Upon the issuance of any substitute Bond, the City and the Trustee may require the payment of an amount sufficient to reimburse the City and the Trustee for any tax or other governmental charge that may be imposed in relation thereto and any other reasonable fees and expenses incurred in connection therewith.

Section 210. Cancellation and Destruction of Bonds Upon Payment.

(a) All Bonds which have been paid or redeemed or which the Trustee has purchased or which have otherwise been surrendered to the Trustee under this Indenture, either at or before maturity shall be cancelled by the Trustee immediately upon the payment, redemption or purchase of such Bonds and the surrender thereof to the Trustee.

(b) All Bonds cancelled under any of the provisions of this Indenture shall be destroyed by the Trustee. The Trustee shall execute a certificate describing the Bonds so destroyed, and shall file executed counterparts of such certificate with the City and the Company.

ARTICLE III

REDEMPTION OF BONDS

Section 301. Redemption of Bonds.

(a) The Bonds are subject to redemption and payment at any time before the stated maturity thereof, at the option of the Company, (1) in whole, if the Company exercises its option to purchase the Project and deposits an amount sufficient to effect such purchase pursuant to the Lease on the applicable redemption date, or (2) in part, if the Company prepays additional Basic Rent pursuant to the Lease. If only a portion of the Bonds are to be redeemed, (1) Bonds aggregating at least 10% of the maximum aggregate principal amount of Bonds authorized hereunder shall not be subject to redemption and payment before the stated maturity thereof, and (2) the Trustee shall keep a record of the amount of Bonds to remain Outstanding following such redemption. Any redemption of Bonds pursuant to this paragraph shall be at a redemption price equal to the par value thereof being redeemed, plus accrued interest thereon, without premium or penalty, to the redemption date.

(b) The Bonds are subject to mandatory redemption, in whole or in part, to the extent of amounts deposited in the Bond Fund pursuant to **Section 9.1** or **9.2** of the Lease, in the event of substantial damage to or destruction or condemnation of substantially all of the Project. Bonds to be redeemed pursuant to this paragraph shall be called for redemption by the Trustee on the earliest practicable date for which timely notice of redemption may be given as provided hereunder. Any redemption of Bonds pursuant to this paragraph shall be at a redemption price equal to the par value thereof being redeemed, plus accrued interest thereon, without premium or penalty, to the redemption date. Before giving notice of redemption to the Owners pursuant to this paragraph (b), money in an amount equal to the redemption price shall have been deposited in the Bond Fund.

(c) The Bonds are subject to mandatory redemption, in whole, in the event that the Company vacates, abandons, ceases operations, fails to occupy or is ejected from the Project Site, and the same remains uncared for or abandoned for a period of one year after notice of such condition is provided to the Company by the City. Such notice shall specify the date on which the condition or conditions described in this subsection first occurred and the date (not less than one year after the date so specified) upon which the Company must redeem all Outstanding Bonds. Such notice shall not be given by the City during any period of time allowed under **Section 9.1** or **9.2** of the Lease for the repair, restoration, replacement, substitution or rebuilding of damage to, destruction of or with respect to condemnation of the Project.

(d) In connection with a redemption under paragraphs (a), (b) or (c) of this Section, at its option, the Company may deliver to the Trustee for cancellation any Bonds owned by the Company and not previously paid, and the Company shall receive a credit against the amounts payable by the Company for the redemption of such Bonds in an amount equal to the principal amount of the Bonds so tendered for cancellation, plus accrued interest.

Section 302. Effect of Call for Redemption. Before or on the date fixed for redemption, funds, Government Securities, or a combination thereof, shall be placed with the Trustee which are sufficient to pay the Bonds called for redemption and accrued interest thereon, if any, to the redemption date. Upon the happening of the above conditions and appropriate written notice having been given, the Bonds or the portions of the principal amount of Bonds thus called for redemption shall cease to bear interest on the specified redemption date, and shall no longer be entitled to the protection, benefit or security of this Indenture and shall not be deemed to be Outstanding under the provisions of this Indenture. If the Bonds are fully redeemed before maturity and an amount of money equal to the Trustee's and the Paying Agent's agreed to fees and expenses hereunder accrued and to accrue in connection with such redemption is paid or provided for, the City shall, at the Company's direction, deliver to the Company the items described in **Section 11.2** of the Lease.

Section 303. Notice of Redemption. If the Bonds are to be called for redemption as provided in **Section 301(a)** hereof, the Company shall deliver written notice to the City and the Trustee that it has elected to redeem all or a portion of the Bonds at least 40 days (10 days if the Company is the Owner) prior to the scheduled redemption date. The Trustee shall then deliver written notice to the Owners at least 30 days (five days if the Company is the Owner) prior to the scheduled redemption date by facsimile and by first-class mail stating the date upon which the Bonds will be redeemed and paid, unless such notice period is waived by the Owners in writing.

ARTICLE IV

FORM OF BONDS

Section 401. Form Generally. The Bonds and the Trustee's Certificate of Authentication to be endorsed thereon shall be issued in substantially the forms set forth in **Exhibit C** hereto. The Bonds may have endorsed thereon such legends or text as may be necessary or appropriate to conform to any applicable rules and regulations of any governmental authority or any custom, usage or requirements of law with respect thereto.

ARTICLE V

CUSTODY AND APPLICATION OF BOND PROCEEDS

Section 501. Creation of Funds. There are hereby created and ordered to be established in the custody of the Trustee the following special trust funds in the name of the City:

(a) "City of Joplin, Missouri, Project Fund – Hearthstone Project" (herein called the "Project Fund");

(b) "City of Joplin, Missouri, Costs of Issuance Fund – Hearthstone Project" (herein called the "Costs of Issuance Fund"); and

(c) "City of Joplin, Missouri, Bond Fund – Hearthstone Project" (herein called the "Bond Fund").

Section 502. Deposits into the Project Fund. The proceeds of the sale of the Bonds (whether actually paid or deemed paid under **Section 208(d)** and **(e)** hereof), including Additional Payments provided for in the Bond Purchase Agreement, when received, excluding such amounts required to be paid into the Bond Fund pursuant to **Section 601** hereof, shall be deposited by the Trustee into the Project Fund. Any money received by the Trustee from any other source for the purpose of purchasing, constructing, improving and equipping the Project shall pursuant to any directions from the Person depositing such moneys also be deposited into the Project Fund.

Section 503. Disbursements from the Project Fund.

(a) The moneys in the Project Fund shall be disbursed by the Trustee for the payment of, or reimbursement to the Company (or any other party that has made payment on behalf of the Company) for payment of, Project Costs upon receipt of requisition certificates signed by the Company in accordance with the provisions of **Article IV** of the Lease. The Trustee hereby covenants and agrees to disburse such moneys in accordance with such provisions.

(b) If, pursuant to **Section 208(d)** and **(e)** hereof, the Trustee is deemed to have deposited into the Project Fund the amount specified in the requisition certificates submitted by the Company in accordance with the provisions of **Article IV** of the Lease, the Trustee shall upon endorsement of the Bonds in an equal amount be deemed to have disbursed such funds from the Project Fund to the Company (or such other purchaser designated by the Company) in satisfaction of the requisition certificate.

(c) In paying any requisition under this Section, the Trustee may rely as to the completeness and accuracy of all statements in such requisition certificate if such requisition certificate is signed by the Authorized Company Representative. If the City so requests in writing, a copy of each requisition certificate submitted to the Trustee for payment under this Section shall be promptly provided by the Trustee to the City. The City hereby authorizes and directs the Trustee to make disbursements in the manner and as provided for by the aforesaid provisions of the Lease.

Section 504. Completion of the Project. The completion of the acquisition, construction, improvement and equipping of the Project and payment of all costs and expenses incident thereto shall be evidenced by the filing with the Trustee of the certificate required by the provisions of **Section 4.5** of the Lease. As soon as practicable after the Completion Date any balance remaining in the Project Fund shall without further authorization be transferred by the Trustee to the Bond Fund and applied as provided in **Section 4.6** of the Lease.

Section 505. Deposits into and Disbursements from the Costs of Issuance Fund. Money deposited by the Company in the Costs of Issuance Fund shall be used solely to pay costs of issuing the Bonds or refunded to the Company as hereinafter provided. The Trustee shall without further authorization disburse from the Costs of Issuance Fund, to the extent available, money sufficient to pay the amounts shown in a closing memorandum provided to the Trustee on or before the date of delivery of the Bonds, which shall have attached thereto the statements, invoices and related items described in said closing memorandum. The Trustee may rely conclusively on the amounts due as shown in the closing memorandum and will not be required to make any independent inspection or investigation in connection therewith. Any of such money not used on the date that is three months after the issuance of the Bonds shall be refunded to the Company.

Section 506. Disposition Upon Acceleration. If the principal of the Bonds has become due and payable pursuant to **Section 902** hereof, upon the date of payment by the Trustee of any moneys due as provided in **Article IX** hereof, any balance remaining in the Project Fund shall without further authorization be deposited in the Bond Fund by the Trustee, with advice to the City and to the Company of such action.

ARTICLE VI

REVENUES AND FUNDS

Section 601. Deposits Into the Bond Fund.

(a) The Trustee shall deposit into the Bond Fund, as and when received, (a) all accrued interest on the Bonds, if any, paid by the Purchaser; (b) all Basic Rent payable by the Company to the City specified in **Section 5.1** of the Lease; (c) any Additional Rent payable by the Company specified in **Section 5.2** of the Lease; (d) any amount in the Project Fund to be transferred to the Bond Fund pursuant to **Section 504** hereof upon completion of the Project or pursuant to **Section 506** hereof upon acceleration of the Bonds; (e) any excess Net Proceeds (as defined in the Lease) of condemnation awards or insurance received by the Trustee pursuant to **Section 9.1(b)** or **Section 9.2(b)** of the Lease; (f) the amounts to be deposited in the Bond Fund pursuant to **Sections 9.1(f)** and **9.2(c)** of the Lease; (g) all interest and other income derived from investments of Bond Fund moneys as provided in **Section 702** hereof; and (h) all other moneys received by the Trustee under and pursuant to any of the provisions of the Lease when

accompanied by written directions from the Person depositing such moneys that such moneys are to be paid into the Bond Fund.

(b) The Trustee shall notify the Company in writing, at least 15 days before each date on which a payment is due under **Section 5.1** of the Lease, of the amount that is payable by the Company pursuant to such Section.

Section 602. Application of Moneys in the Bond Fund.

(a) Except as provided in **Section 604** and **Section 908** hereof or in **Section 4.6(a)** of the Lease, moneys in the Bond Fund shall be expended (or deemed to be expended) solely for the payment of the principal of and the interest on the Bonds as the same mature and become due or upon the redemption thereof before maturity; provided, however, that any amounts received by the Trustee as Additional Rent under **Section 5.2** of the Lease and deposited to the Bond Fund as provided in **Section 601** above, shall be expended by the Trustee for such items of Additional Rent as they are received or due without further authorization from the City.

(b) The City hereby authorizes and directs the Trustee to withdraw sufficient funds from the Bond Fund to pay the principal of and the interest on the Bonds as the same become due and payable and to make said funds so withdrawn available to the Paying Agent for the purpose of paying said principal and interest.

(c) Whenever the amount in the Bond Fund from any source whatsoever is sufficient to redeem all of the Bonds Outstanding and to pay interest to accrue thereon before such redemption, the City covenants and agrees, upon request of the Company, to take and cause to be taken the necessary steps to redeem all such Bonds on the next succeeding redemption date for which the required redemption notice may be given or on such later redemption date as may be specified by the Company. The Trustee shall use any moneys in the Bond Fund to redeem a part of the Bonds Outstanding in accordance with and to the extent permitted by **Article III** hereof so long as the Company is not in default with respect to any payments under the Lease and to the extent said moneys are in excess of the amount required for payment of Bonds theretofore matured or called for redemption and past due interest, if any, in all cases when such Bonds have not been presented for payment.

(d) After payment in full of the principal of and interest, if any, on the Bonds (or provision has been made for the payment thereof as provided in this Indenture), and the fees, charges and expenses of the Trustee, the City and any Paying Agent and any other amounts required to be paid under this Indenture, the Lease and the Performance Agreement, all amounts remaining in the Bond Fund shall be paid to the Company upon the expiration or sooner termination of the Lease.

Section 603. Payments Due on Days Other than Business Days. In any case where the date of maturity of principal of or interest, if any, on the Bonds or the date fixed for redemption of any Bonds is not a Business Day, then payment of principal or interest, if any, need not be made on such date but may be made on the next succeeding Business Day with the same force and effect as if made on the date of maturity or the date fixed for redemption, and no interest, if any, shall continue to accrue for the period after such date.

Section 604. Nonpresentment of Bonds. If any Bond is not presented for payment when the principal thereof becomes due, either at maturity or otherwise, or at the date fixed for redemption thereof, if funds sufficient to pay such Bond shall have been made available to the Trustee, all liability of the City

to the Owner thereof for the payment of such Bond shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Trustee to hold such fund or funds, without liability for interest thereon, for the benefit of the Owner of such Bond who shall thereafter be restricted exclusively to such fund or funds for any claim of whatever nature on his part under this Indenture or on, or with respect to, said Bond. If any Bond is not presented for payment within one year following the date when such Bond becomes due, whether by maturity or otherwise, the Trustee shall without liability for interest thereon repay to the Company the funds theretofore held by it for payment of such Bond, and such Bond shall, subject to the defense of any applicable statute of limitation, thereafter be an unsecured obligation of the Company, and the Owner thereof shall be entitled to look only to the Company for payment, and then only to the extent of the amount so repaid, and the Company shall not be liable for any interest thereon and shall not be regarded as a trustee of such money.

ARTICLE VII

SECURITY FOR DEPOSITS AND INVESTMENT OF FUNDS

Section 701. Moneys to be Held in Trust. All moneys deposited with or paid to the Trustee for account of the Bond Fund or the Project Fund under any provision of this Indenture, and all moneys deposited with or paid to any Paying Agent under any provision of this Indenture, shall be held by the Trustee or Paying Agent in trust and shall be applied only in accordance with the provisions of this Indenture and the Lease, and, until used or applied as herein provided, shall constitute part of the Trust Estate and be subject to the lien hereof. Neither the Trustee nor any Paying Agent shall be under any liability for interest on any moneys received hereunder except such as may be agreed upon in writing.

Section 702. Investment of Moneys in Funds. Moneys held in the Project Fund and the Bond Fund shall, pursuant to written direction of the Company, signed by the Authorized Company Representative, be separately invested and reinvested by the Trustee in Investment Securities which mature or are subject to redemption by the Owner before the date such funds will be needed. Moneys in the Costs of Issuance fund shall be held un-invested. If the Company fails to provide written directions concerning investment of moneys held in the Project Fund and the Bond Fund, the Trustee shall invest in such Investment Securities specified in paragraph (e) of the definition of Investment Securities, provided they mature or are subject to redemption before the date such funds will be needed. The Trustee is specifically authorized to implement its automated cash investment system to assure that cash on hand is invested and to charge its normal cash management fees and cash sweep account fees, which may be deducted from income earned on investments; provided that any such fees shall not exceed the interest income on the investment. Any such Investment Securities shall be held by or under the control of the Trustee and shall be deemed at all times a part of the fund in which such moneys are originally held, and the interest accruing thereon and any profit realized from such Investment Securities shall be credited to such fund, and any loss resulting from such Investment Securities shall be charged to such fund. After the Trustee has notice pursuant to **Section 1001(h)** hereof of the existence of an Event of Default, the Trustee shall direct the investment of moneys in the Bond Fund and the Project Fund. The Trustee shall sell and reduce to cash a sufficient amount of such Investment Securities whenever the cash balance in any Fund is insufficient for the purposes of such Fund. In determining the balance in any Fund, investments in such Fund shall be valued at the lower of their original cost or their fair market value as of the most recent Payment Date. The Trustee may make any and all investments permitted by the provisions of this Section through its own bond department or any affiliate or short-term investment department.

Section 703. Record Keeping. The Trustee shall maintain records designed to show compliance with the provisions of this Article and with the provisions of **Article VI** hereof for at least six years after the payment of all of the Outstanding Bonds.

ARTICLE VIII

GENERAL COVENANTS AND PROVISIONS

Section 801. Payment of Principal and Interest. The City covenants and agrees that it will, but solely from the rents, revenues and receipts derived from the Project and the Lease as described herein, deposit or cause to be deposited in the Bond Fund sufficient sums payable under the Lease promptly to meet and pay the principal of and the interest on the Bonds as they become due and payable at the place, on the dates and in the manner provided herein and in the Bonds according to the true intent and meaning thereof. Nothing herein shall be construed as requiring the City to operate the Project as a business other than as lessor or to use any funds or revenues from any source other than funds and revenues derived from the Project.

Section 802. Authority to Execute Indenture and Issue Bonds. The City covenants that it is duly authorized under the Constitution and laws of the State to execute this Indenture, to issue the Bonds and to pledge and assign the Trust Estate in the manner and to the extent herein set forth; that all action on its part for the execution and delivery of this Indenture and the issuance of the Bonds has been duly and effectively taken; that the Bonds in the hands of the Owners thereof are and will be valid and enforceable obligations of the City according to the import thereof.

Section 803. Performance of Covenants. The City covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Indenture, in the Bonds and in all proceedings of its governing body pertaining thereto. The Trustee may take such action as it deems appropriate to enforce all such covenants, undertakings, stipulations and provisions of the City hereunder.

Section 804. Instruments of Further Assurance. The City covenants that it will do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, such Supplemental Indentures and such further acts, instruments, financing statements and other documents as the Trustee may reasonably require for the better pledging and assigning unto the Trustee the property and revenues herein described to the payment of the principal of and interest, if any, on the Bonds. The City covenants and agrees that, except as herein and in the Lease provided, it will not sell, convey, mortgage, encumber or otherwise dispose of any part of the Project or the rents, revenues and receipts derived therefrom or from the Lease, or of its rights under the Lease.

Section 805. Recordings and Filings. The City shall file or cause to be kept and filed all financing statements, and hereby authorizes the Trustee to file or cause to be kept and filed continuation statements with respect to such originally filed financing statements related to this Indenture and all supplements hereto and such other documents as may be required under the Uniform Commercial Code in order to fully preserve and protect the security of the Owners and the Company under the Lease and the rights of the Trustee hereunder. The City will cooperate in causing this Indenture and all Supplemental Indentures, the Lease and all Supplemental Leases and all other security instruments to be recorded and filed in such manner and in such places as may be required by law in order to fully preserve and protect the security of the Owners and the rights of the Trustee hereunder.

Section 806. Inspection of Project Books. The City covenants and agrees that all books and documents in its possession relating to the Project and the rents, revenues and receipts derived from the Project shall at all times be open to inspection by such accountants or other agencies as the Trustee may from time to time designate.

Section 807. Enforcement of Rights Under the Lease.

(a) The Trustee, as assignee, transferee, pledgee, and owner of a security interest under this Indenture, in its name or in the name of the City, may enforce all assigned rights of the City and the Trustee and all obligations of the Company under and pursuant to the Lease for and on behalf of the Owners, whether or not the City is in default hereunder.

(b) The City covenants and agrees that it will enforce all of its rights and all of the obligations of the Company (at the expense of the Company) under the Lease to the extent necessary to preserve the Project in good repair and reasonably safe operating condition, and to protect the rights of the Trustee and the Owners hereunder with respect to the pledge and assignment of the rents, revenues and receipts coming due under the Lease; provided that, the City and the Trustee, as its assignee, shall refrain from enforcing any such right or obligation (except for the rights of the City or the Trustee to receive payments owing to either of them for their own account under the Indenture, the Lease, the Performance Agreement or any other agreement related to the Bonds or for their rights of indemnification or to be protected from liabilities by insurance policies required by the Lease) if so directed in writing by the Owners of 100% of the Outstanding Bonds. The City agrees that the Trustee, as assignee of the rentals and other amounts to be received by the City and paid by the Company under the Lease, or in its name or in the name of the City, may enforce all rights of the City to receive such rentals and other amounts and all obligations of the Company to pay such rentals and other amounts under and pursuant to the Lease for and on behalf of the Owners, whether or not the City is in default hereunder. So long as not otherwise provided in this Indenture, the Company shall be permitted to possess, use and enjoy the Project and appurtenances so as to carry out its obligations under the Lease.

ARTICLE IX

DEFAULT AND REMEDIES

Section 901. Events of Default; Notice; Opportunity to Cure. If any of the following events occur, it is hereby defined as and declared to be and to constitute an "Event of Default":

(a) Default in the due and punctual payment of the principal on any Bond, whether at the stated maturity or accelerated maturity thereof, or at any date fixed for redemption thereof;

(b) Default in the due and punctual payment of the interest on any Bond, whether at the stated maturity or accelerated maturity thereof, or at any date fixed for redemption thereof;

(c) Default as specified in **Section 12.1** of the Lease has occurred; or

(d) Default in the performance, or breach, of any other covenant or agreement under this Indenture.

No default specified above shall constitute an Event of Default until the Trustee or the Owners of 25% in aggregate principal amount of all Bonds Outstanding has given actual notice of such default by registered or certified mail to the City and the Company, and the City and the Company have had 30 days after receipt of such notice to correct said default or cause said default to be corrected and have not corrected said default or caused said default to be corrected within such period; provided, however, if any such default (other than a default in the payment of any money) is such that it cannot be corrected within such period, it shall not constitute an Event of Default if corrective action is instituted by the City or the Company (as the case may be) within such period and diligently pursued until the default is corrected. While the Company shall have no obligation to cure any default under this Indenture (except for such defaults as result from a default under **Section 12.1** of the Lease), the cure of any default hereunder by the Company shall be accepted as if such cure was made by the City.

Section 902. Acceleration of Maturity in Event of Default; Rescission.

(a) If an Event of Default has occurred and is continuing after the notice and cure period described in **Section 901** elapses, the Trustee may, and upon the written request of the Owners of not less than 25% in aggregate principal amount of Bonds then Outstanding, shall, by notice in writing delivered to the City and the Company, declare the principal of all Bonds then Outstanding and the interest accrued thereon immediately due and payable, and such principal and interest and all other amounts due hereunder shall thereupon become and be immediately due and payable.

(b) If, at any time after such declaration, but before the Bonds have matured by their terms, all overdue installments of principal and interest upon the Bonds, together with the reasonable and proper expenses of the Trustee, and all other sums then payable by the City under this Indenture are either paid or provisions satisfactory to the Trustee are made for such payment (and all sums then payable as Additional Rent under the Lease by the Company have been paid to the City or other appropriate payee), then and in every such case the Trustee shall, but only with the approval of a majority of the Owners of the Bonds then Outstanding, rescind such declaration and annul such default in its entirety. In such event, the Trustee shall rescind any declaration of acceleration of installments of rent payments on the Bonds under **Section 12.2** of the Lease.

(c) In case of any rescission, then and in every such case the City, the Trustee, the Company and the Owners shall be restored to their former position and rights hereunder respectively, but no such rescission shall extend to any subsequent or other default or Event of Default or impair any right consequent thereon.

Section 903. Surrender of Possession of Trust Estate; Rights and Duties of Trustee in Possession. If an Event of Default has occurred and is continuing after the notice and cure period described in **Section 901** hereof elapses, the City, upon demand of the Trustee, shall forthwith surrender the possession of, and it shall be lawful for the Trustee, by such officer or agent as it may appoint, to take possession of all or any part of the Trust Estate, together with the books, papers and accounts of the City pertaining thereto, and including the rights and the position of the City under the Lease, and to hold, operate and manage the same, and from time to time make all needful repairs and improvements. The Trustee may lease the Project or any part thereof, in the name and for account of the City, and collect, receive and sequester the rents, revenues and receipts therefrom, and out of the same and any moneys received from any receiver of any part thereof pay, and set up proper reserves for the payment of all proper costs and expenses of so taking, holding and managing the same, including without limitation (a) reasonable compensation to the Trustee, its agents and counsel, (b) any reasonable charges of the Trustee hereunder, (c) any taxes and assessments and other charges having a lien that is senior to the lien of this Indenture, (d) all expenses of such repairs and improvements and (e) any amounts payable under

the Performance Agreement. The Trustee shall apply the remainder of the moneys so received in accordance with the provisions of **Section 908** hereof. Whenever all that is due upon the Bonds has been paid and all defaults cured, the Trustee shall surrender possession of the Trust Estate to the City, its successors or assigns, the same right of entry, however, to exist upon any subsequent Event of Default. While in possession of such property, the Trustee shall render annually to the City and the Company a summarized statement of receipts and expenditures in connection therewith.

Section 904. Appointment of Receivers in Event of Default. If an Event of Default has occurred and is continuing after the notice and cure period described in **Section 901** elapses, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Trustee and of the Owners under this Indenture, the Trustee shall be entitled, as a matter of right, to the appointment of a receiver or receivers of the Trust Estate or any part thereof, pending such proceedings, with such powers as the court making such appointment shall confer.

Section 905. Exercise of Remedies by the Trustee.

(a) Upon the occurrence of an Event of Default, the Trustee may pursue any available remedy at law or in equity by suit, action, mandamus or other proceeding to enforce the payment of the principal of and interest on the Bonds then Outstanding and all other amounts due hereunder, and to enforce and compel the performance of the duties and obligations of the City or the Company as herein set forth or as set forth in the Lease, respectively.

(b) If an Event of Default has occurred and is continuing after the notice and cure period described in **Section 901** elapses, and if requested to do so by (1) the City (in the case of an Event of Default pursuant to **Section 12.1(a)** of the Lease, to the extent that such Event of Default is based upon the nonpayment of Additional Rent, **Section 12.1(b)** of the Lease, to the extent that such Event of Default relates to Unassigned Rights, or **Section 12.1(c)** or **(d)** of the Lease), or (2) the Owners of 25% in aggregate principal amount of Bonds then Outstanding and indemnified as provided in subsection (l) of **Section 1001** hereof, the Trustee shall be obligated to exercise such one or more of the rights and powers conferred by this Article as the Trustee, being advised by counsel, shall deem most expedient and in the interests of the City or the Owners, as the case may be.

(c) All rights of action under this Indenture or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceedings relating thereto, and any such suit or proceeding instituted by the Trustee shall be brought in its name as Trustee without necessity of joining as plaintiffs or defendants any Owners, and any recovery of judgment shall, subject to the provisions of **Section 908** hereof, be for the equal benefit of all the Owners of the Outstanding Bonds.

Section 906. Limitation on Exercise of Remedies by Owners. No Owner shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of this Indenture or for the execution of any trust hereunder or for the appointment of a receiver or any other remedy hereunder, unless (a) a default has occurred of which the Trustee has been notified as provided in **Section 1001(h)** hereof or of which by said subsection the Trustee is deemed to have notice, (b) such default has become an Event of Default, (c) the Owners of 25% in aggregate principal amount of Bonds then Outstanding have made written request to the Trustee, have offered it reasonable opportunity either to proceed for such reasonable period not to exceed 60 days following such notice and to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name, and have offered to the Trustee indemnity as provided in **Section 1001(l)** hereof, and (d) the Trustee thereafter fails

or refuses to exercise the powers herein granted or to institute such action, suit or proceeding in its own name; such notification, request and offer of indemnity are hereby declared in every case, at the option of the Trustee, to be conditions precedent to the execution of the powers and trusts of this Indenture, and to any action or cause of action for the enforcement of this Indenture, or for the appointment of a receiver or for any other remedy hereunder, it being understood and intended that no one or more Owners shall have any right in any manner whatsoever to affect, disturb or prejudice this Indenture by their action or to enforce any right hereunder except in the manner herein provided, and that all proceedings at law or equity shall be instituted, had and maintained in the manner herein provided and for the equal benefit of the Owners of all Bonds then Outstanding. Nothing in this Indenture contained shall, however, affect or impair the right of any Owner to payment of the principal of and interest on any Bond at and after the maturity thereof or the obligation of the City to pay the principal of and interest on each of the Bonds issued hereunder to the respective Owners thereof at the time, place, from the source and in the manner herein and in the Bonds expressed.

Section 907. Right of Owners to Direct Proceedings.

(a) The Owners of a majority in aggregate principal amount of Bonds then Outstanding may, at any time, by an instrument or instruments in writing executed and delivered to the Trustee, direct the time, method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture, or for the appointment of a receiver or any other proceedings hereunder; provided that such direction shall not be otherwise than in accordance with the provisions of law and of this Indenture, including **Section 1001(l)** hereof.

(b) Notwithstanding any provision in this Indenture to the contrary, including paragraph (a) of this Section, the Owners shall not have the right to control or direct any remedies hereunder upon an Event of Default under **Section 12.1(a)** (but only if such Event of Default is based upon the nonpayment of Additional Rent), **Section 12.1(b)** (but only with respect to Unassigned Rights) or **Section 12.1(c)** or **(d)** of the Lease.

Section 908. Application of Moneys in Event of Default.

(a) All moneys received by the Trustee pursuant to any right given or action taken under the provisions of this Article shall, after payment of any obligations outstanding under the Lease and the Performance Agreement, of the cost and expenses of the proceedings resulting in the collection of such moneys and of the fees, expenses, liabilities and advances incurred or made by the Trustee (including any attorneys fees and expenses) or amounts to be paid pursuant to **Section 903** hereof, be deposited in the Bond Fund and all moneys so deposited in the Bond Fund shall be applied as follows:

(1) Unless the principal of all the Bonds shall have become or shall have been declared due and payable, all such moneys shall be applied:

FIRST -- To the payment to the Persons entitled thereto of all installments of interest, if any, then due and payable on the Bonds, in the order in which such installments of interest became due and payable, and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the Persons entitled thereto, without any discrimination or privilege;

SECOND -- To the payment to the Persons entitled thereto of the unpaid principal of any of the Bonds which shall have become due and payable (other than Bonds called for redemption for the payment of which moneys are held pursuant to the provisions of this Indenture), in the order of their due dates, and, if the amount available shall not be sufficient to pay in full Bonds due on any particular date, together with such interest, then to the payment, ratably, according to the amount of principal due on such date, to the Persons entitled thereto without any discrimination or privilege.

(2) If the principal of all the Bonds shall have become due or shall have been declared due and payable, all such moneys shall be applied to the payment of the principal and interest, if any, then due and unpaid on all of the Bonds, without preference or priority of principal over interest or of interest over principal or of any installment of interest over any other installment of interest or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the Person entitled thereto, without any discrimination or privilege.

(3) If the principal of all the Bonds shall have been declared due and payable, and if such declaration shall thereafter have been rescinded and annulled under the provisions of **Section 910** hereof, then, subject to the provisions of subsection (2) of this Section in the event that the principal of all the Bonds shall later become due or be declared due and payable, the moneys shall be applied in accordance with the provisions of subsection (1) of this Section.

(b) Whenever moneys are to be applied pursuant to the provisions of this Section, such moneys shall be applied at such times and from time to time as the Trustee shall determine, having due regard to the amount of such moneys available and which may become available for such application in the future. Whenever the Trustee shall apply such moneys, it shall fix the date (which shall be a Payment Date unless it shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such dates shall cease to accrue.

(c) Whenever all of the Bonds and interest thereon, if any, have been paid under the provisions of this Section, and all fees, expenses and charges of the City and the Trustee and any other amounts required to be paid under this Indenture and the Lease have been paid (including any amounts payable under the Performance Agreement), any balance remaining in the Bond Fund shall be paid to the Company as provided in **Section 602** hereof.

Section 909. Remedies Cumulative. No remedy by the terms of this Indenture conferred upon or reserved to the Trustee or to the Owners is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Trustee or to the Owners hereunder or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right, power or remedy accruing upon any Event of Default shall impair any such right, power or remedy or shall be construed to be a waiver of any such Event of Default or acquiescence therein; every such right, power or remedy may be exercised from time to time and as often as may be deemed expedient. If the Trustee has proceeded to enforce any right under this Indenture by the appointment of a receiver, by entry, or otherwise, and such proceedings have been discontinued or abandoned for any reason, or have been determined adversely, then and in every such case the City, the Company, the Trustee and the Owners shall be restored to their former positions and rights hereunder, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

Section 910. Waivers of Events of Default. The Trustee shall waive any Event of Default hereunder and its consequences and rescind any declaration of maturity of principal of and interest, if any, on Bonds, and only upon the written request of the Owners of at least 50% in aggregate principal amount of all the Bonds then Outstanding, provided, however, that (1) there shall not be waived without the consent of the City an Event of Default hereunder arising from an Event of Default under **Section 12.1(a)** of the Lease (but only if such Event of Default is based upon the nonpayment of Additional Rent), **Section 12.1(b)** of the Lease (but only with respect to Unassigned Rights), or **Section 12.1(c)** or **(d)** of the Lease, and (2) there shall not be waived without the consent of the Owners of all the Bonds Outstanding (a) any Event of Default in the payment of the principal of any Outstanding Bonds when due (whether at the date of maturity or redemption specified therein), or (b) any Event of Default in the payment when due of the interest on any such Bonds, unless prior to such waiver or rescission, all arrears of interest, or all arrears of payments of principal when due, as the case may be, and all reasonable expenses of the Trustee and the City (including reasonable attorneys' fees and expenses), in connection with such default, shall have been paid or provided for. In case of any such waiver or rescission, or in case any proceeding taken by the Trustee on account of any such default shall have been discontinued or abandoned or determined adversely, then and in every such case the City, the Company, the Trustee and the Owners shall be restored to their former positions, rights and obligations hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other default, or impair any right consequent thereon, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

ARTICLE X

THE TRUSTEE

Section 1001. Acceptance of the Trusts. The Trustee hereby accepts the trusts imposed upon it by this Indenture, and agrees to perform said trusts as a corporate trustee ordinarily would perform said trusts under a corporate indenture, but only upon and subject to the following express terms and conditions, and no implied covenants or obligations shall be read into this Indenture against the Trustee:

(a) The Trustee, before the occurrence of an Event of Default and after the curing or waiver of all Events of Default that may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. If any Event of Default has occurred and is continuing, subject to **Section 1001(l)** hereof, the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and shall use the same degree of care and skill in their exercise, as a prudent Person would exercise or use under the circumstances in the conduct of its own affairs.

