COUNCIL AGENDA
Monday, December 17, 2018
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. Clifford Wert To Give An Update On The Capital Campaign For The Harry M. Cornell Arts & Entertainment Complex And To Request An Extension Of Time For The Capital Campaign To June 1, 2019.

4. **Finalization Of Consent Agenda**

5. **Reports And Communications**

   1. Semi-Annual Report Of The Capital Improvement And Public Safety Sales Tax Oversight Committee, Presented By Ryan Jackson, Chairman

6. **Citizen Requests And Petitions**

   1. Margey Upson Would Like To Address The City Council Regarding Quotes.

7. **Public Hearings**

   1. PUBLIC HEARING PROCEDURES

      Documents:

      PUBLIC HEARING PROCEDURES.PDF

   2. COUNCIL BILL NO. 2018-026

      AN ORDINANCE approving a plan for an industrial development project consisting of the acquisition and installation of manufacturing equipment, authorizing the city of Joplin, Missouri to issue its taxable industrial revenue bonds in a principal amount not to exceed $67,215,000.00 and approving certain related documents and actions.

      Documents:

      CB2018-026.PDF

8. **Consent Agenda**

   1. December 3, 2018 Informal Council Meeting Notes

      Documents:

      INFORMAL NOTES-DEC 3.PDF

   2. Minutes Of The December 3, 2018 City Council Meeting

      Documents:

CC MINUTES - DEC 3. 2018.PDF

3. COUNCIL BILL NO. 2018-273
AN ORDINANCE approving approximately 26 acres, located immediately south of I-44 at Exit 13 and west of Prigmore Avenue to include in District C-3 (Commercial District), Jasper County, Missouri.

Documents:

CB2018-273.PDF

4. COUNCIL BILL NO. 2018-274
AN ORDINANCE approving approximately 26 acres, located immediately south of I-44 at Exit 13 and west of Prigmore Avenue to include in District C-3 (Commercial District), Jasper County, Missouri.

Documents:

CB2018-274.PDF

9. Resolutions

10. Ordinances - Emergency

1. COUNCIL BILL NO 2018-159
AN ORDINANCE approving a construction agreement with Emery Sapp & Sons Inc. for street resurfacing in the not to exceed amount Nine Hundred Ninety Thousand Two Hundred Forty-Seven and 16/100 Dollars, ($990,247.16) for the 2019 Resurfacing project and containing an emergency clause.

Documents:

SUMMARY SHEET 2018-159.PDF
BID TAB FORM.PDF
JOPLIN CONSTRUCTION CONTRACT FORM - LOCAL FUNDING - 2018.PDF
MILL_OVERLAY MAP 2019.PDF
CB 2018- 159 RESURFACING 2019.PDF

2. COUNCIL BILL NO. 2018-160
AN ORDINANCE approving a construction agreement with Vance Brothers Inc. for street resurfacing in the not to exceed amount Six Hundred Ninety-Three Thousand Seven Hundred Ninety-Six and 93/100 Dollars ($693,796.93) for the 2019 Microsurfacing Project and containing an emergency clause.

Documents:

SUMMARY SHEET 2018-160.PDF
BID TAB FORM.PDF
CHANGE ORDER 1.PDF
JOPLIN CONSTRUCTION CONTRACT FORM - LOCAL FUNDING - 2018.PDF
MICROSURFACE MAP 2019.PDF
CB 2018-160 MICROSURFACING 2019.PDF

3. COUNCIL BILL NO. 2018-163
AN ORDINANCE approving a Purchase Order to be issued to Fabick Cat in the amount of One Hundred Ten Thousand Eight Hundred and no/100 Dollars ($110,800.00) for the purchase of a replacement backhoe as budgeted in the Annual Budget of the City of Joplin for the Fiscal Year 2018-2019 and containing an emergency clause.

Documents:

SUMMARY SHEET 2018-163-BACKHOE.PDF
BACKHOE-12042018152729.PDF
COUNCIL BILL 2018-163 -BACKHOE.PDF

4. COUNCIL BILL NO. 2018-161
AN ORDINANCE approving a construction agreement with Springfield Striping for Parking Lots and Trails Sealing 2019 in the not to exceed amount Forty-Nine Thousand Four Hundred Sixty-Two and 36/100 Dollars ($49,462.36) for the 2019 Parking Lots and Trails Sealing 2019 and containing an emergency clause.

Documents:

SUMMARY SHEET 2018-161.PDF
BID TAB FORM.PDF
JOPLIN CONSTRUCTION CONTRACT FORM - LOCAL FUNDING - 2018.PDF
CB 2018- 161 PARKING LOTS AND TRAILS.PDF
DOWNTOWN PARKING.PDF
EWERT PARK.PDF
HUMPHREY PARK.PDF
JUSTICE CENTER.PDF
LEONARD PARK.PDF
FIRESTATION 5.PDF
LANDRETH 1.PDF
LANDRETH 2.PDF

5. COUNCIL BILL NO. 2018-164
AN ORDINANCE approving a Purchase Order to be issued to Tag Truck Enterprises of Missouri LLC in the amount of Three Hundred Ninety-Two Thousand Six Hundred Twenty-Seven and 74/100 Dollars ($392,627.74) for the purchase of a 2 dump trucks with snow plows as budgeted in the Annual Budget of the City of Joplin for the Fiscal Year 2018-2019 and containing an emergency clause.

Documents:

SUMMARY SHEET 2018-164-DUMP TRUCKS.PDF
DUMP TRUCKS-12042018161140.PDF
COUNCIL BILL 2018-164 -DUMP TRUCKS.PDF

6. COUNCIL BILL NO. 2018-524
AN ORDINANCE approving a request to appoint Tereasa Edwards to the Board of Directors of the Northpark Lane Community Improvement District; and containing an emergency clause.

Documents:

CB 2018-524 SUMMARY NORTHPARK LANE CID BOARD APPOINTMENT.PDF
CB 2018-524 NORTHPARK LANE CID BOARD APPOINTMENT.PDF
CB 2018-524 EXHIBIT A BOARD REQUEST FOR APPOINTMENT.PDF

11. Ordinances - First Reading

1. COUNCIL BILL NO. 2018-027
AN ORDINANCE authorizing the City of Joplin to amend the Memorandum of Understanding and Agreement with Connect2Culture previously approved as Ordinance 2017-149 for the purpose of extending timeframes and authorizing the City Manager to execute the same by and on behalf of the City of Joplin.

   Documents:

   SUMMARY_CB2018-027_AMENDMENT TO MOU_CONNECT2CULTURE.PDF
   CB 2018-027 COJ CONNECT2CULTURE AMENDMENT TO MOU.PDF
   CONNECT2CULTURE FIRST AMENDMENT TO MOU AND AGREEMENT_CB2018-027.PDF

2. COUNCIL BILL NO. 2018-275
AN ORDINANCE authorizing the City council to issue the abatement of ad valorem taxes to real property located in the Joplin Area Enhanced Enterprise Zone; generally described as located at 2205 S. Prigmore Rd. and owned by Crossroads Realty, LLC.

   Documents:

   CB 2018-275 EXHIBIT A-CROSSROADS REALTY LEGAL.PDF
   CB 2018-275 EXHIBIT B-EEZ TAX ABATEMENT GUIDELINES 03-07.PDF
   CB 2018-275 EXHIBIT C-CROSSROADS REALTY LOCATION.PDF
   CB 2018-275.PDF
   CB 2018-275-ENHANCE ENTERPRISE ZONE MAP 6-29-07.PDF
   CB2018-275-SUMMARY.PDF

3. COUNCIL BILL NO. 2018-416
AN ORDINANCE approving an Agreement between the City of Joplin, Missouri, and Economic Security Corporation of Southwest Area that pertains to 2018 HOME funds; authorizing the City Manager or his designee to execute same on behalf of the City.

   Documents:

   CB 2018-416 AGREEMENT.PDF
   CB 2018-416 SUMMARY.PDF
   CB 2018-416.PDF

12. Ordinances - Second Reading And Third Reading

1. COUNCIL BILL NO. 2018-026

   AN ORDINANCE approving a plan for an industrial development project consisting of the acquisition and installation of manufacturing equipment, authorizing the city of Joplin, Missouri to issue its taxable industrial revenue bonds in a principal amount not to exceed $67,215,000.00 and approving

certain related documents and actions.

Documents:

CB2018-026.PDF

13. **Unfinished Business**

14. **New Business**

    1. News From Public Information Officer, Lynn Onstot

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)

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 2017 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: December 3, 2018 (1st reading)
December 17, 2018 (Ch 100 hearing / final readings)

ITEM: Council Bill No. 2018-026 approving a Chapter 100 Plan, authorizing the City of Joplin, Missouri, to issue its Taxable Industrial Revenue Bonds and authorizing the execution of other documents connected therewith.

ORIGINATING DEPARTMENT: Legal Department
ATTACHMENTS: Council Bill No. 2018-026; copy of Chapter 100 Plan, Bond Purchase Agreement; Trust Indenture; Lease Agreement; Performance Agreement.

DEPARTMENT HEAD:	Peter C. Edwards	**DATE:**
CITY MANAGER:	Sam Anselm	**DATE:**
PLANNING, DEVELOPMENT:	Troy Bolander	**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 and installing equipment to manufacture bearings (the "Project Equipment") in a facility operated by Schaeffler Group USA, Inc. (the "Company"). The Project Equipment will be located the Company's facility at 3900 Range Line Road Joplin, MO 64804 (the "Facility") and used in the manufacturing of bearings for automotive and industrial applications. The Council Bill authorizes the City to enter into certain agreements in connection with the issuance of the Bonds.

DISCUSSION:

The project involves the acquisition and installation of approximately $67,140,000 in machinery and equipment. Various portions of the Project Equipment will be depreciated, depending on type of equipment, on a 3-year or 7-year basis. The Chapter 100 Plan provides abatement for the Project Equipment as follows:

Type	*Rate of Abatement*	*Period of Abatement*
3-year depreciable property	100%	5 years
7-year depreciable property	100%	7 years

Each item of Project Equipment will receive abatement starting with the calendar year after it is installed. Installation of the Project Equipment will occur starting in 2018 and ending in 2023. The final abatement period ends in 2030. The value of abatement is anticipated to be $2,506,842 over the entire period for all Project Equipment.

Due to a change in law that became effective in August of 2018, the Newton County Ambulance District has the right to reimbursement of amounts it otherwise would lose to abatement in a Chapter 100

transaction. For this reason, it is anticipated that the Company will be required to pay a payment in lieu of tax equal to the amount that would otherwise have been due to the Newton County Ambulance District during the life of the abatement. No other taxing jurisdictions are anticipated to receive payments in lieu of tax.

The Company is expected to add 60 jobs in connection with the Project Equipment. Under the Performance Agreement, the Company is required to retain 262 jobs at the Facility and add 60 new jobs in order to retain the abatement. The jobs must pay an average wage of $20.42 (equal to 120% of the current average wage in Newton County). 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 operations at the Facility, the abatement is terminated.

The Company has represented that it will use local contractors for the installation of the Project Equipment to the greatest extent possible and that every effort will be made to hire local venders and contractors that will bring business to the Joplin area. Outside suppliers will only be used for specialized work/materials where no resources are available in the Joplin area.

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 Equipment. The Project Equipment is then leased to the Company. During the time the Bonds remain unpaid and the City owns the Project Equipment, 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 Equipment 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 Equipment. 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.

$67,215,000
(AGGREGATE MAXIMUM PRINCIPAL AMOUNT)
CITY OF JOPLIN, MISSOURI
TAXABLE INDUSTRIAL REVENUE BONDS
(SCHAEFFLER EXPANSION PROJECT)
SERIES 2018

Dated as of December 1, 2018

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, Schaeffler Group USA Inc., a Delaware corporation (the "Purchaser"), offers to purchase from the City of Joplin, Missouri (the "City"), the above-referenced Taxable Industrial Revenue Bonds (Schaeffler Expansion Project), Series 2018, dated as provided in the Indenture (hereinafter defined), in the maximum aggregate principal amount of $67,215,000 (the "Bonds"), to be issued by the City under and pursuant to an Ordinance adopted by the governing body of the City on December 17, 2018 (the "Ordinance"), and a Trust Indenture dated as of December 1, 2018 (the "Indenture") by and between the City and UMB Bank, N.A., as trustee (the "Trustee"). *Capitalized terms not otherwise defined herein shall have the meanings set forth in 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 home rule charter city duly organized and validly existing under the laws of the State of Missouri. The City is authorized pursuant to the Constitution, the laws of the State of Missouri, and the charter and ordinances of the City, and all necessary action has been taken to authorize, issue and deliver the Bonds and to consummate all transactions contemplated by this Bond Purchase Agreement, the Ordinance, the Indenture and the Lease Agreement dated as of December 1, 2018 (the "Lease Agreement") by and between the City and the Purchaser and any and all other agreements relating thereto. The proceeds of the Bonds shall be used for the purpose of acquiring and installing the Project Equipment and paying 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 to the City's knowledge 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 obligations

represented by the Bonds or the validity of the Bonds, the Lease Agreement, the Indenture or the Performance Agreement.

(b) The Purchaser represents as follows:

(1) *Organization.* The Purchaser is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, and duly authorized to transact business in the State of Missouri.

(2) *No Conflict or Breach*. The execution, delivery and performance of this Bond Purchase Agreement by the Purchaser have been duly authorized by all necessary action of the Purchaser and do 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) *Documents Legal, Valid and Binding*. 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.

(4) *Purchaser's Certificates*. 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 parties 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), which amount shall be applied as provided in the Indenture and the Lease Agreement. From time to time after the Closing Date, the Purchaser shall make additional payments with respect to the Bonds ("Additional Payments") to the Trustee under the Indenture, which Additional Payments shall be applied to the payment of Project Costs or as provided in the Indenture and the Lease Agreement; provided that the sum of the Closing Price and all such Additional Payments shall not, in the aggregate, exceed $67,215,000.

As used herein, the term "Closing Date" shall mean December ___, 2018, or such other date as shall be mutually agreed upon by the City and the Purchaser; the term "Closing Price" shall mean that certain amount specified in an initial requisition under the Indenture and the Lease and/or a closing memorandum for the Bonds as the amount required to pay for the initial issuance of the Bonds on the Closing Date.

The Bonds shall be issued under and secured as provided in the Ordinance, the Indenture and the Lease Agreement 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 $67,215,000 and bearing interest at 5.00% per annum; provided, that the principal amount of the Bonds outstanding at any time shall be that amount recorded in the 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 OBLIGATIONS

The obligations hereunder shall be subject to the due performance by the parties of the obligations and agreements to be performed hereunder on or prior to the Closing Date and to the accuracy of and compliance with the 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 Trust Indenture and the Lease Agreement 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 to its knowledge 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 obligations represented by the Bonds or the validity of the Bonds or any proceedings in relation to the issuance or sale thereof.

(c) The Purchaser shall execute a certificate, dated the Closing Date, to the effect that (i) no litigation, proceeding or investigation is pending against the Purchaser or its affiliates or, to the knowledge of the Purchaser, 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 Purchaser, (ii) no litigation, proceeding or investigation is pending or, to the knowledge of the Purchaser, threatened against the Purchaser that could reasonably be expected to adversely affect its ability to perform its obligations hereunder, (iii) the representations and warranties of the Purchaser 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.

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 or by telegraph 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. 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 City, Trustee or Company at the times and at the addresses set forth for notices in the Indenture.

SECTION 8. 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 to any entity controlled by, under common control with or controlling the Purchaser. Any such assignee shall agree to be bound by the terms of this Bond Purchase Agreement. Upon such assignment, the Purchaser shall be released from and have no further obligations under this Bond Purchase Agreement.

SECTION 9. EXECUTION OF COUNTERPARTS; ELECTRONIC STORAGE

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. 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.

[remainder of page intentionally left blank]

Very truly yours,

SCHAEFFLER GROUP USA INC.,
as Purchaser

By: _____
Name:
Title:

Accepted and Agreed to by:

CITY OF JOPLIN, MISSOURI

By: _____
Mayor

[SEAL]

ATTEST:

By: _____
City Clerk

Approved as to form:

_____
City Attorney

LEASE AGREEMENT

Dated as of December 1, 2018

between the

CITY OF JOPLIN, MISSOURI,
as Lessor,

and

SCHAEFFLER GROUP USA INC.,
as Lessee

Relating to:

$67,215,000
(Aggregate Maximum Principal Amount)
City of Joplin, Missouri
Taxable Industrial Revenue Bonds
(Schaeffler Expansion Project)
Series 2018

Certain rights of City of Joplin, Missouri (the "City"), in this Lease Agreement have been pledged and assigned to UMB Bank, N.A., as Trustee under the Trust Indenture dated as of December 1, 2018, between the City and the Trustee.

LEASE AGREEMENT

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LEASE AGREEMENT

THIS LEASE AGREEMENT, dated as of December 1, 2018 (the "Lease"), between the **CITY OF JOPLIN, MISSOURI,** a home rule charter city organized and existing under the laws of the State of Missouri (the "City"), as lessor, and **SCHAEFFLER GROUP USA INC.,** a Delaware corporation (the "Company"), as lessee;

RECITALS:

1. The City is authorized and empowered pursuant to the provisions of Article VI, Section 27(b) of the Missouri Constitution, as amended, Sections 100.010 through 100.200, inclusive, of the Revised Statutes of Missouri, as amended, and the City's Charter (collectively, the "Act"), to purchase, construct, extend and improve certain projects (as defined in Section 100.010 of the Revised Statutes of Missouri, as amended) 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, office industries and industrial development purposes upon such terms and conditions as the City shall deem advisable.

2. Pursuant to the Act, the governing body of the City has heretofore passed an ordinance (the "Ordinance") on December 17, 2018, authorizing the City to issue its Taxable Industrial Revenue Bonds (Schaeffler Expansion Project), Series 2018, in the maximum principal amount of $67,215,000 (the "Bonds"), for the purpose of purchasing and installing certain equipment (the "Project Equipment," as more fully described on **Exhibit A** hereto) to be used by the Company at 3900 Rangeline Road, Joplin, Missouri (the "Project Site"), and authorizing the City to lease the Project Equipment to the Company.

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., 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 purchase and install the Project Equipment and will lease the Project Equipment 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. Pursuant to the foregoing, the City desires to lease the Project Equipment to the Company and the Company desires to lease the Project Equipment 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 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, capitalized words and terms used in this Lease shall have the meanings given to such words and terms in **Section 101** of the Indenture (which definitions are hereby incorporated by reference).

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 home rule charter city 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 proposes to purchase and install the Project Equipment or cause the Project Equipment to be purchased and installed at the Project Site. The City proposes to lease the Project Equipment to the Company and sell the Project Equipment to the Company if the Company exercises its option to purchase the Project Equipment or upon termination of this Lease, all for the purpose of furthering the public purposes of the Act.

(c) The purchase and installation of the Project Equipment will further the public purposes of the Act.

(d) No member of the governing body of the City 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.

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 validly existing and in good standing under the laws of the State of Delaware and is authorized to conduct 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 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 best of 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) The Project Equipment will be located at the Project Site and will comply in all material respects with all presently applicable laws, rules and regulations.

(e) The Project Site is located wholly within the incorporated limits of the City.

ARTICLE III

GRANTING PROVISIONS

Section 3.1. Granting of Leasehold Estate. The City hereby rents, leases and lets the Project Equipment to the Company, and the Company hereby rents, leases and hires the Project Equipment 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. Subject to earlier termination pursuant to the provisions of this Lease, the lease of the Project Equipment shall terminate on **December 1, 2030**.

Section 3.3. Possession and Use of the Project Equipment.

(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** following the occurrence and continuance of an Event of Default, the Company shall have sole and exclusive possession of the Project Equipment (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 Equipment 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 Equipment 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 Equipment 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 right to use the Project Equipment for any lawful purpose contemplated by the Act and consistent with the terms of the Performance Agreement. The Company shall 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 Equipment, as to the manner of use or the condition of the Project Equipment. 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 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 shall have the right, at its own cost and expense, to 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.

ARTICLE IV

PURCHASE AND INSTALLATION OF THE PROJECT EQUIPMENT

Section 4.1. Issuance of the Bonds. To provide funds for the payment of Project Costs, the City agrees that it will issue, sell and cause to be delivered the Bonds to the purchaser of the Bonds in accordance with the provisions of the Indenture and the Bond Purchase Agreement. The proceeds of the sale of the Bonds, when received, shall be paid over to the Trustee for the account of the City. The Indenture requires the Trustee to promptly deposit such proceeds, when received, as provided therein, to be used and applied as hereinafter provided in this Lease and in the Indenture. Alternatively, the Indenture permits the Trustee (pursuant to **Section 208(d)** of the Indenture) to endorse the Bonds in an amount equal to the requisition certificates submitted pursuant to **Section 4.4** below. In that event, the

purchaser of the Bonds shall be deemed to have deposited funds with the Trustee in an amount equal to the amount stated in the requisition certificate.

Section 4.2. Purchase and Installation of the Project Equipment. The City and the Company agree that the Company as the agent of the City shall, but solely from the Project Fund, purchase and install the Project Equipment as follows:

(a) The City will acquire any portion of the Project Equipment installed or located at the Project Site at the execution hereof. Concurrently with the execution of this Lease, a bill of sale and any other necessary instruments of transfer will be delivered to the City, which may consist of a requisition containing conveyance language.

(b) The Company will purchase and install the Project Equipment at the Project Site. Except as provided in the next sentence, title to the Project Equipment shall be evidenced by bills of sale or other instruments of transfer (which may consist of a requisition containing conveyance language), including purchase orders or other instruments pursuant to which the City acquires title to personal property directly from the vendor thereof. Subject to **Section 8.2**, all Project Equipment substituted by the Company shall automatically become part of the Project Equipment subject to this Lease, and full title and ownership of such Project Equipment shall be automatically vested in the City, without the requirement of a bill of sale or other instrument of conveyance unless otherwise requested by the City. In any event, on or before March 1 of each year, the Company shall furnish to the City 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, designating each item of Project Equipment as Three-Year Property or Seven-Year Property and setting out the date such property was acquired with Bond proceeds and the date on which the Abatement Period for each item of such property ends in accordance with **Exhibit E** to the Indenture. No property shall be included on such list of Project Equipment unless such property is within the Abatement Period for such property. 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 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**. The City and the Company agree that property that, (1) pursuant to **Section 4.8**, is purchased by the Company with its own funds and not Bond proceeds, or (2) is outside of its Abatement Period, shall not constitute part of the Project Equipment and shall be the property of the Company and therefore subject to taxation.

(c) The Company will use its reasonable commercial efforts to cause the purchase and installation of the Project Equipment to be completed as soon as practicable. If such purchase and installation commences before 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.

Section 4.4. Payment for Project Costs. Except with respect to Project Costs paid pursuant to **Section 503(d)** of the Indenture, all Project Costs as specified in **Section 4.3** hereof shall be paid by the Trustee from the Project Fund. 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 B**, signed by an Authorized Company Representative and approved by an Authorized City Representative:

(a) requesting payment 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;

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

(c) designating all Project Equipment for which such Project Costs are requested as either Three-Year Property or Seven-Year Property;

(d) stating that each item for which payment is requested is or was desirable and appropriate in connection with the purchase and installation of the Project Equipment, 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

(e) stating that, except for the amounts, if any, stated in said certificate, to the best of his knowledge there are no outstanding disputed statements for which payment is requested for labor, wages, materials, supplies or services in connection with the purchase and installation of the Project Equipment which might become the basis of a vendors', mechanics', laborers' or materialmen's statutory or other similar lien upon the Project Equipment 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 an Authorized City Representative shall constitute, unto the Trustee, an irrevocable determination that all conditions precedent to the payments requested have been completed.