(b) The Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or through agents, affiliates, attorneys or receivers and shall not be responsible for any misconduct or negligence on the part of any agent, attorney or receiver appointed or chosen by it with due care. The Trustee may conclusively rely upon and act or refrain from acting upon any opinion or advice of counsel, who may be counsel to the City or to the Company, concerning all matters of trust hereof and the duties hereunder, and may in all cases pay such reasonable compensation to all such agents, attorneys and receivers as may reasonably be employed in connection with the trusts hereof. The Trustee shall not be responsible for any loss or damage resulting from any action or nonaction by it taken or omitted to be taken in good faith in reliance upon such opinion or advice of counsel addressed to the City and the Trustee.

(c) The Trustee shall not be responsible for any recital herein or in the Bonds (except with respect to the Certificate of Authentication of the Trustee endorsed on the Bonds), or except as provided in the Lease and particularly **Section 10.8** thereof, for the recording or rerecording, filing or refiling of this Indenture or any security agreement in connection therewith (excluding the continuation of Uniform Commercial Code financing statements), or for insuring the Project or collecting any insurance moneys, or for the validity of the execution by the City of this Indenture or of any Supplemental Indentures or instruments of further assurance, or for the sufficiency of the security of the Bonds. The Trustee shall not be responsible or liable for any loss suffered in connection with any investment of funds made by it in accordance with **Article VII** hereof, so long as the Trustee has complied with any instructions of the Company.

(d) The Trustee shall not be accountable for the use of any Bonds authenticated and delivered hereunder. The Trustee, in its individual or any other capacity, may become the Owner or pledgee of Bonds with the same rights that it would have if it were not Trustee. The Trustee shall not be accountable for the use or application by the City or the Company of the proceeds of any of the Bonds or of any money paid to or upon the order of the City or Company under any provision of this Indenture.

(e) The Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, affidavit, letter, telegram or other paper or document provided for under this Indenture believed by it to be genuine and correct and to have been signed, presented or sent by the proper Person or Persons. Any action taken by the Trustee pursuant to this Indenture upon the request or authority or consent of any Person who, at the time of making such request or giving such authority or consent is an Owner, shall be conclusive and binding upon all future Owners of the same Bond and upon Bonds issued in exchange therefor or upon transfer or in place thereof.

(f) As to the existence or nonexistence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, or whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established before taking, suffering or omitting any action hereunder, the Trustee shall be entitled to rely upon a certificate signed by the Authorized City Representative or an Authorized Company Representative as sufficient evidence of the facts therein contained, and before the occurrence of a default of which the Trustee has been notified as provided in subsection (h) of this Section or of which by said subsection it is deemed to have notice, the Trustee shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient, but may at its discretion secure such further evidence deemed necessary or advisable, but shall in no case be bound to secure the same.

(g) The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty, and the Trustee shall not be answerable for other than its negligence or willful misconduct.

(h) The Trustee shall not be required to take notice or be deemed to have notice of any default hereunder except failure by the City to cause to be made any of the payments to the Trustee required to be made in **Article VI** hereof, unless the Trustee is specifically notified in writing of such default by the City or by the Owners of at least 25% in aggregate principal amount of all Bonds then Outstanding.

(i) At any and all reasonable times and subject to the Company's reasonable and standard security procedures, the Trustee and its duly authorized agents, attorneys, experts, engineers, accountants and representatives may, but shall not be required to, inspect any and all of the Project, and all books, papers and records of the City pertaining to the Project and the Bonds, and to take such memoranda from and in regard thereto as may be desired. The Trustee shall treat all proprietary information of the Company as confidential.

(j) The Trustee shall not be required to give any bond or surety in respect to the execution of its trusts and powers hereunder or otherwise in respect of the Project.

(k) The Trustee may, but shall not be required to, demand, in respect of the authentication of any Bonds, the withdrawal of any cash, the release of any property, or any action whatsoever within the purview of this Indenture, any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required, as a condition of such action by the Trustee deemed desirable for the purpose of establishing the right of the City to the authentication of any Bonds, the withdrawal of any cash, or the taking of any other action by the Trustee.

(l) Notwithstanding anything in the Indenture or the Lease to the contrary, before taking any action under this Indenture other than the payments from moneys on deposit in the Project Fund or the Bond Fund, as provided herein, the Trustee may require that satisfactory indemnity be furnished to it for the reimbursement of all costs and expenses to which it may be put and to protect it against all liability which it may incur in or by reason of such action, except liability which is adjudicated to have resulted from its negligence or willful misconduct by reason of any action so taken.

(m) Notwithstanding any other provision of this Indenture to the contrary, any provision relating to the conduct of, intended to provide authority to act, right to payment of fees and expenses, protection, immunity and indemnification to the Trustee, shall be interpreted to include any action of the Trustee, whether it is deemed to be in its capacity as Trustee, bond registrar or Paying Agent.

Section 1002. Fees, Charges and Expenses of the Trustee. The Trustee shall be entitled to payment of and/or reimbursement for reasonable fees for its ordinary services rendered hereunder and all advances, agent and counsel fees and other ordinary expenses reasonably made or incurred by the Trustee in connection with such ordinary services, in accordance with the separate fee schedule agreed to by the Trustee and the Company. If it becomes necessary for the Trustee to perform extraordinary services, it shall be entitled to reasonable extra compensation therefor and to reimbursement for reasonable extraordinary expenses in connection therewith; provided that if such extraordinary services or extraordinary expenses are occasioned by the neglect or willful misconduct of the Trustee, it shall not be entitled to compensation or reimbursement therefor. The Trustee shall be entitled to payment and reimbursement for the reasonable fees and charges of the Trustee as Paying Agent for the Bonds. Pursuant to the provisions of **Section 5.2** of the Lease, the Company has agreed to pay to the Trustee all reasonable fees, charges and expenses of the Trustee under this Indenture. The Trustee agrees that the City shall have no liability for any reasonable fees, charges and expenses of the Trustee, and the Trustee agrees to look only to the Company for the payment of all reasonable fees, charges and expenses of the Trustee and any Paying Agent as provided in the Lease. Upon the occurrence of an Event of Default and during its continuance, the Trustee shall have a lien with right of payment before payment on account of

principal of or interest on any Bond, upon all moneys in its possession under any provisions hereof for the foregoing reasonable advances, fees, costs and expenses incurred.

Section 1003. Notice to Owners if Default Occurs. If a default occurs of which the Trustee is by **Section 1001(h)** hereof required to take notice or if notice of default is given as in said subsection (h) provided, then the Trustee shall give written notice thereof to the last known Owners of all Bonds then Outstanding as shown by the bond registration books required by **Section 206** hereof to be kept at the corporate trust office of the Trustee.

Section 1004. Intervention by the Trustee. In any judicial proceeding to which the City is a party and which, in the opinion of the Trustee and its counsel, has a substantial bearing on the interests of Owners, the Trustee may intervene on behalf of Owners and, subject to the provisions of **Section 1001(l)** hereof, shall do so if requested in writing by the Owners of at least 25% of the aggregate principal amount of Bonds then Outstanding.

Section 1005. Successor Trustee Upon Merger, Consolidation or Sale. With the prior written consent of the Company, any corporation or association into which the Trustee may be merged or converted or with or into which it may be consolidated, or to which it may sell or transfer its corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any merger, conversion, sale, consolidation or transfer to which it is a party, shall be and become successor Trustee hereunder and shall be vested with all the trusts, powers, rights, obligations, duties, remedies, immunities and privileges hereunder as was its predecessor, without the execution or filing of any instrument or any further act on the part of any of the parties hereto.

Section 1006. Resignation of Trustee. The Trustee and any successor Trustee may at any time resign from the trusts hereby created by giving 30 days' written notice to the City, the Company and the Owners, and such resignation shall take effect at the end of such 30 days, or upon the earlier appointment of a successor Trustee by the Owners or by the City; provided, however, that in no event shall the resignation of the Trustee or any successor trustee become effective until such time as a successor trustee has been appointed and has accepted the appointment. If no successor has been appointed and accepted the appointment within 30 days after the giving of such notice of resignation, the Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee.

Section 1007. Removal of Trustee. The Trustee may be removed at any time, with or without cause, by an instrument or concurrent instruments in writing (a) delivered to the Trustee, the City and the Company and signed by the Owners of a majority in aggregate principal amount of Bonds then Outstanding, or (b) so long as no Event of Default under this Indenture or the Lease shall have occurred and be continuing, delivered to the Trustee, the City and the Owners and signed by the Company.

Section 1008. Appointment of Successor Trustee. If the Trustee hereunder resigns or is removed, or otherwise becomes incapable of acting hereunder, or if it is taken under the control of any public officer or officers or of a receiver appointed by a court, a successor Trustee (a) reasonably acceptable to the City may be appointed by the Company (so long as no Event of Default has occurred and is continuing), or (b) reasonably acceptable to the City and the Company may be appointed by the Owners of a majority in aggregate principal amount of Bonds then Outstanding, by an instrument or concurrent instruments in writing; provided, nevertheless, that in case of such vacancy, the City, by an instrument executed and signed by its Mayor and attested by its City Clerk under its seal, may appoint a temporary Trustee to fill such vacancy until a successor Trustee shall be appointed in the manner above provided. Any such temporary Trustee so appointed by the City shall immediately and without further

acts be superseded by the successor Trustee so appointed as provided above. Every such Trustee appointed pursuant to the provisions of this Section shall be a trust company or bank in good standing and qualified to accept such trust with a corporate trust office in the State, and having, or whose obligations are guaranteed by a financial institution having, a reported capital, surplus and undivided profits of not less than $50,000,000. If no successor Trustee has been so appointed and accepted appointment in the manner herein provided, the Trustee or any Owner may petition any court of competent jurisdiction for the appointment of a successor Trustee, until a successor shall have been appointed as above provided.

Section 1009. Vesting of Trusts in Successor Trustee. Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the City and the Company an instrument in writing accepting such appointment hereunder, and thereupon such successor shall, without any further act, deed or conveyance, become fully vested with all the trusts, powers, rights, obligations, duties, remedies, immunities and privileges of its predecessor and the duties and obligations of such predecessor hereunder shall thereafter cease and terminate; but such predecessor shall, nevertheless, on the written request of the City, execute and deliver an instrument transferring to such successor Trustee all the trusts, powers, rights, obligations, duties, remedies, immunities and privileges of such predecessor hereunder; every predecessor Trustee shall deliver all securities and moneys held by it as Trustee hereunder to its successor. Should any instrument in writing from the City be required by any predecessor or successor Trustee for more fully and certainly vesting in such successor the trusts, powers, rights, obligations, duties, remedies, immunities and privileges hereby vested in the predecessor, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the City.

Section 1010. Right of Trustee to Pay Taxes and Other Charges. If any tax, assessment or governmental or other charge upon, or insurance premium with respect to, any part of the Project is not paid as required herein or in the Lease, the Trustee may pay such tax, assessment or governmental charge or insurance premium, without prejudice, however, to any rights of the Trustee or the Owners hereunder arising in consequence of such failure; any amount at any time so paid under this Section, with interest thereon from the date of payment at the rate of 10% per annum, shall become an additional obligation secured by this Indenture, and the same shall be given a preference in payment over any payment of principal of or interest on the Bonds, and shall be paid out of the proceeds of rents, revenues and receipts collected from the Project, if not otherwise caused to be paid; but the Trustee shall be under no obligation to make any such payment unless it shall have been requested to do so by the Owners of at least 25% of the aggregate principal amount of Bonds then Outstanding and shall have been provided adequate funds for the purpose of such payment.

Section 1011. Trust Estate May be Vested in Co-Trustee.

(a) It is the purpose of this Indenture that there shall be no violation of any law of any jurisdiction (including particularly the State) denying or restricting the right of banking corporations or associations to transact business as trustee in such jurisdiction. It is recognized that in case of litigation under this Indenture or the Lease, and in particular in case of the enforcement of either this Indenture or the Lease upon the occurrence of an Event of Default or if the Trustee deems that by reason of any present or future law of any jurisdiction it cannot exercise any of the powers, rights or remedies herein granted to the Trustee, or take any other action which may be desirable or necessary in connection therewith, it may be necessary or desirable that the Trustee appoint an additional individual or institution as a co-trustee or separate trustee, and the Trustee is hereby authorized to appoint such co-trustee or separate trustee.

(b) If the Trustee appoints an additional individual or institution as a co-trustee or separate trustee (which appointment shall be subject to the approval of the Company), each and every remedy, power, right, claim, demand, cause of action, immunity, title, interest and lien expressed or intended by this Indenture to be exercised by the Trustee with respect thereto shall be exercisable by such co-trustee or separate trustee but only to the extent necessary to enable such co-trustee or separate trustee to exercise such powers, rights and remedies, and every covenant and obligation necessary to the exercise thereof by such co-trustee or separate trustee shall run to and be enforceable by either of them.

(c) Should any deed, conveyance or instrument in writing from the City be required by the co-trustee or separate trustee so appointed by the Trustee for more fully and certainly vesting in and confirming to such co-trustee such properties, rights, powers, trusts, duties and obligations, any and all such deeds, conveyances and instruments in writing shall, on request, be executed, acknowledged and delivered by the City.

(d) If any co-trustee or separate trustee shall die, become incapable of acting, resign or be removed, all the properties, rights, powers, trusts, duties and obligations of such co-trustee or separate trustee, so far as permitted by law, shall vest in and be exercised by the Trustee until the appointment of a successor to such co-trustee or separate trustee.

Section 1012. Accounting. The Trustee shall render an annual accounting for the period ending December 31 of each year, to the City, the Company and to any Owner requesting the same and, upon the request of the City, the Company or any Owner, a monthly accounting to any such party, showing in reasonable detail all financial transactions relating to the Trust Estate during the accounting period and the balance in any funds or accounts created by this Indenture as of the beginning and close of such accounting period.

Section 1013. Performance of Duties Under the Lease. The Trustee hereby accepts and agrees to perform all duties and obligations assigned to it under the Lease.

ARTICLE XI

SUPPLEMENTAL INDENTURES

Section 1101. Supplemental Indentures Not Requiring Consent of Owners. The City and the Trustee may from time to time, without the consent of or notice to any of the Owners, enter into such Supplemental Indenture or Supplemental Indentures as shall not be inconsistent with the terms and provisions hereof, for any one or more of the following purposes:

(a) To cure any ambiguity or formal defect or omission in this Indenture, or to make any other change which, in the judgment of the Trustee, is not to the material prejudice of the Trustee or the Owners (provided the Trustee is entitled to receive and may conclusively rely upon an opinion of counsel in exercising such judgment);

(b) To grant to or confer upon the Trustee for the benefit of the Owners any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Owners or the Trustee or either of them;

(c) To more precisely identify any portion of the Project or to add additional property thereto;

(d) To conform the Indenture to amendments to the Lease made by the City and the Company; or

(e) To subject to this Indenture additional revenues, properties or collateral.

Section 1102. Supplemental Indentures Requiring Consent of Owners.

(a) Exclusive of Supplemental Indentures covered by **Section 1101** hereof and subject to the terms and provisions contained in this Section, and not otherwise, the Owners of not less than a majority in aggregate principal amount of the Bonds then Outstanding may, from time to time, anything contained in this Indenture to the contrary notwithstanding, consent to and approve the execution by the City and the Trustee of such other Supplemental Indenture or Supplemental Indentures as shall be deemed necessary and desirable by the City for the purpose of modifying, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Indenture or in any Supplemental Indenture; provided, however, that without the consent of the Owners of 100% of the principal amount of the Bonds then Outstanding, nothing in this Section contained shall permit or be construed as permitting (1) an extension of the maturity or a shortening of the redemption date of the principal of or the interest, if any, on any Bond issued hereunder, or (2) a reduction in the principal amount of any Bond or the rate of interest thereon, if any, or (3) a privilege or priority of any Bond or Bonds over any other Bond or Bonds, or (4) a reduction in the aggregate principal amount of Bonds the Owners of which are required for consent to any such Supplemental Indenture.

(b) If at the time the City requests the Trustee to enter into any such Supplemental Indenture for any of the purposes of this Section, the Trustee shall cause notice of the proposed execution of such Supplemental Indenture to be mailed to each Owner as shown on the bond registration books required by **Section 206** hereof. Such notice shall briefly set forth the nature of the proposed Supplemental Indenture and shall state that copies thereof are on file at the corporate trust office of the Trustee for inspection by all Owners. If within 60 days or such longer period as may be prescribed by the City following the mailing of such notice, the Owners of not less than a majority in aggregate principal amount of the Bonds Outstanding at the time of the execution of any such Supplemental Indenture shall have consented to and approved the execution thereof as herein provided, no Owner shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the City from executing the same or from taking any action pursuant to the provisions thereof.

Section 1103. Company's Consent to Supplemental Indentures. Anything herein to the contrary notwithstanding, a Supplemental Indenture under this Article shall not become effective unless and until the Company shall have consented in writing to the execution and delivery of such Supplemental Indenture. The Trustee shall cause notice of the proposed execution and delivery of any Supplemental Indenture (regardless of whether it affects the Company's rights) together with a copy of the proposed Supplemental Indenture to be mailed to the Company and any Financing Party at least 15 days before the proposed date of execution and delivery of the Supplemental Indenture.

Section 1104. Opinion of Counsel. In executing, or accepting the additional trusts created by, any Supplemental Indenture permitted by this Article or the modification thereby of the trusts created by this Indenture, the Trustee and the City shall receive, and, shall be fully protected in relying upon, an

opinion of counsel addressed and delivered to the Trustee and the City stating that the execution of such Supplemental Indenture is permitted by and in compliance with this Indenture and will, upon the execution and delivery thereof, be a valid and binding obligation of the City. The Trustee may, but shall not be obligated to, enter into any such Supplemental Indenture which affects the Trustee's rights, duties or immunities under this Indenture or otherwise.

ARTICLE XII

SUPPLEMENTAL LEASES

Section 1201. Supplemental Leases Not Requiring Consent of Owners. The City and the Trustee shall, without the consent of or notice to the Owners, consent to the execution of any Supplemental Lease or Supplemental Leases by the City and the Company as may be required (a) by the provisions of the Lease and this Indenture, (b) for the purpose of curing any ambiguity or formal defect or omission in the Lease, (c) so as to more precisely identify the Project or add additional property thereto or (d) in connection with any other change therein which, in the judgment of the Trustee, does not materially and adversely affect the Trustee or security for the Owners (provided the Trustee is entitled to receive and may conclusively rely upon an opinion of counsel in exercising such judgment).

Section 1202. Supplemental Leases Requiring Consent of Owners. Except for Supplemental Leases as provided for in **Section 1201** hereof, neither the City nor the Trustee shall consent to the execution of any Supplemental Lease or Supplemental Leases by the City or the Company without the mailing of notice and the obtaining of the written approval or consent of the Owners of not less than a majority in aggregate principal amount of the Bonds at the time Outstanding given and obtained as provided in **Section 1102** hereof. If at any time the City and the Company shall request the consent of the Trustee to any such proposed Supplemental Lease, the Trustee shall cause notice of such proposed Supplemental Lease to be mailed in the same manner as provided in **Section 1102** hereof with respect to Supplemental Indentures. Such notice shall briefly set forth the nature of such proposed Supplemental Lease and shall state that copies of the same are on file in the corporate trust office of the Trustee for inspection by all Owners. If within 60 days or such longer period as may be prescribed by the City following the mailing of such notice, the Owners of not less than 50% in aggregate principal amount of the Bonds Outstanding at the time of the execution of any such Supplemental Lease shall have consented to and approved the execution thereof as herein provided, no Owner shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the City from executing the same or from taking any action pursuant to the provisions thereof.

Section 1203. Opinion of Counsel. In executing or consenting to any Supplemental Lease permitted by this Article, the City and the Trustee shall receive, and shall be fully protected in relying upon, an opinion of counsel addressed to the Trustee and the City stating that the executing of such Supplemental Lease is authorized or permitted by the Lease and this Indenture and the applicable law and will upon the execution and delivery thereof be valid and binding obligations of the parties thereof.

ARTICLE XIII

SATISFACTION AND DISCHARGE OF INDENTURE

Section 1301. Satisfaction and Discharge of this Indenture.

(a) When the principal of and interest on all the Bonds have been paid in accordance with their terms or provision has been made for such payment, as provided in **Section 1302** hereof, and provision also made for paying all other sums payable hereunder and under the Lease and the Performance Agreement, including the reasonable fees and expenses of the Trustee, the City and Paying Agent to the date of retirement of the Bonds, then the right, title and interest of the Trustee in respect hereof shall thereupon cease, determine and be void. Thereupon, the Trustee shall cancel, discharge and release this Indenture and shall upon the written request of the City or the Company execute, acknowledge and deliver to the City such instruments of satisfaction and discharge or release as shall be required to evidence such release and the satisfaction and discharge of this Indenture, and shall assign and deliver to the City (subject to the City's obligations under **Section 11.2** of the Lease) any property at the time subject to this Indenture which may then be in its possession, except amounts in the Bond Fund required to be paid to the Company under **Section 602** hereof and except funds or securities in which such funds are invested held by the Trustee for the payment of the principal of and interest on the Bonds.

(b) The City is hereby authorized to accept a certificate by the Trustee that the whole amount of the principal and interest, if any, so due and payable upon all of the Bonds then Outstanding has been paid or such payment provided for in accordance with **Section 1302** hereof as evidence of satisfaction of this Indenture, and upon receipt thereof shall cancel and erase the inscription of this Indenture from its records.

Section 1302. Bonds Deemed to be Paid.

(a) Bonds shall be deemed to be paid within the meaning of this Article when payment of the principal of and interest thereon to the due date thereof (whether such due date be by reason of maturity or upon redemption as provided in this Indenture, or otherwise), either (1) have been made or caused to be made in accordance with the terms thereof, or (2) have been provided for by depositing with the Trustee or other commercial bank or trust company having full trust powers and authorized to accept trusts in the State in trust and irrevocably set aside exclusively for such payment (i) moneys sufficient to make such payment or (ii) Government Securities maturing as to principal and interest in such amount and at such times as will insure the availability of sufficient moneys to make such payment, or (3) have been provided for by surrendering the Bonds to the Trustee for cancellation. At such time as Bonds are deemed to be paid hereunder, as aforesaid, they shall no longer be secured by or entitled to the benefits of this Indenture, except for the purposes of such payment from such moneys or Government Securities.

(b) Notwithstanding the foregoing, in the case of Bonds which by their terms may be redeemed before the stated maturities thereof, no deposit under clause (2) of the immediately preceding paragraph shall be deemed a payment of such Bonds as aforesaid until, as to all such Bonds which are to be redeemed before their respective stated maturities, proper notice of such redemption shall have been given in accordance with **Article III** hereof or irrevocable instructions shall have been given to the Trustee to give such notice.

(c) Notwithstanding any provision of any other section of this Indenture which may be contrary to the provisions of this Section, all moneys or Government Securities set aside and held in trust

pursuant to the provisions of this Section for the payment of Bonds shall be applied to and used solely for the payment of the particular Bonds, with respect to which such moneys and Government Securities have been so set aside in trust.

ARTICLE XIV

MISCELLANEOUS PROVISIONS

Section 1401. Consents and Other Instruments by Owners.

(a) Any consent, request, direction, approval, objection or other instrument required by this Indenture to be signed and executed by the Owners may be in any number of concurrent writings of similar tenor and may be signed or executed by such Owners in Person or by agent appointed in writing. Proof of the execution of any such instrument or of the writing appointing any such agent and of the ownership of Bonds (other than the assignment of ownership of a Bond) if made in the following manner, shall be sufficient for any of the purposes of this Indenture, and shall be conclusive in favor of the Trustee with regard to any action taken, suffered or omitted under any such instrument, namely:

(i) The fact and date of the execution by any Person of any such instrument may be proved by the certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the Person signing such instrument acknowledged before him the execution thereof, or by affidavit of any witness to such execution.

(ii) The fact of ownership of Bonds and the amount or amounts, numbers and other identification of such Bonds, and the date of holding the same shall be proved by the registration books of the City maintained by the Trustee pursuant to **Section 206** hereof.

(b) In determining whether the Owners of the requisite principal amount of Bonds Outstanding have given any request, demand, authorization, direction, notice, consent or waiver under this Indenture, Bonds owned by the Company shall be disregarded and deemed not to be Outstanding under this Indenture, except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Bonds which the Trustee knows to be so owned shall be so disregarded; provided, the foregoing provisions shall not be applicable if the Company is the only Owner of the Bonds. Notwithstanding the foregoing, Bonds so owned which have been pledged in good faith shall not be disregarded as aforesaid if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Bonds and the pledgee is not the Company or any affiliate thereof.

Section 1402. Limitation of Rights Under this Indenture. With the exception of rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Indenture or the Bonds is intended or shall be construed to give any Person other than the parties hereto, and the Owners, if any, any right, remedy or claim under or in respect to this Indenture, this Indenture and all of the covenants, conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the parties hereto and the Owners, as herein provided.

Section 1403. Notices. It shall be sufficient service of any notice, request, complaint, demand or other paper required by this Indenture to be given or filed with the City, the Trustee, the Company or Owners if the same is duly mailed, postage prepaid, sent by overnight delivery or other delivery service, as follows:

(a) To the City:

City of Joplin, Missouri
602 S. Main Street
Joplin, Missouri 64801
Attention: City Manager

with copy to:

The Joplin Area Chamber of Commerce
320 E. 4th Street
Joplin, Missouri 64801
ATTN: Tobias Teeter

(b) To the Trustee:

UMB Bank, N.A.
928 Grand Blvd, 12th Floor
Kansas City, MO 64106
ATTN: Corporate Trust Department

(c) To the Company:

Casey's Marketing Company, an Iowa corporation
Casey's General Stores, Inc.
One S.E. Convenience Boulevard
Ankeny, Iowa 50021
Attn: Legal Counsel/Director of Government Relations

(d) To the Owners if the same is duly mailed by first class, registered or certified mail addressed to each of the Owners of Bonds at the time Outstanding as shown by the bond registration books required by **Section 206** hereof to be kept at the corporate trust office of the Trustee.

All notices given by certified or registered mail as aforesaid shall be deemed fully given as of the date they are so mailed, provided that any of the foregoing given to the Trustee shall be effective only upon receipt. All notices given by overnight delivery or other delivery service shall be deemed fully given as of the date when received. A duplicate copy of each notice, certificate or other communication given hereunder by either the City or the Trustee to the other shall also be given to the Company. The City, the Company and the Trustee may from time to time designate, by notice given hereunder to the others of such parties, such other address to which subsequent notices, certificates or other communications shall be sent.

Section 1404. Severability. If any provision of this Indenture shall be held or deemed to be invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever.

Section 1405. Execution in Counterparts. This Indenture may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 1406. Governing Law. This Indenture shall be governed exclusively by and construed in accordance with the applicable laws of the State.

Section 1407. Electronic Storage. The parties agree that the transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

Section 1408. City Consents. The Mayor of the City is authorized, unless expressly provided herein, to grant on behalf of the City such consents and waivers relating to the Bonds, this Indenture, the Lease or the Performance Agreement as may be requested during the term thereof; provided, such consents and/or waivers shall not increase the principal amount of the Bonds, increase the term of the Lease or the tax exemption as provided for therein, or materially change the nature of the transaction.

[remainder of this page intentionally left blank]

IN WITNESS WHEREOF, City of Joplin, Missouri, has caused this Indenture to be signed in its name and behalf by its Mayor and the seal of the City to be hereunto affixed and attested by the City Clerk, and to evidence its acceptance of the trusts hereby created, the Trustee has caused this Indenture to be signed in its name and behalf by a duly authorized officer, all as of the date first above written.

CITY OF JOPLIN, MISSOURI

By: _____
Name: Gary Shaw
Title: Mayor

[SEAL]

ATTEST:

By: _____
Name: Barbara Gollhofer
Title: City Clerk

Approved as to form:

_____
City Attorney

UMB BANK, N.A.,
as Trustee

By _____
Name:
Title:

[SEAL]

ATTEST:

By _____
Name:
Title:

EXHIBIT A

PROJECT SITE

The following described real estate located in Jasper County, Missouri:

[**INSERT LEGAL DESCRIPTION**]

EXHIBIT B

PROJECT IMPROVEMENTS

The Project Improvements consist of the following, to the extent paid for in whole with Bond proceeds:

The purchase and construction of a warehouse and distribution facility including buildings, site improvements and related fixtures and improvements.

PROJECT EQUIPMENT

The Project Equipment consists of the following, to the extent paid for in whole with Bond proceeds:

All items of machinery, equipment and parts or other personal property installed or acquired in the Project Improvements or elsewhere on the Project Site, and replacements thereof and additions thereto as provided in the Indenture and the Lease; provided that, each item of personal property that becomes a part of the Project Equipment shall constitute Project Equipment for no more than 5 tax years, starting with the tax year after the calendar year in which such personal property is acquired by the Company.

EXHIBIT C

FORM OF BONDS

THIS BOND OR ANY PORTION HEREOF MAY BE TRANSFERRED, ASSIGNED OR NEGOTIATED ONLY AS PROVIDED IN THE HEREIN DESCRIBED INDENTURE.

No. 1 **Not to Exceed $51,400,000**

UNITED STATES OF AMERICA
STATE OF MISSOURI

CITY OF JOPLIN, MISSOURI
TAXABLE INDUSTRIAL DEVELOPMENT REVENUE BOND
(HEARTHSTONE PROJECT)
SERIES 2019

Interest Rate	Maturity Date	Dated Date
5.00%	December 1, 2033	December___, 2019

OWNER: _____

MAXIMUM PRINCIPAL AMOUNT: **FIFTY-ONE MILLION FOUR HUNDRED THOUSAND DOLLARS**

THE CITY OF JOPLIN, MISSOURI, a constitutional charter city and municipal corporation duly organized and existing under the laws of the State of Missouri (the "City"), for value received, promises to pay, but solely from the source hereinafter referred to, to the Owner named above, or registered assigns thereof, on the Maturity Date shown above, the principal amount shown above, or such lesser amount as may be outstanding hereunder as reflected on **Schedule I** hereto held by the Trustee as provided in the hereinafter referred to Indenture. The City agrees to pay such principal amount to the Owner in any coin or currency of the United States of America which on the date of payment thereof is legal tender for the payment of public and private debts (or by book entry as provided in the Indenture and Lease), and in like manner to pay to the Owner hereof, either by check or draft mailed to the Owner at a stated address as it appears on the bond registration books of the City kept by the Trustee under the within mentioned Indenture or, in certain situations authorized in the Indenture, by internal bank transfer (or by book entry as provided in the Indenture and Lease), or by wire transfer to an account in a commercial bank or savings institution located in the continental United States. Interest on the Cumulative Outstanding Principal Amount (as hereinafter defined) at the per annum Interest Rate stated above, payable in arrears on each December 1, commencing on December 1, 2020, and continuing thereafter until the earlier of the date on which said Cumulative Outstanding Principal Amount is paid in full or the Maturity Date. Interest on each advancement of the principal amount of this Bond shall accrue from the date that such advancement is made, computed on the basis of a year of 360 days consisting of 12 months of 30 days each.

As used herein, the term "Cumulative Outstanding Principal Amount" means all Bonds outstanding under the terms of the hereinafter-defined Indenture, as reflected on **Schedule I** hereto maintained by the Trustee.

THIS BOND is one of a duly authorized series of Bonds of the City designated "City of Joplin, Missouri, Taxable Industrial Development Revenue Bonds (Hearthstone Project), Series 2019," in the maximum aggregate principal amount of $51,400,000 (the "Bonds"), to be issued for the purpose of acquiring, constructing, improving and equipping a project located at 2715 Prosperity Road in the City (the "Project"). The City will lease the land on which the Project is located (the "Project Site"), the improvements to be made thereon and equipment to be installed therein (collectively, the "Project") to Casey's Marketing Company, an Iowa corporation (the "Company"), under the terms of a Lease Agreement dated as of December 1, 2019 (said Lease Agreement, as amended and supplemented from time to time in accordance with the provisions thereof, being herein called the "Lease"), between the City and the Company, all pursuant to the authority of and in full compliance with the provisions, restrictions and limitations of the Constitution, the statutes of the State of Missouri, including particularly the Act, the charter of the City and pursuant to proceedings duly had by the Council of the City.

THE BONDS are issued under and are equally and ratably secured and entitled to the protection given by a Trust Indenture dated as of December 1, 2019 (said Trust Indenture, as amended and supplemented from time to time in accordance with the provisions thereof, being herein called the "Indenture"), between the City and UMB Bank, N.A., as trustee (the "Trustee"). *Capitalized terms not defined herein shall have the meanings set forth in the Indenture.*

Reference is hereby made to the Indenture for a description of the provisions, among others, with respect to the nature and extent of the security for the Bonds, the rights, duties and obligations of the City, the Trustee and the Owners, and the terms upon which the Bonds are issued and secured.

THE BONDS are subject to redemption and prepayment as stated in the Indenture.

IF THE BONDS are to be called for optional redemption, the Company shall deliver written notice to the City and the Trustee that it has elected to redeem all or a portion of the Bonds at least 40 days (10 days if the Company is the Owner) prior to the scheduled redemption date. The Trustee shall then deliver written notice to the Owners at least 30 days (five days if the Company is the Owner) prior to the scheduled redemption date by facsimile and by first-class mail stating the date upon which the Bonds will be redeemed and paid, unless such notice period is waived by the Owners in writing.

THE BONDS, including interest thereon, are special obligations of the City and are payable solely out of the rents, revenues and receipts derived by the City from the Project and the Lease and not from any other fund or source of the City, and are secured by a pledge and assignment of the Project and of such rents, revenues and receipts, including all rentals and other amounts to be received by the City under and pursuant to the Lease, all as provided in the Indenture. The Bonds do not constitute a general obligation of the City or the State of Missouri, and neither the City nor said State shall be liable thereon, and the Bonds shall not constitute an indebtedness within the meaning of any constitutional, charter or statutory debt limitation or restriction, and are not payable in any manner by taxation. Pursuant to the provisions of the Lease, rental payments sufficient for the prompt payment when due of the principal of and interest on the Bonds are to be paid by the Company directly to the Trustee for the account of the City and deposited in a special fund created by the City and designated the "City of Joplin, Missouri, Bond Fund -- Hearthstone Project"

THE OWNER of this Bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any Event of Default under the Indenture, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Indenture. In certain events, on the conditions, in the manner and with the effect set forth in the Indenture, the principal of all the Bonds issued under the Indenture and then Outstanding may become or may be declared due and payable before the stated maturity thereof, together with interest accrued thereon. Modifications or alterations of this Bond or the Indenture may be made only to the extent and in the circumstances permitted by the Indenture.

THIS BOND is transferable, as provided in the Indenture, only upon the books of the City kept for that purpose at the above-mentioned office of the Trustee by the Owner hereof in Person or by such Person's duly authorized attorney, upon surrender of this Bond together with a written instrument of transfer reasonably satisfactory to the Trustee duly executed by the Owner or such Person's duly authorized attorney, and thereupon a new fully registered Bond or Bonds, in the same aggregate principal amounts, shall be issued to the transferee in exchange therefor as provided in the Indenture, and upon payment of the charges therein prescribed. The City, the Trustee and any Paying Agent may deem and treat the Person in whose name this Bond is registered as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or redemption price hereof and interest due hereon and for all other purposes.

THE BONDS are issuable in the form of one fully-registered Bond in the maximum principal amount of $51,400,000.

THIS BOND shall not be valid or become obligatory for any purposes or be entitled to any security or benefit under the Indenture until the Certificate of Authentication hereon shall have been executed by the Trustee.

IT IS HEREBY CERTIFIED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the execution and delivery of the Indenture and the issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by the Constitution and laws of the State of Missouri.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, the City of Joplin, Missouri has caused this Bond to be executed in its name by the manual or facsimile signature of its Mayor, attested by the manual or facsimile signature of its City Clerk and its corporate seal to be affixed hereto or imprinted hereon, and has caused this Bond to be dated the date set forth above.

CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds of the issue described in the within-mentioned Resolution.

Registration Date: _____

UMB Bank, N.A.,
as Trustee

By _____
Authorized Signatory

CITY OF JOPLIN, MISSOURI

By: _____
Mayor

ATTEST: (Seal)

_____
City Clerk

SCHEDULE I

TABLE OF CUMULATIVE OUTSTANDING PRINCIPAL AMOUNT

CITY OF JOPLIN, MISSOURI
TAXABLE INDUSTRIAL DEVELOPMENT REVENUE BOND
(HEARTHSTONE PROJECT)
SERIES 2019

Date	Principal Amount Advanced	Principal Amount Redeemed	Cumulative Outstanding Principal Amount	Notation Made By

FORM OF ASSIGNMENT

(NOTE RESTRICTIONS ON TRANSFERS)

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto

_____

Print or Typewrite Name, Address and Social Security or
other Taxpayer Identification Number of Transferee

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____ attorney to transfer the within Bond on the books kept by the Trustee for the registration and transfer of Bonds, with full power of substitution in the premises.

Dated: _____.

_____

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular.

Place signature medallion below:

EXHIBIT D

FORM OF REPRESENTATION LETTER

City of Joplin, Missouri
602 S. Main Street
Joplin, Missouri 64801
Attention: City Manager

UMB Bank, N.A.
928 Grand Blvd, 12th Floor
Kansas City, MO 64106
Attention: Corporate Trust Department

Re: $51,400,000 Maximum Principal Amount of Taxable Industrial Development Revenue Bonds (Hearthstone Project), Series 2019 of the City of Joplin, Missouri

Ladies and Gentlemen:

In connection with the purchase of the above-referenced Bonds (the "Bonds"), the undersigned purchaser of the Bonds (the "Purchaser") hereby represents, warrants and agrees as follows:

1. The Purchaser fully understands that (a) the Bonds have been issued under and pursuant to a Trust Indenture dated as of December 1, 2019 (the "Indenture"), between the City of Joplin, Missouri (the "City") and UMB Bank, N.A., as trustee (the "Trustee"), and (b) the Bonds are payable solely out of certain rents, revenues and receipts to be derived from the leasing or sale of the Project (as defined in the Indenture) to Casey's Marketing Company, an Iowa corporation (the "Company"), under a Lease Agreement dated as of December 1, 2019 (the "Lease"), between the City and the Company, with certain of such rents, revenues and receipts being pledged and assigned by the City to the Trustee under the Indenture to secure the payment of the principal of and interest on the Bonds.

2. The Purchaser understands that the Bonds have not been registered under the Securities Act of 1933, as amended (the "1933 Act"), or the securities laws of any state and will be sold to the Purchaser in reliance upon certain exemptions from registration and in reliance upon the representations and warranties of the Purchaser set forth herein.

3. The Purchaser understands that the Bonds are transferable only in the manner provided for in the Indenture and discussed below and warrants that it is acquiring the Bonds for its own account with the intent of holding the Bonds as an investment, and the acquisition of the Bonds is not made with a view toward their distribution or for the purpose of offering, selling or otherwise participating in a distribution of the Bonds.

4. The Purchaser agrees not to attempt to offer, sell, hypothecate or otherwise distribute the Bonds to others unless authorized by the terms of the Indenture.

5. The Company has (a) furnished to the Purchaser such information about itself as the Purchaser deems necessary in order for it to make an informed investment decision with respect to the purchase of the Bonds, (b) made available to the Purchaser, during the course of this transaction, ample

opportunity to ask questions of, and to receive answers from, appropriate officers of the City and the terms and conditions of the offering of the Bonds, and (c) provided to the undersigned all additional information which it has requested.

6. The Purchaser acknowledges that no offering document has been prepared in connection with the sale of the Bonds. The Purchaser further acknowledges that it has timely received in satisfactory form and manner all proceedings, certificates, opinions, letters and other documents required to be submitted to the Purchaser pursuant to the Bond Purchase Agreement prior to or on the date of the delivery of and payment for the Bonds, and that the City and the Company have in all respects complied with and satisfied all of their respective obligations to the Purchaser which are required under the Bond Purchase Agreement to be complied with and satisfied on or before such date.

7. The Purchaser is now, and was when it agreed to purchase the Bonds, familiar with the operations of the Company and fully aware of terms and risks of the Bonds and that the Purchaser is relying on its own knowledge and investigation of facts and circumstances relating to the purchase of the Bonds. The Purchaser believes that the Bonds being acquired are a security of the type that the Purchaser wishes to purchase and hold for investment and that the nature and amount thereof are consistent with its investment program.

8. The Purchaser is fully aware of and satisfied with (i) the current status of the title to the Project and any issues related thereto and (ii) the terms, amounts and providers of the insurance maintained pursuant to **Article VII** of the Lease, and the undersigned is purchasing the Bonds with full knowledge of such matters.

9. The Purchaser understands and agrees that the interest on the Bonds *is* subject to federal and state income taxation.

10. The Purchaser hereby directs the Trustee to hold the Bonds in trust for the undersigned pursuant to **Section 204(c)** of the Indenture.

11. The Purchaser is the lessee under the Lease or (i) a "qualified institutional buyer" under Rule 144A promulgated under the Securities Act of 1933, or (ii) any general business corporation or enterprise with total assets in excess of $100,000,000.

Dated: _____, 20___

[PURCHASER OF BONDS]

By:_____
Name: _____
Title: _____

CITY OF JOPLIN, MISSOURI,
As Lessor,

AND

CASEY'S MARKETING COMPANY,
As Lessee

LEASE AGREEMENT

Dated as of December 1, 2019

Relating to:

$51,400,000
(Aggregate Maximum Principal Amount)
City of Joplin, Missouri
Taxable Industrial Development Revenue Bonds
(Hearthstone Project)
Series 2019

Certain rights of the City of Joplin, Missouri (the "City"), in this Lease Agreement have been pledged and assigned to UMB Bank, N.A., Kansas City, Missouri, as Trustee under the Trust Indenture dated as of December 1, 2019, between the City and the Trustee.

LEASE AGREEMENT

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LEASE AGREEMENT

THIS LEASE AGREEMENT, dated as of December 1, 2019 (the "Lease"), is between the **CITY OF JOPLIN, MISSOURI**, a constitutional charter city and municipal corporation duly organized and existing under the laws of the State of Missouri, as lessor (the "City"), and **CASEY'S MARKETING COMPANY, AN IOWA CORPORATION**, as lessee (the "Company");

RECITALS:

1. The City is authorized under Article VI, Section 27(b) of the Missouri Constitution and Sections 100.010 through 100.200 of the Revised Statutes of Missouri, as amended (the "Act"), to purchase, construct, extend, improve and equip certain "projects" (as defined in the Act) and to issue industrial development revenue bonds for the purpose of providing funds to pay the costs of such projects and to lease or otherwise dispose of such projects to private persons or corporations for manufacturing, commercial, research and development, warehousing and industrial development purposes upon such terms and conditions as the City shall deem advisable.

2. Pursuant to the Act, the City Council passed an ordinance (the "Ordinance") on December 2, 2019, authorizing the City to issue its Taxable Industrial Development Revenue Bonds (Hearthstone Project), Series 2019, in the maximum principal amount of $51,400,000 (the "Bonds"), for the purpose of acquiring, constructing, improving, purchasing, equipping and installing a warehouse and distribution facility on approximately 40 acres of land located at 2715 Prosperity Road in the City (the "Project Site," as more fully described on **Exhibit A** hereto), including such land and the associated buildings, structures and fixtures (the "Project Improvements," as more fully described on **Exhibit B** hereto) and equipment (the "Project Equipment," as more fully described on **Exhibit B** hereto, the Project Site, the Project Improvements, and the Project Equipment collectively being the "Project").

3. Pursuant to the Ordinance, the City is authorized to enter into a Trust Indenture of even date herewith (the "Indenture") with UMB Bank, N.A., Kansas City, Missouri, as Trustee (the "Trustee"), for the purpose of issuing and securing the Bonds, as therein provided, and to enter into this Lease with the Company under which the City will construct, improve and equip the Project, and lease the Project to the Company in consideration of rental payments by the Company that will be sufficient to pay the principal of and interest on the Bonds.

4. In consideration of the terms and conditions of this Lease, the Ordinance, issuance of the Bonds and certain other agreements, the City and the Company have concurrently herewith entered into a Performance Agreement of even date herewith (the "Performance Agreement"), pursuant to which the Company has agreed to make certain payments in lieu of taxes.

5. Pursuant to the foregoing, the City desires to lease the Project to the Company and the Company desires to lease the Project from the City, for the rentals and upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the premises and the mutual representations, covenants and agreements herein contained, the receipt and sufficiency of which are hereby acknowledged, the City and the Company do hereby represent, covenant and agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1. Definitions of Words and Terms. In addition to any words and terms defined elsewhere in this Lease and the words and terms defined in **Section 101** of the Indenture which definitions are hereby incorporated herein by reference, and terms defined, the following words and terms as used in this Lease shall have the following meanings:

"Additional Rent" means the additional rental described in **Sections 5.2** and **6.2** of this Lease.

"Basic Rent" means the rental described in **Section 5.1** of this Lease.

"Environmental Law" means and includes the Comprehensive Environmental Response, Compensation and Liability Act of 1980, the Resource Conservation and Recovery Act, the Superfund Amendments and Reauthorization Act of 1986, any other "Superfund" or "Superlien" law, or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning any Hazardous Materials, as now or at any time hereafter in effect.

"Full Insurable Value" means the actual replacement cost of the Project less physical depreciation as determined in accordance with **Section 7.1(a)** hereof.

"Lease Term" means the period from the effective date of this Lease until the expiration thereof pursuant to **Section 3.2** hereof.

"Net Proceeds" means, when used with respect to any insurance or condemnation award with respect to the Project, the gross proceeds from the insurance or condemnation award with respect to which that term is used remaining after payment of all expenses (including reasonable attorneys' fees, trustee's fees and any extraordinary expenses of the City and the Trustee) incurred in the collection of such gross proceeds.

"Plans and Specifications" means the plans and specifications prepared for and showing the Project, as amended by the Company from time to time prior to the Completion Date, the same being duly certified by the Company, and on file with the Company, or with the architect/engineers retained by the Company for the Project, and which shall be available for reasonable inspection by the City, the Trustee and their duly appointed representatives.

"Project Site" means the real property upon which the property comprising the Project is located as more fully described in **Exhibit A**.

"Remedies Notice" means notice to the Company from the City or the Trustee that the City or the Trustee intends to exercise remedies hereunder.

Section 1.2. Rules of Interpretation.

(a) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders.

(b) Unless the context shall otherwise indicate, words importing the singular number shall include the plural and vice versa, and words importing Persons shall include firms, associations and corporations, including governmental entities, as well as natural Persons.

(c) Wherever in this Lease it is provided that either party shall or will make any payment or perform or refrain from performing any act or obligation, each such provision shall, even though not so expressed, be construed as an express covenant to make such payment or to perform, or not to perform, as the case may be, such act or obligation.

(d) All references in this instrument to designated "Articles," "Sections" and other subdivisions are, unless otherwise specified, to the designated Articles, Sections and subdivisions of this instrument as originally executed. The words "herein," "hereof," "hereunder" and other words of similar import refer to this Lease as a whole and not to any particular Article, Section or other subdivision.

(e) The Table of Contents and the Article and Section headings of this Lease shall not be treated as a part of this Lease or as affecting the true meaning of the provisions hereof.

(f) Whenever an item or items are listed after the word "including," such listing is not intended to be a listing that excludes items not listed.

ARTICLE II

REPRESENTATIONS

Section 2.1. Representations by the City. The City makes the following representations as the basis for the undertakings on its part herein contained:

(a) The City is a constitutional charter city and municipal corporation duly organized and validly existing under the laws of the State of Missouri. Under the provisions of the Act, the City has lawful power and authority to enter into the transactions contemplated by this Lease and to carry out its obligations hereunder. By proper action of its governing body, the City has been duly authorized to execute and deliver this Lease, acting by and through its duly authorized officers;

(b) As of the date of delivery hereof, the City has acquired the Project Site and agrees to construct and improve or cause to be constructed, improved and installed thereon the Project Improvements and Project Equipment. The City agrees to lease the Project to the Company and sell the Project to the Company if the Company exercises its option to purchase the Project or upon termination of this Lease as provided for herein, all for the purpose of furthering the public purposes of the Act;

(c) The purchase, construction, extension, improvement and installation of the Project and the leasing of the Project by the City to the Company will further the public purposes of the Act;

(d) To the City's knowledge, no member of the City Council or any other officer of the City has any significant or conflicting interest, financial, employment or otherwise, in the Company or in the transactions contemplated hereby;

(e) To finance the costs of the Project, the City proposes to issue the Bonds which will be scheduled to mature as set forth in **Article II** of the Indenture and will be subject to redemption prior to maturity in accordance with the provisions of **Article III** of the Indenture;

(f) The Bonds are to be issued under and secured by the Indenture, pursuant to which the Project and the net earnings therefrom, including all rents, revenues and receipts to be derived by the City from the leasing or sale of the Project, will be pledged and assigned to the Trustee as security for payment of the principal of and interest on the Bonds and amounts owing pursuant to the Lease;

(g) The City will not knowingly take any affirmative action that would permit a lien to be placed on the Project or pledge the revenues derived therefrom for any bonds or other obligations, other than the Bonds, except with the written consent of the Authorized Company Representative; and

(h) The City shall have no authority to operate the Project as a business or in any other manner except as the lessor thereof or potentially as lessee of a portion thereof, except subsequent to an Event of Default hereunder.

Section 2.2. Representations by the Company. The Company makes the following representations as the basis for the undertakings on its part herein contained:

(a) The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of Iowa and is in good standing under the laws of and is qualified to do business in the State of Missouri;

(b) The Company has lawful power and authority to enter into this Lease and to carry out its obligations hereunder and by proper action of its board of directors the Company has been duly authorized to execute and deliver this Lease, acting by and through its duly authorized officers and representatives;

(c) The execution and delivery of this Lease, the consummation of the transactions contemplated hereby, and the performance of or compliance with the terms and conditions of this Lease by the Company will not, to the Company's knowledge, conflict with or result in a breach of any of the terms, conditions or provisions of, or constitute a default under, any mortgage, deed of trust, lease or any other restrictions or any agreement or instrument to which the Company is a party or by which it or any of its property is bound, or the Company's organizational documents, or any order, rule or regulation applicable to the Company or any of its property of any court or governmental body, or constitute a default under any of the foregoing, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Company under the terms of any instrument or agreement to which the Company is a party;

(d) To the Company's knowledge, the estimated costs of the construction, improvement and equipping of the Project are in accordance with sound engineering and accounting principles;

(e) The Project will comply in all material respects with all presently applicable building and zoning, health, environmental and safety orders and laws and all other applicable laws, rules and regulations and the Project Equipment will be located at the Project Site.

ARTICLE III

GRANTING PROVISIONS

Section 3.1. Granting of Leasehold Estate. The City hereby exclusively rents, leases and lets the Project to the Company, and the Company hereby rents, leases and hires the Project from the City, subject to Permitted Encumbrances existing as of the date of the execution and delivery hereof, for the rentals and upon and subject to the terms and conditions herein contained.

Section 3.2. Lease Term. This Lease shall become effective upon its delivery, and subject to sooner termination pursuant to the provisions of this Lease, shall have a term commencing as of the date of this Lease and terminating on **December 1, 2033**.

Section 3.3. Possession and Use of the Project.

(a) The City covenants and agrees that as long as neither the City nor the Trustee has exercised any of the remedies set forth in **Section 12.2** hereof following the occurrence and continuance of an Event of Default, as defined in **Section 12.1** hereof, the Company shall have sole and exclusive possession of the Project (subject to Permitted Encumbrances and the City's and the Trustee's right of access pursuant to **Section 10.3** hereof) and shall and may peaceably and quietly have, hold and enjoy the Project during the Lease Term. The City covenants and agrees that it will not take any action, other than expressly pursuant to **Article XII** hereof, to prevent the Company from having quiet and peaceable possession and enjoyment of the Project during the Lease Term and will, at the request and expense of the Company, cooperate with the Company in order that the Company may have quiet and peaceable possession and enjoyment of the Project and will defend the Company's enjoyment and possession thereof against all parties.

(b) Subject to the provisions of this Section, the Company shall have the exclusive right to use the Project for any lawful purpose contemplated by the Act and consistent with the terms of the Performance Agreement. The Company shall use commercially reasonable efforts to comply in all material respects with all statutes, laws, ordinances, orders, judgments, decrees, regulations, directions and requirements of all federal, state, local and other governments or governmental authorities, now or hereafter applicable to the Project or to any adjoining public ways, as to the manner of use or the condition of the Project or of adjoining public ways. In the event of demonstrated noncompliance with such statutes, laws, ordinances, orders, judgments, decrees, regulations, directions and requirements the Company will take all reasonable steps to comply with such statutes, laws, ordinances, orders, judgments, decrees, regulations, directions and requirements, subject to the rights of the Company to contest the same. The Company shall also comply with the mandatory requirements, rules and regulations of all insurers under the policies carried under the provisions of **Article VII** hereof. The Company shall pay all actual and reasonable costs, expenses, claims, fines, penalties and damages that may in any manner arise out of, or be imposed as a result of, the failure of the Company to comply with the provisions of this Section. Notwithstanding any provision contained in this Section, however, the Company may, at its own cost and expense, contest or review by legal or other appropriate procedures the validity or legality of any such governmental statute, law, ordinance, order, judgment, decree, regulation, direction or requirement,

or any such requirement, rule or regulation of an insurer, and during such contest or review the Company may refrain from complying therewith.

Section 3.4. Title to the Project. The City shall be the sole owner of the Project during the Lease Term, subject to the Permitted Encumbrances.

ARTICLE IV

CONSTRUCTION, IMPROVEMENT AND INSTALLATION OF THE PROJECT

Section 4.1. Issuance of the Bonds. To provide funds for the payment of Project Costs, the City agrees that, upon request of the Company, it will issue, sell and cause to be delivered the Bonds to the purchaser thereof in accordance with the provisions of the Indenture and the Bond Purchase Agreement.

Section 4.2. Acquisition, Construction, Improvement and Installation of the Project. The City and the Company agree that the Company, as the agent of the City, shall acquire, construct, improve and install the Project Improvements and the Project Equipment as follows:

(a) The City has acquired the Project Site prior to the execution hereof. Concurrently with the execution of this Lease, (i) a deed and any other necessary instruments of transfer will be delivered to the City and placed of record, and (ii) the commitment for title insurance or ownership and encumbrance report required by **Article VII** hereof will be delivered to the City and the Trustee;

(b) On behalf of the City, the Company will construct and improve the Project Improvements on the Project Site and otherwise improve the Project Site in substantial accordance with the Plans and Specifications. The Company may revise the Plans and Specifications from time to time as it deems necessary to carry out the Project, but revisions that would alter the intended purpose of the Project to a use other than as a manufacturing, warehousing and distribution facility may be made only with the prior written approval of the City. The Company agrees that the aforesaid construction and improvement will, with such changes and additions as may be made hereunder, result in facilities suitable for use by the Company for its purposes, and that all real and personal property described in the Plans and Specifications, with such changes and additions as may be made hereunder, is desirable and appropriate in connection with the Project. The provisions of this paragraph are in addition to and do not supersede the provisions of **Section 8.2**;

(c) The Company will purchase and install the Project Equipment at the Project Site. The Company shall transfer title to the Project Equipment to the City from time to time by bills of sale or other instruments of transfer. On or before March 1 of each year or such other date required by law for reporting personal property declarations, the Company shall furnish to the City, Jasper County and the Trustee a list of items (based on the Company's internal record keeping) comprising the Project Equipment as of January 1 of such year. ***No item of personal property shall appear on the list of Project Equipment for more than 5 such reports.*** If the Company makes additions to, or replacements of, the Project Equipment for the purpose of repairing damage or normal wear and tear, such additions and/or replacements shall become part of the Project Equipment and shall be entitled to the tax exemption afforded by virtue of the City's ownership of the Project Equipment (such addition or replacement may be placed in

service on or after the Completion Date). The improper inclusion or exclusion of any Project Equipment pursuant to such list may be rectified by the Company within 30 days after notice of such improper inclusion or exclusion. The improper inclusion or exclusion of an item on or from such list shall not affect the items comprising the Project Equipment for the purpose of this Lease or title thereto as intended by the parties hereto. The Company shall provide such information to the City, Jasper County and the Trustee as may be requested in order to ensure that such list corresponds to the list of Project Equipment maintained by the Trustee pursuant to **Section 10.8**. Each bill of sale or other instrument of transfer and each personal property declaration form shall be of sufficient specificity so as to enable Jasper County's officials (including representatives of the Assessor's office) to determine which personal property as reported on the annual personal property declaration constitutes Project Equipment (and therefore is owned by the City) and which personal property does not constitute Project Equipment (and therefore is owned by the Company). The City and the Company agree that, pursuant to **Section 4.8**, property purchased in whole or in part by the Company with its own funds, and not Bond proceeds, shall not constitute part of the Project Equipment and shall remain the property of the Company and therefore subject to taxation. ***Each item of personal property that becomes a part of the Project Equipment shall cease to be part of the Project Equipment after 5 tax years, starting with the tax year after the calendar year in which such personal property is acquired by the Company. Upon expiration of such 5-year period, title to such personal property shall be, and hereby is, conveyed to the Company, without further act of the City or the Company.***

(d) The Company agrees that it will use reasonable efforts to cause the acquisition, construction, improvement and installation of the Project to be completed as soon as practicable with all reasonable dispatch. In the event such acquisition, construction, improvement and installation commences prior to the receipt of proceeds from the sale of the Bonds, the Company agrees to advance all funds necessary for such purpose.

Section 4.3. Project Costs. The City hereby agrees to pay for, but solely from the Project Fund, and hereby authorizes and directs the Trustee to pay for, but solely from the Project Fund, all Project Costs upon receipt by the Trustee of a certificate pursuant to **Section 4.4** hereof. The Company may not submit any requisition certificates for Project Costs incurred after the Completion Date. The Company must submit all requisitions for Project Costs incurred before the Completion Date within three months after the Completion Date.

Section 4.4. Payment for Project Costs. The City hereby authorizes and directs the Trustee to make disbursements from the Project Fund, upon receipt by the Trustee of certificates in substantially the form attached hereto as **Exhibit C**, signed by an Authorized Company Representative and approved by an Authorized Company Representative,

(a) requesting payment or reimbursement of a specified amount of such funds (which amount shall be equal to the value of the property being transferred to the City simultaneously with any request) and directing to whom such amount shall be paid (which may include the Company in the event of a reimbursement);

(b) describing each item of Project Costs for which payment is being requested, including for each item of Project Equipment or Project Improvement, a description of the item and, for each item of Project Equipment, a serial or other identifying number, if any, for such item;

(c) stating that each item for which payment is requested is or was desirable and appropriate in connection with the purchase, installation or equipping of the Project has been properly incurred and is a proper charge against the Project Fund, that the amount requested either has been paid by the Company, or is justly due, and has not been the basis of any previous requisition from the Project Fund; and

(d) stating that, except for the amounts, if any, stated in said certificate, to the best of the knowledge of the Authorized Company Representative there are no outstanding disputed statements for which payment is requested for labor, wages, materials, supplies or services in connection with the purchase, installation or equipping of the Project which, if unpaid, might become the basis of a vendors', mechanics', laborers' or materialmen's statutory or similar lien upon the Project or any part thereof.

The Trustee may rely conclusively on any such certificate and shall not be required to make any independent inspection or investigation in connection therewith. The approval of any requisition certificate by the Authorized Company Representative and the Authorized City Representative shall constitute unto the Trustee an irrevocable determination that all conditions precedent to the payments requested have been completed. The Trustee shall retain copies of all requisition certificates for the same period of record retention described in **Section 703** of the Indenture.

Section 4.5. Establishment of Completion Date. The Completion Date shall be evidenced to the Trustee by a certificate signed by the Authorized Company Representative stating (a) the acquisition, construction, improvement and installation of the Project has been substantially completed in substantial accordance with the Plans and Specifications, in all material respects, (b) that all costs and expenses incurred in the acquisition, construction, improvement and installation of the Project have been paid except costs and expenses the payment of which is not yet due or is being retained or contested in good faith by the Company, and (c) amounts to be retained by Trustee with respect to item (b) above. Notwithstanding the foregoing, such certificate shall state that it is given without prejudice to any rights against third parties which exist at the date of such certificate or which may subsequently come into being. The Company and the City agree to cooperate in causing such certificate to be furnished to the Trustee. If the Company makes additions to, substitutions for, or replacements of, the Project for the purpose of repairing damage or normal wear and tear or substituting property in the case of condemnation under **Section 8.2(c), Section 9.1(a)** or **Section 9.2(b)**, such additions, substitutions and/or replacements shall become part of the Project and shall be entitled to the tax exemption afforded by virtue of the City's ownership of the Project regardless of whether such additions, substitutions or replacements may be purchased or placed in service on or after the Completion Date.

Section 4.6. Surplus or Deficiency in Project Fund.

(a) Upon receipt of the certificate described in **Section 4.5** hereof, the Trustee shall, as provided in **Section 504** of the Indenture, transfer any remaining moneys then in the Project Fund to the Bond Fund to be applied as directed by the Company solely to (1) the payment of principal and premium, if any, of the Bonds through the payment (including regularly scheduled principal payments, if any) or redemption thereof at the earliest date permissible under the terms of the Indenture, or (2) at the option of the Company, to the purchase of Bonds at such earlier date or dates as the Company may elect. Any amount so deposited in the Bond Fund may be invested as permitted by **Section 702** of the Indenture.

(b) If the Project Fund shall be insufficient to pay fully all Project Costs and to complete the Project free of liens and encumbrances other than Permitted Encumbrances, the Company shall pay, in cash, the full amount of any such deficiency by making payments thereof directly to the contractors and to

the suppliers of materials and services as the same shall become due (subject to the rights of the Company to contest any claims or liens of any such contractors or material used in accordance with applicable laws) and the Company shall save the City and the Trustee whole and harmless from any obligation to pay such deficiency.

Section 4.7. Project Property of City. The Project Site, the Project Improvements and the Project Equipment, which the Company desires to convey to the City, including all work and materials on the Project as such work progresses, and all additions or enlargements thereto or thereof, the Project as fully completed, anything under this Lease which becomes, is deemed to be, or constitutes a part of the Project, and the Project as repaired, rebuilt, rearranged, restored or replaced by the Company under the provisions of this Lease, except as otherwise specifically provided herein, shall immediately when erected or installed become the absolute property of the City, subject only to this Lease, the Indenture, Permitted Encumbrances, the Financing Documents and the Leasehold Security Agreement, if any.

Section 4.8. Non-Project Improvements, Machinery and Equipment Property of the Company. Any improvements or items of machinery or equipment which do not constitute part of the Project and the entire purchase price of which is paid for by the Company with the Company's own funds, and no part of the purchase price of which is paid for from funds deposited pursuant to the terms of this Lease in the Project Fund, shall be the property of the Company and shall not constitute a part of the Project for purposes of **Section 6.4** hereof and therefore are subject to taxation, to the extent otherwise provided by law.

Section 4.9. Environmental Matters. The Company acknowledges that is it responsible for maintaining the Project in compliance with all Environmental Laws. In the event that the Company fails to undertake to comply with any final, non-appealable order issued by any local, state or federal authority under applicable Environmental Law, the City or the Trustee, thirty days after notice to the Company, may elect (but shall not be required) to undertake such compliance if the Company has not undertaken such compliance or is otherwise not prosecuting the same to completion with reasonable diligence. Any moneys expended by the City or the Trustee in efforts to comply with any applicable Environmental Law (including the reasonable cost of hiring consultants, undertaking sampling and testing, performing any cleanup necessary or useful in the compliance process and reasonable attorneys' fees) shall be due and payable as Additional Rent hereunder with interest thereon at the average rate of interest per annum on the Bonds, plus two (2) percentage points, from the date such cost is incurred. There shall be unlimited recourse to the Company to the extent of any liability incurred by the City or the Trustee with respect to any breaches of the provisions of this section.

ARTICLE V

RENT PROVISIONS

Section 5.1. Basic Rent. The Company covenants and agrees to pay to the Trustee in same day funds for the account of the City during this Lease Term, on or before 11:00 a.m., Trustee's local time, on or before each December 1 (each a "Payment Date"), commencing December 1, 2020 and continuing until the principal of and interest on the Bonds shall have been fully paid, as "Basic Rent" for the Project, an amount which, when added to any collected funds then on deposit in the Bond Fund and available for the payment of principal of the Bonds and the interest thereon on such Payment Date, shall be equal to the amount payable on such Payment Date as interest on the Bonds (except as offset pursuant to the right of the Company described herein). On **December 1, 2033** (or such earlier date as the

Company may elect to redeem the Bonds), the Company shall also pay an amount equal to all principal then due on the Bonds in connection with such maturity or redemption (subject to the right of the Company to surrender the Bonds in lieu of such payment). All payments of Basic Rent provided for in this Section shall be paid directly to the Trustee and shall be deposited in accordance with the provisions of the Indenture into the Bond Fund and shall be used and applied by the Trustee in the manner and for the purposes set forth in this Lease and the Indenture. In furtherance of the foregoing, and notwithstanding any other provision in this Lease, the Indenture, the Bond Purchase Agreement or the Performance Agreement to the contrary, and provided that the Company is the sole holder of the Bonds, the Company may set-off the then-current Basic Rent payment against the City's obligation to the Company as Bondholder under the Indenture in lieu of delivery of the Basic Rent on any Payment Date, without providing notice of such set-off to the Trustee. The Trustee may conclusively rely on the absence of any notice from the Company to the contrary as evidence that such set-off has occurred. On the final Payment Date, the Company will (a) if the Trustee holds the Bonds, notify the Trustee of the Bonds not previously paid that are to be cancelled or (b) if an entity other than the Trustee holds the Bonds, deliver or cause to be delivered to the Trustee for cancellation Bonds not previously paid. The Company shall receive a credit against the Basic Rent payable by the Company in an amount equal to the principal amount of the Bonds so tendered for cancellation plus accrued interest thereon.

Section 5.2. Additional Rent. The Company shall pay as Additional Rent, within 30 days after receiving an itemized invoice therefor, the following amounts:

(a) all fees, charges and expenses, including reasonable agent and counsel fees and expenses, of the City, the Trustee and the Paying Agent incurred under or arising from the Indenture, this Lease or the Performance Agreement, including but not limited to claims by contractors or subcontractors, as and when the same become due;

(b) all costs incident to the issuance of the Bonds (which are to be paid on the Closing Date) and the payment of the principal of and interest on the Bonds as the same become due and payable, including all costs and expenses in connection with the call, redemption and payment of all Outstanding Bonds;

(c) the actual and reasonable fees, charges and expenses incurred in connection with the enforcement of any rights under this Lease, the Indenture or the Performance Agreement by the City, the Trustee or the Owners, including reasonable counsel fees and expenses; and

(d) all other payments of whatever nature which Company has agreed in writing to pay or assume under the provisions of this Lease, the Performance Agreement or the Indenture.

Section 5.3. Obligations of Company Absolute and Unconditional.