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) that the purchase and installation of the Project Equipment has been completed and the date thereof, and (b) that all costs and expenses incurred in the purchase and installation of the Project Equipment 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. 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.

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 is insufficient to pay fully all Project Costs and to complete the Project Equipment free of liens and encumbrances other than Permitted Encumbrances, the Company shall pay into the Project Fund the full amount of any such deficiency, and the Trustee shall use those Project Fund moneys to make payments to the contractors and to the suppliers of materials and services as the same become due in accordance with the applicable contracts entered into with such contractors and suppliers all in accordance with the provisions for payment of Project Costs set forth in **Section 4.4** of this Lease, and the Company shall save and hold harmless the City and the Trustee from any obligation to pay such deficiency.

Section 4.7. Project Equipment Property of City.

(a) The Project Equipment installed on or located at the Project Site at the execution hereof and which the Company desires to convey to the City, all Project Equipment as acquired, anything under this Lease which becomes, is deemed to be, or constitutes a part of the Project Equipment, except as otherwise specifically provided herein, shall immediately when installed or purchased become the absolute property of the City, subject only to this Lease, the Indenture and the Leasehold Security Agreement, if any.

(b) This Agreement is not to be construed as transferring to the City or the Trustee any right, title, or interest to, or granting license rights under, any intellectual property owned or acquired by the Company covering the Project Equipment, other than to use the Project Equipment in the manner and to the extent provided by this Agreement.

Section 4.8. Machinery and Equipment Property of the Company. Any improvements or items of machinery or equipment which do not constitute part of the Project Equipment 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 Equipment for purposes of **Section 6.4**. When any property reaches the end of its Abatement Period, such property shall immediately cease to be part of the Project Equipment and shall become the absolute property of the Company, free and clear of the Lease and the Indenture.

ARTICLE V

RENT PROVISIONS

Section 5.1. Basic Rent.

(a) 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 each Payment Date, as Basic Rent for the Project Equipment, an amount which, when added to any collected funds then on deposit in the Bond Fund and available for the payment of principal on the Bonds and the interest thereon on such payment date, shall be equal to the amount payable on such payment date as principal of the Bonds and the interest thereon as provided in the Indenture. 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.

(b) As long as the Company owns all of the Bonds, then 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 may deliver to the Trustee for cancellation Bonds not previously paid and 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 the Indenture, this Lease or the Performance Agreement, as and when the same become due;

(b) all costs incident to the issuance of the Bonds 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) all fees, charges and expenses incurred in connection with the enforcement of any rights under the Indenture, this Lease or the Performance Agreement by the City, the Trustee or the Owners, including counsel fees and expenses; and

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

Section 5.3. Obligations of Company Absolute and Unconditional.

(a) Except as expressly stated in this Agreement and Section 204(d) of the Indenture, 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, 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 Equipment has been purchased or installed, 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 Equipment 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 Equipment, legal curtailment of the Company's use thereof, 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.

(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.

At its option, the Company 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, in accordance with the terms of the Indenture.

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 Equipment in a safe operating condition and keep the Project Equipment in 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.

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 Equipment, or any part thereof or interest therein (including the leasehold estate of the Company therein) 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 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 Equipment; 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 shall have the right, in its own name or in the City's name, to 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 at least 10 days 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 so to do, (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. The Company shall save and hold harmless the City from any costs and expenses the City 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 with respect to the Project Equipment paid pursuant to this Section.

Section 6.3. Utilities. All utilities and utility services used by the Company in, on or about the Project Site shall be paid by the Company and shall be contracted by the Company in the Company's own name, 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 Equipment is owned by the City and is subject to the Lease, the Project Equipment will be exempt from all *ad valorem* 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 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. Reserved.

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 Equipment 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 or self-insured retention provisions not to exceed the amounts normally or generally carried by the Company). 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 as may be selected by the Company. Copies of certificates of insurance for such policies shall be delivered by the Company to the City and the Trustee on the date of execution of this Lease. All such policies of insurance pursuant to this Section, and all renewals thereof, shall name the City and the Company as 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. The Company will provide immediate notice to the City and the Trustee of the intent to cancel such insurance.

(b) In the event of loss or damage to the Project Equipment, the Net Proceeds of property insurance carried pursuant to this Section shall be paid over to the Trustee and shall be applied as provided in **Article IX** of this Lease, or as may be directed by, or on behalf of, the Owners of 100% in principal amount of the Bonds outstanding.

Section 7.3. Public 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 and automobile liability insurance (including but not limited to coverage for all losses whatsoever arising from the ownership, maintenance, operation or use of any automobile, truck or other motor vehicle), under which the City, the Company and the Trustee are the named or 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. Certificates of such policies shall be furnished to the Trustee on the date of execution of this Lease. The Company will provide immediate notice to the City and the Trustee of the intent to cancel such insurance.

(b) In the event of a general or automobile 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. Blanket Insurance Policies. 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.

Section 7.5. Worker's Compensation. The Company agrees throughout the Lease Term to maintain or cause to be maintained the Worker's Compensation coverage required by the laws of the State of Missouri.

ARTICLE VIII

MODIFICATIONS, REPAIRS AND IMPROVEMENTS OF THE PROJECT EQUIPMENT

Section 8.1. Additions of Machinery and Equipment on the Project Site. Following the earlier to occur of (1) submission of requisition certificates pursuant to **Section 4.4** in an amount equal to $67,215,000 or (2) **December 31, 2023**, any additions of personal property installed on the Project Site by the Company shall, except as provided in **Section 8.2**, remain the property of the Company and shall not become part of the Project Equipment. Such personal property shall be subject to *ad valorem* taxes.

Section 8.2. Removal and Replacement of Project Equipment.

(a) The Company may, if it is not in default in making payments of Basic Rent or Additional Rent hereunder, 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 at the Project Site. Before any such removal, the Company shall deliver to the City and the Trustee a certificate signed by an Authorized Company Representative containing a complete description, including the make, model and serial numbers, if any, of any machinery or equipment constituting a part of the Project Equipment that the Company proposes to remove. Upon request, 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 Equipment 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.

(b) In all cases, the Company shall pay all of the costs and expenses of any such removal and shall immediately repair at its expense all damage to the Project Site caused thereby. 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 replaces any portion of the Project Equipment due to wear or damage, such 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, provided that such replacement shall only benefit from such exemption during the original Abatement Period of the property replaced by it.

(d) If the Company replaces any portion of the Project Equipment for any other purpose, and the Company treats or could treat the cost of the replacement equipment as a capital expenditure for federal income tax purposes, then such replacement equipment shall not become part of the Project Equipment and shall be subject to *ad valorem* taxes.

(e) If the Company replaces any portion of the Project Equipment, and the Company treats or could treat the cost of the replacement equipment as an ordinary expenditure for federal income tax purposes, then such replacement equipment shall become part of the Project Equipment and shall not be subject to *ad valorem* taxes.

(f) Simultaneous with its furnishing of the list of Project Equipment to the City and the Trustee pursuant to **Section 4.2**, the Company shall (1) identify any Project Equipment that is being replaced, (2) identify the replacement equipment, and (3) state whether the replacement equipment will become part of the Project Equipment.

Section 8.3. Reserved.

Section 8.4. 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, restoration, replacement, modification or addition to the Project Equipment, 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 strict 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 8.5. 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 Equipment, 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 Equipment, 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 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 City title to any of the Project Equipment.

(b) Notwithstanding paragraph (a) above, the Company may contest any such mechanics' or other similar lien if the Company (i) within 60 days after the Company becomes aware of an such lien, notifies the City and the Trustee in writing of its intention so to do, (ii) diligently prosecutes such contest, (iii) at all times effectively stays or prevents any official or judicial sale of the Project Equipment, or any part thereof or interest therein, under execution or otherwise, (iv) promptly pays or otherwise satisfies any final judgment adjudging or enforcing such contested lien claim and (v) thereafter promptly procures record release or satisfaction thereof. The Company may permit the lien so contested to remain unpaid during the period of such contest and any appeal therefrom unless the Company is notified by the City

that, in the opinion of counsel, the interest of the City in the Project Equipment will be subject to loss or forfeiture if the lien remains unpaid during the pendency of the contest. In that event, the Company shall promptly, at its own expense, take such action as may be necessary to duly discharge or remove any such pledge, lien, charge, encumbrance or claim if the same shall arise at any time. The Company shall save and hold harmless the City from any loss, costs or expenses the City may incur related to any such contest. The Company shall reimburse the City for any expense incurred by it in order to discharge or remove any such 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 Equipment is damaged or destroyed by fire or any other casualty, whether or not covered by insurance, the Company, as promptly as practicable, shall either (1) make the determination described in subsection (f) below, or (2) repair, restore or replace the same so that upon completion of such repairs, restoration or replacement such Project Equipment is of a value not less than the value thereof immediately prior to the occurrence of such damage or destruction.

If the Company elects to repair, restore or replace the Project Equipment, any reference to the words "Project Equipment" shall be deemed to include any such new machinery, equipment and fixtures.

Unless the Company makes the determination described in subsection (f) below, the Net Proceeds of property insurance required by **Article VII** hereof received with respect to such damage or loss to Project Equipment shall be used to pay the cost of repairing, restoring or replacing such Project Equipment or any part thereof. Insurance monies in an amount less than $100,000 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 $100,000 or more shall be 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 or replacing the Project Equipment or any part thereof. 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 or replacement, and this Lease has not been terminated, the excess shall be deposited in the Bond Fund, subject to the rights of any Leasehold Security Agreement or Financing Party. Completion of such repairs, restoration or replacement shall be evidenced by a certificate of completion in accordance with the provisions of **Section 4.5** hereof. If the Net Proceeds are insufficient to pay the entire cost of such repairs, restoration or replacement, 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 over $100,000.

(f) If the Company determines that repairing, replacing or restoring the Project Equipment is not practicable and desirable, any Net Proceeds of property 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 secured party under any Leasehold Security Agreement (if any) and the Financing Party under any Financing Documents (if any). The Company agrees to be reasonable in exercising its judgment pursuant to this subsection (f).

(g) The Company shall not, by reason of its inability to use all or any part of the Project Equipment during any period in which the Project Equipment is damaged or destroyed or is being repaired, replaced or restored, nor by reason of the payment of the costs of such 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. Reserved.

Section 9.3. Owner Approval. Notwithstanding anything to the contrary contained in this **Article IX**, the proceeds of any insurance received subsequent to a casualty may prior to 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 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 Equipment 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 Equipment 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 because of the Company's default hereunder or upon the cancellation or termination of this Lease for any reason other than the Company's purchase of the Project Equipment pursuant to **Article XI** hereof, the Company shall peacefully surrender possession of the Project Equipment to the City in good condition and repair.

Section 10.3. Right of Access to the Project Equipment. The City may conduct such periodic inspections of the Project Equipment 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 shall have the right at reasonable times during normal business hours and, except in the event of emergencies, upon not less than one Business Day's prior notice, subject to the Company's usual safety and security requirements, to enter upon the Project Site (a) to examine and inspect the Project Equipment 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 acquisition, installation or maintenance of the Project Equipment, (d) to perform such work in and about the Project Equipment made necessary by reason of the Company's default under any of the provisions of this Lease, and (e) upon either (i) the occurrence and continuance of an Event of Default or (ii) the Company's failure to purchase the Project Equipment at the end of the Lease Term, to exhibit the Project Equipment to prospective purchasers, lessees or trustees.

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

(a) Subject to **Section 10.4(c)** and **(d)**, if no Event of Default under this Lease has happened and is continuing, the Company may at any time or times (1) grant subleases (as permitted in **Section 13.1(b)** hereof), or licenses, of the Project Equipment, or parts thereof, (2) release or terminate existing subleases, or licenses, all with or without consideration and upon such terms and conditions as the Company shall determine, or (3) 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 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, license, 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 Equipment, will not materially adversely affect the security intended to be given by or under the Indenture and will be 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 Equipment 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:

(i) 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; and

(ii) such mortgage shall contain a covenant to the effect that the net proceeds of all insurance policies and the condemnation award shall be held, used and applied for the purposes and in the manner provided for in this Lease.

(c) The City acknowledges and agrees that the Company may finance and refinance its rights and interests in the Project Equipment, 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)**.

(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:

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

(ii) 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;

(iii) 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;

(iv) 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;

(v) upon the occurrence and continuance of an Event of Default by the Company under this Lease, 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

(vi) the Financing Parties (and their designees, nominees, assignees or transferees) shall have the right to enter, possess and use the Project Equipment at such reasonable times and manner as are necessary or desirable to effectuate the remedies and enforce their respective rights under the Financing Documents.

(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.

(f) The Company's obligations under any mortgage or Financing Document relating to the Project Equipment shall be subordinate to the Company's obligations under this Lease.

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, including attorneys' fees, by or on behalf of any Person, firm or corporation arising from the issuance of the Bonds and the execution of this Lease, the Performance Agreement or the Indenture and from the conduct or management of, or from any work or thing done in or on the Project Equipment during the Lease Term, and against and from all claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, arising during the Lease Term from (a) any condition of the Project Equipment, (b) any breach or default on the part of the Company in the performance of any of its obligations under this Lease, the Performance Agreement, the Indenture or any related document, (c) any contract entered into in connection with the purchase or installation of the Project Equipment, (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) any violation of Section 107.170 of the Revised Statutes of Missouri, as amended, and (g) the acceptance or administration by the Trustee of the trust created by the Indenture; provided, however, the indemnification contained in this **Section 10.5** shall not extend to the City or Trustee if such claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, are (i)

the result of work being performed on the Project Equipment by employees of the City, or (ii) the result of gross negligence or willful misconduct by the City or the Trustee. Upon notice from the City or the Trustee, the Company shall defend them or either of them in any such action or proceeding. This **Section 10.5** shall survive any termination of this Lease and the Performance Agreement, the satisfaction and discharge of the Indenture or the resignation or removal of the Trustee.

Section 10.6. Depreciation, Investment Tax Credit and Other Tax Benefits. The City agrees that any depreciation, interest expense deduction, investment tax credits or any other tax benefits with respect to the Project Equipment or any part thereof shall, for federal and state income tax purposes, belong 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, interest expense deduction, investment tax credits or other tax benefits.

Section 10.7. Company to Maintain its 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 dissolve, provided, the surviving, resulting or transferee Person (a) expressly assumes in writing all the obligations of the Company contained in this Lease, and (b) (i) the long-term debt rating of such Person or the long-term debt rating of an entity controlled by, under common control with or controlling such Person, is the same as or better than the long-term debt rating category by any nationally recognized rating service as the Company, (ii) such Person is controlled by, under common control with or controls the Company, or (iii) such Person has a Net Worth of at least $50,000,000. For purposes hereof, "Net Worth" shall mean total assets less total liabilities as reported on the financial statements of such Person pursuant to generally accepted accounting principles.

Section 10.8. Security Interests.

(a) To secure the payment of all of the Company's obligations under this Lease, to the extent permitted by law, the Trustee retains a security interest in all personal property consisting of the Project Equipment, including all additions, attachments, accessions thereto, substitutions therefor and on any proceeds therefrom.

(b) 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 hereunder. At the written request of all of the Owners, the City and the Company agree to enter into any other instruments necessary for perfection of and continuance of the perfection of the security interests of the City and the Trustee in the Project Equipment. Upon the written instructions of the Owners of 100% of the Bonds then Outstanding, the Trustee shall file all 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 file or 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** and **Section 8.2** hereof.

ARTICLE XI

OPTION AND OBLIGATION TO PURCHASE THE PROJECT

Section 11.1. Option to Purchase the Project Equipment.

(a) The Company shall have, and is hereby granted, the option to purchase the Project Equipment at any time, upon payment in full of all Bonds then outstanding or provision for their payment having been made pursuant to **Article XIII** of the Indenture.

(b) 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 30 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 foregoing, if the City or the Trustee provides notice of its intent to exercise its remedies hereunder upon an Event of Default (a "Remedies Notice"), 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 notice has not been rescinded by such date. The Company may rescind such exercise by providing written notice to the City and the Trustee on or before the 29th day 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 Section 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 and the Paying Agent'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) the sum of $10.00.

At its option, to be exercised at least five (5) days before 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.

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

(a) A release of the Project Equipment 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, all executed by a duly authorized officer of the Trustee, on behalf of the Trustee as assignee of the City.

(b) Documents, including without limitation a bill of sale, conveying to the Company legal title to the Project Equipment, as it then exists, subject to the following: (1) those liens and encumbrances, if any, to which title to the Project Equipment was subject when conveyed to the City; (2) those liens and encumbrances created by the Company or to the creation or suffering of which the Company consented; (3) those liens and encumbrances resulting from the failure of the Company to perform or observe any of the agreement on its part contained in this Lease; (4) Permitted Encumbrances other than the Indenture and this Lease; and (5) if the Project Equipment 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 Equipment 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, provided that such default will not result in nonfulfillment of any condition to the exercise of any such option and further provided that all options herein granted shall terminate upon the termination of this Lease.

Section 11.4. Obligation to Purchase the Project Equipment. The Company hereby agrees to purchase, and the City hereby agrees to sell, the Project Equipment upon 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. The amount of the purchase price under this Section shall be equal to the amount set forth in **Section 11.1(b)(1), (2), (3)** and **(4)** above.

ARTICLE XII

DEFAULTS AND REMEDIES

Section 12.1. 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" or "default" under this Lease:

(a) Default in the due and punctual payment of Basic Rent or Additional Rent; 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 continues for 30 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 30-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 Company abandons the Project Equipment or any material portion thereof, and the same remains uncared for or abandoned for a period of 90 days, or if the Company ceases operations (as defined in **Section 3.6** of the Performance Agreement) at the Project Site or is ejected from the Project Site; or

(e) The Company fails to (1) pay amounts due under the Performance Agreement or (2) comply with the other material terms of the Performance Agreement, and such default referred to in clause (2) continues for 60 days after the City, the Trustee or any other party to the Performance Agreement has given the Company written notice specifying such default (or such longer period as is reasonably required to cure such default; provided that (a) the Company has commenced such cure within such 60-day period, and (b) the Company diligently prosecutes such cure to completion).

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; 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 30 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** hereof, the Company's rights to possession of the Project Equipment shall cease and this Lease shall thereupon be terminated, and the City may take possession of the Project Equipment or, if the Company has paid all obligations due and owing under the Indenture, this Lease and the Performance Agreement, convey the Project 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 and perform all other obligations provided for in this Lease, all at the time or times provided in this Lease.

Section 12.4. Performance of the Company's Obligations by the City. If the Company fails to keep or perform any of its obligations as provided in this Lease in the making of any payment or performance of any obligation, then 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, 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 and those provided by law 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.

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, transfer, encumber or dispose of this Lease or any interest herein or part hereof for any lawful purpose under the Act. With respect to any assignment, the Company shall comply with the following conditions:

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

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

(3) A duplicate original of such assignment shall be delivered to the City and the Trustee within 10 days after the execution thereof, together with an assumption agreement, duly executed and acknowledged by the assignee and in proper form for recording, by which the assignee shall assume all of the terms, covenants and conditions of this Lease on the part of the Company to be performed and observed.

(b) The Company shall have the right to sublet all or any part of the Project Equipment to a single entity for any lawful purpose under the Act. The Company shall, within ten (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 may provide, at the Company's option, for further subletting by the sublessee thereunder, without the consent of the City, if such further subletting is for a similar purpose as the original sublease and is for a purpose permissible under the Act.

(c) Notwithstanding the foregoing, the right of the Company to assign or sublease any interests in this Lease without the prior written consent of the City shall only apply to assignments made to an entity that satisfies the requirements of **Section 10.7** hereof. 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.

Section 13.2. Assignment of Revenues by City. The Company understands that the City will, pursuant to the Indenture, pledge and assign certain rents, revenues and receipts receivable under this Lease to the Trustee as security for payment of the principal of and interest on the Bonds, and the Company hereby consents to such pledge and assignment.

Section 13.3. Reserved.

Section 13.4. Restrictions on Sale or Encumbrance of Project Equipment by City. During the Lease Term, the City agrees that, except to secure the Bonds to be issued pursuant to the Indenture, it will not sell, assign, encumber, mortgage, transfer or convey the Project Equipment or any interest therein.

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 Trustee, given in accordance with the provisions of the Indenture, which consent, however, shall not be unreasonably withheld.

ARTICLE XV

MISCELLANEOUS PROVISIONS

Section 15.1. Notices. Any notice or other communication to be given under this Lease may be given by mailing or delivering the same in writing to the City, Trustee or Company at the times and at the addresses set forth for notices in 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 or refuse to give such approvals or consents or refuse to execute 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 Equipment 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; Electronic Storage. 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. 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.

[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: _____
Mayor

[SEAL]

ATTEST:

By: _____
City Clerk

Approved as to form:

_____
City Attorney

SCHAEFFLER GROUP USA INC.

By: _____
Name:
Title:

EXHIBIT A

PROJECT EQUIPMENT

All equipment financed with the proceeds of the Bonds located on the Project Site in Joplin, Newton County, Missouri, to and until the end of the Abatement Period for each such item of equipment. No Project Equipment shall be acquired with Bond proceeds after December 31, 2023.

EXHIBIT B

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, 2018, BETWEEN THE CITY OF JOPLIN, MISSOURI, AND THE TRUSTEE, AND LEASE AGREEMENT DATED AS OF DECEMBER 1, 2018, BETWEEN THE CITY OF JOPLIN, MISSOURI, AND SCHAEFFLER GROUP USA INC.

The undersigned Authorized Company Representative hereby states and certifies that:

1. A total of $_____ is requested to pay for Project Costs (as defined in said Trust Indenture).

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

3. Set forth on **Schedule 2** hereto is a description of the Project Equipment acquired by the Company and which is being paid for pursuant to this Requisition Certificate.

4. Each of the items for which payment is requested are or were desirable and appropriate in connection with the purchase and installation of the Project Equipment (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.

5. 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 and installation of the Project Equipment which, if unpaid, might become the basis of a vendors', mechanics', laborers' or materialmen's statutory or similar lien upon the Project Equipment or any part thereof.

6. With respect to all 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 Equipment" as defined under the Lease Agreement dated as of December 1, 2018, 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.

SCHAEFFLER GROUP USA INC.

By: _____
Authorized Company Representative

SCHEDULE 1
TO REQUISITION CERTIFICATE

Payee and Address	**Description**	**Amount**

SCHEDULE 2
TO REQUISITION CERTIFICATE

PROJECT EQUIPMENT

Item (Description)	**Serial or Identification Number**	**Designate 3-Year or 7-Year Property (GDS)**

PERFORMANCE AGREEMENT

Dated as of December 1, 2018

BY AND BETWEEN

SCHAEFFLER GROUP USA INC.