(a) The obligations of the Company under this Lease to make payments of Basic Rent and Additional Rent on or before the date the same become due, and to perform all of its other obligations, covenants and agreements hereunder shall be absolute and unconditional, without notice or demand, and without abatement, deduction, set-off, counterclaim, recoupment or defense or any right of termination or cancellation arising from any circumstance whatsoever, whether now existing or hereafter arising, and irrespective of whether the Project has been started or completed, or whether the City's title thereto or to any part thereof is defective or nonexistent, and notwithstanding any damage to, loss, theft or destruction of, the Project or any part thereof, any failure of consideration or frustration of commercial purpose, the taking by eminent domain of title to or of the right of temporary use of all or any part of the Project, legal curtailment of the Company's use thereof, the eviction or constructive eviction of the Company, any

change in the tax or other laws of the United States of America, the State of Missouri or any political subdivision thereof, any change in the City's legal organization or status, or any default of the City hereunder, and regardless of the invalidity of any action of the City; provided, however, that nothing in this **Section 5.3(a)** or **Section 5.3(b)** is intended or shall be deemed to affect or impair in anyway the rights of the Company to tender Bonds for redemption in satisfaction of Basic Rent as provided in **Section 5.1** and **Section 5.4** hereof, nor the right of the Company to terminate this Lease and repurchase the Project as provided in **Article XI** hereof, nor the right of the offset as provided in **Section 5.1** hereof.

(b) Nothing in this Lease shall be construed to release the City from the performance of any agreement on its part herein contained or as a waiver by the Company of any rights or claims the Company may have against the City under this Lease or otherwise, but any recovery upon such rights and claims shall be had from the City separately, it being the intent of this Lease that the Company shall be unconditionally and absolutely obligated to perform fully all of its obligations, agreements and covenants under this Lease (including the obligation to pay Basic Rent and Additional Rent) for the benefit of the Owners and the City. The Company may, however, at its own cost and expense and in its own name or in the name of the City, prosecute or defend any action or proceeding or take any other action involving third Persons which the Company deems reasonably necessary in order to secure or protect its right of possession, occupancy and use hereunder, and in such event the City hereby agrees to cooperate fully with the Company and to take all action necessary to effect the substitution of the Company for the City in any such action or proceeding if the Company shall so request.

Section 5.4. Prepayment of Basic Rent. The Company may at any time and from time to time prepay all or any part of the Basic Rent provided for hereunder (subject to the limitations of **Section 301(a)** of the Indenture relating to the partial redemption of the Bonds). During such times as the amount held by the Trustee in the Bond Fund shall be sufficient to pay, at the time required, the principal of and interest on all the Bonds then remaining unpaid, the Company shall not be obligated to make payments of Basic Rent under the provisions of this Lease.

The Company, at its option, may deliver to the Trustee for cancellation Bonds owned by the Company and not previously paid, and the Company shall receive a credit against amounts payable by the Company for the redemption of Bonds in an amount equal to the principal amount of the Bonds so tendered for cancellation, plus accrued interest thereon.

ARTICLE VI

MAINTENANCE, TAXES AND UTILITIES

Section 6.1. Maintenance and Repairs. Throughout the Lease Term the Company shall, at its own expense, keep the Project in reasonably safe operating condition and keep the Project in reasonably good repair, reasonable wear, tear, depreciation and obsolescence excepted, making from time to time all repairs thereto and renewals and replacements thereof it determines to be necessary. Without limiting the generality of the foregoing, the Company shall at all times remain in compliance in all material respects with all provisions of the City's code relating to maintenance and appearance.

Section 6.2. Taxes, Assessments and Other Governmental Charges.

(a) Subject to subsection (b) of this Section, the Company shall promptly pay and discharge, as the same become due, all taxes and assessments, general and special, and other governmental charges of any kind whatsoever that may be lawfully taxed, charged, levied, assessed or imposed upon or against

or be payable for or in respect of the Project, or any part thereof or interest therein (including the leasehold estate of the Company therein) or any buildings, improvements, machinery and equipment at any time installed thereon by the Company, or the income therefrom, including any new taxes and assessments not of the kind enumerated above to the extent that the same are lawfully made, levied or assessed in lieu of or in addition to taxes or assessments now customarily levied against real or personal property, and further including all utility charges, assessments and other general governmental charges and impositions whatsoever, foreseen or unforeseen, which if not paid when due would impair the security of the Bonds or encumber the City's title to the Project; provided that with respect to any special assessments or other governmental charges that are lawfully levied and assessed which may be paid in installments, the Company shall be obligated to pay only such installments thereof as become due and payable during the Lease Term.

(b) The Company may, in its own name or in the City's name, contest the validity or amount of any tax, assessment or other governmental charge which the Company is required to bear, pay and discharge pursuant to the terms of this Article by appropriate legal proceedings instituted before the tax, assessment or other governmental charge complained of becomes delinquent if and provided (1) the Company, before instituting any such contest, gives the City written notice of its intention to do so, (2) the Company diligently prosecutes any such contest, at all times effectively stays or prevents any official or judicial sale therefor, under execution or otherwise, and (3) the Company promptly pays any final judgment enforcing the tax, assessment or other governmental charge so contested and thereafter promptly procures record release or satisfaction thereof. The City agrees to cooperate fully with the Company in connection with any and all administrative or judicial proceedings related to any tax, assessment or other governmental charge and to take such actions as may be reasonably requested by the Company related to such proceedings. The Company shall save and hold harmless the City and the Trustee from any costs and expenses the City and the Trustee may incur related to any of the above.

(c) Nothing in this Lease shall be construed to require the Company to make duplicate tax payments. The Company shall receive a credit against the payments to be made by the Company under the Performance Agreement to the extent of any ad valorem taxes imposed and paid by the Company with respect to the Project paid pursuant to this Section.

Section 6.3. Utilities. All utilities and utility services used by the Company in, on or about the Project shall be paid for by the Company and shall be contracted for by the Company in the Company's own name (or the name(s) of its affiliates), and the Company shall, at its sole cost and expense, procure any and all permits, licenses or authorizations necessary in connection therewith.

Section 6.4. Property Tax Exemption. The City and the Company expect that while the Project is owned by the City and is subject to this Lease, the Project will be exempt from all ad valorem real and personal property taxes by reason of such ownership, and the City agrees that it will (at the expense of the Company) cooperate with the Company to defend such exemption against all parties. The City and the Company further acknowledge and agree that the City's obligations hereunder are contingent upon the Company making the payments due under and otherwise complying with the terms of the Performance Agreement during the term of this Lease. The terms and conditions of the Performance Agreement are incorporated herein as if fully set forth herein.

ARTICLE VII

INSURANCE

Section 7.1. Title Commitment or Report. Before conveying title to any real property to the City, the Company will obtain, from a title insurance company reasonably acceptable to the City, a commitment for title insurance or provide such other report in a form reasonably acceptable to the City showing the ownership of and encumbrances on the Project Site. Copies of such report shall be provided to the City and the Trustee.

Section 7.2. Property Insurance.

(a) The Company shall at its sole cost and expense obtain and shall maintain throughout the Lease Term a policy or policies of insurance to keep the Project constantly insured against loss or damage by fire, lightning and all other risks covered by the extended coverage insurance endorsement then in use in the State of Missouri in an amount equal to the Full Insurable Value thereof (subject to reasonable loss deductible provisions); provided, however, that during the period of time while the facility at the Project Site is under construction, the Company shall obtain and maintain a policy of builder's risk insurance. The insurance required pursuant to this Section shall be maintained with a generally recognized responsible insurance company or companies authorized to do business in the State of Missouri or generally recognized international insurers or reinsurers as may be selected by the Company. The Company shall deliver certificates of insurance for such policies to the City and the Trustee before the initial acquisition of the Project and promptly after renewal of each insurance policy. All such policies of insurance pursuant to this Section, and all renewals thereof, shall name the City and the Trustee as additional insureds, as their respective interests may appear, shall name the Trustee as loss payee and shall contain a provision that such insurance may not be canceled by the issuer thereof without at least 10 days' advance written notice to the City, the Company and the Trustee, to the extent such a provision can be obtained and is available from the insurer.

(b) In the event of loss or damage to the Project resulting in Net Proceeds of property insurance carried pursuant to this Section in an amount equal to or greater than $1,000,000, such Net Proceeds shall be (i) paid over to the Trustee and shall be applied as provided in **Article IX** of this Lease, or (ii) if otherwise directed by, or on behalf of, the Owners of 100% in principal amount of the Bonds Outstanding, as so directed. Insurance monies in an amount less than $1,000,000 may be paid to or retained by the Company to be held in trust and used as provided in **Section 9.1(a)** hereof.

Section 7.3. Commercial General Liability Insurance.

(a) The Company shall at its sole cost and expense maintain or cause to be maintained at all times during the Lease Term commercial general liability insurance (including but not limited to coverage for operations, contingent liability, operations of subcontractors, completed operations and contractual liability), under which the City and the Trustee shall be named as additional insureds, properly protecting and indemnifying the City and the Trustee, in an amount not less than the limits of liability set by Section 537.610 of the Revised Statutes of Missouri, as amended (subject to reasonable loss deductible clauses not to exceed the amounts normally or generally carried by the Company). The policies of said insurance shall contain a provision that such insurance may not be canceled by the issuer thereof without at least 10 days' advance written notice to the City, the Company and the Trustee, to the extent such a provision can be obtained and is available from the insurer. Certificates of such policies shall be furnished to the Trustee on the date of execution of this Lease and not less than 30 days before the expiration date of each insurance policy.

(b) In the event of a general liability occurrence, the Net Proceeds of liability insurance carried pursuant to this Section shall be applied toward the extinguishment or satisfaction of the liability with respect to which such proceeds have been paid.

Section 7.4. Workers' Compensation. The Company agrees throughout the Lease Term to maintain or cause to be maintained the Workers' Compensation coverage required by the laws of the State of Missouri.

Section 7.5. Blanket Insurance Policies; Self-Insurance. The Company may satisfy any of the insurance requirements set forth in this Article by using blanket policies of insurance, provided each and all of the requirements and specifications of this Article respecting insurance are complied with. The Company may satisfy any of the insurance requirements set forth in this Article using self-insurance or insurance through a subsidiary or affiliate; so long as (i) the insurance is underwritten by a subsidiary or other affiliate of the Company with a separate net worth of at least $150,000,000, or (ii) the Company funds such self-insurance by appropriate reserves in the amounts recommended by independent actuarial reports obtained not less than every three (3) years for the term of this Lease. The Company shall provide to the City and the Trustee copies of financial statements or similar evidence of net worth of such affiliate on the date hereof and every three (3) years, or, in the case of actuarial reports, on the date of delivery of this Lease and, thereafter, not less than 30 days after receipt of such reports.

ARTICLE VIII

ALTERATION OF THE PROJECT

Section 8.1. Additions, Modifications and Improvements at the Project Site. The Company shall have and is hereby given the right, at its sole cost and expense, to make such additions, modifications and improvements in and to any part of the Project Improvements or the Project Equipment as the Company from time to time may deem necessary or desirable for its business purposes. All additions, modifications and improvements made by the Company pursuant to this Section shall (a) be made in a good and workmanlike manner and in material compliance with all laws and ordinances applicable thereto, (b) when commenced, be prosecuted to completion with due diligence, and (c) when completed, be deemed a part of the Project; provided, however, that additions of improvements, machinery and equipment installed on the Project Site by the Company but not purchased or acquired with proceeds of the Bonds (or purchased as replacement of such Project Improvements or Project Equipment) shall not become part of the Project and such property shall be subject to *ad valorem* taxes.

The Company may, at its sole cost and expense, construct on portions of the Project Site not theretofore occupied by buildings or improvements such additional buildings and improvements as the Company from time to time may deem necessary or desirable for its business purposes. All additional buildings and improvements constructed on the Project Site by the Company, and not paid for with Bond proceeds, pursuant to the authority of this Section shall not be included as Project Improvements and, during the life of this Lease, shall remain the property of the Company and may be added to, altered or razed and removed by the Company at any time. All additional buildings and improvements shall be made in a good and workmanlike manner and in strict compliance with all material laws, orders and ordinances applicable thereto and when commenced shall be prosecuted to completion with due diligence. The Company covenants and agrees (a) to make any reasonable repairs and restorations required to be made to the Project because of the construction of, addition to, alteration or removal of said additional buildings or improvements, and (b) to promptly and with due diligence either raze and remove or repair,

replace or restore any of said additional buildings and improvements as may from time to time be damaged by fire or other casualty. The Company shall pay all *ad valorem* taxes and assessments payable with respect to such additional buildings and improvements which remain the property of the Company. If for any reason the County Assessor determines that such additional buildings and improvements are not subject to *ad valorem* taxes based upon City ownership of the Project, the Company shall make payments in lieu of taxes in an amount equal to the taxes that would otherwise be due on such additional buildings and improvements, subject to the rights of the Company to contest the same in accordance with applicable laws.

Section 8.2. Removal and Replacement of Project Equipment.

(a) The Company may, if no uncured Event of Default (as defined in **Section 12.1** hereof) exists and is continuing, remove from the Project Site and sell, exchange, replace or otherwise dispose of, without responsibility or accountability to the City or the Trustee with respect thereto, any items of machinery and equipment, or parts thereof, which constitute a part of the Project Equipment and which have become inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary or which, in the sound discretion of the Company, are otherwise no longer useful to the Company in its operations. Before any such removal of any items of equipment or machinery with a then-market value of greater than $3,000,000 in the aggregate within any one calendar year, the Company shall deliver to the City and the Trustee a certificate signed by an Authorized Company Representative containing a complete description of any machinery or equipment that the Company proposes to remove. Upon request by the Company, the City will execute and deliver a bill of sale that transfers full and complete title to the Company of the Project Equipment removed. Notwithstanding anything contained herein to the contrary, title to any item of the Project removed from the Project Site shall automatically vest in the Company without further instrument or action, and such vesting of title shall be self-operative effective upon removal. Any Project Equipment removed from the Project Site shall no longer be entitled to the tax exemption afforded by virtue of the City's ownership thereof.

(b) In all cases, the Company shall pay all of the costs and expenses of any such removal. The Company's right under this Section to remove machinery and equipment constituting a part of the Project Equipment is intended only to permit the Company to maintain an efficient operation by the removal of machinery and equipment that is no longer suitable for any of the reasons set forth in this Section, and such right is not to be construed to permit a removal under any other circumstances and specifically is not to be construed to permit the Company to make a wholesale removal of the Project Equipment.

(c) If the Company makes additions to the Project Equipment or otherwise replaces any Project Equipment for the purpose of repairing damage or normal wear and tear, such additions and/or replacements shall become part of the Project Equipment and shall be entitled to the tax exemption afforded by virtue of the City's ownership of the Project Equipment.

Section 8.3. Permits and Authorizations. The Company shall not do or permit others under its control to do any work on the Project Site related to any repair, rebuilding, restoration, replacement, modification or addition to the Project, or any part thereof, unless all requisite municipal and other governmental permits and authorizations shall have been first procured. The City agrees to act promptly on all requests for such municipal permits and authorizations. All such work shall be done in a good and workmanlike manner and in material compliance with all applicable material building and zoning laws and governmental regulations and requirements, and in accordance with the requirements, rules and regulations of all insurers under the policies required to be carried under the provisions of **Article VII** hereof.

Section 8.4. Mechanics' Liens.

(a) The Company will not directly or indirectly create, incur, assume or suffer to exist any lien on or with respect to the Project, except Permitted Encumbrances, and the Company shall promptly notify the City of the imposition of such lien of which the Company is aware and shall promptly, at its own expense, take such action as may be necessary to fully discharge or release any such lien. Whenever and as often as any mechanics' or other similar lien is filed against the Project, or any part thereof, purporting to be for or on account of any labor done or materials or services furnished in connection with any work in or about the Project Site, the Company shall discharge the same of record. Notice is hereby given that the City shall not be liable for any labor or materials furnished to the Company or anyone claiming by, through or under the Company upon credit, and that no mechanics' or other similar lien for any such labor, services or materials shall attach to or affect the reversionary or other estate of the City in and to the Project or any part thereof.

(b) Notwithstanding paragraph (a) above, the Company may contest any such mechanics' or other similar lien if the Company (1) promptly notifies the City and the Trustee in writing of its intention so to do, (2) diligently prosecutes such contest, (3) at all times effectively stays or prevents any official or judicial sale of the Project, or any part thereof or interest therein, under execution or otherwise, (4) promptly pays or otherwise satisfies any final judgment adjudging or enforcing such contested lien claim and (5) thereafter promptly procures the record release or satisfaction thereof. The Company may permit the lien so contested to remain unpaid during the period of any such contest and any appeal therefrom, so long as the Project is not subject to loss or forfeiture. The Company shall save and hold harmless the City from any loss, costs or expenses the City may actually incur related to any such contest. The Company shall reimburse the City for the actual expenses incurred by it in connection with the imposition of any such lien or in order to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim. The City shall cooperate fully with the Company in any such contest.

ARTICLE IX

DAMAGE, DESTRUCTION AND CONDEMNATION

Section 9.1. Damage or Destruction.

(a) If the Project is damaged or destroyed by fire or any other casualty, whether or not covered by insurance, the Company, as promptly as is reasonably practicable, shall either (i) make the determination described in subsection (f) below, or (ii) repair, restore, replace or rebuild the same so that upon completion of such repairs, restoration, replacement or rebuilding the Project is of a value not less than the value thereof immediately before the occurrence of such damage or destruction or, at the Company's option, construct upon the Project Site new buildings and improvements thereafter together with all new machinery, equipment and fixtures which are either to be attached to or are to be used in connection with the operation or maintenance thereof, provided that (A) the value thereof shall not be less than the value of such destroyed or damaged Project immediately before the occurrence of such damage or destruction and (B) the nature of such new buildings, improvements, machinery, equipment and fixtures will not impair the character of the Project as an enterprise permitted by the Act.

If the Company elects to repair, restore or replace the Project, for all purposes of this Lease, any reference to the words "Project Improvements" shall be deemed to also include any such new buildings, improvements and fixtures and all additions thereto and all replacements and alterations thereof and any

reference to the words "Project Equipment" shall be deemed to also include any such new machinery and equipment.

Unless the Company makes the determination described in subsection (f) below, the Net Proceeds of casualty insurance required by **Article VII** hereof received with respect to such damage or loss to the Project shall be used to pay the cost of repairing, restoring, replacing or rebuilding the Project or any part thereof. Insurance monies in an amount less than $1,000,000 may be paid to or retained by the Company to be held in trust and used as provided herein. Insurance monies in any amount of $1,000,000 or more shall be (i) paid to the Trustee and deposited in the Project Fund and shall be disbursed as provided in **Section 4.4** hereof to pay the cost of repairing, restoring, replacing or rebuilding the Project or any part thereof, or (ii) if determined by the Owners of 100% in principal amount of the Bonds Outstanding, applied as directed by, or on behalf of, such Owners of 100% in principal amount of the Bonds Outstanding. If the Company makes the determination described in subsection (f) below, the Net Proceeds shall be deposited with the Trustee and used to redeem Bonds as provided in subsection (f).

(b) If any of the insurance monies paid by the insurance company as hereinabove provided remain after the completion of such repairs, restoration, replacement or rebuilding, and this Lease has not been terminated, the excess shall be deposited in the Bond Fund, subject to the rights of any leasehold mortgagee or Financing Party. Completion of such repairs, restoration, replacement or rebuilding shall be evidenced by a certificate of completion in accordance with the provisions of **Section 4.5** hereof. Unless the Company makes the determination described in subsection (f) below, if the Net Proceeds are insufficient to pay the entire cost of such repairs, restoration, replacement or rebuilding, the Company shall pay the deficiency.

(c) Except as otherwise provided in this Lease, in the event of any such damage by fire or any other casualty, the provisions of this Lease shall be unaffected and the Company shall remain and continue liable for the payment of all Basic Rent and Additional Rent and all other charges required hereunder to be paid by the Company, as though no damage by fire or any other casualty has occurred.

(d) The City and the Company agree that they will cooperate with each other, to such extent as such other party may reasonably require, in connection with the prosecution or defense of any action or proceeding arising out of, or for the collection of any insurance monies that may be due in the event of, any loss or damage, and that they will execute and deliver to such other parties such instruments as may be required to facilitate the recovery of any insurance monies.

(e) The Company agrees to give prompt notice to the City and the Trustee with respect to all fires and any other casualties occurring in, on, at or about the Project Site causing (in the Company's opinion) damage of more than $1,000,000.

(f) If the Company determines that rebuilding, repairing, restoring or replacing the Project is not practicable or desirable, or if the Company does not have the right under any Leasehold Security Agreement to use any Net Proceeds for repair or restoration of the Project, any Net Proceeds of casualty insurance required by **Article VII** hereof received with respect to such damage or loss shall, after payment of all Additional Rent then due and payable, be paid into the Bond Fund and shall be used to redeem Bonds on the earliest practicable redemption date or to pay the principal of any Bonds as the same become due, all subject to rights of the mortgagee under the Leasehold Security Agreement (if any) and the Financing Party under the Financing Documents (if any). The Company agrees to be reasonable in exercising its judgment pursuant to this subsection (f). Alternatively, if the Company is the sole owner of the Bonds and it has determined that rebuilding, repairing, restoring or replacing the Project is not

practicable or desirable, it may tender Bonds to the Trustee for cancellation in a principal amount equal to the Net Proceeds of the casualty insurance, and retain such proceeds for its own account.

(g) The Company shall not, by reason of its inability to use all or any part of the Project during any period in which the Project is damaged or destroyed or is being repaired, rebuilt, restored or replaced, nor by reason of the payment of the costs of such rebuilding, repairing, restoring or replacing, be entitled to any reimbursement from the City, the Trustee or the Owners or to any abatement or diminution of the rentals payable by the Company under this Lease or of any other obligations of the Company under this Lease except as expressly provided in this Section.

Section 9.2. Condemnation.

(a) If during the Lease Term, title to, or the temporary use of, all or any part of the Project is condemned by or sold under threat of condemnation to any authority possessing the power of eminent domain, to such extent that the claim or loss resulting from such condemnation is greater than $1,000,000, the Company shall, within 90 days after the date of entry of a final order in any eminent domain proceedings granting condemnation or the date of sale under threat of condemnation, notify the City, the Trustee, the mortgagee under the Leasehold Security Agreement (if any) and the Financing Party under the Financing Documents (if any) in writing as to the nature and extent of such condemnation or loss of title and whether it is practicable and desirable to acquire and install or construct substitute improvements and/or equipment.

(b) If the Company determines that such substitution is practicable and desirable, the Company shall proceed promptly with and complete with reasonable dispatch the acquisition, installation or construction of such substitute improvements and/or equipment, so as to place the Project in substantially the same condition as existed before the exercise of the said power of eminent domain, including the acquisition, installation or construction of other improvements suitable for the Company's operations at the Project (which improvements will be deemed a part of the Project and available for use and occupancy by the Company without the payment of any rent other than herein provided, to the same extent as if such other improvements were specifically described herein and demised hereby); provided, that such improvements will be acquired by the City subject to no liens, security interests or encumbrances before the lien and/or security interest afforded by the Indenture and this Lease other than Permitted Encumbrances. In such case, any Net Proceeds received from any award or awards with respect to the Project or any part thereof made in such condemnation or eminent domain proceedings, or of the sale proceeds, shall be applied in the same manner as provided in **Section 9.1** hereof (with respect to the receipt of casualty insurance proceeds).

(c) If the Company determines that it is not practicable or desirable to acquire, install or construct substitute improvements or equipment, any Net Proceeds of condemnation awards received by the Company shall, after payment of all Additional Rent then due and payable, be paid into the Bond Fund and shall be used to redeem Bonds on the earliest practicable redemption date or to pay the principal of any Bonds as the same becomes due and payable, provided that if the Company is the sole owner of the Bonds and it has determined that acquiring and constructing substitute improvements is not practicable or desirable, it may tender Bonds to the Trustee for cancellation in a principal amount equal to the Net Proceeds of the condemnation awards, and retain such proceeds for its own account, all subject to the rights of the mortgagee under the Leasehold Security Agreement (if any) and Financing Party under the Financing Documents (if any).

(d) The Company shall not, by reason of its inability to use all or any part of the Project during any such period of restoration or acquisition nor by reason of the payment of the costs of such restoration or acquisition, be entitled to any reimbursement from the City, the Trustee or the Owners or to any abatement or diminution of the rentals payable by the Company under this Lease nor of any other obligations hereunder except as expressly provided in this Section.

(e) The City shall cooperate fully with the Company in the handling and conduct of any prospective or pending condemnation proceedings with respect to the Project or any part thereof, and shall, to the extent it may lawfully do so, permit the Company to litigate in any such proceeding in the name and on behalf of the City. In no event will the City voluntarily settle or consent to the settlement of any prospective or pending condemnation proceedings with respect to the Project or any part thereof without the prior written consent of the Company.

Section 9.3. Bondowner Approval. Notwithstanding anything to the contrary contained in this **Article IX**, the proceeds of any insurance received subsequent to a casualty or of any condemnation proceedings (or threats thereof) shall before the application thereof by the City or the Trustee be applied as directed by the Owners of 100% of the principal amount of Bonds Outstanding, subject and subordinate to (a) the rights of the City and the Trustee to be paid all their expenses (including reasonable attorneys' fees, trustee's fees and any extraordinary expenses of the City and the Trustee) incurred in the collection of such gross proceeds and (b) the rights of the City to any amounts then due and payable under the Performance Agreement.

ARTICLE X

SPECIAL COVENANTS

Section 10.1. No Warranty of Condition or Suitability by the City; Exculpation and Indemnification. The City makes no warranty, either express or implied, as to the condition of the Project or that it will be suitable for the Company's purposes or needs. The Company releases the City and the Trustee from, agrees that the City and the Trustee shall not be liable for and agrees to hold the City and the Trustee harmless against, any loss or damage to property or any injury to or death of any Person that may be occasioned by any cause whatsoever pertaining to the Project or the Company's use thereof, unless such loss is the result of the City's or the Trustee's gross negligence or willful misconduct. This provision shall survive termination of this Lease.

Section 10.2. Surrender of Possession. Upon accrual of the City's right of re-entry to the Project Site to the extent provided in **Section 12.2(b)**, the Company shall peacefully surrender possession of the Project to the City in reasonably good condition and repair; provided, however, the Company may within 90 days (or such later date as the City may agree to) after the termination of this Lease remove from the Project Site any buildings, improvements, furniture, trade fixtures, machinery and equipment owned by the Company and not constituting part of the Project which have not already been removed during the Term. All repairs to and restorations of the Project required to be made because of such removal shall be made by and at the sole cost and expense of the Company, and during said 90-day (or extended) period the Company shall bear the sole responsibility for and bear the sole risk of loss for said buildings, improvements, furniture, trade fixtures, machinery and equipment owned by the Company and not constituting part of the Project. All buildings, improvements, furniture, trade fixtures, machinery and

equipment owned by the Company and which are not so removed from the Project before the expiration of said period shall be the separate and absolute property of the City.

Section 10.3. City's Right of Access to the Project. The City may conduct such periodic inspections of the Project as may be generally provided in the City's code. In addition, the Company agrees that the City and the Trustee and their duly authorized agents may, at reasonable times during normal business hours and, except in the event of emergencies, upon not less than two Business Day's prior notice, subject to the Company's usual business propriety, safety, confidentiality and security requirements, enter upon the Project Site (a) to examine and inspect the Project without interference or prejudice to the Company's operations, (b) to monitor the purchase and installation provided for in **Section 4.2** hereof as may be reasonably necessary, (c) to examine all files, records, books and other materials in the Company's possession pertaining to the purchase, installation or maintenance of the Project, and (d) upon the occurrence and continuance of an Event of Default, to enforce the remedies provided in in **Section 12.2** hereof.

Section 10.4. Granting of Easements; Leasehold Security Agreements and Financing Arrangements.

(a) Subject to **Sections 10.4(c)** and **(d)**, if no Event of Default under this Lease has happened and is continuing beyond any applicable grace period, the Company may at any time or times (i) grant subleases (as permitted in **Section 13.1(c)** hereof), easements, licenses, rights-of-way (including the dedication of public highways) and other rights or privileges in the nature of easements that are for the direct use of the Project, or part thereof, by the grantee, (ii) release or terminate existing subleases, easements, licenses, rights-of-way and other rights or privileges, all with or without consideration and upon such terms and conditions as the Company shall determine, or (iii) incur Permitted Encumbrances. The Company may take such actions and may execute any applicable documents in the Company's own name. No separate signature of or authorization from the City shall be required for the execution and delivery of any such document, although the City agrees to execute and deliver such confirming documents as are described below, under the procedures described below, if the Company chooses to make such a request. All third parties entering into agreements with the Company or receiving delivery of or the benefit of such agreements or documents shall be entitled to rely upon the same as having been executed and delivered by the City, unless such third party has actual or constructive notice, expressly in writing, that the agency herein granted by the City to the Company has been terminated by the City because of an uncured Event of Default hereunder. The City agrees that it will execute and deliver and will cause and direct the Trustee to execute and deliver any instrument necessary or appropriate to confirm and grant, release or terminate any such sublease, easement, license, right-of-way or other right or privilege or any such agreement or other arrangement, upon receipt by the City and the Trustee of: (i) a copy of the instrument of grant, release or termination or of the agreement or other arrangement, (ii) a written application signed by an Authorized Company Representative requesting such instrument, and (iii) a certificate executed by an Authorized Company Representative stating that such grant or release is not detrimental to the proper conduct of the business of the Company, will not impair the effective use or interfere with the efficient and economical operation of the Project, will not materially adversely affect the security intended to be given by or under the Indenture and will be a Permitted Encumbrance or release of a Permitted Encumbrance. If no Event of Default has happened and is continuing beyond any applicable grace period, any payments or other consideration received by the Company for any such grant or with respect to or under any such agreement or other arrangement shall be and remain the property of the Company; but, subject to **Sections 10.4(c)** and **(d)**, upon (i) termination of this Lease for any reason other than the redemption of the Bonds and/or the purchase of the Project by the Company or (ii) the occurrence and continuance of an Event of Default by the Company, all rights then

existing of the Company with respect to or under such grant shall inure to the benefit of and be exercisable by the City and the Trustee.

(b) The Company may mortgage the leasehold estate created by this Lease, with prior notice to but without the consent of the City, provided and upon condition that a duplicate original or certified copy or photostatic copy of each such mortgage, and the note or other obligation secured thereby, is delivered to the City within thirty (30) days after the execution thereof. The sale of the Company's leasehold estate at a foreclosure sale or trustee's sale under the Leasehold Security Agreement or any assignment in lieu thereof shall not require the consent of the City, if (i) written notice of the proposed sale or assignment is provided to the City at least fifteen (15) days prior thereto, and (ii) before such sale or assignment, all payments then owing to the City under the Performance Agreement are paid.

(c) The City acknowledges and agrees that the Company may finance and refinance its rights and interests in the Project, this Lease and the leasehold estate created hereby and, in connection therewith, the Company may execute Financing Documents with one or more Financing Parties. Notwithstanding anything contained to the contrary in this Lease, the Company may, at any time and from time to time, with prior notice to but without the consent of the City, (i) execute one or more Financing Documents upon the terms contained in this **Section 10.4** and (ii) sublease or assign this Lease, the leasehold estate, any sublease and rights in connection therewith, and/or grant liens or security interests therein, to any Financing Party. Any further sublease or assignment by any Financing Party shall be subject to the provisions of **Section 13.1(c)**. At the expense of the Company, the City agrees to cooperate fully with the Company and take all actions as reasonably requested by the Company in connection with any financing or refinancing of the Company's rights and interests in the Project, including but not limited to the granting of security interests in the Project, the Bonds and the leasehold estate created hereunder, as may from time to time be reasonably requested by any of the Financing Parties.

(d) Upon notice by the Company to the City in writing that it has executed one or more Financing Documents under which it has granted rights in this Lease to a Financing Party, which includes the name and address of such Financing Party, then the following provisions shall apply in respect of each such Financing Party:

(1) there shall be no merger of this Lease or of the leasehold estate created hereby with the fee title to the Project, notwithstanding that this Lease or said leasehold estate and said fee title shall be owned by the same Person or Persons, without the prior written consent of such Financing Party;

(2) the City shall serve upon each such Financing Party (at the address, if any, provided to the City) a copy of each notice of the occurrence of an Event of Default and each notice of termination given to the Company under this Lease, at the same time as such notice is served upon the Company. No such notice to the Company shall be effective unless a copy thereof is thus served upon each Financing Party;

(3) each Financing Party shall have the same period of time which the Company has, after the service of any required notice upon it, within which to remedy or cause to be remedied any payment default under this Lease which is the basis of the notice plus thirty (30) days, and the City shall accept performance by such Financing Party as timely performance by the Company;

(4) the City may exercise any of its rights or remedies with respect to any other Event of Default by the Company, subject to the rights of the Financing Parties under this **Section 10.4(d)** as to such other events of default. Without limiting the generality of the foregoing, the holder of the Leasehold Security Agreement may cause the sale of the leasehold interest of the Company to be sold at foreclosure sale conducted in accordance with applicable law and the terms of the Leasehold Security Agreement, to accept assignment of this Lease in lieu of foreclosure and to appoint a receiver for the Project, all without obtaining the prior written consent of the City but subject to the provisions of **Section 10.4(b)**;

(5) upon the occurrence and continuance of an Event of Default by the Company under this Lease beyond any applicable grace period, other than a default in the payment of money, the City shall take no action to effect a termination of this Lease by service of a notice or otherwise, without first giving notice thereof to each such Financing Party and permitting such Financing Party (or its designee, nominee, assignee or transferee) a reasonable time within which to remedy such default in the case of an Event of Default which is susceptible of being cured (provided that the period to remedy such Event of Default shall continue beyond any period set forth in the Lease to effect said cure so long as the Financing Party (or its designee, nominee, assignee or transferee) is diligently prosecuting such cure); provided that the Financing Party (or its designee, nominee, assignee or transferee) shall pay or cause to be paid to the City and the Trustee all expenses, including reasonable counsel fees, court costs and disbursements incurred by the City or the Trustee in connection with any such default; and

(6) the Financing Parties (and their designees, nominees, assignees or transferees) shall have the right to enter, possess and use the Project at such reasonable times and manner as are necessary or desirable to effectuate the remedies and enforce their respective rights under the Financing Documents and this Lease may not be modified, amended, canceled or surrendered by agreement between the City and the Company, without prior written consent of such Financing Party.

(e) In connection with the execution of one or more Financing Documents, upon the request of the Company, the City agrees to execute such documents as shall be reasonably requested by a Financing Party and which are usual and customary in connection with the closing of the financing or refinancing pursuant to the Financing Documents. The Company agrees to reimburse the City for any and all costs and expenses incurred by the City pursuant to this Section, including reasonable attorneys' fees and expenses, in complying with such request, up to a maximum of $10,000 with respect to any one request.

(f) Notwithstanding the foregoing, the City may agree to other provisions and documents requested by the Company or any Financing Party not contemplated by this **Section 10.4**, subject to approval by ordinance of the City Council.

Section 10.5. Indemnification of City and Trustee. The Company shall indemnify and save and hold harmless the City and the Trustee and their governing body members, officers, agents and employees from and against all claims, demands, costs, liabilities, damages or expenses that they may actually incur (including reasonable attorneys' fees and costs incurred in the defense and settlement of claims), by or on behalf of any Person, firm or corporation arising from the issuance of the Bonds and the execution of the Performance Agreement, this Lease, the Bond Purchase Agreement or the Indenture (including any violation by the Company of, or failure by the Company to comply with, any federal or state securities laws in connection with the Bonds) and from the conduct or management of, or from any work or thing done in or on the Project during the Lease Term, and against and from all claims, demands,

costs, liabilities, damages or expenses that they may actually incur (including reasonable attorneys' fees and costs incurred in the defense and settlement of claims), arising during the Lease Term from (a) any condition of the Project, (b) any breach or default on the part of the Company in the performance of any of its obligations under the Performance Agreement, this Lease or any related document, (c) any contract entered into in connection with the purchase and installation of the Project, (d) any act of negligence of the Company or of any of its agents, contractors, servants, employees or licensees, (e) unless the Company has been released from liability pursuant to **Section 13.1(c)**, any act of negligence of any assignee or sublessee of the Company, or of any agents, contractors, servants, employees or licensees of any assignee or sublessee of the Company, (f) obtaining any applicable state and local sales and use tax exemptions for materials or goods that become part of the Project, and (g) any claim relating to the presence, release or use of any hazardous substance or other material regulated by any applicable Environmental Law on the Project Site where such presence, release or use occurred prior to or during the Lease Term, or any claim relating to compliance with any applicable Environmental Law prior to or during the Lease Term (except where the presence, release or use of such substances was caused by the City, and provided further that the Company shall not be required to indemnify the City with respect to the actions of (i) any assignee of this Lease that agrees to assume the Company's obligations pursuant to **Section 13.1(c)** of this Lease, or (ii) any person or entity unrelated to the Company to which the Company has conveyed the Project Site after the termination of this Lease), including claims relating to personal injury or damage to property; provided, however, the indemnification contained in this **Section 10.5** shall not extend to the City to the extent that such claims, demands, costs, liabilities, damages or expenses, including reasonable attorneys' fees, are the result of work being performed at the Project Site by employees or agents of the City, and shall not extend to the City or Trustee to the extent such claims, demands, costs, liabilities, damages or expenses are the result of negligence or willful misconduct by the City or the Trustee, or their respective employees or agents. Upon written notice from the City or the Trustee of any such claims or demand, the Company shall defend them or either of them in any such action or proceeding; provided, that the indemnified party shall cooperate with the Company and provide reasonable assistance in such defense. All costs related to the defense of the City and/or the Trustee shall be paid by the Company, except to the extent caused by an unreasonable demand or unreasonable failure to cooperate by the City or Trustee, as applicable. This **Section 10.5** shall survive any termination of the Performance Agreement and this Lease and the satisfaction and discharge of the Indenture. The Company shall not be liable for any settlement of any such action effected without its consent by the City or the Trustee, but if settled with the consent of the Company or if there be a final judgment for the plaintiff in any such action against the Company, the City or the Trustee, beyond any period for appeal, with or without the consent of the Company, then provided that the Company was given written notice and the ability to assume the defense thereof as required by this paragraph, the Company agrees to indemnify and hold harmless the City and/or the Trustee to the extent provided herein.

Section 10.6. Depreciation, Investment Tax Credit and Other Tax Benefits. The City agrees that any depreciation, investment tax credit or any other tax benefits with respect to the Project or any part thereof shall be made available to the Company, and the City will fully cooperate with the Company in any effort by the Company to avail itself of any such depreciation, investment tax credit or other tax benefits.

Section 10.7. Company to Maintain its Corporate Existence. The Company agrees that until the Bonds are paid or payment is provided for in accordance with the terms of the Indenture, it will maintain its existence, and will not dissolve or otherwise dispose of all or substantially all of its assets; provided, however, that the Company may, without violating the agreement contained in this Section, consolidate with or merge into another Person or permit one or more other Persons to consolidate with or merge into it, or may sell or otherwise transfer to another Person all or substantially all of its assets as an entirety and thereafter cease operations, dissolve and/or convert into a different type of legal entity, if the

surviving, resulting or transferee Person expressly assumes in writing all the obligations of the Company contained in this Lease and the Performance Agreement.

Section 10.8. Security Interests. The City and the Company hereby authorize the Trustee to file all appropriate financing and continuation statements as may be required under the Uniform Commercial Code in order to fully preserve and protect the security of the Owners and the rights of the Trustee under the Indenture. Upon the written instructions of the Owners of 100% of the Bonds then Outstanding, the Trustee shall file all continuation instruments the Owners deem necessary to be filed and shall continue or cause to be continued such instruments for so long as the Bonds are Outstanding. The City and the Company shall cooperate with the Trustee in this regard by providing such information as the Trustee may require to renew such statements. The Trustee shall maintain a file showing a description of all Project Equipment, said file to be compiled from the certificates furnished to the Trustee pursuant to **Section 4.2(c)**, **Section 4.4** and **Section 8.2** hereof. At the written request of all of the Owners of the Bonds, the City, at the expense of the Company, and the Company further agree to enter into any other instruments necessary for the creation and perfection of (and continuance of the perfection of) the security interests in the Project benefiting the Owners of the Bonds then outstanding.

ARTICLE XI

OPTION AND OBLIGATION TO PURCHASE THE PROJECT

Section 11.1. Option to Purchase the Project.

(a) *Purchase of the Entire Project*. The Company shall have, and is hereby granted, the option to purchase the Project at any time, upon payment of the purchase price described below, provided that the Company, at its option, may deliver the Outstanding Bonds in payment of that portion of the purchase price described in subsection (a)(1), below. To exercise such option the Company shall give written notice to the City and to the Trustee, and shall specify therein the date of closing such purchase, which date shall be not less than 15 nor more than 90 days from the date such notice is mailed, and in case of a redemption of the Bonds in accordance with the provisions of the Indenture, the Company shall make arrangements satisfactory to the Trustee for the giving of the required notice of redemption. Notwithstanding the forgoing, if the City or the Trustee provides a Remedies Notice to the Company, the Company shall be deemed to have exercised its repurchase option under this Section on the 29th day following the issuance of the Remedies Notice without any further action by the Company; provided said Remedies Notice has not been rescinded by such date (such option to take place on the 29th day following the issuance of the Remedies Notice). The Company may rescind such exercise by providing written notice to the City and the Trustee on or prior to the 29th and by taking such action as may be required to cure the default that led to the giving of the Remedies Notice. The purchase price payable by the Company in the event of its exercise of the option granted in this subsection shall be the sum of the following:

(1) an amount of money which, when added to the amount then on deposit in the Bond Fund, will be sufficient to redeem all the then outstanding Bonds on the earliest redemption date next succeeding the closing date, including, without limitation, principal and interest to accrue to said redemption date and redemption expense; plus

(2) an amount of money equal to the Trustee's agreed to and reasonable fees, charges and expenses under the Indenture accrued and to accrue until such redemption of the Bonds; plus

(3) an amount of money equal to all payments due and payable pursuant to the Performance Agreement through the end of the calendar year in which the date of purchase occurs; plus

(4) an amount of money equal to the City's reasonable fees and expenses for its counsel in connection with such purchase of the Project; plus

(5) the sum of $10.00.

At its option, to be exercised at least 5 days prior to the date of closing such purchase, the Company may deliver to the Trustee for cancellation Bonds not previously paid, and the Company shall receive a credit against the purchase price payable by the Company in an amount equal to 100% of the principal amount of the Bonds so delivered for cancellation, plus the accrued interest thereon.

(b) *Purchase of Project Equipment*. The Company shall have, and is hereby granted, the option to purchase all or a portion of the Project Equipment at any time, upon payment in full of a portion of the Bonds then outstanding or provision for their payment having been made pursuant to **Article XIII** of the Indenture, in the amount described in this subsection. To exercise such option the Company shall give written notice to the City and to the Trustee, and shall specify therein the date of closing such purchase, which date shall be not less than 15 nor more than 90 days from the date such notice is mailed, and in case of a redemption of Bonds in accordance with the provisions of the Indenture, the Company shall make arrangements satisfactory to the Trustee for the giving of the required notice of redemption. The purchase price payable by the Company in the event of its exercise of the option granted in this subsection shall be the sum of the following:

(1) the amount of money equal to the portion of the Cumulative Outstanding Principal Amount on the closing date for such purchase that is attributable to the portion of the Project Equipment to be removed, which shall be determined by dividing (i) the total Project Costs paid with respect to such Project Equipment under **Section 4.4** hereof, by (ii) the total of all Project Costs paid under **Section 4.4** hereof, and then multiplying such quotient by the Cumulative Outstanding Principal Amount at the time of the closing date for such purchase and rounding such product to the nearest $1,000, which amount shall be deposited to the Bond Fund and applied to redeem outstanding Bonds in an equal principal amount on the earliest redemption date next succeeding the closing date); plus

(2) an amount of money equal to the interest to accrue to such redemption date on the Bonds to be redeemed pursuant to paragraph (1) immediately above and redemption expense, which amount shall be deposited to the Bond Fund; plus

(3) an amount of money equal to the Trustee's agreed to and reasonable fees, charges and expenses under the Indenture accrued and to accrue until such redemption of the Bonds; plus

(4) an amount of money equal to the City's reasonable fees and expenses for its counsel in connection with such purchase of Project Equipment; plus

(5) the sum of $10.00.

At its option, to be exercised at least 5 days prior to the date of closing such purchase, the Company may deliver to the Trustee for cancellation Bonds not previously paid, and the Company shall receive a credit against the purchase price payable by the Company in an amount equal to 100% of the principal amount of the Bonds so delivered for cancellation, plus the accrued interest thereon.

Upon payment of the purchase price relating to all or a portion of the Project Equipment, the Trustee shall note in its records the removal of such portion of the Project Equipment from the Project. The Company shall deliver to the City UCC Termination Statements and a bill of sale for such portion of the Project Equipment to be executed and delivered by the City upon deposit of such purchase price in the Bond Fund. If the Project Equipment is to be physically removed from the Project, the Company shall pay all the costs and expenses of any such removal and shall immediately repair at its expense all damage to the remaining Project caused thereby.

Section 11.2. Conveyance of the Project. At the closing of the purchase of the entire or all remaining portions of the Project pursuant to this Article, the City will upon receipt of the purchase price deliver to the Company the following:

(a) A release from the Trustee of the Project from the lien and/or security interest of the Indenture and this Lease and appropriate termination of financing statements as required under the Uniform Commercial Code; and

(b) Documents, including without limitation a special warranty deed as to the Project Site, conveying to the Company legal title to the Project, as it then exists, in recordable form, subject to the following: (i) those liens and encumbrances, if any, to which title to the Project was subject when conveyed to the City; (ii) those liens and encumbrances created by the Company or to the creation or suffering of which the Company consented; (iii) those liens and encumbrances resulting from the failure of the Company to perform or observe any of the agreements on its part contained in this Lease; (iv) Permitted Encumbrances other than the Indenture, this Lease and the Performance Agreement; and (v) if the Project or any part thereof is being condemned, the rights and title of any condemning authority.

Section 11.3. Relative Position of Option and Indenture. The option to purchase the Project granted to the Company in this Article shall be and remain prior and superior to the Indenture and may be exercised whether or not the Company is in default under this Lease or the Indenture, provided that such default will not result in nonfulfillment of any condition to the exercise of any such option (including the payment of all amounts specified in **Section 11.1** hereof) and further provided that all options herein granted shall terminate upon the termination of this Lease.

Section 11.4. Obligation to Purchase the Project.

(a) The Company hereby agrees to purchase, and the City hereby agrees to sell, the Project upon the occurrence of (a) the expiration of the Lease Term following full payment of the Bonds or provision for payment thereof having been made in accordance with the provisions of the Indenture, and (b) the final payments due under the Performance Agreement. The amount of the purchase price under this Section shall be $10.00 plus an amount sufficient to redeem all the then Outstanding Bonds, plus accrued interest and the reasonable fees and expenses of the City and the Trustee.

(b) The Company shall purchase the Project pursuant to the provisions of **Section 11.1(a)** at the time of, and in connection with, any redemption of Bonds required by the mandatory redemption provision set out in **Section 301(c)** of the Indenture.

ARTICLE XII

DEFAULTS AND REMEDIES

Section 12.1. Events of Default. If any one or more of the following events occurs and is continuing beyond any applicable notice and/or cure period, it is hereby defined as and declared to be and to constitute an "Event of Default" under this Lease:

(a) Default in the due and punctual payment of Basic Rent or Additional Rent within 10 days after written notice thereof from the City or the Trustee to the Company that the Company failed to make such payment. Anything herein to the contrary notwithstanding, no failure or default specified in paragraph (a) of this **Section 12.1** shall constitute an Event of Default until actual notice of such failure to make such payment by registered or certified mail shall be given by the City or the Trustee to the Company and the Company shall have had ten (10) days after receipt of such notice to correct said failure and shall not have corrected said failure within such period; or

(b) Default in the due observance or performance of any other covenant, agreement, obligation or provision of this Lease on the Company's part to be observed or performed, and such default shall continue for 60 days after the City or the Trustee has given the Company written notice specifying such default (or such longer period as is reasonably required to cure such default; provided that (1) the Company has commenced such cure within said 60-day period, and (2) the Company diligently prosecutes such cure to completion); or

(c) The Company: (1) admits in writing its inability to pay its debts as they become due; or (2) files a petition in bankruptcy or for reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the Bankruptcy Code as now or in the future amended or any other similar present or future federal or state statute or regulation, or files a pleading asking for such relief; or (3) makes an assignment for the benefit of creditors; or (4) consents to the appointment of a trustee, receiver or liquidator for all or a major portion of its property or fails to have the appointment of any trustee, receiver or liquidator made without the Company's consent or acquiescence, vacated or set aside; or (5) is finally adjudicated as bankrupt or insolvent under any federal or state law; or (6) is subject to any proceeding, or suffers the entry of a final and non-appealable court order, under any federal or state law appointing a trustee, receiver or liquidator for all or a major part of its property or ordering the winding-up or liquidation of its affairs, or approving a petition filed against it under the Bankruptcy Code, as now or in the future amended, which order or proceeding, if not consented to by it, is not dismissed, vacated, denied, set aside or stayed within 90 days after the day of entry or commencement; or (7) suffers a writ or warrant of attachment or any similar process to be issued by any court against all or any substantial portion of its property, and such writ or warrant of attachment or any similar process is not contested, stayed, or is not released within 60 days after the final entry, or levy or after any contest is finally adjudicated or any stay is vacated or set aside; or

(d) The occurrence and continuance of an "Event of Default" by the Company under the Performance Agreement, following any applicable notice and grace period provided in the Performance Agreement.

Section 12.2. Remedies on Default. If any Event of Default referred to in **Section 12.1** hereof has occurred and continues beyond the period provided to cure, then the City may at the City's election

(subject, however, to any restrictions against acceleration of the maturity of the Bonds or termination of this Lease in the Indenture), then or at any time thereafter, and while such default continues, take any one or more of the following actions:

(a) cause all amounts payable with respect to the Bonds for the remainder of the term of this Lease to become due and payable, as provided in the Indenture; provided that if the Company has paid all obligations due and owing under the Indenture, this Lease and the Performance Agreement, the City shall convey the Project to the Company in accordance with **Section 11.2** hereof; or

(b) give the Company written notice of intention to terminate this Lease on a date specified therein, which date shall not be earlier than 60 days after such notice is given, and if all defaults have not then been cured, on the date so specified, the Owners shall tender or be deemed to have tendered the Outstanding principal amount of the Bonds for cancellation with instruction that such tender is in lieu of payment in accordance with **Section 11.1(a)** hereof, the Company's rights to possession of the Project shall cease and this Lease shall thereupon be terminated, and the City may enter the Project Site and take possession of the Project and if the Company has paid all obligations due and owing under the Indenture, this Lease and the Performance Agreement, the City shall convey the Project to the Company in accordance with **Section 11.2** hereof.

Section 12.3. Survival of Obligations. The Company covenants and agrees with the City and Owners that its obligations under this Lease shall survive the cancellation and termination of this Lease, for any cause, and that the Company shall continue to pay the Basic Rent and Additional Rent (to the extent the Bonds remain Outstanding) and perform all other obligations provided for in this Lease, all at the time or times provided in this Lease; provided, however, that except for the indemnification contained in **Section 10.5** hereof, upon the payment of all Basic Rent and Additional Rent required under **Article V** hereof, and upon the satisfaction and discharge of the Indenture under **Section 1301** thereof, and upon the Company's exercise of the purchase option contained in **Article XI** hereof or upon the events provided in **Section 12.2(b)** hereof, the Company's obligation under this Lease shall thereupon cease and terminate in full, except that obligations with respect to compensation and indemnification of the City and the Trustee shall not so terminate.

Section 12.4. Performance of the Company's Obligations by the City. Upon an Event of Default, the City, or the Trustee in the City's name, may (but shall not be obligated so to do) upon the continuance of such failure on the Company's part for 60 days after written notice of such failure is given the Company by the City or the Trustee, and without waiving or releasing the Company from any obligation hereunder, as an additional but not exclusive remedy, make any such payment or perform any such obligation, and all reasonable sums so paid by the City or the Trustee and all necessary incidental reasonable costs and expenses incurred by the City or the Trustee (including, without limitation, reasonable attorney's fees and expenses) in performing such obligations shall be deemed Additional Rent and shall be paid to the City or the Trustee on demand, and if not so paid by the Company, the City or the Trustee shall have the same rights and remedies provided for in **Section 12.2** hereof in the case of default by the Company in the payment of Basic Rent.

Section 12.5. Rights and Remedies Cumulative. The rights and remedies reserved by the City and the Company hereunder are in addition to those otherwise provided by law and shall be construed as cumulative and continuing rights. No one of them shall be exhausted by the exercise thereof on one or more occasions. The City and the Company shall each be entitled to specific performance and injunctive or other equitable relief for any breach or threatened breach of any of the provisions of this Lease, notwithstanding the availability of an adequate remedy at law, and each party hereby waives the

right to raise such defense in any proceeding in equity. Notwithstanding anything in this **Section 12.5** or elsewhere in this Lease to the contrary, however, the Company's option to purchase the property as provided in **Article XI** above shall not be terminated upon an Event of Default unless and until this Lease is terminated to the extent permitted pursuant to **Section 12.2(b)** above.

Section 12.6. Waiver of Breach. No waiver of any breach of any covenant or agreement herein contained shall operate as a waiver of any subsequent breach of the same covenant or agreement or as a waiver of any breach of any other covenant or agreement, and in case of a breach by the Company of any covenant, agreement or undertaking by the Company, the City may nevertheless accept from the Company any payment or payments hereunder without in any way waiving City's right to exercise any of its rights and remedies provided for herein with respect to any such default or defaults of the Company which were in existence at the time such payment or payments were accepted by the City.

Section 12.7. Trustee's Exercise of the City's Remedies. Whenever any Event of Default has occurred and is continuing, the Trustee may, but except as otherwise provided in the Indenture shall not be obliged to, exercise any or all of the rights of the City under this Article, upon notice as required of the City unless the City has already given the required notice. In addition, the Trustee shall have available to it all of the remedies prescribed by the Indenture.

ARTICLE XIII

ASSIGNMENT AND SUBLEASE

Section 13.1. Assignment; Sublease.

(a) The Company may assign this Lease in whole or in part, without the necessity of obtaining the consent of the Trustee, subject, however, to each of the following conditions:

(i) The Company shall obtain the prior written consent of the City, which consent shall not be unreasonably withheld, conditioned or delayed, to each assignment, unless such sale, transfer or assignment is to an entity controlled by or under common control with or controlling the Company, or such sale, transfer or assignment is otherwise permitted under **Section 10.7** hereof, in which event no written consent of the City shall be required, but, in such event, the Company shall provide the City with advance written notice of such assignment.

(ii) The assignee shall assume the obligations of the Company hereunder to the extent of the interest assigned; and

(iii) Such assignment shall be in writing, duly executed and acknowledged by the assignor and in proper form for recording;

(iv) Such assignment shall include the entire then unexpired term of this Lease; and

(v) The Company shall, promptly following the completion of any such assignment, furnish or cause to be furnished to the City and to the Trustee a true and complete copy of each such assignment and assumption of obligations, as the case may be.

(b) Any assignee of all the rights of the Company shall agree to be bound by the terms of this Lease, the Performance Agreement and any other documents related to the issuance of the Bonds. Upon

such assignment of all the rights of the Company and agreement by the assignee to be bound by the terms of this Lease, the Performance Agreement and any other documents related to the Bonds, the Company shall be released from and have no further obligations under this Lease, the Performance Agreement or any agreement related to the issuance of the Bonds.

(c) The Company may sublet less than 10% of the Project to a single entity for any lawful purpose under the Act without the consent of the City, and may sublet any greater portion of the Project with the prior written consent of the City. The Company shall, within 10 days after the delivery thereof, furnish or cause to be furnished to the City and the Trustee a true and correct copy of each such sublease. Any sublease of less than 10% of the Project may provide, at the Company's option, that the City's consent shall not be required in respect of any further subletting thereunder if such further subletting is for a similar purpose as the original sublease and is for a purpose permissible under the Act.

Section 13.2. Assignment of Revenues by City. The City shall assign and pledge any rents, revenues and receipts receivable under this Lease and all interest in the Project, to the Trustee pursuant to the Indenture as security for payment of the principal of, interest and premium, if any, on the Bonds and the Company hereby consents to such pledge and assignment.

Section 13.3. Prohibition Against Fee Mortgage of Project. Unless requested by the Company, the City shall not mortgage its fee interest in the Project, but may assign its interest in and pledge any moneys receivable under this Lease to the Trustee pursuant to the Indenture as security for payment of the principal of and interest on the Bonds.

Section 13.4. Restrictions on Sale or Encumbrance of Project by City. During this Lease Term, the City agrees that, except to secure the Bonds to be issued pursuant to the Indenture, it will not sell, assign, encumber, transfer or convey the Project or any interest therein, but may assign its interest in and pledge any moneys receivable under this Lease to the Trustee pursuant to the Indenture as security for payment of the principal of and interest on the Bonds.

ARTICLE XIV

AMENDMENTS, CHANGES AND MODIFICATIONS

Section 14.1. Amendments, Changes and Modifications. Except as otherwise provided in this Lease or in the Indenture, subsequent to the issuance of Bonds and before the payment in full of the Bonds (or provision for the payment thereof having been made in accordance with the provisions of the Indenture), this Lease may not be effectively amended, changed, modified, altered or terminated without the prior written consent of the parties hereto, the Trustee (given in accordance with the provisions of the Indenture, which consent, however, shall not be unreasonably withheld), and the written consent of all of the Owners.

ARTICLE XV

MISCELLANEOUS PROVISIONS

Section 15.1. Notices. All notices, certificates or other communications required or desired to be given hereunder shall be in writing and shall be governed by **Section 1403** of the Indenture.

Section 15.2. City Shall Not Unreasonably Withhold Consents and Approvals. Wherever in this Lease it is provided that the City shall, may or must give its approval or consent, or execute supplemental agreements or schedules, the City shall not unreasonably, arbitrarily or unnecessarily withhold, delay or refuse to give such approvals or consents or refuse to execute or delay in executing such supplemental agreements or schedules; provided, however, that nothing in this Lease shall be interpreted to affect the City's rights to approve or deny any additional project or matter unrelated to the Project subject to zoning, building permit or other regulatory approvals by the City.

Section 15.3. Net Lease. The parties hereto agree (a) that this Lease shall be deemed and construed to be a net lease, (b) that the payments of Basic Rent are designed to provide the City and the Trustee funds adequate in amount to pay all principal of and interest accruing on the Bonds as the same become due and payable, (c) that to the extent that the payments of Basic Rent are not sufficient to provide the City and the Trustee with funds sufficient for the purposes aforesaid, the Company shall be obligated to pay, and it does hereby covenant and agree to pay, upon demand therefor, as Additional Rent, such further sums of money, in cash, as may from time to time be required for such purposes, and (d) that if after the principal of and interest on the Bonds and all costs incident to the payment of the Bonds (including the fees and expenses of the City and the Trustee) have been paid in full the Trustee or the City holds unexpended funds received in accordance with the terms hereof such unexpended funds shall, after payment therefrom of all sums then due and owing by the Company under the terms of this Lease, and except as otherwise provided in this Lease and the Indenture, become the absolute property of and be paid over forthwith to the Company.

Section 15.4. Limitation on Liability of City. No provision, covenant or agreement contained in this Lease, the Indenture or the Bonds, or any obligation herein or therein imposed upon the City, or the breach thereof, shall constitute or give rise to or impose upon the City a pecuniary liability or a charge upon the general credit or taxing powers of the City or the State of Missouri.

Section 15.5. Governing Law. This Lease shall be construed in accordance with and governed by the laws of the State of Missouri.

Section 15.6. Binding Effect. This Lease shall be binding upon and shall inure to the benefit of the City and the Company and their respective successors and assigns.

Section 15.7. Severability. If for any reason any provision of this Lease shall be determined to be invalid or unenforceable, the validity and enforceability of the other provisions hereof shall not be affected thereby.

Section 15.8. Execution in Counterparts. This Lease may be executed in several counterparts, each of which shall be deemed to be an original and all of which shall constitute but one and the same instrument.

Section 15.9. Electronic Storage. The parties hereto agree that the transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

Section 15.10 Complete Agreement. THE COMPANY AND THE CITY UNDERSTAND THAT ORAL OR UNEXECUTED AGREEMENTS OR COMMITMENTS TO LOAN MONEY,

EXTEND CREDIT OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT INCLUDING PROMISES TO EXTEND OR RENEW SUCH DEBT ARE NOT ENFORCEABLE. TO PROTECT THE COMPANY AND THE CITY FROM MISUNDERSTANDING OR DISAPPOINTMENT, ANY AGREEMENTS THE COMPANY AND THE CITY REACH COVERING SUCH MATTERS ARE CONTAINED IN THIS LEASE AND THE PERFORMANCE AGREEMENT, WHICH ARE THE COMPLETE AND EXCLUSIVE STATEMENTS OF THE AGREEMENT BETWEEN THE COMPANY AND THE CITY, EXCEPT AS THE COMPANY AND THE CITY MAY LATER AGREE IN WRITING TO MODIFY THIS LEASE OR THE PERFORMANCE AGREEMENT.

Section 15.11. City Consents. The Mayor of the City is authorized, unless expressly provided herein, to grant on behalf of the City such consents and waivers relating to the Bonds, the Indenture, the Performance Agreement or this Lease as may be requested during the term thereof; provided, such consents and/or waivers shall not increase the principal amount of the Bonds, increase the term of this Lease or the tax exemption as provided for herein, or materially change the nature of the transaction.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed in their respective names by their duly authorized signatories, all as of the date first above written.

CITY OF JOPLIN, MISSOURI

By: _____
Name: Gary Shaw
Title: Mayor

[SEAL]

ATTEST:

By: _____
Name: Barbara Gollhofer
Title: City Clerk

Approved as to form:

_____
City Attorney

CASEY'S MARKETING COMPANY,
an Iowa corporation

By: _____
Name:
Title:

EXHIBIT A

PROJECT SITE

The following described real estate located in Jasper County, Missouri:

[**INSERT LEGAL DESCRIPTION**]

EXHIBIT B

PROJECT IMPROVEMENTS

The Project Improvements consist of the following, to the extent paid for in whole with Bond proceeds:

The purchase and construction of a warehouse and distribution facility including buildings, site improvements and related fixtures and improvements.

PROJECT EQUIPMENT

The Project Equipment consists of the following, to the extent paid for in whole with Bond proceeds:

All items of machinery, equipment and parts or other personal property installed or acquired in the Project Improvements or elsewhere on the Project Site, and replacements thereof and additions thereto as provided in the Indenture and the Lease; provided that, each item of personal property that becomes a part of the Project Equipment shall constitute Project Equipment for no more than 5 tax years, starting with the tax year after the calendar year in which such personal property is acquired by the Company.

EXHIBIT C

FORM OF REQUISITION CERTIFICATE

Requisition No. _____
Date: _____

REQUISITION CERTIFICATE

TO: UMB BANK, N.A., AS TRUSTEE UNDER A TRUST INDENTURE DATED AS OF DECEMBER 1, 2019, BETWEEN CITY OF JOPLIN, MISSOURI, AND THE TRUSTEE, AND THE LEASE AGREEMENT DATED AS OF DECEMBER 1, 2019, BETWEEN CITY OF JOPLIN, MISSOURI AND CASEY'S MARKETING COMPANY, AN IOWA CORPORATION.

The undersigned Authorized Company Representative hereby states and certifies that:

1. A total of $_____ is requested to pay for Project Costs (as defined in the Indenture) of the Project Improvements and/or Project Equipment. The total amount of this requisition and all prior requisitions are as follows:

Date of Project Costs	***Amount Submitted in this Requisition***	***Requisitions Submitted to Date (Including this Requisition)***

2. Said Project Costs shall be paid in whole from Bond proceeds in such amounts, to such payees and for such purposes as set forth on **Schedule 1** hereto.

3. Each of the items for which payment is requested are or were desirable and appropriate in connection with the purchase, installation or equipping of the Project (as defined in the Trust Indenture), have been properly incurred and are a proper charge against the Project Fund, and have been paid by the Company or are justly due to the Persons whose names and addresses are stated on **Schedule 1**, and have not been the basis of any previous requisition from the Project Fund.

4. As of this date, except for the amounts referred to above, to the best of my knowledge there are no outstanding disputed statements for which payment is requested for labor, wages, materials, supplies or services in connection with the purchase, installation or equipping of the Project which, if unpaid, might become the basis of a vendors', mechanics', laborers' or materialmen's statutory or similar lien upon the Project or any part thereof.

CASEY'S MARKETING COMPANY

By: _____
Authorized Company Representative

Approved this _____ day of _____, 20___.

CITY OF JOPLIN, MISSOURI

By: _____
Authorized City Representative

SCHEDULE 1 TO REQUISITION CERTIFICATE

PROJECT COSTS

Payee and Address	Description	Amount

With respect to any personal property described in this Requisition Certificate and for which Project Costs are disbursed pursuant to this Requisition Certificate, in consideration of such disbursement, such personal property is hereby BARGAINED and SOLD, and the Company by these presents does now GRANT and CONVEY, unto the CITY OF JOPLIN, MISSOURI, and its successors and assigns, all of its right, title and interest, if any, in and to such personal property, and such personal property shall constitute a portion of the "Project" as defined under the Lease Agreement dated as of December 1, 2019, between the Company and the City. The property is being conveyed "as is," "where is" and "with all faults" as of the date of this Requisition Certificate, without any representation or warranty whatsoever as to its condition, fitness for any particular purpose, merchantability, or any other warranty, express or implied.

APPENDIX I

PERFORMANCE AGREEMENT

PERFORMANCE AGREEMENT

Dated as of December 1, 2019

BETWEEN

THE CITY OF JOPLIN, MISSOURI

AND

CASEY'S MARKETING COMPANY

PERFORMANCE AGREEMENT

THIS PERFORMANCE AGREEMENT, dated as of December 1, 2019, as from time to time amended and supplemented in accordance with the provisions hereof (this "Agreement"), between the **CITY OF JOPLIN, MISSOURI**, a constitutional charter city organized and existing under the laws of the State of Missouri (the "City"), and **CASEY'S MARKETING COMPANY**, an Iowa corporation (the "Company").