AND

CITY OF JOPLIN, MISSOURI

PERFORMANCE AGREEMENT

THIS PERFORMANCE AGREEMENT, dated as of December 1, 2018, as from time to time amended and supplemented in accordance with the provisions hereof (this "**Agreement**"), by and between the City of Joplin, Missouri, a municipal corporation duly organized and existing under the laws of the State of Missouri (the "**City**"), and Schaeffler Group USA Inc., a Delaware corporation (hereinafter, together with its wholly owned affiliates, referred to as the "**Company**");

RECITALS:

WHEREAS, the City is authorized by Sections 100.010 to 100.210, RSMo, as amended, and Article VI Section 27(b) of the Missouri Constitution (the "**Act**"), to purchase, construct, extend and improve certain facilities for commercial, industrial, warehousing and manufacturing purposes, to enter into leases and lease-purchase agreements with any person, firm or corporation for said projects, and to issue revenue bonds for the purpose of paying the cost of any such facilities; and

WHEREAS, pursuant to the Act, the City Council of the City has passed an ordinance authorizing the City to issue its Taxable Industrial Revenue Bonds (Schaeffler Expansion Project), Series 2018 (the **"Bonds"**), in the principal amount of not to exceed $67,215,000 for the purpose of equipping the Company's facility located on certain real estate in Joplin, Missouri (the "**Project Site**"), by the acquisition and installation of certain machinery and equipment (the "**Project Equipment**"), and together with any additions, alterations, replacements, substitutions thereto now or hereafter acquired and installed within the facility located on the Project Site by the Company (the **"Project"**), and authorizing the City to lease the Project Equipment to the Company pursuant to a Lease Agreement to be entered into by and between the City, as lessor, and the Company, as lessee, at the time the Bonds are issued (the "**Lease**"); and

WHEREAS, pursuant to the foregoing, the City desires to enter into this Agreement with the Company in consideration of the Company's desire to cause the acquisition and installation of the Project as more fully described in the Lease 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 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 word and terms defined in the Recitals, the following words and terms as used herein shall have the following meanings:

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

"Ambulance District" means the Newton County Ambulance District.

"Annual Jobs Report" means the Annual Jobs Report required to be filed by the Company by **Section 4.4** hereof.

"Average Wage" means $20.42 per hour calculated as follows: for a specified period, the sum of: (a) base wages paid, (b) the cost of fringe benefits provided, plus (c) incentive and bonuses awarded to those persons which are engaged in the Jobs hereunder, divided by the number of hours performed by such persons during such specified period.

"County" means Newton County, Missouri.

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

"Grant" or **"Grants"** means payments in lieu of taxes made by the Company to the City pursuant to **Section 3.1** of this Agreement.

"Indenture" means the Trust Indenture dated as of December 1, 2018 relating to the issuance of the Bonds, as amended from time to time.

"Job" means a full-time position with the Company of not less than 30 hours per week at the Project. Positions filled by workers who are not directly employed by the Company do not qualify as "Jobs" for purposes of this definition; provided, however that workers who are employed by a third party company at the Project Site pursuant to a written agreement with the Company during an employee's probationary period shall qualify as a "Job" for purposes of this definition; provided, further, that workers performing less than 30 hours per week but not less than 20 hours per week shall constitute one-half of a "Job" for purposes of this definition; provided, further, that such workers who are employed by a Related Taxpayer shall qualify as a "Job" for purposes of this definition.

"Lease" means the Lease Agreement to be entered into by and between the City and the Company at the time of issuance of the Bonds.

"Penalty Payments" means the penalty payments provided for in **Article III** hereof.

"Project" means the acquisition and installation of the Project Equipment at the Project Site.

"Project Costs" means all costs and expenses of every nature relating to the acquisition, purchase and installation of the Project Equipment.

"Project Equipment" has the meaning given in the Indenture.

"Project Site" means 3900 South Rangeline Road, Joplin, Missouri 64804.

"Related Taxpayer" means (i) a corporation, partnership, trust or association controlled by the Company; or (ii) a corporation, partnership, trust or association controlled by an individual, corporation, partnership, trust or association in control of the Company or Related Taxpayer. For the purposes of this definition, "control of a corporation" shall mean ownership, directly or indirectly, of stock possessing at least fifty percent of the total combined voting power of all classes of stock entitled to vote; "control of a partnership or association" shall mean ownership of at least fifty percent of the capital or profits interest in such partnership or association; and "control of a trust" shall mean ownership, directly or indirectly, of at least fifty percent of the beneficial interest in the principal or income of such trust; ownership shall be determined as provided in Section 318 of the U.S. Internal Revenue Code.

"Replacement Project Equipment" means personal property located on the Project Site which is purchased, acquired and installed by the Company to replace Project Equipment which has become, as

certified in writing by the Company to the City, inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary or otherwise no longer useful to the Company in its operations conducted on the Project Site.

"Required Number of Jobs" means 262 Jobs on September 30, 2019 and September 30, 2020; and 322 Jobs on September 30, 2021, and each Test Date thereafter.

"Test Date" means September 30 of each year, beginning on September 30, 2019, and ending on September 30, 2030.

ARTICLE II

ISSUANCE OF BONDS

Section 2.1. Issuance of the Bonds. The City intends to issue the Bonds under the Act for the purposes of paying the Project Costs. In connection with the issuance of the Bonds, the City shall acquire title to the Project Equipment.

ARTICLE III

PERSONAL PROPERTY TAX EXEMPTION; PENALTY PAYMENTS

Section 3.1. Personal Property Tax Exemption. So long as the City owns title to the Project Equipment, the City expects the Project to be exempt from ad valorem taxes on personal property. Each item of property that is a part of the Project Equipment shall be exempt from ad valorem taxes during the Abatement Period for such item of Project Equipment. The Replacement Project Equipment shall be exempt from ad valorem taxes on personal property for the remaining Abatement Period for the Project Equipment so replaced. Notwithstanding any other provision of this Agreement to the contrary, the last year of the final Abatement Period shall be 2030. The Company shall pay, or cause to be paid, to the City the Grants for the Project in the amounts, and on the dates set forth, on **Exhibit C** hereto. The Grants shall be distributed by the City to the Ambulance District.

Section 3.2. Penalty Payments Upon Non-Performance.

(a) The Company covenants to maintain the Required Number of Jobs at the Project Site for so long as this Agreement is in effect. The Company further covenants that the Required Number of Jobs shall have not less than the Average Wage for so long as this Agreement is in effect.

(b) In the event the Company fails to maintain the Required Number of Jobs at the Project Site measured by determining the highest actual number of Jobs during the 90-day period ending on each Test Date or the Company fails to maintain the Required Number of Jobs at not less than the Average Wage, the Company shall pay to the City Penalty Payments in an amount equal to a percentage of the personal property taxes that would otherwise be due on the Project Equipment if the Project Equipment were not exempt by reason of the City's ownership, beginning at a Zero Percent (0%) Penalty Payment for compliance, in accordance with the following formula:

$$\frac{(a \times c)}{(b \times d)} \times 100 = \text{Percent of Deficiency}$$

100% minus the Percent of Deficiency = Pro Rata % of Increase in Penalty Payment from Zero Percent

a = Actual Number of Jobs as of Test Date
b = Projected Required Number of Jobs as of Test Date
c = Actual Average Wage as of Test Date
d = Projected Average Wage as of Test Date

(c) In the event Penalty Payments are required by **Section 3.2(b)** hereof, the Company covenants and agrees to make the Penalty Payments to the City on or before December 1 of the year in which the Company fails to maintain the Required Number of Jobs at the Average Wage, commencing December 1, 2019 and to and including December 1, 2030. All such Penalty Payments shall be made to the City which shall transfer and allocate the same to each of the taxing districts in which the Project is located proportionately based on their respective then current tax levies compared to the then current total tax levies of all such taxing districts pursuant to Section 100.050 of the Revised Statutes of Missouri, as amended (provided that any Grants payable to the Ambulance District for such year shall be deducted from any penalty payments that would otherwise be allocable to the Ambulance District). In no event will the total amount of the Grants and the Penalty Payments exceed the amount of property taxes payable for the Project Equipment assuming the Project Equipment were subject to ad valorem property taxes.

Section 3.3. Obligation to Effect Tax Abatement. The City shall take all actions within its control to obtain and/or maintain in effect the exemption referred to in **Section 3.1** above, including any filing required with any governmental authorities; provided, however, the City shall not be liable for any failure of any other governmental taxing authority to recognize the exemption provided herein.

Section 3.4. Other Property Taxes in Connection with the Project Equipment; Credits. The personal property tax exemption provided by the City's ownership of the Project Equipment is expected to apply to all interests in the Project Equipment during the period it is owned by the City. If any property taxes are levied by or on behalf of the City or any other taxing jurisdiction against any interest in the Project Equipment during the period the City owns the Project Equipment (including, without limitation, any taxes levied against the Company's rights in the Lease), the amount of tax payments related to such levy or levies which are paid by the Company and received by the City or any other taxing jurisdiction shall be credited against and reduce on a pro rata basis the amount of the Penalty Payments the Company is obligated to pay pursuant to this Agreement. The Company shall be responsible for any taxes related to any interest in the Project Equipment which the Company owns in its own name or granted to the Company other than pursuant to the Lease.

Section 3.5. Costs of the City. The Company agrees to make an annual payment to the City to reimburse the City for administrative costs connected with this Agreement; provided, however that such payments shall not exceed $1,000 per year. Said payments will be made on or before December 1 of each year beginning in 2019 and continuing until the expiration or termination of this Agreement. The City shall give 30 days notice of the actual amount due at least 30 days prior to the payment due date.

Section 3.6. Sales Tax. The parties expect that the acquisition of the Project Equipment will be exempt from any sales taxes imposed by any governmental authority by virtue of the equipment being purchased for use in a manufacturing process; however, the Company shall be responsible for any taxes levied or assessed by the Missouri Department of Revenue in relation to the Project and any such sales

taxes paid by the Company shall not be offset against Grants or Penalty Payments that may be due under this Agreement.

Section 3.7. Company's Right To Protest Taxes. Notwithstanding any other provision of this Agreement to the contrary, nothing in 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 right to appeal, protest or otherwise contest any property tax valuation, assessment, classification or similar action.

Section 3.8. Cessation of Operations at the Project. If for any reason the Company ceases operation at the Project Site during the term of this Agreement, the Company shall make a Penalty Payment to the City equal to 100% of the amounts that would otherwise be payable to each taxing jurisdiction if the Project were not otherwise exempt from taxation on or before December 31 in the year in which the Company ceases operation and on each December 31 thereafter for each year in which the Project is, on January 1 of such year, still titled in the name of the City, and the Company has ceased operations. Within 30 days of the date of receipt of such Penalty Payment and after reduction for administrative costs of the City as provided by **Section 3.5**, the City shall divide each Penalty Payment among the taxing jurisdictions within the City in proportion to the amount of the then current ad valorem tax levy of each taxing jurisdiction.

"Ceases operations" or "cessation of operations" means the failure of the Company to employ an average of at least 90 full-time equivalent employees at the Project for a period of 12 consecutive months; provided, however, that if such failure is due to a casualty at the Project, such failure shall not constitute the "cessation of operations" provided that the Company promptly commences the reconstruction of the Project and diligently pursues such reconstruction and such reconstruction is completed within 12 months of the casualty event. In the event of such a casualty, the period of time for calculating compliance with the requirements under **Section 3.1** and any amounts due under **Section 3.2** shall exclude the period from the date of the casualty until 6 months after the reconstruction of the Project is complete.

Section 3.9. No Abatement on Special Assessments. The City and the Company hereby agree that the property tax exemptions described in this Agreement shall not apply to special assessments. The Company hereby agrees to make a payment to the City or the County on or before each December 31 in an amount equal to 100% of the special assessment which would otherwise be due with respect to the Project if such Project were not exempt from taxation.

ARTICLE IV

COVENANTS, REPRESENTATIONS AND AGREEMENTS OF THE COMPANY

Section 4.1. Inspection. The Company agrees that the City and its duly authorized agents shall have the right at reasonable times (during business hours), subject to at least 48 hours advance written notice and to 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 which demonstrate compliance with this Agreement.

Section 4.2. Compliance with Laws. To the best of the Company's knowledge, the Project is and shall be in compliance with all applicable federal, state and local laws, statutes, ordinances, rules, regulations, executive orders and codes pertaining to or affecting the Project, including all applicable building and zoning, health, environmental and safety ordinances and laws.

Section 4.3. Purchase, Construction, Improvement, Equipping and Operation. The Project will be acquired, constructed, improved, equipped and operated in a manner which is consistent with the

description of the Project herein and in the Lease. In the event the Project is completed in a manner which the City determines, in its reasonable discretion, is materially inconsistent with the description of the Project contained herein and in the Lease and in the presentation to the City Council of the City, the City reserves the right to declare an Event of Default in accordance with **Section 6.1** hereof.

Section 4.4. Annual Jobs Reports. The Company shall file with the City annually, commencing on November 15, 2010, and continuing on each November 15 thereafter while this Agreement remains in effect, a report stating the number of Jobs at the Project Site and Average Wages with respect to such jobs in such form reasonably satisfactory to the City.

Section 4.5. City Approvals. The City intends that the approval of the Project granted by the City pursuant to this Agreement shall not affect or constitute any approval required by any other City department or pursuant to any City ordinance, code, regulation or any other governmental approval required by law, nor does any approval by the City pursuant to this Agreement constitute approval of the quality, structural soundness or safety of any portion of the Project. The City will not unreasonably withhold any consent or approval required by any City ordinance, code, regulation or any other governmental approval required by law related to the Project; *provided that* nothing herein shall be construed to obligate the City, acting as a party hereto, to grant permits or other approvals the City would not be obligated to grant, acting as a political subdivision, absent this Agreement.

Section 4.6. General. The Company represents, warrants and covenants 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:

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

(b) The Company has the right, power and authority to enter into, execute, deliver and perform this Agreement;

(c) 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 which would impair its ability to perform under this Agreement or its financial condition; and

(d) The Company has obtained (or will, prior to the commencement of construction or operation obtain) and shall maintain all required government permits, certificates and consents (including without limitation appropriate environmental approvals) necessary to conduct its business and to construct, complete and operate the Project.

Section 4.7. Survival of Covenants. All warranties, representations, covenants and agreements of the Company contained herein shall survive termination of this Agreement for any reason.

Section 4.8. Indemnification of City. The Company shall indemnify, defend and save the City and its officials, officers, employees and agents, including members of the City Council, harmless from and against all claims, demands, costs, liabilities, damages or reasonable expenses, including reasonable attorneys' fees, by or on behalf of any person, firm or corporation arising from the conduct or management of, or from any work or thing done in, on or about, the Project during the term of the Lease or this Agreement, and against and from all claims, demands, costs, liabilities, damages or reasonable expenses, including reasonable attorneys' fees, arising during the term of the Lease or this Agreement 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 this Agreement or the Lease, or any action requested of the

City by the Company pursuant to the Lease or this Agreement, (c) any contract entered into in connection with the acquisition, construction, furnishing and equipping of the Project, (d) any act of negligence of the Company or of any of its agents, contractors, servants, employees or licensees, and (e) any act of negligence of any permitted assignee or sublessee of the Company, or of any agents, contractors, servants, employees or licensees of any permitted assignee or sublessee of the Company.

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 (other than to an entity controlled by or under common control with or controlling the Company, so long as such entity has a net worth at the time of such assignment at least equal to the net worth of the Company at the date of such assignment), assigned, pledged or in any other manner hypothecated without the express written consent of the City; but nothing herein shall preclude the Company from assigning or pledging its interest in the Project so long as the Company continues to occupy the Project and otherwise remains responsible for its undertakings herein.

ARTICLE VI

DEFAULT AND REMEDIES

Section 6.1. Events of Default. If any one or more of the following events shall occur and be continuing, it is hereby defined as and declared to be and to constitute an Event of Default hereunder (certain performance standards defined in **Section 3.2** above which result in a penalty payment for failure to meet the defined standards shall not be declared to constitute an Event of Default so long as said penalty payments are made in accordance with the terms of this Agreement):

(a) the Company shall fail to perform any of its obligations hereunder for (i) a period of 30 days (or such longer period as the City and the Company may agree in writing) following written notice to the Company from the City of such failure which notice shall include a specific description of the Company's failure hereunder), or (ii) if such failure is not subject to cure within such 30 days, the Company shall have failed to initiate action to cure such default and shall pursue such action diligently;

(b) the Company shall breach any material covenant contained herein and continuance of such breach for a period of 30 days (or such longer period as the City and the Company may agree in writing) after there has been given to the Company by the City a written notice specifying such breach and requiring it to be remedied; provided, that if such breach cannot be fully remedied within such 30-day period, but can reasonably be expected to be fully remedied, such breach shall not constitute an event of default if the Company shall promptly upon receipt of such notice commence the curing of such breach and shall thereafter prosecute and complete the same with due diligence and dispatch; or

(c) any representation of the Company contained herein shall prove to be materially false or erroneous and shall not be corrected or brought into compliance within 30 days (or such longer period as the City and the Company may agree in writing) after there has been given to the Company by the City a written notice specifying such false or erroneous representation and requiring it to be remedied; provided, that if such default cannot be fully remedied within such 30-day period, but can reasonably be expected to be fully remedied, such default shall not constitute an event of default if the Company shall promptly upon receipt of such notice commence the curing of such default and shall thereafter prosecute and complete the same with due diligence and dispatch.

Section 6.2. Remedies on Default. Except as otherwise provided in this Agreement, upon an Event of Default hereunder, this Agreement may be terminated by written notice to the Company from the City. Upon such termination, the Company shall make Penalty Payments (i) to the payees set forth in **Section 3.2(b)** equal to the pro rata amount of Penalty Payments payable pursuant to such **Section 3.2(b)** hereof from January 1 through the effective date of termination, and (ii) to the City the pro rata amount of taxes that would be due for the remaining portion of the year assuming the Project was placed on the tax rolls effective on the date of termination through December 31 which, within 30 days of the date of receipt by the City and after reduction for administrative costs of the City as provided by **Section 3.5**, the City shall divide among the taxing jurisdictions levying ad valorem taxes within the City in proportion to the amount of the then current ad valorem tax levy of each taxing jurisdiction.

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 10% per annum from the date such payment was first due.

Section 6.4. Failure of the City to Perform its Obligations. In the event the City shall fail to perform any of its obligations hereunder for (i) a period of 30 days (or such longer period as the Company and the City may agree in writing) following written notice to the City from the Company of such failure which notice shall include a specific description of the City's failure hereunder), or (ii) if such failure is not subject to cure within such 30 days, the City shall have failed to initiate action to cure such default and shall pursue such action diligently; the Company may declare that the City is in default under this Agreement and may pursue any legal remedy available to it to enforce this Agreement.

ARTICLE VII

TERM OF AGREEMENT

This Agreement shall become effective upon execution, and subject to earlier termination pursuant to the provisions of this Agreement (including particularly the following paragraph and **Article VI** hereof), shall have an initial term commencing as of the date of this Agreement and terminating on **December 31, 2030** (the "Stated Expiration Date"). This Agreement shall automatically terminate prior to the Stated Expiration Date in the event the Bonds (or any bonds issued to refund the Bonds) are no longer outstanding.

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. In addition, if legislation is proposed by or in any governmental body having jurisdiction over the Project which would have the effect of limiting the ability of the City to issue the Bonds to finance the Project, the City agrees to use its best efforts to issue the Bonds prior to the effective date of any such legislation.

Section 8.2. Severability. If for any reason any provision of this Agreement shall be determined to be invalid or unenforceable, the validity and enforceability of the other provisions hereof shall not be affected thereby.

Section 8.3. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Missouri.

Section 8.4. 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 8.5. Waiver. The City and the Company acknowledge and agree that the amounts payable hereunder shall constitute payments due the City under the Lease 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 either or both Company in any bankruptcy court.

Section 8.6. Entire Agreement. This Agreement constitutes the entire agreement and supersedes all prior agreements and understandings, both written and oral, between the City and the Company with respect to the subject matter hereof.

Section 8.7. Notices. Unless otherwise specified, any notice, demand or request required hereunder shall be given in writing at the addresses and in the manner set forth in the Indenture.

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.

[remainder of page intentionally left blank]

THIS PERFORMANCE AGREEMENT is dated the date first above written.

CITY OF JOPLIN, MISSOURI

By:_____
Mayor

(SEAL)

ATTEST:

By: _____
City Clerk

Approved as to form:

_____
City Attorney

THIS PERFORMANCE AGREEMENT is dated the date first above written.

SCHAEFFLER GROUP USA INC.

By:_____
Name:
Title:

EXHIBIT A

Description of the Project Site

3900 South Rangeline Road, Joplin, Missouri

EXHIBIT B

Description of the Project Equipment

All equipment financed with the proceeds of the Bonds located on the Project Site in Joplin, Newton County, Missouri, to and until the end of the Abatement Period for each such item of equipment. No Project Equipment shall be acquired with Bond proceeds after December 31, 2023.

EXHIBIT C

Grant Payments

During each year in which this Agreement is in effect and during which Missouri law so requires, and provided that the Ambulance District then imposes *ad valorem* property taxes on personal property located in the area of the Project Site, the Company shall pay to the City for distribution to the Ambulance District, an amount calculated by the City to be equal to one hundred percent of the amount of *ad valorem* property tax revenues that the Ambulance District would have received in such year (based on the estimated assessed value in such year of the Project Equipment) in the absence of the tax exemption provided by virtue of ownership of the Project Equipment by the City; provided that the Ambulance District may set the rate of reimbursement at less than one hundred percent by a written instrument filed with the City.

BEFORE THE

CITY COUNCIL

OF THE

CITY OF JOPLIN, MISSOURI

PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT FOR SCHAEFFLER GROUP USA, INC.

Mailed November 27, 2018

PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT
FOR SCHAEFFLER GROUP USA, INC.

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 and the Company. The project consists of acquiring and installing equipment to manufacture bearings (the "Project Equipment") in a facility located within the City and operated by Schaeffler Group USA, Inc. ("Schaeffler Group"). The Project Equipment will be located at 3900 Range Line Road Joplin, MO 64804. The Project Equipment is designed to be used in the manufacturing of products sold by Schaeffler Group, a Delaware corporation that provides roller and spherical bearings for automotive and industrial applications.

2. Estimate of the Cost of the Project Equipment. The total cost of the installed Project Equipment is estimated to be $67,140,000. The Company (defined below under paragraph 4) may make improvements to its Joplin facility to accommodate the installation of the Project Equipment, but will not receive tax abatement incentives with respect to any real property improvements. The personal property abated will include only the Project Equipment. Real and personal property currently owned and not part of the Project Equipment will not receive abatement under this plan.

3. Source of Funds to be Expended for the Project Equipment. The source of funds to be expended for the Project Equipment will be the proceeds of $67,215,000 estimated aggregate principal amount of taxable industrial revenue bonds (the "Bonds"), to be issued by the City for the Project Equipment and to pay costs of issuing the Bonds.

4. Statement of the Terms Upon Which the Project Equipment is to be Leased and Otherwise Disposed of by the City. The City will take legal ownership of the Project Equipment as it is acquired. The Project Equipment will be leased by the City (with an option to purchase the City's interest in the Project Equipment) to Schaeffler Group, or an affiliate thereof (the "Company"). The lease payments will equal the principal and interest on the Bonds. 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 Equipment and the Bonds will not be an indebtedness or general obligation, debt or liability of the City.

5. Bond Purchase Arrangements. The Company or a related entity will purchase the Bonds in the estimated aggregate principal amount of $67,215,000.

6. Affected School District, Community College District, County, City and Emergency Services Districts. The Joplin R-VIII School District of Jasper County, Missouri; Newton County, Missouri; and the Newton County Ambulance District are the school district, county and ambulance district board affected by the project. All other taxing districts affected by project are described in the Cost Benefit Analysis attached hereto as **Exhibit A**. No fire district or community college district is affected by the project. The City does not levy its ad valorem taxes on personal property.

7. **Equalized Assessed Valuation.** No real property is included in the project. The most recent equalized assessed valuation of the Project Equipment is $-0-. The estimated total equalized assessed valuation of the Project Equipment after completion of the Project Equipment is as follows (showing valuation as of the first day of each year based on acquisitions to such point and depreciation of prior acquisitions):

Year	Estimated A.V.
2019	$1,159,166
2020	3,548,770
2021	7,163,529
2022	10,901,382
2023	11,262,403
2024	9,652,898

8. **Cost Benefit Analysis.** Attached hereto as **Exhibit A** is the Cost Benefit Analysis for the affected taxing jurisdictions, which assumes 100% tax abatement, except as described below for the Newton County Ambulance District, for the following property for the following periods:

3-year depreciable property	5 years
7-year depreciable property	7 years

Each component of the Project Equipment will be subject to abatement for either 5 or 7 years based on its depreciable life, starting with the tax year after the year in which it is placed in service. After the abatement period ends for a particular component, it will be subject to taxation.