RECITALS:

1. The City is authorized and empowered pursuant to the provisions of Article VI, Section 27(b) of the Missouri Constitution and Sections 100.010 through 100.200, inclusive, of the Revised Statutes of Missouri, as amended (collectively, the "Act"), to purchase, construct, extend, improve and equip certain "projects" (as defined in the Act) and to issue industrial development revenue bonds for the purpose of providing funds to pay the costs of such projects and to lease or otherwise dispose of such projects to private persons or businesses for manufacturing, commercial, research and development, warehousing and industrial development purposes upon such terms and conditions as the City shall deem advisable;

2. Pursuant to the Act, the City Council passed an ordinance (the "Ordinance") on December 2, 2019, authorizing the City to issue its Taxable Industrial Development Revenue Bonds (Hearthstone Project), Series 2019, in the maximum principal amount of $51,400,000 (the "Bonds"), for the purpose of acquiring, constructing, improving, purchasing, equipping and installing a warehouse and distribution facility on approximately 40 acres of land located at 2715 Prosperity Road in the City (the "Project Site"), including such land and the associated buildings, structures and fixtures (the "Project Improvements") and equipment (the "Project Equipment," with the Project Site, the Project Improvements, and the Project Equipment collectively being the "Project");

3. Pursuant to the Ordinance, the City is authorized to enter into a Trust Indenture with UMB Bank, N.A. (the "Trustee") for the purpose of issuing and securing the Bonds, as therein provided, and to enter into a Lease Agreement of even date herewith (the "Lease Agreement"), under which the City will acquire, purchase, construct, improve and equip the Project and will lease the Project to the Company, as tenant under the Lease Agreement, in consideration of rental payments by the Company which will be sufficient to pay the principal of and interest on the Bonds; and

4. In connection with the foregoing, the City desires to enter into this Agreement with the Company, in consideration of the Company's desire to cause the purchase, construction, improvement, equipping and installation of the Project as more fully described in the Lease Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual representations, covenants and agreements herein contained, the City and the Company hereby represent, covenant and agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1. Definitions of Words and Terms. In addition to the words and terms defined in the Recitals, the Indenture and the Lease Agreement, the following words and terms as used herein shall have the following meanings:

"Additional PILOT Payment" means an amount (in addition to the PILOT Payments set out in **Section 3.2**) that becomes due under **Section 3.3(a)** or **(b)**.

"Agreement" means this Performance Agreement dated as of December 1, 2019, between the City and the Company, as from time to time amended and supplemented in accordance with the provisions hereof.

"Annual Jobs Report" means the report required to be filed by the Company pursuant to **Section 3.6** hereof in the form of **Exhibit A** hereto.

"Base Wage" means $39,816 per year, provided that, starting with the September 30, 2023 Test Date, and on every Test Date thereafter that falls in an even-numbered year, the Base Wage shall be adjusted by entering in the Consumer Price Index Inflation Calculator available at http://www.bls.gov/data/inflation_calculator.htm (or similar website maintained by the United States Bureau of Labor Statistics) an initial amount of $39,816, a starting date of December 2019 and an ending date that is the same month and year as the Test Date in question (the Base Wage for odd year Test Dates shall be the same as the Base Wage for the immediately prior even year); *provided that*, if the United States Bureau of Labor Statistics no longer provides a Consumer Price Index Inflation Calculator similar to that provided at such website, the amount of $39,816 shall be multiplied by the aggregate increase in the average Consumer Price Index, as reported by the United States Bureau of Labor Statistics, for the time period elapsed between December 2019 and the applicable Test Date.

"CBA" means the Cost Benefit Analysis attached to the Plan for an Industrial Development Project for a Distribution Facility (Hearthstone Project) dated October 28, 2019 and approved by the City in connection with the Project.

"Chamber" means the Joplin Area Chamber of Commerce.

"County" means Jasper County, Missouri.

"Event of Default" means any Event of Default as provided in **Section 6.1** hereof.

"Exemption" has the meaning given in **Section 3.1** hereof.

"Indenture" means the Trust Indenture executed by the City in connection with the issuance of the Bonds.

"Job" means a full-time equivalent employment position of the Company of not less than 35 hours per week at the Project Site (provided that part time positions can be aggregated to equal a full time equivalent position, i.e. two 0.5 full-time equivalent employment positions equals one Job), which includes employee benefits offered by the Company to similarly situated employees (which shall include the Company paying at least 50% of such employee's health insurance premiums) and all such Jobs, when averaged together, pay an average wage equivalent (when aggregated to a full time basis) equal to

or greater than the current Base Wage. Positions filled by workers who are not directly employed by the Company do not qualify as "Jobs" for purposes of this definition. Accordingly, Jobs may be full time or part time. Jobs may pay more or less than Base Wage, provided all Jobs, when averaged together, equal or exceed the Base Wage.

"Lease Agreement" means the Lease Agreement between the City and the Company dated as of the date hereof.

"PILOT Payments" means the payments in lieu of taxes provided for in **Section 3.2** hereof and shown on **Exhibit B** hereto.

"Project" means, collectively, the Project Site, the Project Improvements and the Project Equipment and all additions (and taking into account any subtractions), modifications, improvements, replacements and substitutions made to the Project pursuant to the Lease Agreement as they may exist from time to time.

"Project Costs" means all costs of acquiring, purchasing, equipping, constructing and installing the Project Site, the Project Improvements and the Project Equipment.

"Project Equipment" has the meaning given in the Lease Agreement.

"Project Improvements" has the meaning given in the Lease Agreement.

"Project Site" means the land upon which the Project Improvements and Project Equipment will be situated, as described in the Lease Agreement.

"Property Taxes" has the meaning given in **Section 3.1** hereof.

"Required Number of Jobs" means 100 Jobs.

"Taxes Otherwise Due" means, for any given calendar year, the ad valorem property taxes that would otherwise have been due in such year on the Project if the Project were not exempt by virtue of the Exemption, as calculated by applying the ad valorem tax rates assessed by all local governments or taxing districts for such calendar year to the assessed valuation that would have been attributable to the Project for such calendar year if the City did not hold title to such property.

"Test Date" means September 30 of each year, beginning on September 30, 2023, and ending on September 30, 2033.

"Trustee" means UMB Bank, N.A., as trustee under the Indenture.

ARTICLE II

ISSUANCE OF BONDS

Section 2.1. Issuance of the Bonds. As described herein, the City will issue the Bonds under the Act for the purpose of paying Project Costs. In connection with the issuance of the Bonds and the payment of Project Costs from the proceeds of the Bonds, the City will acquire the fee simple interest in the Project Site at the time of the issuance of the Bonds and will acquire title to the Project Improvements and the Project Equipment as acquired and constructed.

ARTICLE III

PROPERTY TAX EXEMPTION; PILOT PAYMENTS

Section 3.1. Property Tax Exemption. So long as the City owns the Project, the Project will be exempt from all ad valorem taxes assessed by all state and local governments and taxing districts (collectively "Property Taxes") on real and personal property (the "Exemption").

Section 3.2. Payments in Lieu of Taxes. The City and the Company covenant and agree that the Project purchased with the proceeds of the Bonds is exempt from Property Taxes by reason of the City's ownership thereof. The Company will annually pay to the City (or to the County if so directed by the City) payments in-lieu-of tax (the "PILOT Payments") with respect to the Project for each year that any portion of the Project is owned by the City in the amounts for each year as set out on **Exhibit B** hereto (except as adjusted as described in **Section 3.3(d)** herein).

Each PILOT Payment shall be due on December 1st of each year. In the event the PILOT Payments are not paid by December 31st of any particular year, such PILOT Payments shall bear interest commencing such December 31st at the rate of 5% per annum until paid. Each PILOT Payment shall be paid to the City at the address set forth in **Section 1403** of the Indenture.

Section 3.3. Additional PILOT Payments; Adjustments to PILOT Payments.

(a) In the event the Company fails to spend at least $41,000,000 (approximately 80% of anticipated Project Costs) on the Project on or before September 30, 2022 (as certified to the Trustee and the City through requisition certificates submitted to the Trustee in accordance with the Lease Agreement), the Company shall make Additional PILOT Payments in an amount equal to the Investment Deficiency Percentage (calculated as shown below) multiplied by the amount of the difference between the PILOT Payments and the Taxes Otherwise Due during the year in which the failure occurs and any subsequent year in which such failure persists as of September 30 of such year and during which the Exemption applies by virtue of City ownership. The Investment Deficiency Percentage shall be calculated, beginning at zero percent (0%) for compliance, in accordance with the following formula, with the result expressed as a percentage:

Investment Deficiency Percentage = (1 – (certified Project Costs / $41,000,000)) x 100.

(b) In the event the Company fails to maintain the Required Number of Jobs at the Project Site on the Test Date for any two consecutive Test Dates, measured by determining the highest actual number of Jobs during the 90-day period ending on such Test Dates, the Company shall make an Additional PILOT Payment for the year in which the second of such Test Dates falls in an amount equal to the Jobs Deficiency Percentage for such year (calculated as shown below) multiplied by the amount of the difference between the PILOT Payments and the Taxes Otherwise Due. The Jobs Deficiency Percentage shall be calculated, beginning at zero percent (0%) for compliance, in accordance with the following formula, with the result expressed as a percentage:

Jobs Deficiency Percentage = (1 – (a / b)) x 100, where

a = Highest number of Jobs during the 90 day period ending on Test Date, and

b = Required Number of Jobs for the Test Date.

Notwithstanding the foregoing, upon recommendation of the Chamber and certification by the Company that unforeseeable business conditions have caused the Company to employ fewer Jobs than projected at the time this Agreement was executed, the City Council may by ordinance waive the Additional PILOT Payments, or any portion thereof, otherwise required by this subsection.

(c) Each Additional PILOT Payment shall be due on December 1 of the year in which the failure giving rise to the Additional PILOT Payment occurs (and on December 1 of each subsequent year in which such failure persists as of September 30 of such year). In no event shall the sum of the Additional PILOT Payments payable under this Section, together with the PILOT Payments pursuant to **Section 3.2** hereof, for any given tax year exceed 100% of the Taxes Otherwise Due. Additional PILOT Payments shall not apply retrospectively to any years prior to the year in which a failure occurs and shall not accrue prospectively for future years based on current or past failures.

(d) In the event that any Additional PILOT Payment becomes due under this Agreement, the assessed valuation for purposes of calculating the Taxes Otherwise Due shall be determined by adding the following amounts:

(1) the amount shown as the "Estimated Assessed Value of Site Only (Assuming Project Occurs)" for the applicable year on page 4 of the CBA; *plus*

(2) the amount shown as the "Estimated Assessed Value of Project Improvements" for the applicable year on page 5 of the CBA; *plus*

(3) the cost (without freight, installation or sales tax) of the current Project Equipment (as certified to the Trustee and the City through requisition certificates submitted to the Trustee in accordance with the Lease Agreement), depreciated for each item of Project Equipment from its placed-in-service date in accordance with the 7-year recovery period shown in the "Project Assumptions" provided on page 1 of the CBA;

provided that, the Company, by providing notice to the City of such request by November 15th of the year for which the applicable Additional PILOT Payment would be due, may request that the Assessor of Jasper County, Missouri provide an estimated assessed value of the Project in lieu of the calculation shown above, provided further that (i) the Company agrees to pay to the Assessor the actual costs (including employee time) incurred by the Assessor in determining the estimated assessed valuation, and (ii) if the Assessor is unable to make such determination on or prior to December 15th of such year, the assessed valuation for purposes of determining the Taxes Otherwise Due for such year shall be calculated as shown above.

Section 3.4. Obligation to Effect Tax Abatement. The City shall take all actions, subject only to limitations imposed by applicable law, to obtain and/or maintain in effect the Exemption, including any timely filing required with any governmental authorities ("Abatement Obligations"); provided that the City shall not be liable for any failure of any other governmental taxing authority to recognize the exemption provided herein. Notwithstanding the forgoing, the City shall only be required to instigate litigation to effect the Exemption if the Company agrees in writing that the Company shall be responsible for the costs of such litigation actually incurred by the City. In the event that the Exemption is not recognized by any taxing authority, the amount paid to the City for PILOT Payments and Additional PILOT Payments shall be reduced by the amount of Property Taxes actually paid, if any, and the amount paid in PILOT Payments and Additional PILOT Payments shall be applied by the City, to the extent necessary, to the payment of such Property Taxes.

The City covenants that it will not act or fail to act in a manner that may cause or induce the Exemption to not be recognized. The City covenants that it will not act or fail to act in a manner that may cause or induce any levy or assessment of Property Taxes on the Project. In the event such a levy or assessment of Property Taxes should occur, the City shall, at the Company's request and at the Company's expense, cooperate with the Company in all reasonable ways to prevent and/or remove any levy or assessment of Property Taxes against the Project. Nothing herein shall prevent the Company from paying any such levy or assessment of Property Taxes under protest.

Section 3.5. Other Property Taxes in Connection with the Project; Credits. The Exemption provided by the City's ownership of the Project shall apply to all interests in the Project during the period they are owned by the City. If any Property Taxes are levied by or on behalf of any taxing jurisdiction against any interest in the Project during the period the City owns the Project (including, without limitation, any ad valorem taxes levied against the Company's rights in the Lease Agreement), the amount of Property Tax payments related to such levy or levies that are paid by Company and received by the City, the County, or any other Missouri taxing jurisdiction shall be credited against and reduce on a dollar for dollar basis the amount payable by the Company to the City for PILOT Payments and Additional PILOT Payments pursuant to this Agreement. The Company shall be responsible for any taxes related to any interest in the improvements or equipment on the Project Site which the Company owns in its own name or possession of which is granted to the Company other than pursuant to the Lease Agreement. There shall be no reduction in PILOT Payments or Additional PILOT Payments for any sales taxes imposed by any governmental authority, including the Missouri Department of Revenue, in connection with the Company's acquisition of construction materials for the Project Improvements or the Company's acquisition of the Project Equipment.

Section 3.6. Annual Jobs Report. On or before November 15th after each Test Date, the Company shall provide to the City and the Chamber a completed Annual Jobs Report, in the form attached hereto as **Exhibit A**. A failure to provide any Annual Jobs Report in a timely fashion may result in an Event of Default as described in **Section 6.1(d)**.

Section 3.7. No Abatement on Special Assessments, Licenses or Fees. The City and the Company hereby agree that the Exemption described in this Agreement shall not apply to special assessments except to the extent that such are Property Taxes or are levied in lieu of Property Taxes ("Special Assessments") and shall not serve to reduce or eliminate any other licenses or fees owing to the City or any other taxing jurisdiction with respect to the Project so long as such special assessments, licenses or fees are not applied in a manner that discriminates against the Company on the basis of the tax abatement incentives received by the Company by virtue of the Exemption. The Company hereby agrees to make payments with respect to all Special Assessments, licenses and fees which would otherwise be due with respect to the Project if the Project were not owned by the City. Notwithstanding the foregoing, nothing herein shall waive the Company's right to any notice required under law or limit the ability of the Company from protesting any Special Assessments, licenses or fees.

Section 3.8. Company's Right to Protest Taxes. No provision of this Agreement shall be construed to limit or in any way restrict the availability of any provision of Missouri law which confers upon the Company the appeal, protest or otherwise contest any property tax valuation, assessment or classification of the Project. In addition, the parties agree that the Company may, in its own name or in the City's name, contest the validity or amount of any tax, assessment, valuation, or classification related to the Project. The City agrees, at the Company's expense, to cooperate fully with the Company in connection with any and all administrative or judicial proceedings related to any such tax, assessment, valuation, classification or other governmental charge relating to the Project.

Section 3.9 Additional Personal Property. The Company may acquire additional personal property on its own accord and such personal property need not be financed with the proceeds of the Bonds or become part of the Project Equipment and shall not be subject to the terms of this Agreement; provided, however, any such personal property shall be subject to ad valorem taxes.

ARTICLE IV

COVENANTS, REPRESENTATIONS AND AGREEMENTS

Section 4.1. Inspection. The City may conduct such periodic inspections of the Project as may be generally provided in the City's code. In addition, the Company agrees that the City and its duly authorized agents may at reasonable times (during business hours but without disruption to the business), subject to at least two (2) business days' advance written notice and in observance of the Company's usual business proprietary, safety and security requirements, to enter upon the Project Site to examine and inspect the Project and the records of the Company that demonstrate compliance with this Agreement.

Section 4.2. Representations and Warranties.

(a) The Company represents that as of the date of this Agreement and during the term of this Agreement, or such shorter period as may be expressly provided for below:

(1) The Company is a corporation duly formed and existing under the laws of the State of Iowa, has power and authority to own its properties (and interests therein) and carry on its business as now being conducted, and is duly qualified to do such business in the State of Missouri;

(2) The Company has the right, power and authority to enter into, execute, deliver and perform its duties and obligations under this Agreement;

(3) The execution, delivery and performance by the Company of this Agreement has been duly authorized by all necessary action, and does not violate the articles of organization or operating agreement of the Company, as the same may be amended and supplemented, or to the Company's knowledge, any applicable provision of law, nor to the Company's knowledge does it constitute a breach of or default under or require any consent under any agreement, instrument or document to which the Company is now a party or by which the Company is now or may become bound;

(4) To the Company's knowledge, there are no actions or proceedings by or before any court, governmental commission, board, bureau or any other administrative agency pending, threatened or affecting the Company that would impair its ability to enter into or perform its material obligations under this Agreement;

(5) To the Company's knowledge, the Company has obtained (or prior to the applicable time required will obtain) and will maintain all government permits, certificates and consents (including without limitation appropriate environmental approvals) necessary to conduct its business and to complete the Project; and

(6) To the Company's knowledge, the Project is and will be in material compliance with all applicable federal, state and local laws, statutes, ordinances, rules, regulations, executive

orders and codes pertaining to or affecting the Project, including environmental laws, subject to all applicable rights of the Company to contest the same.

(b) The City represents that as of the date of this Agreement and during the term of this Agreement, or such shorter period as may be expressly provided for below:

(1) The City is a constitutional charter city duly organized and validly existing under the laws of the State of Missouri;

(2) The execution, delivery and performance by the City of this Agreement has been duly authorized by all necessary City actions;

(3) The City has the right, power and authority to enter into, execute, deliver and perform its duties and obligations under this Agreement; and

(4) To the best of the City's knowledge, there are no actions or proceedings by or before any court, governmental commission, board, bureau or any other administrative agency pending, threatened or affecting the City that would impair its ability to enter into or perform its obligations under this Agreement.

Section 4.3. Survival of Covenants. All obligations of the Company to make payments or indemnify the City contained herein, to the extent that the same accrue or arise during the term of this Agreement, shall survive termination of this Agreement for any reason.

Section 4.4. Sales and Use Tax Exemption.

(a) *Construction Materials*. Upon request after issuance of the Bonds, the City will provide a project exemption certificate to the Company for the acquisition of construction materials for the Project. This project exemption certificate shall be used by the Company solely for the acquisition of construction materials to be incorporated into the Project and the Company shall not apply such project exemption certificate to the acquisition of any other personal property.

(b) *DED Approved Personal Property.* The City recognizes that the Company has applied to the Missouri Department of Economic Development ("DED") for certification of the extent to which certain personal property other than construction materials constitutes eligible tangible personal property for purposes of exemption from sales and use tax. The City will cooperate with the Company and take reasonable efforts to facilitate the exemption of such personal property as is approved by DED (the "DED Approved Personal Property"). Upon receipt by the City of a conditional approval letter from DED (and proof that the Company has provided its tax clearance letter to the Missouri Department of Revenue and has complied with any other requirements of the conditional approval letter), the City will provide the Company with a project exemption certificate for the DED Approved Personal Property. Such project exemption certificate shall not be used by the Company in connection with the acquisition of any personal property other than the DED Approved Personal Property, as approved in the DED conditional approval letter.

(c) *Liability for Sales Determined to be Taxable.* Upon a determination by the Missouri Department of Revenue that any purchase made by the Company using a project exemption certificate described herein was not exempt from sales or use tax, the Company shall pay to the Missouri Department of Revenue all sales or use taxes so determined to be due

(whether by virtue of failure of the Company to comply with the terms of this Agreement or the procedures and requirements of DED or otherwise). The Company shall indemnify and defend the City and its respective officers, employees and agents against and from any and all causes of action or actions in law or equity, liens, claims damages, loss, costs or expenses of any nature whatsoever by any person or entity, arising out of the City's furnishing of the project exemption certificates to the Company or its affiliates. There shall be no reduction in PILOT Payments or Additional PILOT Payments for any sales or use taxes paid by the Company in connection with the Project.

ARTICLE V

SALE AND ASSIGNMENT

The benefits granted by the City to the Company pursuant to this Agreement shall belong solely to the Company, and such benefits shall not be transferred, assigned, pledged or in any other manner hypothecated, except as provided in **Section 13.1** of the Lease Agreement.

ARTICLE VI

DEFAULT AND REMEDIES

Section 6.1. Events of Default. If any one or more of the following events occurs and is continuing, it is hereby defined as and declared to be and to constitute an Event of Default hereunder:

(a) The Company fails to make any PILOT Payment or Additional PILOT Payment required to be paid hereunder, and such failure continues for 10 business days following written notice to the Company from the City of such failure;

(b) The Company fails to perform any of its material obligations hereunder for a period of 30 days (or such longer period as the City may agree in writing) following written notice to the Company from the City of such failure, or if such failure is not subject to cure within such 30 days after such notice, the Company fails to initiate action to cure the default within such 30 days after such notice and fails to pursue such action diligently;

(c) Either (1) any representation of the Company contained herein proves to be materially false or erroneous and is not corrected or brought into compliance within 30 days (except for situations described in subsection 6.1(c)(2), below), or such longer period as the City may agree in writing, after the City has given written notice to the Company specifying the false or erroneous representation and requiring it to be remedied, or (2) if such matter is not subject to cure within such 30 days after such notice, the Company fails to initiate action to cure the default within such 30 days after such notice and fails to pursue such action diligently; or

(d) The Company both (i) fails to provide any Annual Jobs Report on or before November 15th of the applicable year, *and* (ii) after notice of such failure is provided to the Company by the City or the Chamber, fails to provide such Annual Jobs Report within 10 business days of the postmarked date of such notice.

Section 6.2. Remedies on Default. Any Event of Default referred to in **Section 6.1** hereof shall also constitute an Event of Default under the Lease Agreement, affording the City the remedies specified therein.

Section 6.3. Interest on Late Payments. Any amounts due hereunder which are not paid when due shall bear interest at the interest rate of 5% per annum from the date 30 days after such payment was first due.

Section 6.4. Enforcement. In addition to the remedies specified in **Section 6.2**, upon the occurrence of an Event of Default, the City or any taxing jurisdictions that would benefit from the PILOT Payments and Additional PILOT Payments provided for in this Agreement may bring an action for specific performance to enforce such payments. In the event of litigation pertaining to the enforcement of this Agreement, the losing party shall pay all costs of litigation, including reasonable attorneys' fees.

ARTICLE VII

TERM OF AGREEMENT

Section 7.1. Term of Agreement. This Agreement shall become effective upon execution by the parties hereto and shall terminate upon the earliest to occur of the following:

(a) the payment in full of the Bonds (or any bonds issued to refund the Bonds) and the payment of all amounts due under this Agreement;

(b) the occurrence and continuance of an Event of Default (beyond any applicable cure period) and the subsequent termination of this Agreement pursuant to the provisions of the Lease Agreement and this Agreement;

(c) the expiration of the Lease Term set forth in **Section 3.2** of the Lease Agreement; or

(d) the exercise by the Company of its option to purchase all of the Project.

Section 7.2. Payments in Last Year. The foregoing provisions of **Section 7.1** shall not relieve the Company of its obligation to make any PILOT Payment or Additional PILOT Payment owing during the year in which the Bonds are paid, to the extent the Company receives the tax abatement contemplated for that year and such PILOT Payment or Additional PILOT Payment is due under this Agreement.

ARTICLE VIII

MISCELLANEOUS PROVISIONS

Section 8.1. Mutual Assistance. The City and the Company agree to take such actions as may be necessary or appropriate to carry out the terms, provisions and intent of this Agreement and to aid and assist each other in carrying out said terms, provisions and intent.

Section 8.2. Notices. All notices, certificates or other communications required or desired to be given hereunder shall be given in the manner specified in the Lease Agreement.

Section 8.3. Severability; Effect of Invalidity. If for any reason any provision of this Agreement shall be determined to be invalid or unenforceable, such invalid or unenforceable term will be

deemed severed from this Agreement and the validity and enforceability of the other provisions hereof shall not be affected thereby (except in the event that the Exemption is determined to be invalid or unenforceable, then the provisions requiring any PILOT Payments or Additional PILOT Payments shall also be deemed invalid and unenforceable). If this Agreement, or any portion hereof, or any agreements related hereto, are determined to be invalid, the City may not recover or recapture any taxes subject to abatement as provided herein or benefits accruing to the Company prior to such determination if the Company has paid the PILOT Payments and Additional PILOT Payments due under this Agreement prior to such date.

Section 8.4. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Missouri.

Section 8.5. Execution in Counterparts. This Agreement may be executed simultaneously in several counterparts, each of which shall be deemed to be an original and all of which shall constitute but one and the same instrument.

Section 8.6. Waiver. The City and the Company acknowledge and agree that the amounts payable hereunder shall constitute payments due the City under the Lease Agreement executed in connection with the Bonds. The Company shall not be entitled to any extension of payment of such amounts as a result of a filing by or against the Company or any affiliate in any bankruptcy court.

Section 8.7. Entire Agreement. This Agreement, together with the Lease Agreement, the Indenture and any other documents entered into of even date herewith in connection with the issuance of the Bonds, constitute the entire agreement of the parties with respect to the subject matter hereof and supersede all prior agreements, representations, negotiations and understandings, both written and oral, between the City and the Company with respect to the subject matter hereof.

Section 8.8. Electronic Storage. The parties agree that the transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

Section 8.9. Employee Verification. The Company will comply with and satisfy the requirements of Section 285.530.2, RSMo. with respect to the Project, which requires (1) any business entity receiving tax abatement to, by sworn affidavit and provision of documentation, annually affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the Project, and (2) every such business entity to annually sign an affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the Project. The Company shall provide such affidavits and documentation to the City on or before December 1 of each year during the term of this Agreement, beginning December 1, 2020.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in their respective corporate names by their duly authorized officers, all as of the date first above written.

CITY OF JOPLIN, MISSOURI

By: _____
Name: Gary Shaw
Title: Mayor

[SEAL]

ATTEST:

By: _____
Name: Barbara Gollhofer
Title: City Clerk

Approved as to form:

_____
City Attorney

CASEY'S MARKETING COMPANY,
an Iowa corporation

By: _____
Name:
Title:

EXHIBIT A

ANNUAL JOBS REPORT –CASEY'S MARKETING COMPANY PROJECT

To be filed with the City and the Chamber on or before November 15 of each year during the term of the Lease Agreement, starting on November 15, 2023:

Business Name **CASEY'S MARKETING COMPANY**	MO. Tax I.D. Number
County, State, Zip Code	Federal Employer I.D. Number (FEIN)
Highest number of Jobs during the 90 day period ending on Test Date:_____	"Test Date" (during the Reporting Period)
PILOT Payment Due Per Section 3.3 (if applicable)	Report Due

The undersigned, duly authorized representative of CASEY'S MARKETING COMPANY hereby states and certifies that the information set forth in this report is true and correct.

Authorized Signature	Date
Contact Name	Phone Number

For questions, please contact Rob O'Brian at (417) 624-4150 or email at rob@joplincc.com.

Please send form to:

Toby Teeter
President of Joplin Area Chamber of Commerce
320 East 4th Street
Joplin, Missouri 64801

EXHIBIT B

SCHEDULE OF PILOT PAYMENTS

Year	PILOT Payment
2019	$282
2020	915
2021	933
2022	933
2023	952
2024	952
2025	971
2026	971
2027	990
2028	990
2029	1,010
2030	1,010
2031	1,030
2032	1,030
2033	1,051

BILL NO. _____ ORDINANCE NO. _____

AN ORDINANCE APPROVING A PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT CONSISTING OF THE ACQUISITION, CONSTRUCTION, IMPROVEMENT AND EQUIPPING OF A WAREHOUSE AND DISTRIBUTION FACILITY; AUTHORIZING THE CITY OF JOPLIN, MISSOURI TO ISSUE ITS TAXABLE INDUSTRIAL DEVELOPMENT REVENUE BONDS IN A PRINCIPAL AMOUNT NOT TO EXCEED $51,400,000 TO FINANCE THE COSTS OF SUCH PROJECT; AUTHORIZING AND APPROVING CERTAIN DOCUMENTS; AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION WITH THE ISSUANCE OF THE BONDS.

WHEREAS, the City of Joplin, Missouri (the "City") is a constitutional charter city and municipal corporation of the State of Missouri, duly created, organized and existing under and by virtue of the Constitution and laws of the State of Missouri; and

WHEREAS, the City is authorized under the provisions of Article VI, Section 27(b) of the Missouri Constitution, as amended, and Sections 100.010 to 100.200, inclusive, of the Revised Statutes of Missouri, as amended (collectively, the "Act"), to purchase, construct, extend, improve and equip certain projects (as defined in the Act) for the purposes set forth in the Act and to issue industrial development revenue bonds for the purpose of providing funds to pay the costs of such projects and to lease or otherwise dispose of such projects to private persons or corporations for manufacturing, commercial, warehousing and industrial development purposes upon such terms and conditions as the City shall deem advisable; and

WHEREAS, Casey's Marketing Company, an Iowa corporation (the "Company"), has proposed a project consisting of acquiring, constructing, improving, purchasing, equipping and installing a warehouse and distribution facility on approximately 40 acres of land located at 2715 Prosperity Road in the City (the "Project"); and

WHEREAS, the City, in accordance with Section 100.050 of the Act, prepared a plan for industrial development (the "Plan"), gave notice of the Plan on October 28, 2019 by mail to the taxing jurisdictions in accordance with Section 100.059.1 of the Act, and held a public hearing regarding the Plan on November 18, 2019, during which hearing those in attendance were given the opportunity to provide comments with respect to the Plan; and

WHEREAS, the City now desires to approve the Plan; and

WHEREAS, the City desires to finance the costs of the Project out of the proceeds of industrial development revenue bonds to be issued under the Act (the "Bonds"); and

WHEREAS, the City has and does hereby find and determine that it is desirable for the economic development of the City and within the public purposes of the Act that the City proceed with the issuance of the Bonds for the purpose described above; and

WHEREAS, Section 4.23 of the City Charter requires that all bonds sold by the City be sold at public sale upon sealed proposals after at least fifteen days' notice in a newspaper published in Joplin, Missouri; and

WHEREAS, a notice of sale was published in the *Joplin Globe* on _____ __, 2019 inviting potential bond purchasers to submit bids for the Bonds and the City has received one bid for the bonds; and

WHEREAS, the City further finds and determines that it is necessary and desirable in connection with approval of the Plan and the issuance of the Bonds that the City enter into certain documents, and that the City take certain other actions and approve the execution of certain other documents as herein provided;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI:

Section 1. Promotion of Economic Development. The Council hereby finds and determines that the Project will promote the economic welfare and the development of the City, and the issuance of the Bonds by the City to pay the costs of the Project will be in furtherance of the public purposes set forth in the Act.

Section 2. Approval of Plan. The Council hereby approves the Plan attached hereto as **Exhibit A** in accordance with Section 100.050 of the Act.

Section 3. Authorization and Sale of the Bonds. The City is hereby authorized to issue and sell its Taxable Industrial Development Revenue Bonds (Hearthstone Project), in an aggregate principal amount not to exceed $51,400,000, for the purpose of providing funds to pay the costs of the Project. The Bonds shall be issued and secured pursuant to the herein authorized Trust Indenture and shall bear such date, shall mature at such time, shall be in such denominations, shall bear interest at such rate, shall be in such form, shall be subject to redemption, shall have such other terms and provisions, shall be issued, executed and delivered in such manner and shall be subject to such provisions, covenants and agreements as are specified in the Trust Indenture upon the execution thereof, and the signatures of the officers of the City executing the Trust Indenture shall constitute conclusive evidence of their approval and the City's approval thereof.

The City hereby determines that the sealed proposal for purchase of the bonds submitted by the Company was the only bid submitted at the public sale of the Bonds and that it is in the best interest of the City to accept the bid submitted by the Company. The sale of the Bonds to the Company at the interest rate and upon the terms set forth in the Trust Indenture is hereby approved.

Section 4. Limited Obligations. The Bonds and the interest thereon shall be limited obligations of the City payable solely out of the payments, revenues and receipts derived by the City from the herein authorized Lease Agreement, and such payments, revenues and receipts shall be pledged and assigned to the Trustee as security for the payment of the Bonds as provided in the Trust Indenture. The Bonds and the interest thereon shall not be deemed to constitute a debt or liability of the City within the meaning of any constitutional provision, statutory limitation or City Charter provision and shall not constitute a pledge of the full faith and credit of the City. The issuance of the Bonds shall not, directly, indirectly or contingently, obligate the City to levy any form of taxation therefore or to make any appropriation for their payment.

Section 5. Approval and Authorization of Documents. The following documents (the "City Documents") are hereby approved in substantially the forms presented to the Council at this meeting (copies of which documents shall be filed in the records of the City), and the City is hereby authorized to execute and deliver the City Documents with such changes therein as shall be approved by the officials of the City executing such documents, such officials' signatures thereon being conclusive evidence of their approval thereof:

(a) Trust Indenture dated as of the date set forth therein (the "Trust Indenture"), between the City and UMB Bank, N.A., as trustee (the "Trustee"), pursuant to which the Bonds shall be issued and the City shall pledge and assign the payments, revenues and receipts received pursuant to the Lease Agreement to the Trustee for the benefit and security of the owners of the Bonds upon the terms and conditions as set forth in the Trust Indenture;

(b) Lease Agreement dated as of the date set forth therein (the "Lease Agreement"), between the City and the Company, under which the City will provide funds for the acquisition, construction, improvement and equipping of the Project and lease the Project to the Company pursuant to the terms and conditions in the Lease Agreement, in consideration of rental payments by the Company which will be sufficient to pay the principal of, premium, if any, and interest on the Bonds;

(c) Bond Purchase Agreement dated as of the date set forth therein, between the City and the Company, pursuant to which the Company agrees to purchase the Bonds;

(d) Performance Agreement dated as of the date set forth therein, between the City and the Company, pursuant to which the City has granted the Company certain rights with respect to the abatement of ad valorem real property taxes on the Project in consideration for the Company's agreement to pay certain payments in lieu of taxes; and

Section 6. Execution of Documents. The Mayor of the City is hereby authorized and directed to execute the Bonds and to deliver the Bonds to the Trustee for authentication for and on behalf of and as the act and deed of the City in the manner provided in the Indenture. The Mayor, City Manager or Finance Director of the City is hereby authorized and directed to execute the City Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance, for and on behalf of and as the act and deed of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City to the Bonds and the City Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

Section 7. Further Authority. The Mayor, City Manager, Finance Director, City Clerk and other officials, agents and employees of the City as required are hereby authorized and directed to take such further action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance and to carry out, comply with and perform the duties of the City with respect to the Bonds and the City Documents. The Mayor is authorized to grant on behalf of the City such consents and waivers relating to the Bonds, the Trust Indenture, the Performance Agreement or the Lease Agreement as may be requested during the term thereof and as the Mayor may deem appropriate with the advice and counsel of city staff; provided, such consents and/or waivers shall not increase the principal amount of the Bonds, increase the term of the Lease or the tax exemption as provided for therein, or materially change the nature of the transaction.

Section 8. Effective Date. This Ordinance shall take effect and be in full force from and after its passage and adoption by the City Council and approval by the Mayor.

PASSED by the City Council of the City of Joplin, Missouri and APPROVED by the Mayor this _____ day of December, 2019.

[SEAL] MAYOR

ATTEST:

CITY CLERK

Approved as to form:

CITY ATTORNEY

EXHIBIT A

PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2019-523 – Approving certain fee changes in the fire department

MEETING DATE
November 18, 2019

ORIGINATING DEPT
Finance

ATTACHMENTS
CB 2019-523 Ordinance

REVIEWED BY
Department Head: Leslie Haase; Fire Chief: Jimmy Furgerson; City Attorney: Peter Edwards; City Manager: Dan Pekarek

SUMMARY
This Council Bill changes certain existing fees in the fire department.

BACKGROUND
The City recently completed the biennial user fee review, which was discussed with City Council at the budget work session on September 24, 2019. User fees are fees for services for specific users. User fees should recover most of the related cost of providing the service, so general taxes are not supporting services for specific users. Under Hancock provisions, the City is only allowed to recover the cost of providing the service. As detailed in the biennial user fee review, certain user fees need to be increased to recover more of the costs associated with providing these services.

In the fee review, staff proposed various changes to fire department fees.

The proposed changes are as follows:

- Change the fire operational permit from $50.00 to $75.00
- Change the fireworks stand fee from $100.00 to $150.00

The fee changes will be effective on January 1, 2020.

FUNDING SOURCE
This revenue is included in the fiscal year 2020 general fund budget.

RECOMMENDATION
Staff recommends this council bill be approved on first reading.

COUNCIL BILL NO. 2019-523 ORDINANCE NO.

AN ORDINANCE repealing Section 58-68, Schedule of Fees, Article II, Fire Prevention Code, Division 2, International Fire Code, of Chapter 58, Fire Prevention and Protection, of the Code of Ordinances of the City of Joplin and enacting in lieu thereof a new Section 58-68, Schedule of Fees, Article II, Fire Prevention Code, Division 2, International Fire Code, of Chapter 58, Fire Prevention and Protection, of the Code of Ordinances of the City of Joplin to implement certain fee changes; and setting a date when this Ordinance shall become effective.

WHEREAS, the City performed the biennial fee review and the cost of services has increased and exceeds revenues; and,

WHEREAS, the Council of the City of Joplin desires to increase fees to meet the reasonable expenditures of this function; and,

WHEREAS, the Council of the City of Joplin desires to change certain fees to better reflect services provided by the fire department.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Joplin, Missouri, as follows:

Section 1. That Section 58-68, Schedule of Fees, Article II, Fire Prevention Code, Division 2, International Fire Code, of Chapter 58, Fire Prevention and Protection, be repealed and a new Section 58-68, Schedule of Fees, Article II, Fire Prevention Code, Division 2, International Fire Code, of Chapter 58, Fire Prevention and Protection of the Code of Ordinances of the City of Joplin be enacted in lieu thereof to read as follows:

"**ARTICLE II. FIRE PREVENTION CODE**

DIVISION 2. INTERNATIONAL FIRE CODE

Sec. 58-68. Schedule of Fees.

The following is a schedule of the fire department permit fees:

(1) *Plan Review.* Where a fire plan review is required for any reason, fees shall be collected for such plan review as follows:
   a. *Fire Commercial Plan Review* fee shall be .001 multiplied by the value of the project, with a maximum cap of $2,500.00 per plan review.
      i. The value of the project in this section shall be computed by one of the following methods and approved by the Fire Marshal, but in no case shall the value of the project be less than the minimum set forth in this section.

a) Provided by the person applying for the permit and verified by the Fire Marshal.
b) Calculated using the Building Valuation Data published in the Building Safety Journal each February issue (on file in the City Clerk's office) based on square footage of the project, and modified for the City of Joplin, using a multiplier of 0.87.

ii. The minimum value of the project shall be calculated using the Building Valuation Data published in the Building Safety Journal each February issue (on file in the City Clerk's office) based on square footage of the project, and modified for the City of Joplin, using a multiplier of .65.

b. *Sprinkler/Standpipe Plan Review* fee shall be $200.00 for commercial permits and $50.00 for residential permits.
c. *Alarm System Plan Review* fee shall be $200.00 for commercial permits and $50.00 for residential permits.

(2) *Inspection Fees.* Where an inspection for an underground sprinkler system or a hood suppression system is required for any reason, fees shall be collected as follows:
a. *Underground Sprinkler Inspection* fee shall be $100.00 for commercial permits.
b. *Hood Suppression Inspection* fee shall be $75.00 for commercial permits.

(3) *Permit Fees.* No permit will be issued prior to the plan review process or prior to the beginning of construction.
a. *Operational Permit fee*. Operational permits, as referenced in the International Fire Code, may be revoked by the Fire Marshal at any time for cause. Operational permits shall be $75.00 per permit.

(4) *Burn Permit Fees.*
a. *General Burn Permit Fee.* A general burn permit shall be issued prior to any such burning inside the City of Joplin. A general burn permit for piles less than 3 feet diameter by 2 feet high shall cost $10.00. A burn permit shall be valid for up to three consecutive days. Prior to burning, a holder of a valid burn permit must contact the Joplin Fire Department to obtain permission to burn on that given day.

(5) *Reinspection Fees.*
a. There will be a reinspection fee when extra inspections are necessary due to any of the following reasons:
1) When wrong address is provided.
2) When work is not ready for inspection when called.

3) When work is not installed in compliance with city ordinances and/or applicable codes
4) In any other event that is of no fault of city inspectors.

For each trip, residential: $25.00, commercial/industrial: $50.00.

(6) *Firework Stand Fees.*
a. $150.00 per calendar year as referenced in Section 58-66.

(7) *Fee Review Process.*
City Council shall review the costs of services with all user fees at least on a biennial basis during the budget process to determine the appropriateness of the fees charge."

Section 2. That this ordinance shall become effective on January 1, 2020.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this

_____ day of _____, 2019.

_____
Gary L. Shaw, Mayor

ATTEST:

_____
Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2019-524 – Approving certain fee and language changes in the public works department

MEETING DATE
November 18, 2019

ORIGINATING DEPT
Finance

ATTACHMENTS
CB 2019-524 Ordinance

REVIEWED BY
Department Head: Leslie Haase; Public Works Director: David Hertzberg; City Attorney: Peter Edwards; City Manager: Dan Pekarek

SUMMARY
This Council Bill changes certain existing fees and related language in the public works department.

BACKGROUND
The City recently completed the biennial user fee review, which was discussed with City Council at the budget work session on September 24, 2019. User fees are fees for services for specific users. User fees should recover most of the related cost of providing the service, so general taxes are not supporting services for specific users. Under Hancock provisions, the City is only allowed to recover the cost of providing the service. As detailed in the biennial user fee review, certain user fees need to be increased to recover more of the costs associated with providing these services.

In the fee review, staff proposed various changes to public works department fees.

The proposed changes are as follows:

- Remove "Except that no fees for permit or inspection shall be charged an individual making his own repairs". This is to ensure the work is completed to city standards.
- Create a new commercial stormwater permit in the amount of $100.00
- Create a new traffic control plan review fee in the amount of $50.00

The fee changes will be effective on January 1, 2020.

FUNDING SOURCE
This revenue is included in the fiscal year 2020 general fund budget.

RECOMMENDATION
Staff recommends this council bill be approved on first reading.

COUNCIL BILL NO. 2019-524 ORDINANCE NO.

AN ORDINANCE repealing Section 106-32, Duty of Abutting Property Owners, Article II, Repairs, and Section 106-62, Plan Review and Permit Fees, Article III, Improvement Permits, of Chapter 106, Streets, Sidewalk and Other Public Places, of the Code of Ordinances of the City of Joplin and enacting in lieu thereof a new Section 106-32, Duty of Abutting Property Owners, Article II, Repairs, and Section 106-62, Plan Review and Permit Fees, Article III, Improvement Permits, of Chapter 106, Streets, Sidewalks and Other Public Places, of the Code of Ordinances of the City of Joplin to implement certain fee changes; and setting a date when this Ordinance shall become effective.

WHEREAS, the City performed the biennial fee review and the cost of services has increased and exceeds revenues; and,

WHEREAS, the Council of the City of Joplin desires to increase fees to meet the reasonable expenditures of this function; and,

WHEREAS, the Council of the City of Joplin desires to establish new fees to help recover the cost of services provided by the engineering department.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Joplin, Missouri, as follows:

Section 1. That Section 106-32, Duty of Abutting Property Owners, Article II, Repairs, of Chapter 106, Streets, Sidewalks and Other Public Places, be repealed and a new Section 106-32, Duty of Abutting Property Owners, Article II, Repairs, of Chapter 106, Streets, Sidewalks, and Other Public Places of the Code of Ordinances of the City of Joplin be enacted in lieu thereof to read as follows:

"ARTICLE II. REPAIRS

Sec. 106-32. Duty of abutting property owners.

> When any sidewalk, curb or guttering or driveway crossing the sidewalk or any part thereof shall be in need of repair or replacement, or shall be defective due to the change of grade of the subsurface or subarea beneath or adjacent to the sidewalk, curb or guttering or driveway, it shall be the duty of the adjacent or abutting property owner to repair or correct such condition after complying with the procedure and conditions of article III of this chapter."

Section 2. That Section 106-62, Inspection and Permit Fees, Article III, Improvement Permits, of Chapter 106, Streets, Sidewalks and Other Public Places, be repealed and a new Section 106-62, Plan Review and Permit Fees, Article III, Improvement Permits, of

Chapter 106, Streets, Sidewalks and Other Public Places of the Code of Ordinances of the City of Joplin be enacted in lieu thereof to read as follows:

"**ARTICLE III. IMPROVEMENT PERMITS**

Sec. 106-62. Plan Review and Permit Fees.

(1) Before any permit shall be issued under the provisions of this article, the applicant therefor shall pay a fee determined as follows:

a. *Driveway.* The fee for driveway permits shall be as follows:
    i. Residential - $50.00
    ii. Commercial - $100.00

b. *Sidewalk.* The fee for sidewalk permits shall be as follows:
    i. Residential - $50.00
    ii. Commercial - $100.00

c. *Curb & Gutter.* The fee for curb and gutter permits shall be as follows:
    i. Residential - $50.00
    ii. Commercial - $100.00
d. *Stormwater.* The fee for stormwater permits shall be as follows:
    i. Commercial - $100.00

(2) *Special Event Permit.* When a special event held within the limits of the City of Joplin requires city labor and materials, the applicant therefor shall pay a fee of $150.00 per special event.

(3) *Road Closure Permit.* When a road or street within the limits of the City of Joplin requires a temporary closure for construction, utility repairs, special events or any other reason, the applicant therefor shall pay a fee of $75.00 per road closure.

(3) *Plan Review*. Where an engineering plan review is required for any reason, fees shall be collected for such plan review as follows:

a. *Engineering Commercial Plan Review* fee shall be .001 multiplied by the value of the project, with a maximum cap of $2,500.00 per plan review.
    i. The value of the project in this section shall be computed by one of the following methods and approved by the Public Works Director, but in no case shall the value of the project be less than the minimum set forth in this section.
        a) Provided by the person applying for the permit and verified by the Public Works Director.
        b) Calculated using the Building Valuation Data published in the Building Safety Journal each February issue (on file in the City Clerk's office) based on square footage

of the project, and modified for the City of Joplin, using a multiplier of 0.87.

ii. The minimum value of the project shall be calculated using the Building Valuation Data published in the Building Safety Journal each February issue (on file in the City Clerk's office) based on square footage of the project, and modified for the City of Joplin, using a multiplier of .65.

b. *Engineering Residential Subdivision Plan Review* fee shall be assessed upon the submission of a preliminary plat in the amount of $100.00, plus $10.00 per lot. The fee shall be paid at the time the preliminary plat is submitted and shall apply to approval of the preliminary plat and final plat, provided that the final plat includes the same area as the preliminary plat.

c. *Engineering Traffic Control Plan Review* fee shall be assessed upon the submission of a temporary roadway closure plan for traffic lane adjustments in the amount of $50.00 per plan. The fee shall be paid at the time the plan is submitted.

(4) *Fee Review Process.*

City Council shall review the costs of services with all user fees at least on a biennial basis during the budget process to determine the appropriateness of the fees charge."

Section 3. That this ordinance shall become effective on January 1, 2020.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this

_____ day of _____, 2019.

_____
Gary L. Shaw, Mayor

ATTEST:

_____
Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2019-525 – Approving certain fee changes in the parks department

MEETING DATE
November 18, 2019

ORIGINATING DEPT
Finance

ATTACHMENTS
CB 2019-525 Ordinance

REVIEWED BY
Department Head: Leslie Haase; Parks Director: Paul Bloomberg; City Attorney: Peter Edwards; City Manager: Dan Pekarek

SUMMARY
This Council Bill changes certain existing fees in the parks department.

BACKGROUND
The City recently completed the biennial user fee review, which was discussed with City Council at the budget work session on September 24, 2019. User fees are fees for services for specific users. User fees should recover most of the related cost of providing the service, so general taxes are not supporting services for specific users. Under Hancock provisions, the City is only allowed to recover the cost of providing the service. As detailed in the biennial user fee review, certain user fees need to be increased to recover more of the costs associated with providing these services.

In the fee review, staff proposed various changes to parks department fees.

The proposed changes are as follows:

- Change the lot space fee from $500.00 to $600.00
- Change the grave opening/close fee from $500.00 to $600.00
- Change the grave marker per square inch fee from $0.35 to $0.50
- Change the cremains fee from $200.00 to $250.00
- Change the cremains including set up fee from $275.00 to $300.00
- Change the columbarium-single niche fee from $750.00 to $850.00
- Change the columbarium-companion niche fee from $1,100.00 to $1,200.00
- Change the additional fee for weekends or evenings from $100.00 to $150.00

The fee changes will be effective on January 1, 2020.

FUNDING SOURCE
This revenue is included in the fiscal year 2020 general fund budget.

RECOMMENDATION
Staff recommends this council bill be approved on first reading.

COUNCIL BILL NO. 2019-525 ORDINANCE NO.

AN ORDINANCE repealing Section 34-2, Prices of lots and grave rights; charge for setting stones, of Chapter 34, Cemeteries, of the Code of Ordinances of the City of Joplin and enacting in lieu thereof a new Section 34-2, Prices of lots and grave rights; charge for setting stones, of Chapter 34, Cemeteries, of the Code of Ordinances of the City of Joplin to implement certain fee changes; and setting a date when this Ordinance shall become effective.

WHEREAS, the City performed the biennial fee review and the cost of services has increased and exceeds revenues; and,

WHEREAS, the Council of the City of Joplin desires to increase fees to meet the reasonable expenditures of this function.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Joplin, Missouri, as follows:

Section 1. That Section 34-2, Prices of lots and grave rights; charge for setting stones, of Chapter 34, Cemeteries, be repealed and a new Section 34-2, Prices of lots and grave rights; charge for setting stones, of Chapter 34, Cemeteries of the Code of Ordinances of the City of Joplin be enacted in lieu thereof to read as follows:

"Sec. 34-2. Prices of lots and grave rights; charge for setting stones.

(A) Charge for lots, grave rights, and setting stones:

(1) Lot space…….$600.00
(2) Grave opening/close…….$600.00
(3) Grave opening/close-Infants……..$200.00
(4) Grave marker (*cost per square inch)……..*$0.50
(5) Cremains ……$250.00
(6) Cremains including set up……$300.00
(7) Columbarium-Single niche, includes opening/closing and some engraving…..$850.00
(8) Columbarium-Companion niche, includes opening/closing and some engraving……$1,200.00

(B) An additional charge of $150.00 for grave opening shall be made for any openings when the procession enters the ceremony later than 4:00 p.m. on Monday through Friday and on Saturday before noon. On Saturday after 12:00 noon, the charge shall be the base of $500.00 plus the hourly rate of $150.00 for each additional hour.

(C) City council shall review the costs of services associated with all user fees at least on a biennial basis during the budget process to determine the appropriateness of the fees charge."

Section 2. That this ordinance shall become effective on January 1, 2020.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____ day of _____, 2019.

_____
Gary L. Shaw, Mayor

ATTEST:

_____
Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2019-526 – Approving certain health department fee changes related to business licenses

MEETING DATE
November 18, 2019

ORIGINATING DEPT
Finance

ATTACHMENTS
CB 2019-526 Ordinance

REVIEWED BY
Department Head: Leslie Haase; Interim Health Director: Ryan Talken; City Attorney: Peter Edwards; City Manager: Dan Pekarek

SUMMARY
This Council Bill changes certain existing health department fees related to business licenses.

BACKGROUND
The City recently completed the biennial user fee review, which was discussed with City Council at the budget work session on September 24, 2019. User fees are fees for services for specific users. User fees should recover most of the related cost of providing the service, so general taxes are not supporting services for specific users. Under Hancock provisions, the City is only allowed to recover the cost of providing the service. As detailed in the biennial user fee review, certain user fees need to be increased to recover more of the costs associated with providing these services.

In the fee review, staff proposed various changes related to business license fees.

The proposed changes are as follows:

- Change the Health Permit-Low Risk fee from $110.00 to $115.00
- Change the Health Permit-Medium Risk fee from $220.00 to $230.00
- Change the Health Permit-High Risk fee from $330.00 to $345.00
- Change the Health Permit-Swimming Pool-Seasonal Facility fee from $125.00 to $131.00
- Change the Health Permit-Swimming Pool-Yearly Facility fee from $300.00 to $315.00
- Change the Health Permit-Change of ownership inspection fee from $40.00 to $42.00
- Change the Health Permit-New construction/remodel inspection fee from $125.00 to $131.00

The fee changes will be effective on April 1, 2020.

FUNDING SOURCE
This revenue is included in the fiscal year 2020 general fund budget.

RECOMMENDATION
Staff recommends this council bill be approved on first reading.

COUNCIL BILL NO. 2019-526 ORDINANCE NO.

AN ORDINANCE repealing Section 30-121, License Classifications and Fees, of Article III, Licenses, Division 2, Schedule of Fees, of Chapter 30, Businesses, of the Code of Ordinances of the City of Joplin and enacting in lieu thereof a new Section 30-121, License Classifications and Fees, of Article III, Licenses, Division 2, Schedule of Fees, of Chapter 30, Businesses, of the Code of Ordinances of the City of Joplin to implement certain classification changes; and setting a date when this Ordinance shall become effective.

WHEREAS, the City performed the biennial fee review and the cost of services has increased and exceeds revenues; and,

WHEREAS, the Council of the City of Joplin desires to increase fees to meet the reasonable expenditures of this function.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Joplin, Missouri, as follows:

Section 1. That Section 30-121, License Classifications and Fees, of Article III, Licenses, Division 2, Schedule of Fees, of Chapter 30, Businesses, be repealed and a new Section 30-121, License Classifications and Fees, of Article III, Licenses, Division 2, Schedule of Fees, of Chapter 30, Businesses of the Code of Ordinances of the City of Joplin be enacted in lieu thereof to read as follows:

"DIVISION 2. SCHEDULE OF FEES

Sec. 30-121. License classifications and fees.

Except as otherwise indicated in this article, the annual schedule of license fees and classification of occupations, trades, pursuits, businesses and vocations shall be as follows:

Abstracting Business …The fee provided in section 30-92 (1), with a minimum license fee of $100.00 per year in any case.

Accountant, Auditor, Bookkeeper ……The fee provided in section 30-92 (1), with a minimum license fee of $100.00 per year in any case.

Advertising Agencies or Services ……....100.00

Agent or Agency not enumerated ……100.00

Ambulance Services or Companies, ……175.00

Amusement Centers, Card Tables, Recreation

A) Bowling Alley, Per Alley……..15.00
B) Billiard or Pool Hall, Per Table ……15.00

C) Dancehall ……100.00
Per Month……..10.00
Per Day …….. 5.00
D) Miniature Golf ……100.00
E) Domino Parlor
Per Table …… …15.00
F) Shuffleboard or Card Table
Per Table …….15.00
G) Any Other Amusement Type Activity, Per Activity……15.00

Apartment Houses and Complexes……25.00
Plus each unit offered for rent……..2.00

Architects
1-25 Employees…….……125.00
26-100 Employees…….200.00
101-300 Employees…… ……..……300.00
301 and more Employees……...500.00

Armored Car Services ……..……The fee provided in section 30-92 (1), with a minimum license fee of $100.00 per year in any case.

Artist, per year ……30.00

Auction House or Business …….The fee provided in section 30-92 (1), with a minimum license fee of $100.00 per year in any case.

Auctioneer ……150.00

Automobile Dealers-New and/or Used ..... The fee provided in section 30-92 (1), with a minimum license fee of $175.00 per year in any case.

Automobile Dealer Tags
A) First Tag …….10.00
B) Each Additional Tag ……5.00

Automobile Leasing or Renting…… The fee provided in section 30-92 (1), with a minimum license fee of $100.00 per year in any case.

Automobile Parking Lots or Storage Garage …… The fee provided in section 30-92 (1).

Automobile Washing, Waxing or Polishing
Establishments, Power Washers …….. The fee provided in section 30-92 (1).

Banking, Trust, or Mortgage Company
Having Deposit Market Share inside Joplin of in (000's):
$0-$20,000…….. ……100.00

$20,001-$50,000……..200.00
$50,001-$100,000……300.00
$100,001-$200,000……..400.00
$200,001 and Up……..500.00

Barbers and Beauty Operators, without a place of business
Per year……10.00

Barbershops and Beauty Parlors
Per Chair or Per Operator ……5.00

Billboard Business, Outdoor Advertising Companies … The fee provided in section 30-92 (1), with a minimum license fee of $100.00 per year in any case.

Bondsmen, Bail
A) Professional Bondsmen ……...100.00
B) Agent/Employee……..50.00

Brokers and Brokerage Companies ……100.00

Business or Correspondence School, For Profit ….The fee provided in section 30-92 (1).

Carnivals, For Profit
A) Per Day ……250.00
B) Per Week ……..…1,000.00

Carnivals, Not for Profit (excluding school functions)
A) First Ten Days, Per Day ……10.00
B) Each Day After, Per Day ……..5.00

Carnivals, Inside Facility for more than 30 days….The fee provided in section 30-92(1).

Cash Register Agency ……. The fee provided in section 30-92 (1), with a minimum license fee of $100.00 per year in any case.

Caterer (other than as part of a licensed restaurant)……50.00

Circus, For Profit
A) First Day ……..300.00
B) Each Day After, Per Day ……200.00

Circus, Not for Profit (excluding school functions)
A) First Ten Days, Per Day……10.00
B) Each Day After, Per Day ……5.00

Cleaners of Windows, Buildings, Carpet & Rugs,
Furniture & Similar Items ……..…… The fee provided in section 30-92 (1)

Coin Operated Devices
- (1) Operator's License for any type Coin
  - Operated Machine, Amusement/Prophylactic Machine ……50.00
  - Operated Machine, Vending Machine ……...30.00
    - A) Amusement Machine, Each …… 10.00
    - B) Vending Machine, Each …… …2.00
    - C) Prophylactic Device Machine, Each ……..10.00

Cold Storage Warehouse & Locker Plants ……100.00

Collection Agency, Credit Bureau or Retail Credit Association ……100.00

Contractors
- A) General Builders, Commercial ……500.00
- B) General Builders, Residential ……...200.00
- C) Subcontractor or Specialty (Including Demolition) ……150.00
- D) Electrical
  - (1) First Master ……150.00
  - (2) Renewal Master ……...100.00
  - (3) First Journeyman ……25.00
  - (4) Renewal Journeyman ……15.00
  - (5) Apprentice ……5.00
- E) Plumber
  - (1) First Master ……150.00
  - (2) Renewal Master ……...100.00
  - (3) First Journeyman ……25.00
  - (4) Renewal Journeyman ……15.00
  - (5) Apprentice ……5.00
- F) Mechanical
  - (1) First Master ……150.00
  - (2) Renewal Master ……...100.00
  - (3) First Journeyman ……25.00
  - (4) Renewal Journeyman ……15.00
  - (5) Apprentice ……5.00

Dental Laboratories ……. The fee provided in section 30-92 (1)

Employment Agency ……...100.00

Engineer or Engineering Company
- 1-25 Employees……125.00
- 26-100 Employees……200.00
- 101-300 Employees…… ……..……300.00
- 301 and more Employees……...500.00

Florist, Greenhouse, Nurseries ……..…… The fee provided in section 30-92 (1)

Fortunetelling ……50.00

Garage Repair Shop ……. The fee provided in section 30-92 (1)

Health Permit
- Low Priority ……..…..115.00
- Medium Priority ……..230.00
- High Priority ……345.00
- Change of Ownership Inspection ……..42.00
- New Construction/Remodel Inspection ……...131.00
- Tattoo Parlor Plan Review-New Facilities ……85.00
- Swimming Pools, Public and Semi-Public, Seasonal ……..…131.00
  - Each Additional Seasonal Facility…….15.00
- Swimming Pools, Public and Semi-Public, Year-Round ……315.00
  - Each Additional Yearly Facility…….50.00

Hospital, Private ……500.00

Hotels and Motels
- A) First Room ……15.00
- B) Each Additional Room ……...1.00

House Mover ……50.00

Ice Cream Stand ……50.00

Ice Dealer
- A) First Delivery Vehicle ……..30.00
- B) Each Additional Vehicle ……..10.00

Insurance Adjusters & Claim Agents or Agencies ……175.00

Insurance Agent, Agency or Broker
Representing Fire, Casualty, Bonding, Plate Glass, Accident or Life Insurance Companies
- A) Not more than 1 Person ……...100.00
- B) For each additional Partner, Member of the Firm or Officer of the Company engaged in the Sales Part of the Business…….10.00

Internet Service Providers…….$2 per employee, with a minimum license fee of $30.00 per year in any case.

Investment Company ……100.00
A) Plus, Each Salesman or Solicitor ……10.00

Junk, Scrap, Salvage Dealer …….. The fee provided in section 30-92 (1), with a minimum license fee of $100.00 per year in any case.

Land Surveyor
1-25 Employees…….……125.00
26-100 Employees…….200.00
101-300 Employees…… ……..……300.00
301 and more Employees……...500.00

Laundry, Cleaning and Pressing …… The fee provided in section 30-92 (1), with a minimum license fee of $100.00 per year in any case.

Laundry, Self-Service ……..50.00

Lead-Litharge Smelting ……The fee provided in section 30-92 (1), with a minimum license fee of $1,200.00 per year in any case.

Liquor
A) Dealers at Retail in Intoxicating Liquor-
for consumption on premises where sold ……..450.00
B) Dealers at Retail in Intoxicating Liquor-
in original package ……200.00
C) Dealers at Retail in Intoxicating Liquor-
restaurant bars ……450.00
D) Dealers at Retail in Intoxicating Liquor-
not in excess of 5% alcohol by weight
for consumption on premises where sold ……...100.00
E) Dealers at Retail in Intoxicating Liquor-
not in excess of 5% alcohol by weight
for sale in original package ……100.00
F) Dealers at Retail in Intoxicating Liquor-
not in excess of 5% alcohol by weight
for sale in original package on Sundays ……300.00
G) Dealers at Retail in Nonintoxicating Beer (3.2%)
in original package ……..50.00
H) Dealers at Retail in Nonintoxicating Beer (3.2%)
for consumption on premises where sold ……75.00
I) Dealers at Wholesale & Solicitation in Intoxicating Liquor-
all intoxicating liquor …….600.00
J) Dealers at Wholesale & Solicitation in Intoxicating Liquor-
containing not in excess of 22% alcohol by weight ……..300.00
K) Dealers at Wholesale & Solicitation in Intoxicating Liquor-

containing not in excess of 5% alcohol by weight ……150.00
L) Dealers at Wholesale in Nonintoxicating Beer (3.2%) …….100.00
M) Wine, malt beverages, and distilled spirits tasting permit ……..25.00

Locksmith & Gunsmith …… The fee provided in section 30-92 (1)

Manufacturer ……..The fee provided in section 30-92 (1)

Masseurs, Physical Therapy, Weight Control,
Exercise or Health Studios or similar establishments ……..……..…100.00

Merchants, Wholesale & Retail ……..…….. The fee provided in section 30-92 (1)

Merchant, Temporary
Temporary Merchant means any person who sells or offers for sale merchandise or wares on a temporary basis and shall include special events, which constitutes less than on an annual basis.
A) Each Event …….5.00
B) Per Week ……..……10.00
C) Per Month …….20.00

Messenger Service …….100.00

Mobile Home Park
A) First Mobile Home Lot ……15.00
B) Each Additional Lot ……..2.00

Mortuary, Undertakers or Funeral Establishments …… The fee provided in section 30-92 (1), with a minimum license fee of $100.00 per year in any case.

Nurseries, Daycare, Preschools
A) First five children ……..10.00
B) Each Additional child ……..1.00

Nursing, Convalescent or Old-Age Homes ……30.00

Office Buildings
A) First Ten Rooms ……25.00
B) Each Additional Room ……1.00

Optical Goods, Manufacturing, Wholesale or Retail …….……. The fee provided in section 30-92 (1)

Parcel Delivery or Express Company
A) For 1 Vehicle ……..30.00

B) Each Additional Vehicle …….10.00

Pawnbroker, which shall include the buying and selling of gold, silver and jewelry …
The fee provided in section 30-92 (1), with a minimum license fee of $200.00 per year in any case.

Peddlers
A) Conducting Business on foot
1. Per Special Event……5.00
2. Per Week ……..…10.00
3. Per Month ……..…20.00
4. Per Year …….50.00

B) Using a wagon, automobile, cart or other vehicle or conveyance, which shall include concession trailers, per such vehicle
1. Per Special Event……5.00
2. Per Week ……..…10.00
3. Per Month ……..…20.00
4. Per Year …….50.00

Pest, Vermin Control …… The fee provided in section 30-92 (1)

Photographer ……..50.00
A) Plus each agent or solicitor per day ……..5.00

Printing Establishment
Printing, typesetting or linotype, mimeographing, photostating, engraving, photocopying or lithographing services …… The fee provided in section 30-92 (1), with a minimum license fee of $100.00 per year in any case.

Private Investigators and Security Guards …….…….50.00

Processing Services
Those processing establishments or processing services not otherwise enumerated …… The fee provided in section 30-92 (1)

Promoters or Booking Agents or Agencies
Promoters of all types of entertainment where an admission is charged to the public for profit or the expectation of profit ……..50.00

Radio Stations ……..150.00

Railroads or Railways ……...500.00
This item shall apply to every person operating a railroad or railway company and transacting business within the

city (but not including business done to or from points within the state and not including any business done for the government of the United States, its officers or agents), and every person operating a railroad or railway company operating its trains or keeping and maintaining its tracks across, upon or along any street, alley or other public place in the city, by means of any surface track, bridge, viaduct or tunnel, and every person operating a railroad or railway company occupying any portion of any street, alley or other public place of the city with its roadbed, tracks, ties, switches, bridges, viaducts, tunnels or other structures

Real Estate Agent, Agency or Broker ……..……....100.00
A) Plus, for each salesman ……15.00

Rental Businesses ……..……. The fee provided in section 30-92 (1)

Repair Establishments ……. The fee provided in section 30-92 (1)

Restaurants, Café, Cafeteria's & Lunchrooms…The fee provided in section 30-92 (1), but in no case shall a restaurant license be more than $500 per year.

Sales/Service Agent or Agency
Receiving gross annual commissions, fees, charges or compensation of
A) $25,000 or less per year ……25.00
B) More than $25,000 and not more than $50,000, per year…….….35.00
C) More than $50,000 and not more than $100,000 per year ……50.00
D) More than $100,000 and not more than $250,000 per year ……100.00
E) More than $250,000 and not more than $500,000 per year …….250.00
F) More than $500,000, per year ……..400.00

Septic Tank Cleaning ……..75.00

Service Center (all other service businesses not enumerated)……..…..$2 per employee, a minimum license fee of $30.00 per year in any case.

Service Station, Filling Station, Gasoline Station … The fee provided in section 30-92 (1)

Shows, Transient
Tent shows, exhibits, exhibitions or other attractions held indoors or outdoors or in automotive or other conveyances, other than carnivals or circuses
A) First day ……..……10.00
B) Each additional day ……5.00

Sign Makers and Sign Painters ……75.00

Skating Rinks, Ice or Roller ……...150.00

Sound Recording and Reproduction Services ….. The fee provided in section 30-92 (1)

Stocks and Bonds, Sale or Purchase ……..…….100.00

Stockyard ……500.00

Storage Houses and Warehouses ……. The fee provided in section 30-92 (1), with a minimum license fee of $100.00 per year in any case.

Street Stand, Temporary in nature, Special Events Only

A street stand is any place near to or adjoining any sidewalk, alley, or other public way, or any common area, whether such common area is enclosed or open, where articles are eaten or drunk or articles of ornament or necessity are sold, offered or exposed for sale, this item shall not apply for purposes of stands near to or adjoining any sidewalk, alley or other public way or any common area operating for the sale of fireworks.