9. **Payments in Lieu of Taxes.** This plan provides for 100% tax abatement for the Project Equipment components for 5 or 7 years depending on the depreciable life for such components; provided that the Newton County Ambulance District shall have the right during the time that the law so requires and during such time as the Newton County Ambulance District imposes property tax in the area in which the Project Equipment is located, to reimbursement of amounts that would otherwise be payable to the Newton County Ambulance District in absence of this plan. The attached Cost Benefit Analysis assumes receipt by the Newton County Ambulance District of 100% of the taxes that would be due if the Project Equipment were completed without abatement. This plan does not create a contractual right of the Newton County Ambulance District to such funds and the amount of such payments shall vary in accordance with the actual implementation of the Project Equipment, the then-current levy rate of the Newton County Ambulance District in each year and the continued imposition of property tax by the Newton County Ambulance District in the area in which the Project Equipment is located.

* * *

EXHIBIT A

COST BENEFIT ANALYSIS

The accompanying spreadsheet shows the detailed cost/benefit amounts of the proposed project. The 2018 personal property tax levy rates were utilized for all taxing jurisdictions. Amounts shown for any particular taxing jurisdiction are subject to change based on the then-current levy rates of all relevant taxing jurisdictions.

City of Joplin, Missouri
(Schaeffler Expansion Project)

COST BENEFIT ANALYSIS
PLAN FOR INDUSTRIAL DEVELOPMENT PROJECT

GILMORE BELL
GILMORE & BELL, P.C.

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Projected Tax Revenues Without Abatement on Project Equipment	3
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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

- Initial year taxes assessed 2019

- Annual investments of personal property (Project Equipment)

	3-Year	7-Year
2018	$ -	$ 3,895,000
2019	600,000	8,360,000
2020	1,500,000	13,585,000
2021	2,000,000	16,530,000
2022	1,200,000	9,025,000
2023	4,200,000	515,000

- Assessed value as a percentage of appraised value (personal) 33.33%

- Terms of abatement:

Years 1-5 (3-year property)	100.0%
Years 1-7 (7-year property)	100.0%

- Personal property is depreciated using the following 3-year and 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 and on	5.00%	10.00%	10.00%	15.00%	15.00%	20.00%

Summary of Tax Impact Analysis

Taxing Jurisdiction	Tax Rate	Tax Revenue for Project Equipment Without Abatement	Revenue Generated from PILOT Payments	Value of Abatement
Newton County - Mental Health	0.0833	$ 49,171	$ -	$ 49,171
Newton County Sheltered Workshop	0.0501	29,574	-	29,574
Newton County - County Fair	0.0100	5,903	-	5,903
Newton County - Health Department	0.0500	29,514	-	29,514
Joplin R-VIII School District	3.6964	2,181,946	-	2,181,946
Joplin Special Road District	0.2270	133,996	-	133,996
Neosho Newton County Library	0.1000	59,029	-	59,029
Newton County Ambulance District	0.1919	113,277	113,277	-
State of Missouri	0.0300	17,709	-	17,709
	4.4387	$ 2,620,118	$ 113,277	$ 2,506,842

Projected Tax Revenues Without Abatement
on Project Equipment

Estimated Assessed Value of Project Equipment		$1,159,166	$3,548,770	$7,163,529	$10,901,382	$11,262,403	$9,652,898	$6,803,328	$4,411,193	$2,550,379	$1,226,391	$ 332,352	$ 17,165	
Taxing Jurisdiction	Tax Rate per $100	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	Total
Newton County - Mental Health	0.0833	$ 966	$ 2,956	$ 5,967	$ 9,081	$ 9,382	$ 8,041	$ 5,667	$ 3,675	$ 2,124	$ 1,022	$ 277	$ 14	$ 49,171
Newton County Sheltered Workshop	0.0501	581	1,778	3,589	5,462	5,642	4,836	3,408	2,210	1,278	614	167	9	29,574
Newton County - County Fair	0.0100	116	355	716	1,090	1,126	965	680	441	255	123	33	2	5,903
Newton County - Health Department	0.0500	580	1,774	3,582	5,451	5,631	4,826	3,402	2,206	1,275	613	166	9	29,514
Joplin R-VIII School District	3.6964	42,847	131,177	264,793	402,959	416,303	356,810	251,478	163,055	94,272	45,332	12,285	634	2,181,946
Joplin Special Road District	0.2270	2,631	8,056	16,261	24,746	25,566	21,912	15,444	10,013	5,789	2,784	754	39	133,996
Neosho Newton County Library	0.1000	1,159	3,549	7,164	10,901	11,262	9,653	6,803	4,411	2,550	1,226	332	17	59,029
Newton County Ambulance District	0.1919	2,224	6,810	13,747	20,920	21,613	18,524	13,056	8,465	4,894	2,353	638	33	113,277
State of Missouri	0.0300	348	1,065	2,149	3,270	3,379	2,896	2,041	1,323	765	368	100	5	17,709
	4.4387	$ 51,452	$ 157,519	$ 317,968	$ 483,880	$ 499,904	$ 428,463	$ 301,979	$ 195,800	$ 113,204	$ 54,436	$ 14,752	$ 762	$2,620,118

Personal Property Assessed Value (3-Year Depreciation)

		2019	2020	2021	2022	2023	2024	2025	2026	2027	2028
2018	-	-	-	-	-	-	-				
2019	600,000		149,985	74,993	24,998	9,999	9,999				
2020	1,500,000			374,963	187,481	62,494	24,998	24,998			
2021	2,000,000				499,950	249,975	83,325	33,330	33,330		
2022	1,200,000					299,970	149,985	49,995	19,998	19,998	
2023	4,200,000						1,049,895	524,948	174,983	69,993	69,993
	9,500,000	-	149,985	449,955	712,429	622,438	1,318,202	633,270	228,311	89,991	69,993

Personal Property Assessed Value (7-Year Depreciation)

		2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
2018	3,895,000	1,159,166	910,820	715,700	556,670	397,640	238,610	129,820					
2019	8,360,000		2,487,966	1,954,930	1,536,136	1,194,803	853,471	512,138	278,639				
2020	13,585,000			4,042,944	3,176,761	2,496,221	1,941,555	1,386,890	832,224	452,788			
2021	16,530,000				4,919,387	3,865,429	3,037,359	2,362,452	1,687,544	1,012,637	550,945		
2022	9,025,000					2,685,872	2,110,436	1,658,328	1,289,844	921,360	552,876	300,803	
2023	515,000						153,266	120,429	94,630	73,603	52,576	31,549	17,165
	51,910,000	1,159,166	3,398,785	6,713,574	10,188,953	10,639,965	8,334,696	6,170,058	4,182,882	2,460,388	1,156,398	332,352	17,165

Projected PILOT Amount
on Project Equipment

Estimated Assessed Value of Personal Property Acquired in 2018		$1,159,166	$ 910,820	$ 715,700	$ 556,670	$ 397,640	$ 238,610	$ 129,820						
PILOT Payment		0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%						
Estimated Assessed Value of Personal Property Acquired in 2019			$2,637,951	$2,029,922	$1,561,133	$1,204,802	$ 863,470	$ 512,138	$ 278,639					
PILOT Payment			0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%					
Estimated Assessed Value of Personal Property Acquired in 2020				$4,417,907	$3,364,242	$2,558,714	$1,966,553	$1,411,887	$ 832,224	$ 452,788				
PILOT Payment				0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%				
Estimated Assessed Value of Personal Property Acquired in 2021					$5,419,337	$4,115,404	$3,120,684	$2,395,782	$1,720,874	$1,012,637	$550,945			
PILOT Payment					0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%			
Estimated Assessed Value of Personal Property Acquired in 2022						$2,985,842	$2,260,421	$1,708,323	$1,309,842	$ 941,358	$552,876	$300,803		
PILOT Payment						0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%		
Estimated Assessed Value of Personal Property Acquired in 2023							$1,203,161	$ 645,377	$ 269,613	$ 143,596	$122,569	$ 31,549	$ 17,165	
PILOT Payment							0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	
Taxing Jurisdiction	Tax Rate per $100	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	Total
Newton County - Mental Health	0.0833	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Newton County Sheltered Workshop	0.0501	-	-	-	-	-	-	-	-	-	-	-	-	-
Newton County - County Fair	0.0100	-	-	-	-	-	-	-	-	-	-	-	-	-
Newton County - Health Department	0.0500	-	-	-	-	-	-	-	-	-	-	-	-	-
Joplin R-VIII School District	3.6964	-	-	-	-	-	-	-	-	-	-	-	-	-
Joplin Special Road District	0.2270	-	-	-	-	-	-	-	-	-	-	-	-	-
Neosho Newton County Library	0.1000	-	-	-	-	-	-	-	-	-	-	-	-	-
Newton County Ambulance District	0.1919	2,224	6,810	13,747	20,920	21,613	18,524	13,056	8,465	4,894	2,353	638	33	113,277
State of Missouri	0.0300	-	-	-	-	-	-	-	-	-	-	-	-	-
	4.4387	$ 2,224	$ 6,810	$ 13,747	$ 20,920	$ 21,613	$ 18,524	$ 13,056	$ 8,465	$ 4,894	$ 2,353	$ 638	$ 33	$113,277

*Newton County Ambulance District assumed to receive full PILOT. See Paragraph 9 of the Plan for a discussion of related assumptions.

Projected Tax Abatement
on Project Equipment

Estimated Assessed Value of Personal Property														
Acquired in 2018	$1,159,166	$ 910,820	$ 715,700	$ 556,670	$ 397,640	$ 238,610	$ 129,820							
Abatement Percentage	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%							
Estimated Assessed Value of Personal Property														
Acquired in 2019		$2,637,951	$2,029,922	$1,561,133	$1,204,802	$ 863,470	$ 512,138	$ 278,639						
Abatement Percentage		100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%						
Estimated Assessed Value of Personal Property														
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Abatement Percentage			100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%					
Estimated Assessed Value of Personal Property														
Acquired in 2021				$5,419,337	$4,115,404	$3,120,684	$2,395,782	$1,720,874	$1,012,637	$550,945				
Abatement Percentage				100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%				
Estimated Assessed Value of Personal Property														
Acquired in 2022					$2,985,842	$2,260,421	$1,708,323	$1,309,842	$ 941,358	$552,876	$300,803			
Abatement Percentage					100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%			
Estimated Assessed Value of Personal Property														
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Abatement Percentage						100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%		

Taxing Jurisdiction	Tax Rate per $100	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	Total
Newton County - Mental Health	0.0833	$ 966	$ 2,956	$ 5,967	$ 9,081	$ 9,382	$ 8,041	$ 5,667	$ 3,675	$ 2,124	$ 1,022	$ 277	$ 14	$ 49,171
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Newton County - County Fair	0.0100	116	355	716	1,090	1,126	965	680	441	255	123	33	2	5,903
Newton County - Health Department	0.0500	580	1,774	3,582	5,451	5,631	4,826	3,402	2,206	1,275	613	166	9	29,514
Joplin R-VIII School District	3.6964	42,847	131,177	264,793	402,959	416,303	356,810	251,478	163,055	94,272	45,332	12,285	634	2,181,946
Joplin Special Road District	0.2270	2,631	8,056	16,261	24,746	25,566	21,912	15,444	10,013	5,789	2,784	754	39	133,996
Neosho Newton County Library	0.1000	1,159	3,549	7,164	10,901	11,262	9,653	6,803	4,411	2,550	1,226	332	17	59,029
Newton County Ambulance District	0.1919	-	-	-	-	-	-	-	-	-	-	-	-	-
State of Missouri	0.0300	348	1,065	2,149	3,270	3,379	2,896	2,041	1,323	765	368	100	5	17,709
	4.4387	$ 49,227	$ 150,709	$ 304,221	$ 462,960	$ 478,292	$ 409,939	$ 288,924	$ 187,334	$ 108,310	$ 52,082	$ 14,114	$ 729	$ 2,506,842

TRUST INDENTURE

Dated as of December 1, 2018

between the

CITY OF JOPLIN, MISSOURI,

AND

UMB BANK, N.A.,
as Trustee

Relating to:

$67,215,000
(Aggregate Maximum Principal Amount)
City of Joplin, Missouri
Taxable Industrial Revenue Bonds
(Schaeffler Expansion Project)
Series 2018

TRUST INDENTURE

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TRUST INDENTURE

THIS TRUST INDENTURE dated as of December 1, 2018, between the **CITY OF JOPLIN, MISSOURI,** a home rule charter city 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, as amended, Sections 100.010 through 100.200, inclusive, of the Revised Statutes of Missouri, as amended, and the City's Charter (collectively, the "Act"), to purchase, construct, extend and improve certain projects (as defined in Section 100.010 of the Revised Statutes of Missouri, as amended) 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, office industries and industrial development purposes upon such terms and conditions as the City shall deem advisable.

2. Pursuant to the Act, the governing body of the City passed an ordinance (the "Ordinance") on December 17, 2018, authorizing the City to issue its Taxable Industrial Revenue Bonds (Schaeffler Expansion Project), Series 2018, in the maximum principal amount of $67,215,000 (the "Bonds"), for the purpose of purchasing and installing certain equipment (the "Project Equipment," as more fully described on **Exhibit B** hereto) to be used by Schaeffler Group USA Inc., a Delaware corporation (the "Company") at 3900 South Rangeline Road, Joplin, Missouri (the "Project Site"), and authorizing the City to lease the Project Equipment to the Company.

3. Pursuant to the Ordinance, the City is authorized to execute and deliver this Trust Indenture (the "Indenture") for the purpose of issuing and securing the Bonds (as hereinafter defined), and to enter into 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, purchase and install the Project Equipment and will lease the Project Equipment to the Company, as lessee, in consideration of rentals that will be sufficient to pay the principal of and interest on the Bonds.

4. 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 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 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 Bonds contained, does hereby pledge and assign to the Trustee and its successors and assigns forever, 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 in and to the Project Equipment together with the tenements, hereditaments, appurtenances, rights, privileges and immunities thereunto belonging or appertaining;

(b) All right, title and interest of the City in, to and under the Lease (excluding the City's right 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 therein or herein), and all rents, revenues and receipts derived by the City from the Project Equipment 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 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 thereby 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 **Section 1.1** of 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:

"Abatement Period" shall mean: (1) for Three-Year Property, the period starting on the date on which such property is acquired or deemed to be acquired with Bond proceeds and ending on December 31 of the 5th full calendar year after the year of such acquisition, and (2) for Seven-Year Property, the period starting on the date on which such property is acquired or deemed to be acquired with Bond proceeds and ending on December 31 of the 7th full calendar year after the year of such acquisition; as such periods are more specifically detailed on **Exhibit E** hereto.

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

"Additional Rent" means the additional rental described in **Section 5.2** of the Lease.

"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. Such certificate may designate an alternate or alternates, each of whom shall be entitled to perform all duties of the Authorized Company Representative.

"Authorized City Representative" means the Mayor, the 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.

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

"Bond" or **"Bonds"** means the Taxable Industrial Revenue Bonds (Schaeffler Expansion Project), Series 2018, in the maximum aggregate principal amount of $67,215,000, issued, authenticated and delivered under and pursuant to this Indenture.

"Bond Fund" means the "City of Joplin, Missouri, Bond Fund -- Schaeffler Group USA Inc." created in **Section 601** of this Indenture.

"Bond Purchase Agreement" means the Bond Purchase Agreement dated as of December 1, 2018, 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 payment office of the Trustee are required or authorized by law to remain closed or a day on which the payment system of the Federal Reserve is not operational.

"Company" means Schaeffler Group USA Inc., a Delaware corporation, and its successors or assigns.

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

"City" means the City of Joplin, Missouri, a home rule charter city organized and existing under the laws of the State of Missouri, and its successors and assigns.

"Closing Date" means the date mutually agreed upon by the City and the Purchaser for the issuance of the Bonds as expressed in the Bond Purchase Agreement.

"Closing Price" means the amount described as such in the Bond Purchase Agreement.

"Cumulative Outstanding Principal Amount" means the aggregate principal amount of all Bonds outstanding under the provisions of this Indenture, as reflected in the records maintained by the Trustee as provided in the Bonds and this Indenture.

"Disbursement Agent" means Schaeffler Group USA Inc., or any successor or assign.

"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, security agreement, mortgage, participation agreement, lease agreement, sublease, hedging agreement or other document executed by or on behalf of a Financing Party.

"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 Equipment or interests or rights in the Lease, or any part thereof, including any trustee or agent acting on any such Person's behalf.

"Full Insurable Value" means the reasonable replacement cost of the Project Equipment, less physical depreciation, as determined in accordance with **Section 7.2(a)** of the Lease.

"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) any bonds or other obligations which as to principal and interest constitute direct obligations of, or are unconditionally guaranteed by, the United States of America, including obligations of any of the federal agencies set forth in clause (b) below to the extent they are unconditionally guaranteed by the United States of America;

(b) obligations of the Federal Financing Bank, 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 Standard & Poor's 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, 2018, 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 Equipment permitted pursuant to the provisions of **Section 10.4** of the Lease.

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

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

(a) Bonds theretofore 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" 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 of or interest on any Bond 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, 2018, between the City and the Company, as amended from time to time.

"Permitted Encumbrances" means (a) liens for *ad valorem* taxes and special assessments not yet due or which are being contested in good faith by appropriate actions, provided that adequate reserves with respect thereto are maintained on the books of the Company in conformity with generally acceptable accounting principles, (b) land1ords', carriers', warehousemen's, mechanics', materialmen's, repairmen's or other like liens arising in the ordinary course of business which are not overdue for a period of more than 60 days or which are being contested in good faith by appropriate actions, (c) easements, rights-of-way, restrictions and other similar encumbrances incurred in the ordinary course of business which, in the aggregate, are not substantial in amount in relation to the value of the property subject thereto and which do not in any case materially detract from the value of the property subject thereto or materially interfere with the ordinary conduct of the business of the Company, (d) the Indenture and the Lease and (e) liens or security interests granted pursuant to any Financing Documents.

"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 Costs" means all costs of purchasing and installing the Project Equipment, including the following:

(a) all costs and expenses necessary or incident to the acquisition of any portion of the Project Equipment at the execution of the Lease and which the Company conveys to the City;

(b) fees and expenses of consultants for any preliminary investigations and items necessary to the determination of the necessary equipment replacements and upgrades, preparation of specifications for the Project Equipment and supervision of the installation of the Project Equipment, as well as for the performance of all other duties of professionals and consultants in relation to the purchase and installation of the Project Equipment or the issuance of the Bonds;

(c) all costs and expenses of every nature incurred in purchasing and installing the Project Equipment, including the actual cost of labor, materials, machinery, furnishings and equipment as payable to contractors and materialmen in connection with the purchase and installation of the Project Equipment;

(d) interest accruing on the Bonds during the purchase and installation period of the Project Equipment;

(e) reasonable expenses of administration, supervision and inspection properly chargeable to the Project Equipment, 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 purchase and installation of the Project Equipment;

(f) 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; (2) the purchase and installation of the Project Equipment; and (3) the financing thereof; and

(g) 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 all items of machinery, equipment or other personal property acquired or installed or acquired for installation 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 by this reference made a part hereof, and all replacements thereof and substitutions therefor which, pursuant to **Section 8.2** of the Lease, constitute part of the Project Equipment; ***provided that*** the Project Equipment subject to this Indenture and the Lease at any given time shall not include any property that has reached the end of its Abatement Period.

"Project Fund" means the "City of Joplin, Missouri, Project Fund -- Schaeffler Group USA Inc." created in **Section 501** of this Indenture.

"Project Site" means the location described herein and in the Lease Agreement upon which the Project Equipment will be situated.

"Purchaser" means Schaeffler Group USA Inc.

"Seven-Year Property" means personal property having a class life of seven years or longer under the general depreciation system for federal taxation purposes.

"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.

"Three-Year Property" means personal property having a class life of less than seven years under the general depreciation system for federal taxation purposes.

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

"Trustee" means UMB Bank, N.A., Kansas City, Missouri, 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.

Section 102. 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, 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.

(c) 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.

(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 Indenture as a whole and not to any particular Article, Section or subdivision.

(e) 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.

(f) 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 Revenue Bonds (Schaeffler Expansion Project), Series 2018." The maximum total principal amount of Bonds that may be issued hereunder is hereby expressly limited to $67,215,000.

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 Equipment 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 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.

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

(a) The Bonds shall be issuable in the form of one Bond in the maximum principal amount of $67,215,000. The Bonds shall be substantially in the form hereinafter set forth in **Exhibit C** hereto.

(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 designated payment office of any Paying Agent named in the Bonds. The payment of principal on the Bonds shall be noted on **Schedule I** to the Bonds and on the registration books maintained by the Trustee pursuant to **Section 206**. 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 Owners. If the Bonds are held by the Trustee, the Trustee shall, on each Payment Date, send a revised copy of **Schedule I** via email 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. If the Company owns all of the Bonds, then the Company may set-off its obligation for the Basic Rent to the City as Lessee under the Lease Agreement against the City's obligation to the Company as 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 Bonds not previously paid and 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 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**, 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 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. The Bonds have not been registered under the Securities Act of 1933, as amended, or any state securities law, and the Bonds may not be transferred unless the City and the Trustee are furnished a written legal opinion from counsel acceptable to the City, the Trustee and the Company, to the effect that such transfer is exempt from the registration requirements of the Securities Act of 1933, as amended, and any applicable state securities law. The Bonds may also be transferred to any entity controlled by, under common control with or controlling the Company without the necessity of obtaining such an opinion. The Bonds may only be transferred to Approved Investors. For this purpose, Approved Investors are defined as (i) an "accredited investor," as that term is defined in Rule 501 of

Regulation D promulgated under the Securities Act of 1933, as amended (the "1933 Act"), or (ii) a "qualified institutional buyer," as that term is defined in Rule 144A promulgated under the 1933 Act. 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 for the purpose of providing funds to pay the costs of the Project Equipment, which Bonds shall be designated "City of Joplin, Missouri, Taxable Industrial Revenue Bonds (Schaeffler Expansion Project) Series 2018." The Bonds shall be dated as provided in **Section 203(b)** hereof, shall become due on **December 1, 2030** (subject to prior redemption as hereinafter provided in **Article III**) 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.

(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 Lease and the Performance Agreement;

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

(3) A representation letter from the Purchaser in 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 the Purchaser upon transfer of funds in accordance with the Notice of Bond Sale. 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 stating that the Bonds are exempt from registration under the Securities Act of 1933, as amended, and the Indenture is exempt from qualification under the Trust Indenture Act of 1939, as amended; 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 of the Bonds 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 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 the Bonds in an amount equal to the Closing Price and then deliver the Bonds to the Company (or another purchaser designated by the Company).

In either case, the Purchaser of the Bonds 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 on the amount of 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 set forth on Schedule 1 to the Bonds shall be the date of the City's approval of each requisition certificate.

(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, 2019, and continuing thereafter until the Cumulative Outstanding Principal Amount is paid in full; provided that the aggregate maximum principal amount

shall not exceed $67,215,000 and further provided that the Bonds shall be paid in full no later than December 1, 2030. 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 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 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. 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 prior to the stated maturity thereof, at the option of the City, upon written instructions from the Company, (1) in whole, if the Company exercises its option to purchase the Project Equipment 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; provided, however, if only a portion of the Bonds are to be redeemed, Bonds aggregating 10% of the maximum aggregate principal amount of Bonds authorized hereunder shall not be subject to redemption and payment prior to the stated maturity thereof. 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(f)** of the Lease, in the event of substantial damage to or destruction or condemnation of all or substantially all of the Project Equipment. 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.

(c) 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 sole 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 sole Owner) prior to the scheduled redemption

date by email 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**. 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 Project Fund. There is hereby created and ordered to be established in the custody of the Trustee a special trust fund in the name of the City to be designated the "City of Joplin, Missouri, Project Fund -- Schaeffler Group USA Inc." (herein called the "Project 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), when received, excluding such amounts required to be paid into the Bond Fund pursuant to **Section 602** 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 acquiring and installing the Project Equipment 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)**, the Trustee is deemed to have deposited into the Project Fund the amount specified in a requisition certificate, 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 entity 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.

(d) As an alternative to the disbursement procedures set forth in **Section 503(a)**, the Trustee shall, upon instructions of the Company, on the issuance date of the Bonds transfer all money on deposit in the Project Fund to the Disbursement Agent. The Disbursement Agent shall use such money to pay or reimburse the Company (or any other party that has made payment on behalf of the Company) for payment of Project Costs. Thereafter, the Trustee shall have no further responsibility with respect to the Project Fund. On or prior to each March 1, the Disbursement Agent shall provide to the City and the Trustee a certificate showing (i) the amount disbursed from the Project Fund during the preceding calendar year, (ii) the amounts, payees and purposes for which such funds were disbursed, and (iii) a description of any Project Equipment acquired with such funds. This Section does not eliminate the Company's obligations to provide information to the City and the Trustee under **Section 4.2** of the Lease, nor the Trustee's obligations to maintain the list of Project Equipment under **Section 10.8** of the Lease.

Section 504. Completion of the Purchase and Installation of the Project Equipment. The completion of the purchase and installation of the Project Equipment 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 any balance remaining in the Project Fund shall without further authorization be transferred to the Trustee, if the Disbursement Agent is disbursing funds from the Project Fund, and deposited in the Bond Fund and applied as provided in **Section 4.6** of the Lease.

Section 505. 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 hereinafter provided in **Article IX**, 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. Creation of the Bond Fund. There is hereby created and ordered established in the custody of the Trustee a special trust fund in the name of the City to be designated the "City of Joplin, Missouri, Bond Fund -- Schaeffler Group USA Inc." (herein called the "Bond Fund").

Section 602. Deposits Into the Bond Fund. 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 of the Bonds; (b) all Basic Rent payable by the Company to the City specified in **Section 5.1** of the Lease; (c) any amount in the Project Fund to be transferred to the Bond Fund pursuant to **Section 504** hereof upon completion of the installation of the Project Equipment or pursuant to **Section 505** hereof upon acceleration of the Bonds; (d) the balance of any Net Proceeds (as defined in the Lease) of condemnation awards or insurance received by the Trustee pursuant to **Article IX** of the Lease; (e) the amounts to be deposited in the Bond Fund pursuant to **Section 9.1(f)** of the Lease; (f) all interest and other income derived from investments of Bond Fund moneys as provided in **Section 702** hereof; and (g) all other moneys received by the Trustee under and pursuant to any of the provisions of the Lease when accompanied by directions from the Person depositing such moneys that such moneys are to be paid into the Bond Fund.

The Trustee shall notify the Company in writing, at least 15 days prior to 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 603. Application of Moneys in the Bond Fund.

(a) Except as provided in **Section 605** and **Section 908** hereof or in **Section 4.6(a)** of the Lease, moneys in the Bond Fund shall 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 prior to 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 602** 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 prior to 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 may 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 604. 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 605. 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.

Section 702. Investment of Moneys in Project Fund and Bond Fund.

(a) 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 prior to the date such funds will be needed. 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.

(b) The City and the Company hereby agree that confirmations of Permitted Investments are not required to be issued by the Trustee for each month in which a monthly statement relating to the applicable fund or account is rendered. No statement need be rendered for any fund or account if no activity occurred in such fund or account during such month.

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 Equipment 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 Equipment 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 Equipment.

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 of Missouri 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 Equipment 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 hereby authorizes 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 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 Equipment Books. The City covenants and agrees that all books and documents in its possession relating to the Project Equipment and the rents, revenues and receipts derived from the Project Equipment 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. The City covenants and agrees that it shall 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 Equipment 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 Equipment 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; or

(c) Default as specified in **Section 12.1** of the Lease shall have occurred.

Anything herein to the contrary notwithstanding and subject to **Section 907**, no default specified above shall constitute an Event of Default until actual notice of such default by registered or certified mail has been given by the City, the Trustee or by the Owners of 25% in aggregate principal amount of all Bonds Outstanding to the Company and the Company has had 30 days after receipt of such notice to correct said default or cause said default to be corrected, and has not corrected said default or caused said default to be corrected within such period.

Section 902. Acceleration of Maturity in Event of Default. If an Event of Default has occurred and is continuing, 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 shall thereupon become and be immediately due and payable.

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, 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 possession 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 Equipment 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 prior 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 made good, 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, 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 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, and if requested to do so by (1) the City (in the case of an Event of Default arising out of **Section 12.1(b), (c), (d)** or **(e)** 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)** 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 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)**, 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 shall have the right, at any time, by an instrument or instruments in writing executed and delivered to the Trustee and the City, to (i) 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, or (ii) direct the Trustee and the City to refrain, for such period of time as such Owners may specify, from exercising any remedies available to the Trustee or the City under this Indenture, the Lease or applicable law; 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 or the Lease 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(b), (c), (d)** or **(e)** 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 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 thereof 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**, 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 603** 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 may in its discretion 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 shall do so 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(b), (c), (d)** or **(e)** 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 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.

ARTICLE X

THE TRUSTEE

Section 1001. Acceptance of the Trusts. The Trustee hereby accepts the trusts imposed upon it by this 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, prior to the occurrence of an Event of Default and after the curing of all Events of Default which 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)** below, 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, 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 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 filed in connection with and at the time of the issuance of the Bonds, provided that copies of the filed statements are timely delivered to the Trustee), or for insuring the Project Equipment 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.

(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 prior to 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 prior to 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**, 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 shall have the right, but shall not be required, to inspect any and all of the Project Equipment, and all books, papers and records of the City pertaining to the Project Equipment 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 Equipment.

(k) The Trustee shall have the right, 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.

(n) The Trustee shall have no responsibility with respect to any information, statement or recital in any official statement, offering memorandum or any other disclosure material prepared or distributed with respect to the Bonds, except for any information provided by the Trustee, and shall have no responsibility for compliance with any state or federal securities laws in connection with the Bonds.

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. 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 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 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 prior to 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** 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. 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.

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 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 Equipment 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 Equipment, 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 of Missouri) 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 Company or the Owner, a monthly accounting to the Company and the Owner, 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;

(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 the Project Equipment;

(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 shall have the right, from time to time, anything contained in this Indenture to the contrary notwithstanding, to 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 shall request 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 principal 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 which affects any rights of the Company 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 at least 15 days prior to 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 Equipment 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.

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 principal 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 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 603** hereof and except funds or securities in which such funds are invested and 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 or coupons 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 of Missouri 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 prior to 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 prior to their respective stated maturities, proper notice of such redemption shall have been given in accordance with **Article III** of this Indenture 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. 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:

(a) 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 acknowledgements within such jurisdiction that the Person signing such instrument acknowledged before him the execution thereof, or by affidavit of any witness to such execution.

(b) 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.

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 or sent by email:

(a) To the City:

City of Joplin, Missouri
602 S. Main St.
Joplin, Missouri 64801
ATTN: City Manager
Email: sanselm@joplinmo.org

(b) To the Trustee:

UMB Bank, N.A.
1010 Grand Blvd, 4th Floor
Kansas City, MO 64106
ATTN: Corporate Trust Department
Email: Tremaine.Duarte@umb.com

(c) To the Company:

Schaeffler Group USA Inc.
308 Springhill Farm Road
Fort Mill, South Carolina 29715
Facsimile: (803) 548-8589
ATTN: General Counsel

with a copy to:

_____
_____
_____

(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 principal 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. All notices given by overnight delivery or other delivery service shall be deemed fully given as of the date when receipted. All notices given by email shall be deemed fully given as of the date when receipted. 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 of Missouri.

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.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, the 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, UMB Bank, N.A. has caused this Indenture to be signed in its name and behalf by its duly authorized officer, all as of the date first above written.

CITY OF JOPLIN, MISSOURI

By: _____
Mayor

[SEAL]

ATTEST:

By: _____
City Clerk

Approved as to form:

_____
City Attorney

UMB BANK, N.A., as Trustee

By: _____
Name:
Title:

EXHIBIT A

THE PROJECT SITE

3900 South Rangeline Road, Joplin, Missouri 64804

EXHIBIT B

THE PROJECT EQUIPMENT

All equipment financed with the proceeds of the Bonds located on the Project Site in Joplin, Newton County, Missouri, to and until the end of the Abatement Period for each such item of equipment. No Project Equipment shall be acquired with Bond proceeds after December 31, 2023.

EXHIBIT C

FORM OF BOND

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 $67,215,000**

UNITED STATES OF AMERICA
STATE OF MISSOURI

CITY OF JOPLIN, MISSOURI
TAXABLE INDUSTRIAL REVENUE BOND
(SCHAEFFLER EXPANSION PROJECT)
SERIES 2018

Interest Rate	**Maturity Date**	**Dated Date**
5.00%	**December 1, 2030**	**December ___, 2018**

OWNER: **SCHAEFFLER GROUP USA INC.**

MAXIMUM PRINCIPAL AMOUNT: **SIXTY-SEVEN MILLION TWO-HUNDRED FIFTEEN THOUSAND DOLLARS**

THE CITY OF JOPLIN, MISSOURI, a home rule charter city 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, 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 electronic 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, 2019, and continuing thereafter until the said Cumulative Outstanding Principal Amount is paid in full. 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 the aggregate principal amount of 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 Revenue Bonds (Schaeffler Expansion Project), Series 2018," in the maximum aggregate principal amount of $67,215,000 (the "Bonds"), to be issued for the purpose of providing funds to pay the cost of purchasing and installing the Project Equipment, to be leased to the Company, under the terms of a Lease Agreement dated as of December 1, 2018 (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, statutes of the State of Missouri and the City's Charter, including particularly the Act, and pursuant to proceedings duly had by the governing body 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, 2018 (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 shall be subject to redemption in accordance with 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 Owner of this Bond 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.

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 Equipment and the Lease and not from any other fund or source of the City, and is secured by a pledge and assignment of the Project Equipment 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 account created by the City and designated the "City of Joplin, Missouri, Bond Fund -- Schaeffler Group USA Inc."

THE OWNER of this Bond shall have no right to enforce the provision 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 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, without coupons, and 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 have not been registered under the Securities Act of 1933, as amended, or any state securities law, and the Bonds may not be transferred unless the City and the Trustee are furnished a written legal opinion from counsel acceptable to the City, the Trustee and the Company, to the effect that such transfer is exempt from the registration requirements of the Securities Act of 1933, as amended, and any applicable state securities law. The Bonds may also be transferred to any entity controlled by, under common control with or controlling the Company without the necessity of obtaining such an opinion. The Bonds may only be transferred to Approved Investors. For this purpose, Approved Investors are defined as (i) an "accredited investor," as that term is defined in Rule 501 of Regulation D promulgated under the Securities Act of 1933, as amended (the "1933 Act"), or (ii) a "qualified institutional buyer," as that term is defined in Rule 144A promulgated under the 1933 Act. 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** attached to the Indenture.

THE BONDS are issuable in the form of one fully-registered Bond in the maximum principal amount of $67,215,000.

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.

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.

[remainder of page intentionally left blank]

CITY OF JOPLIN, MISSOURI

By _____
Mayor

(SEAL)

ATTEST:

By _____
City Clerk

CERTIFICATE OF AUTHENTICATION

This Bond is the Taxable Industrial Revenue Bond (Schaeffler Expansion Project), Series 2018, described in the Trust Indenture. The effective date of registration of this Bond is set forth below.

UMB BANK, N.A., as Trustee

_____ By _____
Date Authorized Signatory

SCHEDULE I

TABLE OF CUMULATIVE OUTSTANDING PRINCIPAL AMOUNT

CITY OF JOPLIN, MISSOURI
TAXABLE INDUSTRIAL REVENUE BOND
(SCHAEFFLER EXPANSION PROJECT)
SERIES 2018

Bond No. 1

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 _____ agent 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: _____.

_____

PLACE SIGNATURE MEDALLION BELOW:

EXHIBIT D

FORM OF REPRESENTATION LETTER

City of Joplin, Missouri
Joplin, Missouri
ATTN: City Clerk

UMB Bank, N.A.
1010 Grand Blvd, 4th Floor
Kansas City, MO 64106
ATTN: Corporate Trust Department

Re: $67,215,000 Maximum Principal Amount of Taxable Industrial Revenue Bonds (Schaeffler Expansion Project), Series 2018, of the City of Joplin, Missouri

Ladies and Gentlemen:

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

1. The Investor understands that (a) the Bonds are being issued under and pursuant to a Trust Indenture dated as of December 1, 2018 (the "Indenture"), between 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 Equipment (as defined in the Indenture) to Schaeffler Group USA Inc. (the "Company"), under a Lease Agreement dated as of December 1, 2018 (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 Investor 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 its distribution or for the purpose of offering, selling or otherwise participating in a distribution of the Bonds.

3. The Investor agrees not to attempt to offer, sell, hypothecate or otherwise distribute the Bonds to others unless authorized by the terms of the Indenture and upon receipt of any required opinion of counsel acceptable to the City, the Company and the purchaser that all registration and disclosure requirements of the Securities and Exchange Commission and all other appropriate federal and Missouri securities laws and the securities law of any other applicable state are complied with.

4. The City and the Company have (a) furnished such information as the Investor deems necessary to make an informed investment decision with respect to the purchase of the Bonds, (b) made available to Investor ample opportunity to ask questions of, and to receive answers from, appropriate officers of the City and the Company and the terms and conditions of the offering of the Bonds, and (c) provided to the Investor all additional information which it has requested.

5. The Investor is familiar with the operations of the Company and fully aware of terms and risks of the Bonds. The Investor believes the Bonds that it is acquiring are a security of the kind that it wishes to purchase and hold for investment and that the nature and amount thereof are consistent with its investment program. The Investor is able to bear the economic risk of an investment in the Bonds, including a complete loss of such investment

6. The Investor is fully aware of and satisfied with (a) the current status of the title to the Project Equipment and any issues related thereto and (b) the terms, amounts and providers of the insurance maintained pursuant to **Article VII** of the Lease, and the Investor is purchasing the Bonds with full knowledge of such matters.

7. The Investor understands and agrees that the interest on the Bonds is subject to federal and state income taxation.

8. Check applicable section:

____ The Investor is familiar with Rule 144A promulgated under the 1933 Act and is a "qualified institutional buyer" as defined in Rule 144A; it is aware that the sale of Bonds to it is made in reliance on Rule 144A and understands that such Bonds may be offered, resold, pledged or transferred only (a) to a person who the Investor reasonably believes is a "qualified institutional buyer" that purchases for its own account or for the account of a qualified institutional buyer to whom notice is given that the resale, pledge or transfer is being made in reliance on Rule 144A, or (b) pursuant to another exemption from registration under the 1933 Act; or

____ The Investor is familiar with Regulation D promulgated under the 1933 Act and is a sophisticated institutional investor and an "accredited investor" within the meaning of Regulation D; it understands that such Bonds may be resold, pledged or transferred only (a) to a person who the seller reasonably believes is a sophisticated institutional investor and an accredited investor that purchases for its own account; or (b) pursuant to another exemption from registration under the 1933 Act.

Dated: _____ Investor Name: _____

By: _____
Title: _____

EXHIBIT E

ABATEMENT PERIOD

It is anticipated that the Project Equipment will be acquired over the course of several years. All Project Equipment shall be designated by the Company as either Three-Year Property or Seven-Year Property in accordance with the requirements of the Lease. For each item of Three-Year Property and Seven-Year Property acquired in the years shown below, the abatement period shall terminate as shown below. No Project Equipment shall be acquired with Bond proceeds after December 31, 2023.

Date of Acquisition	Three-Year Property End of Abatement Period	Seven-Year Property End of Abatement Period
Before 12/31/18	December 31, 2023	December 31, 2025
1/1/19 to 12/31/19	December 31, 2024	December 31, 2026
1/1/20 to 12/31/20	December 31, 2025	December 31, 2027
1/1/21 to 12/31/21	December 31, 2026	December 31, 2028
1/1/22 to 12/31/22	December 31, 2027	December 31, 2029
1/1/23 to 12/31/23	December 31, 2028	December 31, 2030

COUNCIL BILL NO. 2018-026 ORDINANCE NO. _____

AN ORDINANCE APPROVING A PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT CONSISTING OF THE ACQUISITION AND INSTALLATION OF MANUFACTURING EQUIPMENT, AUTHORIZING THE CITY OF JOPLIN, MISSOURI TO ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS IN A PRINCIPAL AMOUNT NOT TO EXCEED $67,215,000 AND APPROVING CERTAIN RELATED DOCUMENTS AND ACTIONS.

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, Schaeffler Group USA Inc., a Delaware corporation (the "Company"), has proposed a project consisting of acquiring and installing manufacturing equipment in its facility located at 3900 South Rangeline Road, Joplin, Missouri (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 November 27, 2018 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 December 17, 2018, 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 November 30, 2018 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 Revenue Bonds (Schaeffler Expansion Project), in an aggregate principal amount not to exceed $67,215,000, 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 the bond trustee named therein (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 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; and

(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 of certain agreements by the Company.

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.

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PASSED by the City Council of the City of Joplin, Missouri and APPROVED by the Mayor this _____ day of December, 2018.

_____
GARY L. SHAW, MAYOR

[SEAL]
ATTEST:

_____
Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

EXHIBIT A

PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT

JOPLIN CITY COUNCIL
INFORMAL MEETING NOTES
DECEMBER 3, 2018
602 S. MAIN ST.
JOPLIN MO 64801

Mayor Shaw called the December 3, 2018 Informal Meeting of the Joplin City Council to order at 5:15 p.m.

In attendance were Council Members: Taylor Brown, Melodee Colbert-Kean, Doug Lawson, Anthony Monteleone, Mayor Gary Shaw, Ryan Stanley, Phil Stinnett, and Jim West. Also, in attendance were City Manager Sam Anselm and City Attorney Peter Edwards. Absent: Diane Reid Adams

Presentation from David Martin: Overview of Chapter 100 Bonds:

One of the items on the formal council agenda for tonight (December 3) is an ordinance seeking approval of a plan for an industrial development project consisting of the acquisition and installation of manufacturing equipment, authorizing the city of Joplin, Missouri to issue its taxable industrial revenue bonds in a principal amount not to exceed $67,215,000 and approving certain related documents and actions.

City Attorney Peter Edwards asked David Martin of Gilmore and Bell to give a brief overview of Chapter 100 Bonds.

Mr. Martin stated he has worked on the last few Chapter 100 projects that Joplin has done. Chapter 100 is a mechanism by which you can provide tax abatements to private companies for projects that are done virtue being done under Chapter 100, considered to be municipal projects solely for the purpose of exempting them from tax rolls. They do not become municipal projects for purposes of performance bonds, prevailing wage, and that sort of analysis. It's solely technical ownership of the property for purposes of removing it from the tax rolls. There is some sort of condition built into the transaction. Sometimes there is a portion of that tax that is paid in lieu of taxation. In certain circumstances that abatement is 100% and there's complete removal of the tax so long as they maintain certain employment.

The basics of how it works is, if you're going to undertake a Chapter 100 transaction, you have to give notice to all your taxing jurisdictions 20 days in advance of holding a hearing at which those taxing jurisdictions have the opportunity to show up and give comments, either in support of or against the project. There is not a requirement of any specific reaction to those comments. The mechanism of how it actually functions is, you have to achieve municipal ownership of the underlying assets. If you're doing a real property transaction, that property at the beginning of the Chapter 100 closing is conveyed to the city and then the improvements that are built on that property are a municipal project by virtue of the Chapter 100 bond issuance and remain exempt from the tax rolls.

In a personal property transaction, any property that has already been purchased by the company at the closing is conveyed to the city by a bill of sale and then, as the property is acquired, it is done so with bond proceeds and will be abated over a series of years. That property never hits the tax rolls. If it is subject to a Chapter 100 before January 1 of any given year, it's not taxable so it's not reported in the self-reporting that businesses have to do, and so that maintains it separate from the tax rolls. The bond capacity – the amount of bonds that are issued – that is a restriction on how much the company can spend on property; how much property they can bring into the Chapter 100 transaction. The reason that is a requirement is if you don't spend Chapter 100 bond proceeds on an item of personal property or real property, it's not technically a part of the Chapter 100 project. So, it serves as a limitation. If you're issuing $67 million worth of bonds, they hit that point where they can't include any more property in the transaction, and so they've reached their limit. Any property that is acquired in excess of that would have to pay taxes on it.

Technical ownership of these assets being in the name of the City is merely to facilitate the transaction. The City doesn't want or have beneficial ownership of that property. The company still has the ability to depreciate that property on their books, the companies are still operating on the property which presents some manner of risk to the city and so in all of our performance agreements and leases there are indemnity provisions that basically say that if anything happens with the property like if anyone is injured on it the company is going to indemnify the city for any losses and defend the city to the extent if the city would go into a lawsuit. There's also a provision that requires insurance to be carried and for the city to be named as an additional insured. So there's double coverage there for anything that might arise in the nature of a liability.
The lease purchase agreement puts the property back in the hands of the company so that they can operate it and contains some of those provisions that protect the city from how the company actually operates the property.

Typically, there are some requirements built into the performance agreement that say you promised us that you were going to provide x number of jobs and if you don't do that, we're going to start calling back or reducing the level of abatement that we promised to provide you in exchange for that.

Following the overview, Mr. Martin answered questions from the Council members.

In closing Mr. Martin stated Chapter 100 bonds are a conduit structure, which means that the City is liable only to make payments on the bonds from the lease payments. So regardless what happens at the site of a Chapter 100 transaction in terms of the company goes bankrupt, the true lender that provided the real financing for the project comes in and is looking for somebody to rule against, the City is never liable to make a payment on a Chapter 100 bond.

Mayor Shaw reminded the Council of the board/commission recognitions at the formal meeting and asked for their participation in congratulating those who will be in attendance.

The meeting adjourned at 5:35 p.m.

Submitted,

Barbara J. Gollhofer, City Clerk

JOPLIN CITY COUNCIL
December 3, 2018 MEETING MINUTES

CALL TO ORDER
The regular meeting for the Joplin City Council was called to order at 6:00 p.m.by Mayor Gary Shaw.

INVOCATION read by City Clerk Barbara Gollhofer.

PLEDGE OF ALLEGIANCE to the United States of America was led by Mr. West.

ROLL CALL – Answering Roll Call were Council Members: Taylor Brown, Melodee Colbert-Kean, Doug Lawson, Anthony Monteleone, Gary Shaw, Ryan Stanley, Phil Stinnett and Jim West. Also, in attendance were City Manager Sam Anselm and City Attorney Peter Edwards. Absent: Diane Reid Adams. Motion by Mr. West, second by Mr. Monteleone to excuse Mrs. Reid Adams. Voting in favor were Council Members: Brown, Colbert-Kean, Lawson, Monteleone, Shaw, Stanley, Stinnett and West, 8. Nays: 0.

PRESENTATIONS
Mayor Shaw presented recognition and appreciation plaques to the following board/commission members who completed their terms in 2018.

Becky Heffren	Board of Health	2012-2018
Brad McIntyre	JRC	2012-2018
David Sweeney	Board of Health	2012-2018
Kyle Denham	Building Board of Appeals	2011-2018
Michelle Cahill	Board of Health	2012-2018
Chad Greer	Design Review	2010-2018
Harvey Hutchison	Parks & Recreation Board	2012-2018

The following were unable to attend the meeting but were recognized:

Maurice Clark	Airport Board	2011-2018
Gary Duncan	Planning & Zoning	2012-2018
Dorothy Willcoxon	Library Board	2012-2018
Christina Williams	Solid Waste Commission	2012-2018

Continue discussion of the Finance Committee's Revenue Options Report: City Attorney Peter Edwards gave the council members an update on a recent meeting that included Mayor Shaw, City Attorney Edwards, City Manager Anselm, Police Chief Stewart, Fire Chief Furgerson, Police Union head Shelby Howard and Fire Union head Jeremie Humphrey. The meeting was about working together to find solutions to the police and fire pay as well as pay issues for other city employees. Mr. Edwards stated that everyone left the meeting committed to working together going forward and having periodic meetings to come up with plans and solutions to address these issues. One issue that did come up was the April ballot. The consensus was that trying to put something on the April ballot would be rushing things because of the small window of time between now and January 21, 2019. (final certification date for ballot issues).

Another consideration discussed was that Council had given city staff the directive to engage an actuary to start performing an actuarial study on what it would take if it was decided to either close the pension or fully fund it. Mr. Edwards stated the City has reached out to the actuary and given him the council's directive and the actuary has started work on that project. It's anticipated to take 60-90 days before he's able to come back to council with the results of his study. Mayor Shaw thanked everyone who was involved in the meeting and stated it was a productive meeting. Mr. Stanley recommended not pursuing putting anything on the April ballot until after the actuarial report so that by then they will have better clarity as to which direction they should go. Mr. Stinnett agreed with Mr. Stanley to not put anything on the April ballot. He also suggested that the council meet periodically to give input and hear feedback from the other group. City Manager Anselm stated that when the group met on Friday, it was decided to have follow-up meetings every 2-3 weeks and will provide updates to council as those meetings occur. Mr. Stinnett stated that as the council goes through this process, and since we're talking about potential tax issues, that we put together numbers on the wage side and general fund on the replacement side. We need to know what kind of dollars need to be generated for these issues.

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
Brian Handshy would like to speak in consideration of the City of Joplin joining the Missouri Clean Energy District to allow commercial property owners to utilize PACE finance. Mr. Handshy notified the City Clerk that he would be unable to attend this meeting and asked to be put on the January 7, 2019 agenda.

Charles Copple addressed the city council regarding upcoming tax proposals.

PUBLIC HEARINGS
Public Hearing Procedures read by City Clerk Barbara Gollhofer

Public Hearing for Council Bill No. 2018-273

Mayor Shaw opened the Public Hearing

John Bolte, 216 S. Main, and Bal Singh, 1632 LaSalle St. Springfield MO, appeared in favor of this item.

No one appeared in opposition to this item.

The Public Hearing was closed.

Mr. West introduced Council Bill No.2018-273 - an ordinance approving the voluntary annexation by the Council of the City of Joplin, Missouri, of approximately 22 acres of property, located immediately south of I-44 at Exit 13 and west of Prigmore Avenue, Jasper County. Requested by Skyline Travel Plaza, L.L.C. Motion by Mr. West, second by Mr. Mr. Lawson that Council Bill No.

2018-273 be placed on First Reading and advanced to Second and Third Reading. Voting in favor were Council Members: Brown, Colbert-Kean, Lawson, Monteleone, Shaw, Stanley, Stinnett, and West, 8. Nays: 0. Absent: Reid Adams, 1. The council bill was read as **Council Bill No. 2018-273**.

Public Hearing for Council Bill No. 2018-274

John Bolte, 216 Main. St., and Bal Singh, 1632 LaSalle St., Springfield MO, 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. 2018-274 - an ordinance approving approximately 26 acres, located immediately south of I-44 at Exit 13 and west of Prigmore Avenue to include in District C-3, Jasper County, Missouri. Motion by Mr. Stinnett, second by Mr. West to place Council Bill No. 2018-274 on first Reading and advanced to Second and Third Reading. Voting in favor were Council Members: Brown, Colbert-Kean, Lawson, Monteleone, Shaw, Stanley, Stinnett, and West, 8. Nays: 0. Absent: Reid Adams, 1. The council bill was read as **Council Bill No. 2018-274**.

CONSENT AGENDA.
Motion by Mr. Stanley, second by Mr. Brown to approve the Consent Agenda. Voting in favor were Council Members: Brown, Colbert-Kean, Lawson, Monteleone, Shaw, Stanley, Stinnett, and West, 8. Nays: 0. Absent: Reid Adams, 1.

Minutes of the November 19, 2018 Council Meeting

RESOLUTIONS

ORDINANCES – EMERGENCY
Mr. Stanley introduced Council Bill No. 2018-275 - an ordinance approving the Redevelopment Plans for properties known as the Muir Building and Willard Hotel located at 901 S. Main St. through 907 S. Main St.; by Jeremy and Lori Haun in accordance with the Redevelopment Plans as approved by the Joplin Redevelopment Corporation, Inc; approving and authorizing the abatement of ad valorem real estate taxes on the improvements to properties located at 901 S. Main St. through 907 S. Main St., Joplin, Missouri; taxes on the improvements to the real property will be abated at the rate of one hundred percent (100%) for ten (10) years, commencing January 1, 2019 and fifty (50%) for the following fifteen (15) years, ending after December 31, 2043; authorizing the City Manager to execute all instruments approved herein and any other instruments necessary to effectuate the intent of the Council as described herein upon recommendation of the City Attorney; and containing an emergency clause. Motion by Mr. Stanley, second Mr. Brown that Council Bill No. 2018-275 be approved on an emergency basis. Voting in favor were Council Members: Brown, Colbert-Kean, Lawson, Monteleone, Shaw, Stanley, Stinnett, and West, 8. Nays: 0. Absent: Reid Adams, 1. The Council Bill was declared adopted and entitled **Ordinance No. 2018-166.**

Mr. West introduced Council Bill No. 2018–371- an ordinance approving the contract by and between the City of Joplin and Jordan Disposal for the demolition of the structure(s) and clearing of

lot area located at 312 S. Oak. in the City of Joplin, Missouri, for Two Thousand Four Hundred and 00/100 Dollars ($2,400.00); providing how the cost thereof shall be paid; how the assessment thereof shall be made; and containing an emergency clause. Motion by Mr. West, second Mr. Stinnett that Council Bill No. 2018-371 be approved on an emergency basis. Voting in favor were Council Members: Brown, Colbert-Kean, Lawson, Monteleone, Shaw, Stanley, Stinnett, and West, 8. Nays: 0. Absent: Reid Adams, 1. The Council Bill was declared adopted and entitled **Ordinance No. 2018-167.**

Mr. Brown introduced Council Bill No. 2018–372- an ordinance approving the contract by and between the City of Joplin and Jordan Disposal for the demolition of the structure(s) and clearing of lot area located at 1821 S. Pearl Ave. in the City of Joplin, Missouri, for Two Thousand Seven Hundred Thirty-Three and 00/100 Dollars ($ 2,733.00); providing how the cost thereof shall be paid; how the assessment thereof shall be made; and containing an emergency clause. Motion by Mr. Brown, second Mr. Lawson that Council Bill No. 2018-372 be approved on an emergency basis. Voting in favor were Council Members: Brown, Colbert-Kean, Lawson, Monteleone, Shaw, Stanley, Stinnett, and West, 8. Nays: 0. Absent: Reid Adams, 1. The Council Bill was declared adopted and entitled **Ordinance No. 2018-168.**

Mr. Monteleone introduced Council Bill No. 2018-617- an ordinance authorizing the City of Joplin to enter into an agreement with Missouri Place Properties, LLC for the purpose of leasing real estate for a police station for the not to exceed annual price of Seven Thousand Eight Hundred and 00/100 Dollars ($7,800); authorizing the City Manager to execute the same by and on behalf of the City of Joplin; and containing an emergency clause. Motion by Mr. Monteleone, second Mr. Stanley that Council Bill No. 2018-617 be approved on an emergency basis. Voting in favor were Council Members: Brown, Colbert-Kean, Lawson, Monteleone, Shaw, Stanley, Stinnett, and West, 8. Nays: 0. Absent: Reid Adams, 1. The Council Bill was declared adopted and entitled **Ordinance No. 2018-169.**

Ordinances – First Reading

Mr. Stanley introduced Council Bill No. 2018-026 - an ordinance approving a plan for an industrial development project consisting of the acquisition and installation of manufacturing equipment, authorizing the city of Joplin, Missouri to issue its taxable industrial revenue bonds in a principal amount not to exceed $67,215,000 and approving certain related documents and actions. Motion by Mr. Stanley, second by Mr. West to pass Council Bill No. 2018-026 on First Reading and advance to Second and Third Reading. Voting in favor were Council Members: Brown, Colbert-Kean, Lawson, Monteleone, Shaw, Stanley, Stinnett, and West, 8. Nays: 0. Absent: Reid Adams, 1. The Council Bill was read as **Council Bill No. 2018-026.**

Ordinances – Second Reading and Third Reading

Unfinished Business

New Business

Additional Requests to Address the City Council:

Jeremie Humphrey requested to address the City Council regarding an invitation to attend the Fire Department's Christmas For Kids party. Fire Chief Jim Furgerson was also there for this request. Mr.

Humphrey gave a brief history of the program and invited the city council to attend the event on Saturday, December 18 at Memorial Hall from 10:00 am – 9:00 p.m.

Renita Kitchingham, Joplin, requested to address the City Council regarding ordinances containing an emergency clause and budget issues. Mayor Shaw responded with a brief overview of the process by which a council bill goes through before being presented to Council, either as an emergency ordinance or other recommendation by city staff. Mr. Stanley asked City Attorney Edwards to give a brief description of what an emergency ordinance is, and then to explain the situation with the AARF truck. Mr. Edwards stated the definition of an emergency ordinance can be found in Section 2.12 of the Joplin City Code and went on to name some types of items that can be an emergency ordinance. Mr. Edwards deferred the question about the AARF truck to City Manager Anselm, who stated the truck does fit into the building for which it was purchased, but the building will be modified to add an additional door on one of the end of the building to allow the truck to pull through for the efficiency of the operation of that vehicle. Mr. Anselm stated the city has a budget process every year and residents are invited to attend and speak about any item that's included in the list of upcoming capital improvement items. Mr. Anselm also invited anyone who has questions about any agenda item to contact him.

News from Public Information Officer Lynn Onstot:
Tuesday, Dec. 4 is Joplin's Christmas Parade starting at 6 p.m. The parade begins at 15th Street and travels north on Main Street to 3rd Street. Starting at 10 am tomorrow, parking will not be allowed either side of Main Street to allow young and old of all heights to enjoy the parade. Disability parking will be available at 8th and Main Street, in the northwest lot of that intersection. For those traveling in and around Joplin Tuesday evening, please use caution, especially near Main Street, from 26th Street to Murphy Boulevard. Streets intersecting with Main will be closed. We thank Freeman Health Systems for coordinating this year's parade and hope everyone enjoys it.

Leaf pick up program for residents is actively working in city neighborhoods. The pickup starts in both the southern part of Joplin and the northern part, with crews working toward the middle of town to complete the program. Residents are reminded not to bag their leaves, but rather rake them to the curb. No tree limbs, brush or rocks should be included in the piles, please. The City asks that residents DO NOT rake leaves into the street, as they may clog the storm drains which is what we're working to prevent with this pick-up program. Weather permitting, this collection could take over one month, so we appreciate everyone's patience.

To learn more about upcoming events, visit the Convention & Visitors Bureau's website at visitjoplinmo.com.

Council Comments:
Mayor Shaw acknowledged two elected officials who were in the audience: Jim Otey, Newton County Collector, and Steve McIntosh, Jasper County Collector.

Mr. Stinnett commented on the citizens who attend council meetings and ask questions. He appreciates their interest. He assured everyone that the council does care that they appear as transparent as possible not only because the council thinks it's for the for the best interest of the citizens, but that items been vetted before they're presented to Council. He mentioned the budget process that Mr. Anselm referred to and stated that even though budget meetings are open to the public, no one attends them or asks questions. The budget book is thick book, but there is an

overview booklet of the capital expenditures and if you only look at that you would get a good idea about the way the city is spending money during the year. Mr. Stinnett encouraged citizens to stay involved and believe that the council is trying to be as transparent as possible.

Vote to go into closed session, 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 as set forth in Section 610.021 (2) RSMo, as amended, 2017. 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. Brown, second by Mr. Monteleone to go into closed section. Voting in favor were Council Members: Brown, Colbert-Kean, Lawson, Monteleone, Shaw, Stanley, Stinnett, and West, 8. Nays: 0. Absent: Reid Adams, 1.

There being no further business, the meeting was adjourned at 7:22 p.m.

Respectfully,

Barbara Gollhofer, City Clerk

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM:
CB 2018- 273 -Voluntary Annexation

MEETING DATE:
December 3, 2018

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, City Manager- Sam Anselm.

SUMMARY REQUEST:

Case 038-18: Voluntary Annexation – A request to voluntarily annex approximately 22 acres, located immediately south of I-44 at Exit 13 and west of Prigmore Avenue – Skyline Travel Plaza, LLC.

BACKGROUND:
This request consists of approximately 22 acres, and the applicant intends to develop the land with a large truck stop and travel plaza. The location of this property is ideal for the intended use and development has already begun. Although this property is currently within the county and is not required to adhere to Joplin's development standards, the applicant has agreed to develop the site in accordance with city standards. The applicant has already submitted building plans to the city and those plans have been approved. The proposed development meets all the city's requirements from the Zoning Code and the Comprehensive Plan.

PLANNING & ZONING COMMISSION TESTIMONY:
John Bolte, Small Arrow Engineering, 216 S Main Street, Joplin, MO. Skyline Travel Plaza, LLC is trying to develop a C-Store, Travel Plaza, and a Truck Stop complex at the interchange by the Industrial Park. The owners acquired this property the latter part of last year. Initially, they are developing the northern portion of the parcel next to I-44. All site plans, engineering plans, and traffic studies with MoDOT have been completed.

PUBLIC COMMENT;
None.

FUNDING SOURCE
These payments are included in the FY 2018-19 budget of the Community Planning Fund.

RECOMMENDATION:
Staff recommends approval of Case 038-18.

ATTACHMENTS
CB 2018- 273, Staff Planning Report, P&Z Commission Minutes

CB 2018-273

Case 038-18: Voluntary Annexation – A request to voluntarily annex approximately 22 acres, located immediately south of I-44 at Exit 13 and west of Prigmore Avenue – Skyline Travel Plaza, LLC.

John Bolte, Small Arrow Engineering, 216 S Main Street, Joplin, MO. Skyline Travel Plaza, LLC is trying to develop a C-Store, Travel Plaza, and a Truck Stop complex at the interchange by the Industrial Park. The owners acquired this property the latter part of last year. Initially, they are developing the northern portion of the plot up next to I-44. All site plans, engineering plans, and traffic study with MoDOT have been completed. This is the request to bring this tract of land into the City of Joplin.

Mr. Ramsour asked if there were any questions from the Commissioners? There were not. Mr. Ramsour also asked if there was anyone to speak in favor of this case? There was not. Anyone to speak in opposition of this case? There was not. Case Closed.

MR. DERMOTT MOVED, SECONDED BY MR. MCCULLOUGH THAT CASE 038-18, BE FORWARDED TO THE CITY COUNCIL WITH RECOMMENDATION FOR APPROVAL MOTION CARRIED, WITH MR. RAMSOUR, MR. DERMOTT, MRS. STEELE, AND MR. MCCULLOUGH VOTING "AYE". (4 IN FAVOR, 0 NAYS, 3 ABSENT).

Z&P Meeting: November 12, 2018
City Council Meeting: December 3, 2018

STAFF PLANNING REPORT
Voluntary Annexation

CASE 038-18 A request to voluntarily annex property into the City of Joplin

LOCATION Immediately south of I-44 at Exit 13 and west of Prigmore Avenue

APPLICANT Skyline Travel Plaza, LLC.

EXISTING CONDITIONS

Zoning	Land Use	Property Size
N/A (Jasper County, MO)	Undeveloped	Approx. 22 acres

DISCUSSION

Skyline Travel Plaza, LLC. is requesting to voluntarily annex a tract of land, located immediately south of I-44 at Exit 13 and west of Prigmore Avenue. This request consists of approximately 22 acres.

Skyline Travel Plaza, LLC. intends to develop the land with a large truck stop and travel plaza. The location of this property is ideal for a travel plaza. The development of this property has already begun. Although this property is currently within the county and is not required to adhere to Joplin's development standards, the applicant has agreed to develop the site in accordance with city standards. The applicant has already submitted building plans to the city and those plans have been approved. The proposed development meets all the city's requirements from the Zoning Code and the Comprehensive Plan.

Skyline Travel Plaza, LLC. has recently sold the southwest corner of the tract of land to the adjacent property owner to the south. That tract of land is approximately 2.65 acres and will not be part of the current annexation request.

Staff recommends approval of Case 038-18.

ENCLOSURES

- Map of area to be annexed

BEFORE THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI

PETITION FOR VOLUNTARY ANNEXATION
PURSUANT TO 71.012, RSMO., 1994

TO WHOM IT MAY CONCERN:

Pursuant to the terms of V.A.M.S. 71.02, the undersigned, being all of the owners of fee interests of record in all tracts of real property attached hereto and incorporated herein as Exhibit "A", do hereby request the voluntary annexation of said land to the City of Joplin, Missouri.

STATE OF MISSOURI)
) ss:
COUNTY OF JASPER)

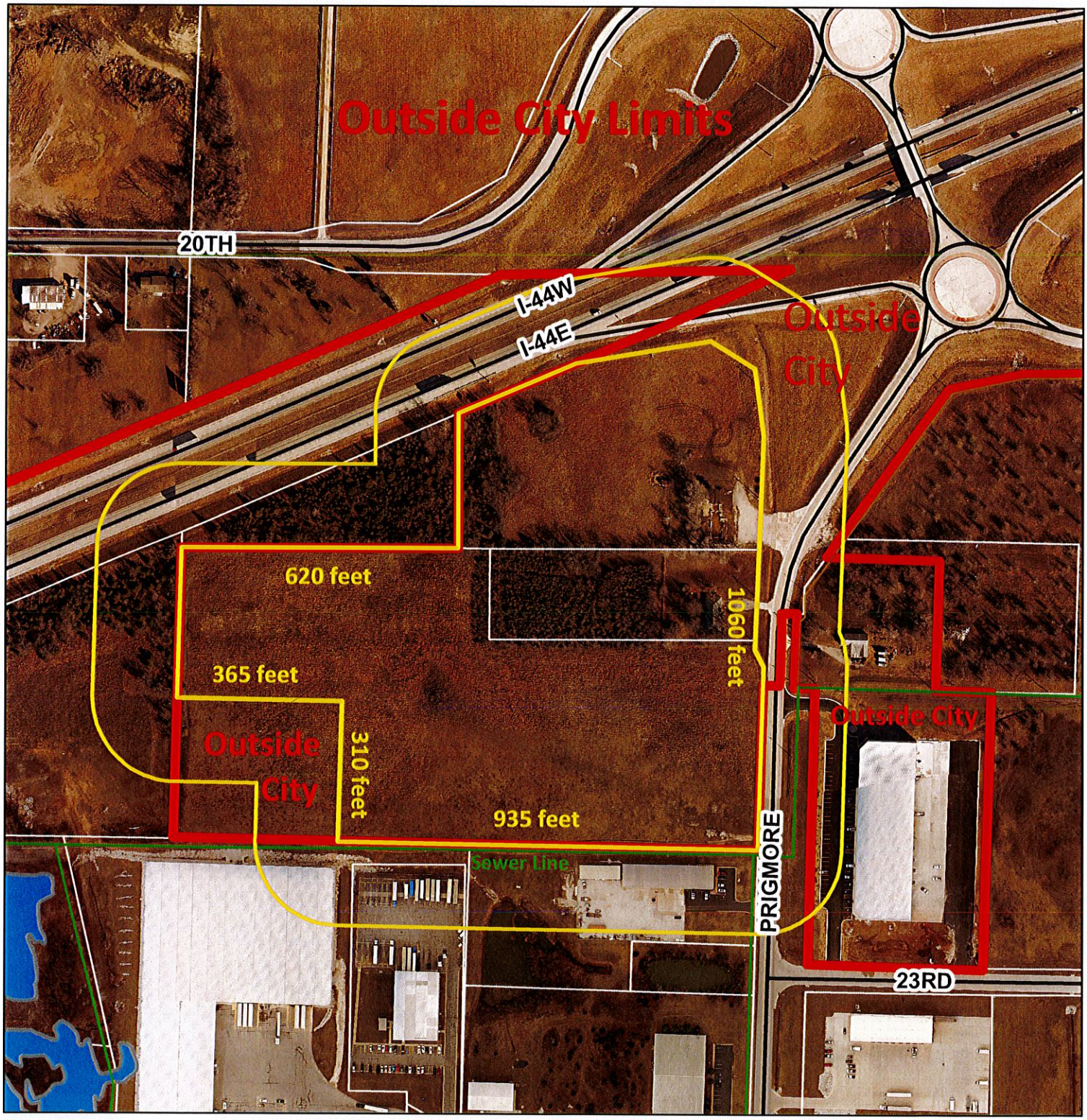
On this 6th day of September 20___, before me appeared Balwinder Singh & Lexander Singh, to me known to be the Managing members of Skyline Travel Plaza, LLC, and the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was singed and sealed on behalf of said corporation by authority of its Board of Directors of the consideration stated therein and no other, and said Balwinder Singh & Lexander Singh acknowledged said instrument to be the free act and deed of said corporation, and that the allegations contained therein are true.

IN TESTIMONY WHEREOF, I have hereunto set by hand and affixed by official seal, in the County and State aforesaid, the day and year first above written.

My commission expires: 11/12/18.

Regina Gower
Notary Public

Notary Public - Notary Seal
REGINA GOWER
State of Missouri
Jasper County
My Commission Expires: November 12, 2018
Commission # 14392790



0 250 500 1,000 1,500 2,000 Feet

Case 038-18: Approximately 22 acres, located immediately south of I-44 at Exit 13 and west of Prigmore Avenue -- A request for Voluntary Annexation into the City of Joplin -- Skyline Travel Plaza, LLC.

N

0 30 60 120
SCALE: 1" = 60'

LEGEND

S89° 25' 33"E
668.60
BEARING & DISTANCE OF BOUNDARY

AREA TO BE ANNEXED INTO THE CITY

CL INTERSTATE 44

N67° 05' 45"E
232.00

N80° 28' 18"E
284.55

S38° 27' 15"E
118.98

151.85
S07° 27' 39"E

N01° 41' 51"E
316.06

S89° 25' 33"E
668.60

450.00
S02° 00' 05"W

N01° 37' 17"E
344.32

101.98
S09° 24' 09"E

366.00
N89° 16' 10"W

POINT OF BEGINNING

N01° 37' 17"E
310.00

N01° 37' 17"E
310.00

355.29
S01° 31' 36"W

PRIGMOR AVE
(CO RD 190)

935.77
N89° 16' 10"W

POINT OF COMMENCEMENT

SAE
SMALL ARROW ENGINEERING, LLC

216 S. MAIN STREET
PO BOX 1538
JOPLIN, MISSOURI 64802
TEL: 417.624.2333
FAX: 417.624.2441
EMAIL: jbolte@small-arrow.com

SMALL ARROW ENGINEERING, LLC
CERTIFICATES OF AUTHORIZATION:
MISSOURI E-2010013647
KANSAS No. E-1930
OKLAHOMA No. 5937
ARKANSAS No. 2097

REVISIONS

NO	DATE	DESCRIPTION

This drawing and the details on it are the sole property of the Engineer and may be used for the specific project only. It shall not be copied, altered or reproduced, in whole or in part, or for any other purpose or project without the written consent of the Engineer.

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JOPLIN TRAVEL CENTER
SKYLINE TRAVEL
2100 S. PRIGMOR AVENUE
JOPLIN, JASPER COUNTY, MISSOURI
ANNEXATION PLAN

STATE OF MISSOURI
JOHN H. BOLTE
NUMBER E-22511
REGISTERED PROFESSIONAL ENGINEER
10/9/18

JOHN H. BOLTE
PROFESSIONAL ENGINEER
MO LIC E22511 OK LIC 18035
KS LIC 14094 AR LIC 14310

SURVEY BY MARK ROBERTSON
DRAWN: JED CHKD: JHB
SCALE: 1"=60'
PROJECT #: 18809
DWG: SITE PLAN 5.dwg
DATE: 10/09/2018

PROJECT: JOPLIN TRAVEL CENTER
SHEET DESC: ANNEX PLAN
SHEET: 1 OF: 1

P & Z Case 038-18
Skyline Travel Plaza, LLC.,
(P & Z Recommended Approval)

COUNCIL BILL NO. 2018-273 ORDINANCE NO.

AN ORDINANCE approving the voluntary annexation by the Council of the City of Joplin, Missouri, of approximately 22 acres of property, located immediately south of I-44 at Exit 13 and west of Prigmore Avenue, Jasper County, Missouri.

WHEREAS, pursuant to Section 71.012, RSMo., 2001 as amended, a verified Petition requesting annexation and signed by the owners of all fee interests in record in the tract of real property described herein, was presented to the governing body of the City of Joplin, Missouri; and,

WHEREAS, pursuant to said Section having referred this matter to the Planning and Zoning Commission for Public Hearing thereon and having obtained the favorable recommendation and support of said annexation; and,

WHEREAS, having held a Public Hearing concerning the proposed annexation not less than fourteen (14) nor more than sixty (60) days after the Petition is received after first having given fifteen (15) days' notice of the Hearing in the Joplin Globe; and,

WHEREAS, after said Public Hearing, the City of Joplin determines that the annexation is reasonable and necessary to the proper development of the City of Joplin, and that the City of Joplin has the ability to furnish normal municipal services to the area to be annexed within a reasonable time; and,

WHEREAS, having received no written objections to the proposed annexation within fourteen (14) days after the Public Hearing.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, as follows:

Section 1. That the following described tract of land be and the same is hereby annexed into the City of Joplin, Missouri, said tract of land be described as follows, to-wit:

ALL THAT PART OF THE NORTHEAST QUARTER (NE1/4) OF THE NORTHEAST QUARTER (NE1/4) OF SECTION 15, TOWNSHIP 27 NORTH, RANGE 32 WEST, JASPER COUNTY, MISSOURI BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID NORTHEAST QUARTER OF THE NORTHEAST QUARTER, THENCE N01°37'17"E A DISTANCE OF 310.00 FEET TO THE POINT OF BEGINNING:
THENCE CONTINUING N01°37'17"E A DISTANCE OF 344.32 FEET; THENCE S89°25'33"E A DISTANCE OF 668.60 FEET; THENCE N01°41'51"E A DISTANCE OF 316.06 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF INTERSTATE 44; THENCE ALONG SAID RIGHT OF WAY LINE THE FOLLOWING COURSES:
THENCE N67°05'45"E A DISTANCE OF 232.00 FEET TO A RIGHT OF WAY FENCE CORNER;
THENCE N80°28'18"E A DISTANCE OF 284.55 FEET TO A CORNER POST;
THENCE S58°27'15"E A DISTANCE OF 116.98 FEET TO A RIGHT OF WAY MARKER;
THENCE S07°27'39"E A DISTANCE OF 151.85 FEET RIGHT OF WAY MARKER;

THENCE S02°00’05”W A DISTANCE OF 450.00 FEET; THENCE S09°24’09”E A DISTANCE OF 101.99 FEET TO POINT ON THE WEST RIGHT OF WAY LINE OF PRIGMOR AVENUE: THENCE S01°31’36”W A DISTANCE OF 355.29 FEET TO A POINT ON THE SOUTH LINE OF SAID NORTHEAST QUARTER OF THE NORTHEAST QUARTER; THENCE N89°16’10”W ALONG SAID SOUTH LINE OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER A DISTANCE OF 935.77 FEET; THENCE N01°37’17”E A DISTANCE OF 310.00 FEET;
THENCE N89°16’10”W A DISTANCE OF 366.00 FEET TO THE POINT OF BEGINNING.
CONTAINING 22.6 ACRES MORE OR LESS. SUBJECT TO ANY EASEMENTS AND RESTRICTIONS OF RECORD, OR NOT OF RECORD

Section 2. That the City Clerk is hereby authorized and directed to cause three (3) certified copies of this Ordinance to filed with the Clerk of Jasper County, Missouri.

Section 3. That this Ordinance shall be in full force and effect as of 12:01 a.m., on the 6th day of January 2019.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this the _____ day of_____, 2018, 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:
CB 2018- 274 -Rezone to C-3 (Commercial).

MEETING DATE:
December 3, 2018

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, City Manager- Sam Anselm.

SUMMARY REQUEST:
Case 039-18: Approximately 26 acres, located immediately south of I-44 at Exit 13 and west of Prigmore Avenue – A request to zone Commercial District (C3) – Skyline Travel Plaza, LLC.

BACKGROUND:
This request consists of approximately 26 acres and the applicant intends to develop the land with a large truck stop and travel plaza. The location of this property is ideal for a travel plaza and development has already begun. Although this property is currently within the county and is not required to adhere to Joplin's development standards, the applicant has agreed to develop the site in accordance with city standards. The applicant has already submitted building plans to the city and those plans have been approved. The proposed development meets all the city's requirements from the Zoning Code and the Comprehensive Plan.

PLANNING & ZONING COMMISSION TESTIMONY:
John Bolte, Small Arrow Engineering, 216 S Main Street, Joplin, MO. Skyline Travel Plaza, LLC is trying to develop a C-Store, Travel Plaza, and a Truck Stop complex at the interchange by the Industrial Park. The triangle tract on the west end of the property has been acquired from Smith & Smith Investment. The initial use for the property under C-3 designation would be the truck stop, which is under construction. There will be a roughly 14-thousand square foot C-Store near Prigmore Avenue with a light fueling island in the front and a diesel fueling island in the rear. Parking would be for roughly 100 trucks in the back. On the west side there is a parcel of land that has been designated as a future truck wash. The parcel that is on the northeastern portion of the tract is slated for a future hotel site. The C-Store has room for expansion to add a restaurant in the future.

Mrs. Steele also wanted to know about the name of the Travel Center. Will it stay as Skyline Travel Center?

Mr. Bolte stated he believes the name will be Joplin Travel Center. Skyline is a name they used to purchase the land.

PUBLIC COMMENT;
None.

FUNDING SOURCE
These payments are included in the FY 2018-19 budget of the Community Planning Fund.

RECOMMENDATION:
Staff recommends approval of Case 039-18.

ATTACHMENTS
CB 2018- 274, Staff Planning Report, P&Z Commission Minutes

CB 2018-274

Case 039-18: Approximately 26 acres, located immediately south of I-44 at Exit 13 and west of Prigmore Avenue – A request to zone Commercial District (C3) – Skyline Travel Plaza, LLC.

John Bolte, Small Arrow Engineering, 216 S Main Street, Joplin, MO. Skyline Travel Plaza, LLC is trying to develop a C-Store, Travel Plaza, and a Truck Stop complex at the interchange by the Industrial Park. The triangle tract on the west end of the property has been acquired from Smith & Smith Investment. The initial use for the property under C-3 designation would be the truck stop, which is under construction. There will be a roughly 14-thousand square foot C-Store near Prigmore Avenue with a light fueling island in the front and a diesel fueling island in the rear. Parking would be for roughly 100 trucks in the back. On the west side there is a parcel of land that has been designated as a future truck wash. The parcel that is on the northeastern portion of the tract is slated for a future hotel site. The C-Store has room for expansion to add a restaurant in the future.

Mr. Ramsour asked if there was anyone to speak in favor of this case?

Mrs. Steele wanted to know about the 2.6 acres that is staying outside the city limits.

Mr. Bolte stated that 2.6 will be surrounded by the city and will be retained by Steve Smith.

Mrs. Steele also wanted to know about the name of the Travel Center? Will it stay as Skyline Travel Center?

Mr. Bolte stated that he believed the name will be Joplin Travel Center. Skyline is a name they used to purchase the land.

Mr. Ramsour asked if there was anyone else that would like to speak in favor of this case? There were not. Anyone to speak in opposition of this case? There was not. Case Closed.

MRS STEELE MOVED, SECONDED BY MR. MCCULLOUGH THAT CASE 039-18, BE FORWARDED TO THE CITY COUNCIL WITH RECOMMENDATION FOR APPROVAL MOTION CARRIED, WITH MR. RAMSOUR, MR. DERMOTT, MRS. STEELE, AND MR. MCCULLOUGH VOTING "AYE". (4 IN FAVOR, 0 NAYS, 3 ABSENT).

Z&P Meeting: November 12, 2018
City Council Meeting: December 3, 2018

STAFF PLANNING REPORT
Rezoning

CASE 039-18 A request to rezone from R-1 (Single Family Residential District) to C-3 (Commercial District)

LOCATION Immediately south of I-44 at Exit 13 and west of Prigmore Avenue

APPLICANT Skyline Travel Plaza, LLC.

EXISTING CONDITIONS

Zoning	Land Use	Property Size
R-1	Undeveloped	Approx. 26 acres

SITE CONTEXT

	North	East	South	West
Existing Zoning	N/A	N/A	M2-PD	M2-PD
Land Use	Outside City	Outside City	Warehousing	Vacant

FUTURE LAND USE

Joplin's Future Land Use Map shows this lot as Industrial. The surrounding properties are shown to be either Industrial or Retail Commercial.

TRANSPORTATION

Streets with access	Classification	Right-of-way width
Prigmore Avenue	Collector	115'

UTILITIES The applicant will extend utilities to the property.

FLOOD PLAIN N/A

STAFF ANALYSIS

CONSISTENT WITH DEVELOPMENT POLICIES OF THE COMPREHENSIVE PLAN?

This property is adjacent to an interstate interchange. Although the Future Land Use map shows this property as Industrial, the Comprehensive Plan shows properties near interchanges to either be intensive Commercial or Industrial. This property has not yet been annexed into the city and development of the property has already begun. A Commercial zoning designation is more appropriate than Industrial for the future use of this property. This property should be zoned Commercial (C3) to be consistent with the Comprehensive Plan.

THE SUITABILITY OF THE SUBJECT PROPERTY FOR THE USES TO WHICH IT HAS BEEN RESTRICTED

Single Family Residential (R1) is not an appropriate zoning designation for this tract of land.

THE EXTENT THAT THE ZONING CHANGE WILL DETRIMENTALLY AFFECT NEARBY PROPERTY

Zoning this property Commercial (C3) will have minimal negative effects on surrounding properties.

DISCUSSION

Skyline Travel Plaza, LLC. has requested to voluntarily annex a 22-acre tract of land, located immediately south of I-44 at Exit 13 and west of Prigmore Avenue. Properties that are annexed into the City of Joplin are automatically zoned with the most restrictive zoning district, which is R-1 (Single Family Residential). However, R-1 is not an appropriate zoning designation at this location. Leaving this parcel Single Family Residential would not be consistent with the city's Comprehensive Plan.

Skyline Travel Plaza, LLC. has recently sold the southwest corner of this tract of land to the adjacent property owner on the south. That tract of land is approximately 2.65 acres and will not be part of the current rezoning request. Skyline Travel Plaza has also purchased two adjacent parcels to the east which combine to be approximately 3 acres. These parcels are currently within the City of Joplin and are part of this rezoning request.

Skyline Travel Plaza, LLC. intends to develop the land with a large truck stop, travel plaza, and hotel. The location of this property is ideal for such a travel plaza. Although this property is currently part of the county and is not required to adhere to Joplin's development standards, the applicant has agreed to develop the site in accordance with city standards. The developer has already submitted building plans to the city. Those plans have been approved and site work has already begun. The proposed development meets all the city's requirements from the Zoning Code and the Comprehensive Plan.

Staff recommends approval of Case 039-18.

ATTACHMENTS

- Application

RECEIVED 9-7-18

REZONING APPLICATION FORM

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.: 038-18
Filing Fee: $500.00
Date Advertised:
Date Notices Sent:
P&Z Date: 11-12-18
City Council Date: 12-3-18

APPLICANT: Skyline Travel Plaza, LLC PHONE:
ADDRESS: 2100 S. Prigmor Ave ZIP: 64804
EMAIL: skylinejoplin@gmail.com
OWNER: Bill Singh PHONE: (201) 344-2206
ADDRESS: 1632 W. LaSalle Street Springfield, MO ZIP: 65807
EMAIL: 123roadrunners9@gmail.com
LOCATION OF PROPERTY: I-44 and Prigmor Ave.
LEGAL DESCRIPTION: See attached Boundary Surveys

Present Zoning Ag Requested Zoning: C3 Acreage: ~~31.34~~ ~~28.7~~ 27.7
Present Use of Property: Ag
Proposed Use of Property: Travel Center | Hotel | Restaurant | Retail

SURROUNDING LAND USE AND ZONING:

	Land Use	Zoning
North	I-44	Duenweg MO
South	Industrial Park	M2
East	"	"
West	"	"

CHARACTER OF THE NEIGHBORHOOD: Adjacent to Crossroads Industrial Park

RELATIONSHIP TO EXISTING ZONING PATTERN:

1. Would proposed change create a small, isolated district unrelated to surrounding districts?
   No
2. Are there substantial reasons why the property cannot be used in accord with existing zoning? No
   If yes, explain:

CONFORMANCE WITH COMPREHENSIVE PLAN:

1. Consistent with Development Policies? Yes
2. Consistent with Future Land Use Map? Yes

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
4. For Planned Developments the following must be submitted and reviewed before the rezoning can be advertised for public hearing:
   X Site Plan X Landscape Plan X Building Elevations

TRAFFIC CONDITIONS:

1. Street(s) with Access to Property: Prigmor Ave.
2. Classification of Street(s):
   Arterial _____ Collector X _____ Local _____
3. Right-of-Way Width: 60'-80'
4. Will turning movements caused by the proposed use create an undue traffic hazard?
   No; please refer to completed Traffic Impact Study

IS PLATTING OR REPLATTING REQUIRED TO PROVIDE FOR:

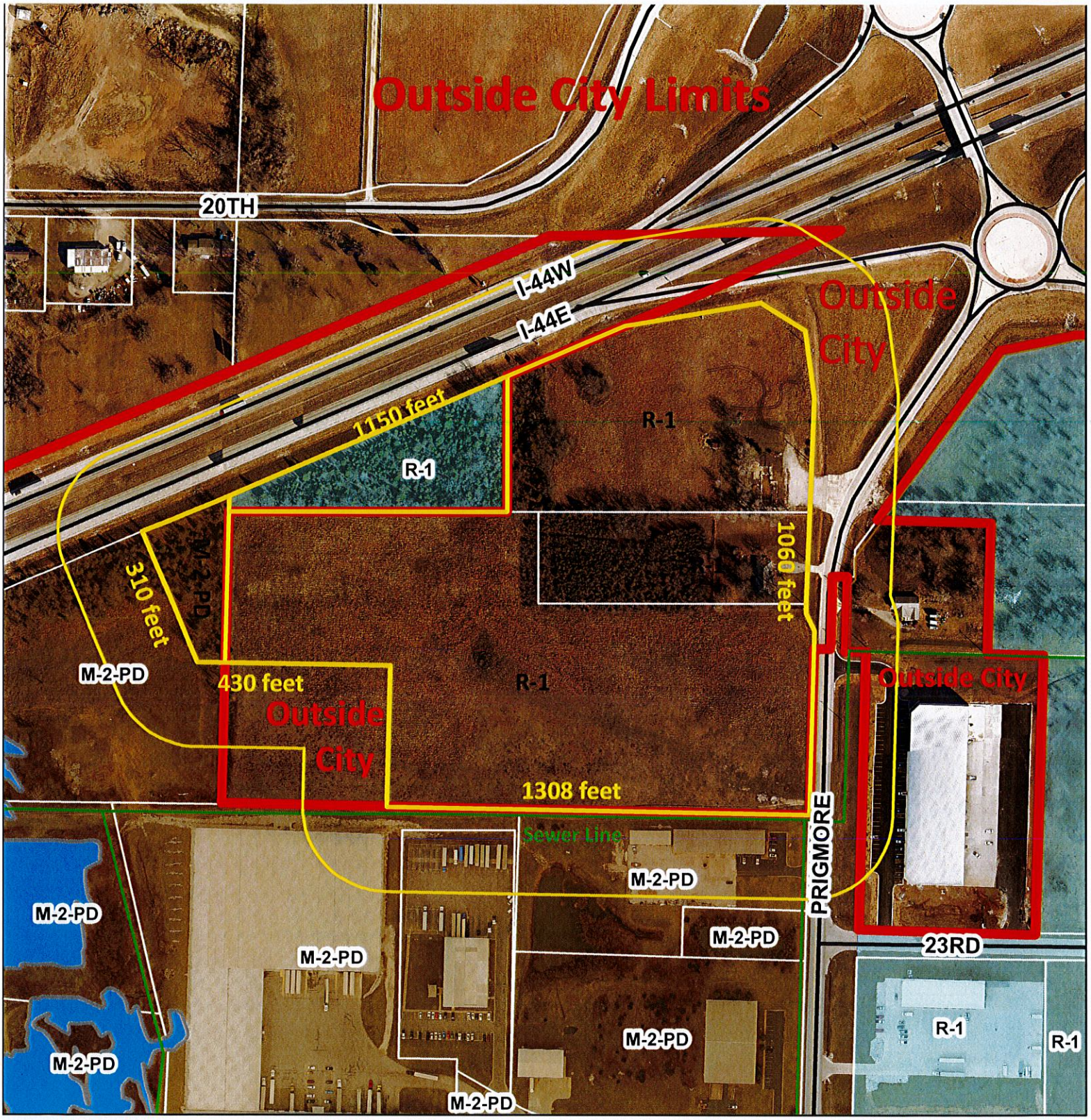
1. Appropriately Sized Lots? No
2. Properly Sized Street Right-of-Way? No
3. Drainage Easements? No
4. Utility Easements: No
   Electricity? _____
   Gas? _____
   Sewers? _____
   Water? _____
5. Additional Comments: Utility Corridors have already been established on the site plan for the Travel Center ad private easements will be conveyed as required.

UNIQUE CHARACTERISTIC OF PROPERTY AND ADDITIONAL COMMENT:

SIGNATURE: _____ DATE: 09-06-18

BY: Balwinder Sinn

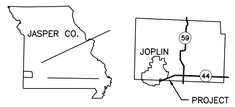
TITLE: MANAGER



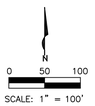
Case 039-18: Approximately 26 acres, located immediately south of I-44 at Exit 13 and west of Prigmore Avenue -- A request to zone Commercial District (C-3). -- Skyline Travel Plaza, LLC.

N

PLAT OF SURVEY FOR BILL SINGH
A PORTION OF THE NORTHEAST QUARTER OF SECTION 15,
TOWNSHIP 27 NORTH, RANGE 32 WEST
JASPER COUNTY, MISSOURI



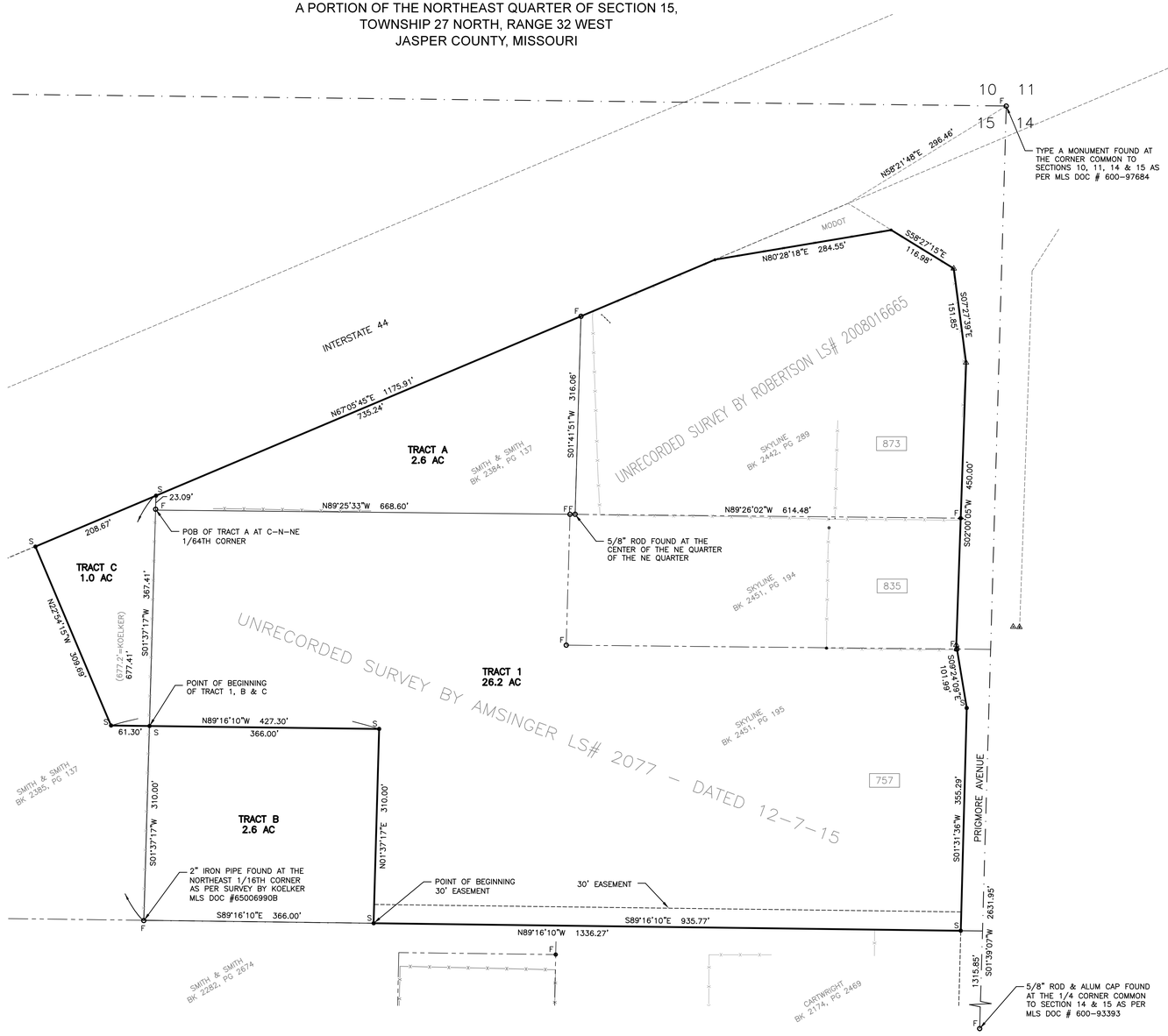
LOCATION MAPS
NOT TO SCALE



SCALE: 1" = 100'

LEGEND

- ● 1/2" IRON ROD OR PIPE
- ○ 5/8" OR LARGER IRON
- △ RIGHT OF WAY MARKER
- ⊡ STONE MONUMENT
- ∘ CORNER POST
- X FENCE LINE
- OHE OVERHEAD ELECTRIC
- G GAS LINE
- S SEWER LINE



SURVEYOR'S NOTES

ORDER # 11671

THE BASIS OF BEARING IS GRID NORTH OF THE MISSOURI STATE COORDINATE SYSTEM.

THIS SURVEY WAS EXECUTED TO COMPLY WITH THE ACCURACY STANDARDS FOR A RURAL CLASS PROPERTY.

NO PORTION OF THIS TRACT IS WITHIN ZONE A AS PER FEMA MAP COMMUNITY–PANEL # 29097C 0283 E & 29097C 0284 E.

TRACTS A, B, AND C ARE FOR TRANSFER ONLY AND NOT INTENDED TO BE STAND ALONE PARCELS.

TRACTS A AND B ARE OF EQUAL ACREAGE TO BE A BALANCED LAND SWAP

THIS IS TO CERTIFY THAT A SURVEY WAS EXECUTED UNDER MY PERSONAL SUPERVISION AND I HEREBY DECLARE THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF, THIS SURVEY WAS EXECUTED IN ACCORDANCE WITH THE MISSOURI CURRENT STANDARDS FOR PROPERTY BOUNDARY SURVEYS, 10CSR 30–2 AND THE RESULTS ARE REPRESENTED ON THIS PLAT OF SURVEY.

MARK W. ROBERTSON, P.L.S. 2008016665
DATE: MAY ___, 2018

DESCRIPTION TRACT A: A TRACT OF LAND SITUATED IN THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 27 NORTH, RANGE 32 WEST, JASPER COUNTY, MISSOURI AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 5/8" ROD FOUND AT THE CENTER–NORTH–NORTHEAST 1/64th CORNER OF SECTION 15;
THENCE ALONG THE EAST 1/16TH LINE, N01°37'17"E A DISTANCE OF 23.09' TO A 1/2" ROD SET ON THE SOUTH RIGHT OF WAY LINE OF INTERSTATE 44;
THENCE ALONG SAID RIGHT OF WAY LINE, N67°05'45"E A DISTANCE OF 735.24' TO A 5/8" ROD FOUND;
THENCE ALONG THE EAST–EAST 1/64th LINE, S01°41'51"W A DISTANCE OF 316.06' TO A 5/8" ROD FOUND AT THE CENTER OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER;
THENCE ALONG THE NORTH–NORTH 1/64th LINE, N89°25'33"W A DISTANCE OF 668.60' TO THE POINT OF BEGINNING.

THE ABOVE TRACT OF LAND CONTAINS 2.6 AC. MORE OR LESS, SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD, OR NOT OF RECORD, IF ANY.

DESCRIPTION TRACT B: A TRACT OF LAND SITUATED IN THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 27 NORTH, RANGE 32 WEST, JASPER COUNTY, MISSOURI AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 1/2" ROD SET ON THE EAST 1/16th LINE, FROM WHENCE THE NORTHEAST 1/16th CORNER BEARS, S01°37'17"W A DISTANCE OF 310.00';
THENCE ALONG SAID LINE, S01°37'17"W A DISTANCE OF 310.00' TO A 2" IRON PIPE FOUND AT THE NORTHEAST 1/16th CORNER;
THENCE ALONG THE NORTH 1/16th LINE, S89°16'10"E A DISTANCE OF 366.00' TO A 1/2" ROD SET;
THENCE LEAVING SAID LINE, N01°37'17"E A DISTANCE OF 310.00' TO A 1/2" ROD SET;
THENCE N89°16'10"W A DISTANCE OF 366.00' TO THE POINT OF BEGINNING.

THE ABOVE TRACT OF LAND CONTAINS 2.6 AC. MORE OR LESS, SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD, OR NOT OF RECORD, IF ANY.

DESCRIPTION TRACT C: A TRACT OF LAND SITUATED IN THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 27 NORTH, RANGE 32 WEST, JASPER COUNTY, MISSOURI AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 1/2" ROD SET ON THE EAST 1/16th LINE FROM WHENCE THE 1/16th CORNER BEARS, S01°37'17"W A DISTANCE OF 310.00';
THENCE N89°16'10"W A DISTANCE OF 61.30' TO A 1/2" ROD SET;
THENCE N22°54'15"W A DISTANCE OF 309.69' TO A 1/2" ROD SET ON THE SOUTH RIGHT OF WAY LINE OF INTERSTATE 44;
THENCE ALONG SAID RIGHT OF WAY LINE, N67°05'45"E A DISTANCE OF 208.67' TO A 1/2" ROD SET ON THE EAST 1/16th LINE;
THENCE ALONG SAID LINE, S01°37'17"W A DISTANCE OF 367.41' TO THE POINT OF BEGINNING.

THE ABOVE TRACT OF LAND CONTAINS 1.0 AC. MORE OR LESS, SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD, OR NOT OF RECORD, IF ANY.

DESCRIPTION OF 30' EASEMENT: A STRIP OF GROUND BEING 30' WIDE ON THE NORTH SIDE OF THE FOLLOWING DESCRIBED LINE AND BEING SITUATED IN THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 27 NORTH, RANGE 32 WEST, JASPER COUNTY, MISSOURI AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 1/2" ROD SET ON THE NORTH 1/16th LINE FROM WHENCE THE NORTHEAST 1/16th CORNER BEARS, N89°16'10"W A DISTANCE OF 366.00';
THENCE S89°16'10"E A DISTANCE OF 935.77' TO THE EAST LINE OF SAID SECTION AND THE POINT OF ENDING.

THE ABOVE TRACT OF LAND CONTAINS 29,108 SQUARE FEET MORE OR LESS, SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD, OR NOT OF RECORD, IF ANY.

DESCRIPTION TRACT 1: A TRACT OF LAND SITUATED IN THE NORTHWEST QUARTER OF SECTION 15, TOWNSHIP 27 NORTH, RANGE 32 WEST, JASPER COUNTY, MISSOURI AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 1/2" ROD SET ON THE EAST 1/16TH LINE FROM WHENCE THE NORTHEAST 1/16th CORNER BEARS, S01°37'17"W A DISTANCE OF 310.00';
THENCE N89°16'10"W A DISTANCE OF 61.30' TO A 1/2" ROD SET;
THENCE N22°54'15"E A DISTANCE OF 309.69' TO A 1/2" ROD SET ON THE SOUTH RIGHT OF WAY LINE OF INTERSTATE 44;
THENCE ALONG SAID RIGHT OF WAY LINE AS FOLLOWS: N67°05'45"E A DISTANCE OF 1175.91' TO A RIGHT OF WAY FENCE CORNER;
THENCE N80°28'18"E A DISTANCE OF 284.55' TO A CORNER POST;
THENCE S58°27'15"E A DISTANCE OF 116.98' TO A RIGHT OF WAY MARKER;
THENCE S07°27'39"E A DISTANCE OF 151.85' TO A RIGHT OF WAY MARKER;
THENCE S02°00'05"W A DISTANCE OF 450.00' TO A 5/8" ROD FOUND;
THENCE S09°24'09"E A DISTANCE OF 101.99' TO A 1/2" ROD SET ON THE WEST RIGHT OF WAY LINE OF PRIGMORE AVENUE;
THENCE ALONG SAID LINE, S01°31'36"W A DISTANCE OF 355.29' TO A 1/2" ROD SET ON THE NORTH 1/16th LINE;
THENCE ALONG SAID LINE, N89°16'10"W A DISTANCE OF 935.77' TO A 1/2" ROD SET;
THENCE LEAVING SAID LINE, N01°37'17"E A DISTANCE OF 310.00' TO A 1/2" ROD SET;
THENCE N89°16'10"W A DISTANCE OF 366.00' TO THE POINT OF BEGINNING.

THE ABOVE TRACT OF LAND CONTAINS 26.2 AC. MORE OR LESS, SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD, OR NOT OF RECORD, IF ANY.

RESERVE THIS SPACE FOR COUNTY RECORDER

4 CORNERS SURVEYING LLC
823 EMERALD DRIVE
CENTRALIA, MISSOURI 65240
PHONE: 660.287.0614

I HEREBY CERTIFY THE SURVEY PLATTED HEREON COMPLIES WITH THE CURRENT STANDARDS FOR PROPERTY BOUNDARY SURVEYS.

STATE OF MISSOURI
MARK W. ROBERTSON
NUMBER PLS-2008016665
PROFESSIONAL LAND SURVEYOR

MARK W ROBERTSON P.L.S. #2008016665
4 CORNERS SURVEYING LLC #2011033564

ISSUE/REVISION	DATE

SKYLINE TRAVEL PLAZA
757, 835 & 873 PRIGMORE AVENUE
JOPLIN MISSOURI

FINAL PLAT

DRAWN BY	TH
CHECKED BY	MWR
SHEET NUMBER:	01

11671–STP\STP(JOPLIN).DWG

P & Z Case 039-18
Skyline Travel Plaza, LLC.,
(P & Z Recommended Approval)

COUNCIL BILL NO. 2018-274 ORDINANCE NO.

AN ORDINANCE approving approximately 26 acres, located immediately south of I-44 at Exit 13 and west of Prigmore Avenue to include in District C-3 (Commercial District), 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-3:

ALL THAT PART OF THE NORTHEAST QUARTER (NE1/4) OF THE NORTHEAST QUARTER (NE1/4) OF SECTION 15, TOWNSHIP 27 NORTH, RANGE 32 WEST, JASPER COUNTY, MISSOURI BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID NORTHEAST QUARTER OF THE NORTHEAST QUARTER, THENCE N01°37'17"E A DISTANCE OF 310.00 FEET TO THE POINT OF BEGINNING: THENCE CONTINUING N01°37'17"E A DISTANCE OF 344.32 FEET; THENCE S89°25'33"E A DISTANCE OF 668.60 FEET; THENCE N01°41'51"E A DISTANCE OF 316.06 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF INTERSTATE 44; THENCE ALONG SAID RIGHT OF WAY LINE THE FOLLOWING COURSES: THENCE N67°05'45"E A DISTANCE OF 232.00 FEET TO A RIGHT OF WAY FENCE CORNER; THENCE N80°28'18"E A DISTANCE OF 284.55 FEET TO A CORNER POST;
THENCE S58°27'15"E A DISTANCE OF 116.98 FEET TO A RIGHT OF WAY MARKER; THENCE S07°27'39"E A DISTANCE OF 151.85 FEET RIGHT OF WAY MARKER; THENCE S02°00'05"W A DISTANCE OF 450.00 FEET; THENCE S09°24'09"E A DISTANCE OF 101.99 FEET TO POINT ON THE WEST RIGHT OF WAY LINE OF PRIGMOR AVENUE: THENCE S01°31'36"W A DISTANCE OF 355.29 FEET TO A POINT ON THE SOUTH LINE OF SAID NORTHEAST QUARTER OF THE NORTHEAST QUARTER; THENCE N89°16'10"W ALONG SAID SOUTH LINE OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER A DISTANCE OF 935.77 FEET; THENCE N01°37'17"E A DISTANCE OF 310.00 FEET;
THENCE N89°16'10"W A DISTANCE OF 366.00 FEET TO THE POINT OF BEGINNING. CONTAINING 22.6 ACRES MORE OR LESS. SUBJECT TO ANY EASEMENTS AND RESTRICTIONS OF RECORD, OR NOT OF RECORD, IF ANY.
ALL THAT PART OF THE NORTHEAST QUARTER (NE1/4) OF THE NORTHEAST QUARTER (NE1/4) OF SECTION 15, TOWNSHIP 27 NORTH, RANGE 32 WEST, JASPER COUNTY, MISSOURI AND DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID NORTHEAST QUARTER OF THE NORTHEAST QUARTER THENCE N01°37'17"E A DISTANCE OF 654.32 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUING N01°37'17"E A DISTANCE OF 23.09 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF INTERSTATE 44; THENCE N67°05'45"E ALONG SAID SOUTH RIGHT-OF-WAY LINE A DISTANCE OF 735.24 FEET; THENCE S01°41'51"W A DISTANCE OF 316.06 FEET;
THENCE N89°25'33"W A DISTANCE OF 668.60 FEET TO THE POINT OF BEGINNING. CONTAINING 2.6 AC. MORE OR LESS. SUBJECT TO ANY EASEMENTS OR RESTRICTIONS OF RECORD.
ALL THAT PART OF THE NORTHWEST QUARTER (NW1/4) OF THE NORTHEAST QUARTER (NE1/4) OF SECTION 15, TOWNSHIP 27 NORTH, RANGE 32 WEST, JASPER COUNTY, MISSOURI AND DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID NORTHWEST QUARTER OF THE NORTHEAST QUARTER THENCE N01°37’17”E A DISTANCE OF 310.00 FEET TO THE POINT OF BEGINNING;
THENCE N89°16'10"W A DISTANCE OF 61.39 FEET; THENCE N22°54'15"W A DISTANCE OF 309.69 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF INTERSTATE 44; THENCE N67°05'45"E ALONG SAID RIGHT-OF-WAY LINE A DISTANCE OF 208.67 FEET TO A POINT ON THE EAST LINE OF SAID NORTHWEST QUARTER OF THE NORTHEAST QUARTER; THENCE S01°37'17"W ALONG SAID EAST LINE OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER A DISTANCE OF 367.41 FEET TO THE POINT OF BEGINNING. CONTAINING 1.0 AC. MORE OR LESS. SUBJECT TO ANY EASEMENTS AND RESTRICTIONS OF RECORD.

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_____, 2018, 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 2018-159
Resurfacing of Streets 2019
Construction Agreement for Resurfacing

MEETING DATE
December 17, 2018

ORIGINATING DEPARTMENT
Public Works

REVIEWED BY
Director of Public Works – David Hertzberg, Director of Finance – Leslie Haase, City Attorney – Peter C. Edwards, City Manager – Samuel L. Anselm

SUMMARY
This Council Bill approves a construction agreement with Emery Sapp & Sons Inc., for the resurfacing of streets in the not to exceed amount of Nine Hundred Ninety Thousand Two Hundred Forty-Seven and 16/100 Dollars, ($990,247.16)

BACKGROUND
City staff annually evaluates the pavement conditions of the City street system and recommends streets that need improvements. City staff determines which streets are to be resurfaced through a selection process based on traffic counts, street classifications, structural integrity and ride quality. Streets or parking lots may be added or deleted from this list. The Annual Resurfacing Project Budget provides for these street needs. Street resurfacing consists of a 2 inch milling and asphalt overlay.

City staff prepared bid documents for the project. Staff followed the City's procurement policy for advertising of said project. Two construction companies submitted bids (see attached Bid Tabulation), that were opened on November 8, 2018. Emery Sapp & Sons Inc., was the low bidder. The bid was within 10% of the Engineer's estimate. City staff evaluated the bids and existing city budget, staff chose to award base bid with alternates 2 & 5 as the best fit within the budget.

FUNDING SOURCE
These payments are included in the FY 2018-19 budget; Transportation Sales Tax Fund Account 140-4520-530-8650.

RECOMMENDATION
Staff recommends adoption of this Council Bill on an Emergency basis; being an ordinance relating to a public improvement is an emergency within the meaning of Section 2.12(6) of the HOME RULE CHARTER of the City of Joplin, Missouri and the Council hereby declares that this ordinance shall be in full force and effect from and after its passage. Specifically, this ordinance approves construction to begin immediately in the optimal construction time during the calendar year, and appropriations for this contract have been approved in the 2018-2019 budget

ATTACHMENTS

CB2018-159 Ordinance; Bid Tabulation, Construction Agreement, Location Map 1 & 2

BID TABULATION

Base Bid Plus Alternates 2 & 5

PROJECT: Resurfacing 2019

DATE OF BID OPENING: November 8 , 2018

CONTRACTOR	BID
Emery Sapp & Sons	990,247.16
Blevins Asphalt	1,224,257.03
Engineer's Estimate	979,583.00

AGREEMENT
BETWEEN
CITY OF JOPLIN AND EMERY SAPP & SONS Inc.

CITY		CONTRACTOR	
CITY OF JOPLIN **602 S. MAIN STREET** **JOPLIN, MO 64801**		Name: Emery Sapp & Sons Address: 5350 State Hwy AA SPRINGFIELD, MO 65803	
Attention:		Attention:	
Department: Engineering		Phone:	Fax:
Phone:	Fax:		

THIS AGREEMENT, made and entered into this ____ day of _____, 20____, by the parties identified above.

WITNESSETH: That whereas, the Contractor has become the lowest responsible bidder for furnishing the supervision, labor, tools, equipment, materials and supplies and for constructing the following City improvements:

Joplin Street Resurfacing 2019

The City and Contractor agree to the following:

1. Manner and Time for Completion. The Contractor will furnish all supervision, labor, tools, equipment, materials and supplies necessary to perform, and to perform said work at Contractor's own expense in accordance with the contract documents and any applicable City ordinances and state and federal laws by June 30, 2019 from the date Contractor is ordered to proceed, which order shall be issued by the Director of Public Works within 30 days after the date of this contract.

2. Prevailing Wages. All labor utilized in the construction of the aforementioned improvements shall be paid a wage of no less than the "prevailing hourly rate of wages" for work of a similar character in this locality, as established and amended at any time by the Department of Labor and Industrial Relations of the State of Missouri. At any time the contractor is found to not have paid prevailing wages, the contractor shall forfeit as a penalty to the city one hundred dollars for each underpaid worker employed, for each calendar day, or portion thereof such worker is paid less than the said stipulated rates for any work done under this contract.

3. Insurance Requirements. Without limiting any of the other obligations or liabilities of the Contractor, the Contractor shall secure and maintain at its own cost and expense, throughout the duration of this Contract and until the work is completed and accepted by the City of Joplin, insurance of such types and in such amounts as may be necessary to protect it and the interests of the City of Joplin against all hazards or risks of loss as hereunder specified or which may arise out of the performance of the Contract

Documents. The form and limits of such insurance, together with the underwriter thereof in each case, are subject to approval by the City of Joplin. Regardless of such approval, it shall be the responsibility of the contractor to maintain adequate insurance coverage at all times during the term of the Contract. Failure of the Contractor to maintain coverage shall not relieve it of any contractual responsibility or obligation or liability in general or under the Contract Documents.

The certificates of insurance, including evidence of the required endorsements hereunder or the policies, shall be filed with the City within ten (10) days after the date of the receipt of Notice of Award of the Contract to the Contractor and prior to the start of work. All insurance policies shall require that the insurance company in question provide thirty (30) days written notice prior to modification or cancellation of such insurance. Such notices shall be mailed, certified mail, return receipt requested, to:

City of Joplin - Public Works, 602 S. Main Street, Joplin, MO 64801

Such policies shall name the City as an additional insured, with limits of liability not less than the sovereign immunity limits for Missouri public entities calculated by the Missouri Department of Insurance as of January 1 each calendar year and published annually in the Missouri Register pursuant to Section 537.610, RSMo. (See, http://insurance.mo.gov/industry/sovimmunity.php)

As of January 1, 2018, the minimum coverage for the insurance referred to herein shall be as set out below:

a. Workers' Compensation.... Statutory coverage per RSMo 287.010 et seq

Employer's Liability..... $1,000,000.00

b. Commercial General Liability Insurance, including coverage for Premises, Operations, Products and Completed Operations, Contractual Liability, Broad Form Property Damage, Independent Contractors, Explosion, Collapse, and Underground Property Damage and endorsed for blasting if blasting required. Such coverage shall apply to bodily injury and property damage on an "Occurrence Form Basis" with limits of at least Two Million Eight Hundred Four Thousand Forty-Six and no/100 Dollars ($2,804,046.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Twenty Thousand Six Hundred Six and no/100 Dollars ($420,606.00) with respect to injuries and/or death of any one person in a single occurrence and an amount not less than at least $1,000,000 for all claims to property arising out of a single occurrence and at least $100,000 to any one owner with respect to damages to property. Contractor agrees that the proceeds of such insurance policy shall first be used to pay any award, damages, costs, and/or attorneys' fees incurred by or assessed against City, its employees, officers and agents, before payment of any award, damages, costs or attorneys' fees of Contractor, its employees, officers or agents. Contractor agrees to cause its insurer to name City as an additional insured on such insurance policy, including the City as an additional insured for coverage under its products-completed operations hazard, and said policy shall be primary and noncontributory.

c. Automobile Liability Insurance covering bodily injury and property damage for owned, non-owned and hired vehicles, with limits of at least Two Million Eight Hundred Four Thousand Forty-Six and no/100 Dollars ($2,804,046.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Twenty Thousand Six Hundred Six and no/100 Dollars ($420,606.00) with respect to injuries and/or death of any one person in a single accident or occurrence.

d. Owner's and Contractor's Protective Liability Insurance to protect the City, its agents, servants and employees from claims which may arise from the performance of this Contract, with limits of at least Two Million Eight Hundred Four Thousand Forty-Six and no/100 Dollars ($2,804,046.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Twenty Thousand Six Hundred Six and no/100 Dollars ($420,606.00) with respect to injuries and/or death of any one person in a single accident or occurrence.

The Owner's and Contractor's Protective Liability Insurance must:

(1) Be a separate policy with the named insured being: The City of Joplin, and

(2) Contain an endorsement that disclaims coverage for any claim barred by the doctrines of sovereign immunity or official immunity, except attorney's fees and other litigation costs incurred in defending a claim. Nothing contained in this policy (or this endorsement thereto) shall constitute any waiver of whatever kind of these defenses or sovereign immunity or official immunity for any monetary amount whatsoever.

e. Builders Risk Insurance for contracts involving unoccupied structures. The Contractor shall secure All Risk Builder's Risk Insurance. Unless specifically authorized by the City, the amount of such insurance shall not be less than the total contract price.

f. Subcontracts. In case any or all of this work is sublet, the Contractor shall require the subcontractor to procure and maintain all insurance required in subparagraphs (a), (b) and (c) hereof and in like amounts. Contractor shall require any and all subcontractors with whom it enters into a contract to perform work on this project to protect the City of Joplin through insurance against applicable hazards or risks and shall, upon request of the City, provide evidence of such insurance.

g. Notice. The Contractor and/or subcontractor shall furnish the City prior to beginning the work, the policy as specified in subparagraph (d), and satisfactory proof of carriage of all the insurance required by this contract, with the provision that policies shall not be canceled, modified or non-renewed without thirty (30) days written notice to the City of Joplin.

h. Legislative or Judicial Changes. In the event the scope or extent of the City's tort liability as a governmental entity as described in Section 537.600 through 537.650 RSMo is broadened or increased during the term of this agreement by legislative or judicial action, the City may require Contractor, upon 10 days written notice, to execute a contract addendum whereby the Contractor agrees to provide, at a price not exceeding Contractor's actual increased premium cost, additional liability insurance coverage as the City may require to protect the City from increased tort liability exposure as the result of such legislative or judicial action. Any such additional insurance coverage shall be evidenced by an appropriate certificate of insurance and shall take effect within the time set forth in the addendum.

4. Performance, Labor, and Materials Payment Bond: The Contractor shall furnish a Performance Bond and a Labor and Materials Payment Bond with