A) Each Special Event ……..……5.00
B) Per Week ……10.00
C) Per Month ……...20.00
D) Per Year ……..50.00

Tailoring Business …… The fee provided in section 30-92 (1)

Tattoo Parlor's, per year ……125.00

A) Plus, per operator ……25.00

Taxicab Business

A) Base fee ……..50.00
B) Plus, each cab, per year ……..50.00

Taxicab Drivers

A) Original License ……5.00
B) Each renewal ……3.00

Taxidermists ……..30.00

Theaters and Moving Picture Houses

Those having a seating capacity of:

A) 500 or less ……100.00
B) 501 to 1,000 ……150.00
C) 1,001 to 1,500 ……..175.00
D) 1,501 to 2,000 ……..200.00
E) 2,001 or more ……...250.00

Towel Supply Company ……..50.00

Transfer & Moving Van Companies
A) First vehicle ……30.00
B) Each additional vehicle ……...10.00

Travel Agencies or Agents ……30.00

Tree Surgeons ……..150.00
Those persons engaged in the occupation of tree surgeons, tree trimming, tree and plant treating or spraying services

Truck Terminal or Truck Loading & Unloading Depot ……..150.00

Welding Company …….. The fee provided in section 30-92 (1).

No individual annual occupational license shall exceed $50,000."

Secs. 30-123--30-140. Reserved.

Section 2. That this ordinance shall become effective on April 1, 2020.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____ day of _____, 2019.

_____
Gary L. Shaw, Mayor

ATTEST:

_____
Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2019-527 – Approving certain fee changes in the parks department

MEETING DATE
November 18, 2019

ORIGINATING DEPT
Finance

ATTACHMENTS
CB 2019-527 Ordinance

REVIEWED BY
Department Head: Leslie Haase; Parks Director: Paul Bloomberg; City Attorney: Peter Edwards; City Manager: Dan Pekarek

SUMMARY
This Council Bill changes certain existing fees in the parks department.

BACKGROUND
The City recently completed the biennial user fee review, which was discussed with City Council at the budget work session on September 24, 2019. User fees are fees for services for specific users. User fees should recover most of the related cost of providing the service, so general taxes are not supporting services for specific users. Under Hancock provisions, the City is only allowed to recover the cost of providing the service. As detailed in the biennial user fee review, certain user fees need to be increased to recover more of the costs associated with providing these services.

In the fee review, staff proposed various changes to parks department fees.

The proposed changes are as follows:

- Change the Golf 18 holes weekday fee from $17.00 to $18.00
- Change the Golf 18 holes weekend fee from $19.00 to $20.00
- Change the Golf 18 holes Senior weekday fee from $11.75 to $12.00
- Change the Golf 18 holes Senior weekend fee from $14.00 to $15.00
- Change the Golf weekday twilight fee from $11.00 to $12.00
- Change the Golf weekend twilight fee from $13.00 to $14.00
- Change the Golf Cart 9 holes per person fee from $7.00 to $8.00
- Change the Golf Cart 18 holes per person fee from $12.00 to $13.00
- Change the Golf pull cart fee from $2.50 to $3.00
- Change the Golf adult annual pass fee from $650.00 to $750.00
- Change the Golf adult with cart annual pass fee from $1,300.00 to $1,400.00
- Change the Golf family pass fee from $1,000.00 to $1,100.00
- Change the Golf family with one unlimited cart fee from $1,600.00 to $1,700.00

- Change the Golf senior annual pass fee from $500.00 to $550.00
- Change the Golf senior with cart annual pass fee from $1,025.00 to $1,125.00
- Change the Golf twilight pass fee from $300.00 to $350.00
- Change the Golf twilight pass with cart fee from $600.00 to $700.00
- Change the Tennis annual pass fee from $37.50 to $40.00
- Change the Swimming Pool family season pass fee from $140.00 to $150.00
- Change the Swimming Pool adult season pass fee from $70.00 to $75.00
- Change the Swimming Pool youth season pass fee from $60.00 to $65.00
- Change the Swimming Pool senior season pass fee from $60.00 to $65.00

The fee changes will be effective on January 1, 2020.

FUNDING SOURCE

This revenue is included in the fiscal year 2020 parks fund budget and golf fund budget.

RECOMMENDATION

Staff recommends this council bill be approved on first reading.

COUNCIL BILL NO. 2019-527 ORDINANCE NO.

AN ORDINANCE repealing Section 86-5, Fees at Schifferdecker Golf Course, of Article I, In General, and Section 86-6, Fees for Parks Programs and Parks Facilities, of Article I, In General, and Section 86-152, Admission Fee, of Article V, Swimming Pools, of Chapter 86, Parks and Recreation, of the Code of Ordinances of the City of Joplin and enacting in lieu thereof a new Section 86-5, Fees at Schifferdecker Golf Course, of Article I, In General, and Section 86-6, Fees for Parks Programs and Parks Facilities, of Article I, In General, and Section 86-152, Admission Fee, of Article V, Swimming Pools, of Chapter 86, Parks and Recreation, of the Code of Ordinances of the City of Joplin to implement certain fee changes; and setting a date when this Ordinance shall become effective.

WHEREAS, the City performed the biennial fee review and the cost of services has increased and exceeds revenues; and,

WHEREAS, the Council of the City of Joplin desires to increase fees to meet the reasonable expenditures of this function; and,

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Joplin, Missouri, as follows:

Section 1. That Section 86-5, Fees at Schifferdecker Golf Course, of Article I, In General, of Chapter 86, Parks and Recreation, be repealed and a new Section 86-5, Fees at Schifferdecker Golf Course, of Article I, In General, of Chapter 86, Parks and Recreation, of the Code of Ordinances of the City of Joplin be enacted in lieu thereof to read as follows:

"ARTICLE I. IN GENERAL

Sec. 86-5. Fees at Schifferdecker Golf Course.

(a) Fees and charges at Schifferdecker Golf Course are as follows:

(1) *Green fees generally.* The green fees shall be $18.00 per player per 18 holes, except on week-ends and holidays, when the green fees shall be $20.00 per player per 18 holes. The green fees shall be $9.00 per player per 9 holes, except on week-ends and holidays, when the green fees shall be $10.00 per player per 9 holes.

(2) *Green fees for senior citizens.* The green fees for senior citizens shall be $12.00 per player per 18 holes, except on week-ends and holidays, when the green fees for senior citizens shall be $15.00 per player per 18 holes. The green fees shall be $6.00 per player per 9 holes, except on week-ends and holidays, when the green fees shall be $7.00 per player per 9 holes.

(3) *Season passes.*

a. The single annual pass fee shall be $750.00 per person per year.

b. Senior citizen single annual pass fee shall be $550.00 per person per year. Senior citizen passes shall be for weekdays only and a week-end fee or holiday fee with an annual pass shall be a green fee of $10.00.

c. A single annual pass with unlimited cart use fee shall be $1,400.00 per person per year.

d. A senior citizen annual pass with unlimited cart use fee shall be $1,125.00 per person per year.

e. A student (also known as "junior" or "youth") annual pass fee shall be $90.00 per person per year. Student passes shall be for weekdays only and a week-end fee or holiday fee with an annual pass shall be a green fee of $9.00. Qualifications for participation shall be set by the director of the parks and recreation department.

f. A family annual pass (up to four individuals) fee shall be $1,100.00 per family per year. A family annual pass with one (1) unlimited cart use fee shall be $1,700.00. The fee for an additional unlimited cart use shall be an additional $600.00 per person per year.

g. A twilight annual pass fee shall be $350.00 per person per year. A twilight annual pass with one (1) unlimited cart use fee shall be $700.00.

(4) *Green fees for students.* The green fees for qualified students (also known as "junior" or "youth") shall be $9.00. Qualifications for participation shall be set by the director of the parks and recreation department.

(5) *Green fees for students with cart (per seat).* The green fees with cart for qualified students (also known as "junior" or "youth") shall be $10.00 per seat. Qualifications for participation shall be set by the director of the parks and recreation department.

(6) *Green fees for leagues.* The green fees for league play shall be $10.00. To be eligible for league play, each league team must be sponsored by a company or not-for-profit organization chartered by the state, each league must consist of a minimum of ten players, and each league must provide a roster of all players, which shall be checked each week of play.

(7) *Twilight green fee.* The twilight green fee shall be $12.00 on weekdays and $14.00 on week-ends. The twilight time shall be set by the director of the parks and recreation department.

(8) *Pull cart rental.* The pull cart rental charge shall be $3.00 per day.

(9) *Power cart rental.* The power cart rental charge shall be $13.00 per 18 holes per seat. The power cart rental charge shall be $8.00 per 9 holes per seat.

(10) *Private powered golf carts.* No privately owned powered golf cart will be permitted for use at the Schifferdecker Municipal Golf Course. Except that any physically handicapped person may utilize a powered golf cart that has been modified or constructed so as to be accessible. The term "Physically Handicapped", as employed in this subsection shall include any of the disabilities as described in RSMo., 301.142.1 and 301.071, as may be amended from time to time.

(11) *High School annual fee.* The high school annual fee shall be $500.00 per school. Qualifications for participation shall be set by the director of the parks and recreation department.

(b) The director of parks and recreation may in his discretion temporarily reduce fees in an attempt to equalize the number of played rounds during the course of any given business day. Such “specials” shall be available to all persons seeking to utilize the course during the appropriate day and time.

(c) For purposes of this section "Family" is defined as a maximum of two adults and dependent children residing at one residence. "Dependent" has the same meaning as "dependent" under Federal Income Tax Law. A person shall not be considered a dependent under this section unless the person was claimed as a dependent on their Federal Income Tax Filing for the most recent tax reporting period.

(d) For purposes of this section, "Senior Citizen" shall mean any person permanently and totally disabled from employment at any age, or any person age 60 and above.

(e) For purposes of this section, “Student”, “Junior”, or “Youth” shall mean any person under the age of 18.”

Section 2. That Section 86-6, Fees for Parks Programs and Parks Facilities, of Article I, In General, of Chapter 86, Parks and Recreation, be repealed and a new Section 86-6, Fees for Parks Programs and Parks Facilities, of Article I, In General, of Chapter 86, Parks and Recreation, of the Code of Ordinances of the City of Joplin be enacted in lieu thereof to read as follows:

"ARTICLE I. IN GENERAL

Sec. 86-6 Fees for parks programs and parks facilities.

(a) In addition to any fees or charges established pursuant to this chapter, the fees and charges for programs and facilities at the City of Joplin Parks and Recreation Facilities are as follows:

(1) *Tennis Programs at the Joplin Athletic Complex.*

a. A family pass/proximity card shall be $150.00 per family for one year from the date of issuance.
b. An individual, aged 18 years and older, pass/proximity card shall be $75.00 per person for one year from the date of issuance.
c. An individual, aged 17 years and under, pass/proximity card shall be $40.00 per person for one year from the date of issuance.
d. A senior citizen pass/proximity card shall be $50.00 per person for one year from the date of issuance.
e. The tennis court rental fee shall be $5.00 per day.
f. The tennis tournament fee shall be $5.00 per day.
g. The high school age and college age tennis tournament fee shall be $4.00 per day.
h. The high school age and college age tennis practice fee and game fee shall be $500.00 per school year.
i. A tennis activity fee assessed for the usage of city facilities shall be $10.00 per participant per session.

(2) *Baseball programs at Joe Becker and the Joplin Athletic Complex.*

a. A college level and similar level baseball game shall be $200.00 per game.
b. A college level and similar level baseball practice shall be $50.00 per practice.
c. A high school age and similar level baseball game shall be $75.00 per game.
d. A high school age and similar level baseball practice shall be $30.00 per game.
e. A baseball activity fee assessed for the usage of city facilities shall be $10.00 per participant per session.
f. In the event a baseball tournament is cancelled within ten (10) days of the tournament date for any reason other than weather-related, field condition or at the request of the city, there shall be a cancellation fee of twenty-five percent (25%) of the tournament fee.

(3) *Soccer programs at the Joplin Athletic Complex and Dover Hill.*

a. A high school, college, youth level soccer tournament shall be $40.00 per match.
b. An adult soccer tournament shall be $60.00 per match.
c. A soccer activity fee assessed for the usage of city facilities shall be $10.00 per participant per session.

(4) *Softball programs.*

a. The adult softball program fee shall be $40.00 per game.

b. Practice fees per field (2-hour allotment):

i. $15.00 per hour per field without lights.

c. Daily tournament fee per field (8:00 a.m. to 11:00 p.m.)

i. $150.00 per day per field without lights, plus $10.00 per team per tournament.

ii. $200.00 per day per field with lights, plus $10.00 per team per tournament.

iii. A deposit in the amount of 50 percent of the total tournament fees is required to hold a tournament date.

d. A softball activity fee assessed for the usage of city facilities shall be $10.00 per participant per session.

e. Additional fees.

i. Additional bags of field drying agent are available at market cost (first four bags per field are provided).

(5) *Football programs.*

a. A football activity fee assessed for the usage of city facilities shall be $10.00 per participant per session.

(5) *Shelter facilities.*

a. The shelter facility rental fee shall be $40.00 per day.

(b) Fee review process. City Council shall review the costs of services associated with all user fees at least on a biennial basis during the budget process to determine the appropriateness of the fee charges.

(c) For purposes of this section "family" is defined as a maximum of two adults and dependent children residing at one residence. "Dependent" has the same meaning as "dependent" under Federal Income Tax Law. A person shall not be considered a dependent under this section unless the person was claimed as a dependent on their Federal Income Tax Filing for the most recent tax reporting period.

(d) For purposes of this section, "senior citizen" shall mean any person permanently and totally disabled from employment at any age, or any person age 60 and above."

Section 3. That Section 86-152, Admission Fee, of Article V, Swimming Pools, of Chapter 86, Parks and Recreation, be repealed and a new Section 86-152, Admission Fee, of Article V, Swimming Pools, of Chapter 86, Parks and Recreation, of the Code of Ordinances of the City of Joplin be enacted in lieu thereof to read as follows:

"ARTICLE V. SWIMMING POOLS

Sec. 86-152 Admission Fee.

(a) The pool admission fee for Schifferdecker Family Aquatic Center shall be $6.00 for adults over 15 years of age, and $5.00 for children 15 years of age and under, except that children age two and under, shall be admitted without charge.

(b) The admission fee for Ewert Family Aquatic Center shall be $4.00 for adults over 15 years of age and $3.00 for children 15 years of age and under, except that children age two and under, shall be admitted without charge.

(c) The admission fee for Cunningham Family Aquatic Center shall be $5.00 for adults over 15 years of age and $4.00 for children 15 years of age and under, except that children age two and under, shall be admitted without charge.

(d) The supervisor, with the approval of the parks and recreation board, shall have authority to set certain times when there shall be no admission fee for swimming in the municipal pools, and the park supervisor shall have the authority to place certain restrictions on free admission.

(e) Season passes for all municipal swimming pools.

(1) A family (three or more) season pass shall be $150.00 per family per year.

(2) An adult individual, aged 18 years and older, season pass shall be $75.00 per person per year.

(3) A youth individual, aged 17 years and under, season pass shall be $65.00 per person per year.

(4) A senior citizen season pass shall be $65.00 per person per year.

(f) For purposes of this section "family" is defined as a maximum of two adults and dependent children residing at one residence. "Dependent" has the same meaning as "dependent" under federal income tax law. A person shall not be considered a dependent under this section unless the person was claimed as a dependent on their federal income tax filing for the most recent tax reporting period.

(g) For purposes of this section, "senior citizen" shall mean any person permanently and totally disabled from employment at any age, or any person age 60 and above.

(h) The director of parks and recreation is hereby authorized to establish a program granting a reduced rate, up to 50 percent for pool memberships based upon family income."

Section 4. That this ordinance shall become effective on January 1, 2020.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____ day of _____, 2019.

_____
Gary L. Shaw, Mayor

ATTEST:

_____
Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2019-528 – Approving certain fee changes in the zoning subdivision regulations

MEETING DATE
November 18, 2019

ORIGINATING DEPT
Finance

ATTACHMENTS
CB 2019-528 Ordinance

REVIEWED BY
Department Head: Leslie Haase; Planning & Community Development Director: Troy Bolander; City Attorney: Peter Edwards; City Manager: Dan Pekarek

SUMMARY
This Council Bill changes certain existing fees in the planning and zoning department.

BACKGROUND
The City recently completed the biennial user fee review, which was discussed with City Council at the budget work session on September 24, 2019. User fees are fees for services for specific users. User fees should recover most of the related cost of providing the service, so general taxes are not supporting services for specific users. Under Hancock provisions, the City is only allowed to recover the cost of providing the service. As detailed in the biennial user fee review, certain user fees need to be increased to recover more of the costs associated with providing these services.

In the fee review, staff proposed various changes to planning and zoning department fees.

The proposed changes are as follows:

- Change the subdivision plat fee from $100.00 to $150.00, and the additional lot fee from $10.00 to $15.00
- Change the lot split fee from $100.00 to $125.00

The fee changes will be effective on January 1, 2020.

FUNDING SOURCE
This revenue is included in the fiscal year 2020 community planning fund budget.

RECOMMENDATION
Staff recommends this council bill be approved on first reading.

COUNCIL BILL NO. 2019-528 ORDINANCE NO.

AN ORDINANCE repealing Section 9, Filing Fees, of the Subdivision Regulations, Appendix 29B as adopted by Ordinance No. 97-161 of the City of Joplin and enacting in lieu thereof a new Section 9, Filing Fees, of the Subdivision Regulations, Appendix 29B of the City of Joplin to implement certain fee changes; and setting a date when this Ordinance shall become effective.

WHEREAS, the City performed the biennial fee review and the cost of services has increased and exceeds revenues; and,

WHEREAS, the Council of the City of Joplin desires to increase fees to meet the reasonable expenditures of this function; and,

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Joplin, Missouri, as follows:

Section 1. That Section 9, Filing Fees, of the Subdivision Regulations, Appendix 29B as adopted by Ordinance No. 97-161 be repealed and a new Section 9, Filing Fees, of the Subdivision Regulations, Appendix 29B of the City of Joplin be enacted in lieu thereof to read as follows:

"**CITY OF JOPLIN, MISSOURI**
SUBDIVISION REGULATIONS

SECTION 9

FILING FEES

1. Subdivision Plats: There shall be paid by all persons or corporations submitting preliminary plats for approval by the City a filing fee of One Hundred Fifty Dollars ($150.00), plus Fifteen Dollars ($15.00) per lot. This fee shall be paid at the time that the preliminary plat is submitted to the Planning and Zoning Commission and shall apply to approval of the preliminary plat and final plat, provided that the final plat, includes the same area to be subdivided as the preliminary plat.

2. Lot Splits: The filing fee for lot splits shall be One Hundred Twenty-Five Dollars ($125.00).

3. City Council shall review the costs of services associated with all user fees at least on a biennial basis during the budget process to determine the appropriateness of the fee charge.

Section 2. That this ordinance shall become effective on January 1, 2020.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this

_____ day of _____, 2019.

_____
Gary L. Shaw, Mayor

ATTEST:

_____
Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2019-529 – Approving certain fee changes in the zoning regulations

MEETING DATE
November 18, 2019

ORIGINATING DEPT
Finance

ATTACHMENTS
CB 2019-529 Ordinance

REVIEWED BY
Department Head: Leslie Haase; Planning & Community Development Director: Troy Bolander; City Attorney: Peter Edwards; City Manager: Dan Pekarek

SUMMARY
This Council Bill changes certain existing fees in the planning and zoning department.

BACKGROUND
The City recently completed the biennial user fee review, which was discussed with City Council at the budget work session on September 24, 2019. User fees are fees for services for specific users. User fees should recover most of the related cost of providing the service, so general taxes are not supporting services for specific users. Under Hancock provisions, the City is only allowed to recover the cost of providing the service. As detailed in the biennial user fee review, certain user fees need to be increased to recover more of the costs associated with providing these services.

In the fee review, staff proposed various changes to planning and zoning department fees.

The proposed changes are as follows:

- Change the rezoning application fee from $500.00 to $550.00
- Change the special use permit application fee from $500.00 to $550.00
- Change the special use permit renewal fee from $500.00 to $550.00
- Change the request for board of zoning adjustment fee from $500.00 to $550.00
- Change the request for vacations fee from $500.00 to $550.00
- Change the site plan/development review fee from $500.00 to $550.00

The fee changes will be effective on January 1, 2020.

FUNDING SOURCE
This revenue is included in the fiscal year 2020 community planning fund budget.

RECOMMENDATION
Staff recommends this council bill be approved on first reading.

COUNCIL BILL NO. 2019-529 ORDINANCE NO.

AN ORDINANCE repealing Section 29A-2514, Fees, Article II, of Appendix 29A, of the Zoning Regulations of the City of Joplin and enacting in lieu thereof a new Section 29A-2514, Fees, of Appendix 29A, of the Zoning Regulations of the Code of Ordinances of the City of Joplin to implement certain fee changes; and setting a date when this Ordinance shall become effective.

WHEREAS, the City performed the biennial fee review and the cost of services has increased and exceeds revenues; and,

WHEREAS, the Council of the City of Joplin desires to increase fees to meet the reasonable expenditures of this function; and,

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Joplin, Missouri, as follows:

Section 1. That Section 29A-2514, Fees, Article II, of Appendix 29A, of the Zoning Regulations be repealed and a new Section 29A-2514, Fees, Article II, of Appendix 29A, of the Zoning Regulations of the Code of Ordinances of the City of Joplin be enacted in lieu thereof to read as follows:

"**CITY OF JOPLIN, MISSOURI – ZONING REGULATIONS**
Article 25 - Administration

Sec. 29A-2514. *Fees.*

Rezoning Application	$550.00
Special Use Permit Application	$550.00
Special Use Permit Renewal	$550.00
Request for Board of Zoning Adjustments	$550.00
Request of Vacation of Streets, Alleys, and Easements	$550.00
Site Plan/Development Review	$550.00

1. City Council shall review the costs of services associated with all user fees at least on a biennial basis during the budget process to determine the appropriateness of the fee charge."

Section 2. That this ordinance shall become effective on January 1, 2020.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this

_____ day of _____, 2019.

_____
Gary L. Shaw, Mayor

ATTEST:

_____
Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2019-530 – Approving certain fee changes in public works

MEETING DATE
November 18, 2019

ORIGINATING DEPT
Finance

ATTACHMENTS
CB 2019-530 Ordinance

REVIEWED BY
Department Head: Leslie Haase; Public Works Director: David Hertzberg; City Attorney: Peter Edwards; City Manager: Dan Pekarek

SUMMARY
This Council Bill changes certain existing fees in the public works department.

BACKGROUND
The City recently completed the biennial user fee review, which was discussed with City Council at the budget work session on September 24, 2019. User fees are fees for services for specific users. User fees should recover most of the related cost of providing the service, so general taxes are not supporting services for specific users. Under Hancock provisions, the City is only allowed to recover the cost of providing the service. As detailed in the biennial user fee review, certain user fees need to be increased to recover more of the costs associated with providing these services.

In the fee review, staff proposed various changes to public works department fees.

The proposed changes are as follows:

- Change the waste hauler fee from .03 per gallon to .04 per gallon
- Change the sewer saddle fee from $175.00 to $200.00
- Change the sewer riser locate fee from $75.00 to $100.00
- Add a new sewer extension fee inside the city at $300.00
- Add a new sewer extension fee outside the city at $400.00

The fee changes will be effective on January 1, 2020.

FUNDING SOURCE
This revenue is included in the fiscal year 2020 sanitary sewer fund budget.

RECOMMENDATION
Staff recommends this council bill be approved on first reading.

COUNCIL BILL NO. 2019-530 ORDINANCE NO.

AN ORDINANCE repealing Section 118-211, Hauled Wastewater Fee, of Article II, Sewers and Sewage Disposal, of Division 6, Rates and Charges, and Section 118-235, Permit fee, Connection Fee, and other Sewer Fees, of Article II, Sewers and Sewage Disposal, of Division 7, Building Sewers, of Chapter 118, Utilities, of the Code of Ordinances of the City of Joplin, and enacting in lieu thereof a new Section 118-211, Hauled Wastewater Fee, of Article II, Sewers and Sewage Disposal, of Division 6, Rates and Charges, and Section 118-235, Permit Fee, Connection Fee, and other Sewer Fees, of Article II, Sewers and Sewage Disposal, of Division 7, Building Sewers, of Chapter 118, Utilities, of the Code of Ordinances of the City of Joplin to implement certain fee changes; and setting a date when this Ordinance shall become effective.

WHEREAS, the City performed the biennial fee review and the cost of services has increased and exceeds revenues; and,

WHEREAS, the Council of the City of Joplin desires to increase fees to meet the reasonable expenditures of this function.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Joplin, Missouri, as follows:

Section 1. That Section 118-211, Hauled Wastewater Fee, of Article II, Sewers and Sewage Disposal, of Division 6, Rates and Charges, of Chapter 118, Utilities, be repealed and a new Section 118-211, Hauled Wastewater Fee, of Article II, Sewers and Sewage Disposal, of Division 6, Rates and Charges, of Chapter 118, Utilities, of the Code of Ordinances of the City of Joplin be enacted in lieu thereof to read as follows:

"ARTICLE II. SEWERS AND SEWAGE DISPOSAL

Division 6. Rates and Charges

Sec. 118-211. Hauled wastewater fee.

> Hauled wastewater may be introduced into the POTW pursuant to the provisions of Section 11989 and any other applicable provision of this Code. A fee of $0.04 shall be assessed for each gallon of hauled wastewater so introduced."

Section 2. That Section 118-235, Permit Fee, Connection Fee, and other Sewer Fees, of Article II, Sewers and Sewage Disposal, of Division 7, Building Sewers, of Chapter 118, Utilities, be repealed and a new Section 118-235, Permit Fee, Connection Fee, and other Sewer Fees, of Article II, Sewers and Sewage Disposal, of Division 7, Building Sewers, of Chapter 118, Utilities, of the Code of Ordinances of the City of Joplin be enacted in lieu thereof to read as follows:

"ARTICLE II. SEWERS AND SEWAGE DISPOSAL

Division 7. Building Sewers

Sec. 118-235. Permit fee, connection fee, and other sewer fees.

(1) *Fees.*

(a) A sewer reconnection permit and inspection fee of $100.00 shall be charged for any sewer reconnection service inside the limits of the City of Joplin.

(b) A sewer reconnection permit and inspection fee of $125.00 shall be charged for any sewer reconnection service outside the limits of the City of Joplin.

(c) A sewer new connection permit and inspection fee of $300.00 shall be charged for any new sewer connection service inside the limits of the City of Joplin.

(d) A sewer new connection permit and inspection fee of $400.00 shall be charged for any new sewer connection service outside the limits of the City of Joplin.

(e) A sewer extension permit and inspection fee of $300.00 shall be charged for any new sewer extension inside the limits of the City of Joplin.

(f) A sewer extension permit and inspection fee of $400.00 shall be charged for any new sewer extension outside the limits of the City of Joplin.

(g) There shall be an additional fee of $200.00 as determined by the director of public works when sewer connection work as described in this section is performed on concrete and/or clay pipes.

(h) There shall be an additional sewer riser locate permit fee of $100.00 for city personnel to inspect or locate a sewer connection point to the city sewer main."

Section 3. That this ordinance shall become effective on January 1, 2020.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this

_____ day of _____, 2019.

_____
Gary L. Shaw, Mayor

ATTEST:

_____
Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2019-531 – Approving certain language changes related to sewer billing and collecting

MEETING DATE
November 18, 2019

ORIGINATING DEPT
Finance

ATTACHMENTS
CB 2019-531 Ordinance

REVIEWED BY
Department Head: Leslie Haase; Public Works Director: David Hertzberg; City Attorney: Peter Edwards; City Manager: Dan Pekarek

SUMMARY
This Council Bill changes certain language to improve sewer billing and collection procedures.

BACKGROUND
The City bills residential users based on a winter quarter average for the months of December, January and February. If a resident isn't at the location for these winter quarter months, the City uses an "average" of 6,000 gallons by policy. This ordinance changes the language to include adjusting the average for these customers annually based on the actual average consumption of all residential customers rather than a set "average". This change has been factored into the wastewater rate study.

Additionally, this ordinance changes the language relating to when the late penalty is assessed. Currently, the late penalty is assessed at 30 days past due. However, the next bill is currently being generated and then the late penalty is assessed under the 30-day timeframe. As a result, customer's bills with past due amounts are incorrect due to this timing issue. Therefore, this ordinance changes the penalty assessment to 25 days, which will correct this issue.

The language changes will be effective on January 1, 2020.

FUNDING SOURCE
Not applicable

RECOMMENDATION
Staff recommends this council bill be approved on first reading.

COUNCIL BILL NO. 2019-531 ORDINANCE NO.

AN ORDINANCE repealing Section 118-203, Basis for Computation, of Article II, Sewers and Sewage Disposal, of Division 6, Rates and Charges, and Section 118-206, Billing and Collection Procedures, of Article II, Sewers and Sewage Disposal, of Division 6, Rates and Charges, of Chapter 118, Utilities, of the Code of Ordinances of the City of Joplin, and enacting in lieu thereof a new Section 118-203, Basis for Computation, of Article II, Sewers and Sewage Disposal, of Division 6, Rates and Charges, and Section 118-206, Billing and Collection Procedures, of Article II, Sewers and Sewage Disposal, of Division 6, Rates and Charges, of Chapter 118, Utilities, of the Code of Ordinances of the City of Joplin to implement certain fee changes; and setting a date when this Ordinance shall become effective.

WHEREAS, the Council of the City of Joplin desires to make certain language changes to improve sewer billing and collection procedures.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Joplin, Missouri, as follows:

Section 1. That Section 118-203, Basis for Computation, of Article II, Sewers and Sewage Disposal, of Division 6, Rates and Charges, of Chapter 118, Utilities, be repealed and a new Section 118-203, Basis for Computation, of Article II, Sewers and Sewage Disposal, of Division 6, Rates and Charges, of Chapter 118, Utilities, of the Code of Ordinances of the City of Joplin be enacted in lieu thereof to read as follows:

"ARTICLE II. SEWERS AND SEWAGE DISPOSAL

Division 6. Rates and Charges

Sec. 118-203. Basis for computation.

Sewer service charges for residential establishments shall be based upon the average consumption for the months of December, January and February and shall be billed monthly for the 12-month period beginning in April of each year on the basis of said average monthly water consumption for the immediately preceding months of December, January, and February.

For any residential customer that did not occupy said residence during the months of December, January, and February, a city-wide average shall be billed monthly for the 12-month period beginning in April of each year. The city-wide average shall be adjusted annually based on the actual average consumption of residential customers.

Residential sewer service charges based upon the average consumption for a user at a location less than a full month shall be prorated to the number of days the same user is at the same location."

Section 2. That Section 118-206, Billing and Collection Procedures, of Article II, Sewers and Sewage Disposal, of Division 6, Rates and Charges, of Chapter 118, Utilities, be repealed and a new Section 118-206, Billing and Collection Procedures, of Article II, Sewers and Sewage Disposal, of Division 6, Rates and Charges, of Chapter 118, Utilities, of the Code of Ordinances of the City of Joplin be enacted in lieu thereof to read as follows:

"ARTICLE II. SEWERS AND SEWAGE DISPOSAL

Division 6. Rates and Charges

Sec. 118-206. Billing and collection procedures.

(a) All sewer service charges shall be paid to the city, or its authorized agent, at the location or locations designated by the city. Sewer service charges shall be paid within 15 days of the date of their billing.

(b) Every sewer service charge specified in this section remaining unpaid for 25 days after the date of its billing may be increased by ten percent for the current month outstanding balance.

(c) Sewer services shall be deemed to be furnished to both the occupant and owner of all residential properties receiving sewer service, and the occupant and owner of such properties shall be severally and jointly liable to the city for payment of the charges for such service rendered on or to premises upon which such properties are located. If any bill for such services is not paid within 15 days from the date of such bill, the city may sue the occupant, the owner, or both, of the properties receiving such service, or for which such service has been made available, and receive any sums due for such services plus reasonable attorney's fees to be fixed by the court and the costs of such suit. In addition, the city may use other such means now or hereafter available to it under the statutes of Missouri and the ordinances of the city to effect the collection of any bill for sewer service remaining unpaid upon the expiration of 15 days from the date of such bill.

(d) In the event either the occupant or owner of property which receives sewer service furnished by the city has reason to dispute the amount or nature of any bill, the recipient shall be permitted to make payment under protest, provided that the recipient of service provides to the city at the time of payment the following information:

(1) The period of time for which the service is disputed.

(2) The reason for the dispute.

(3) The requested remedy.

Nothing contained herein shall in any way forgive or avoid any payment to the city as outlined in this chapter for sewer services. Upon receipt of any such payment under protest, the finance director in coordination with the city attorney shall

respond in writing to the recipient of the service with a response to their complaint and a copy shall be forwarded to the city manager and a reply shall be forthcoming within a reasonable period of time.

(e) In addition to any fees or charges established pursuant to this chapter, there shall be a fee for the termination of water service due to a delinquent sewer bill that remains unpaid or in arrears for at least 30 days. The fee shall be established by the water company for:

(1) Standard termination or restoration per metered connection, including unsuccessful attempts; and,

(2) After hours restoration per metered connection, including unsuccessful attempts.

(f) When the occupant of rental property is delinquent in payment of sewer fees, the City of Joplin shall make a good faith effort to notify the owner of the premises receiving such service of the delinquency and the amount thereof. Notwithstanding any other provision of this section to the contrary, when an occupant of rental property is delinquent more than 90 days, the owner shall not be liable for sums due for more than 90 days of service. The city shall make a good faith effort to notify both the occupant and owner of the premises of any termination of service.

Section 3. That this ordinance shall become effective on January 1, 2020.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this

_____ day of _____, 2019.

_____
Gary L. Shaw, Mayor

ATTEST:

_____
Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney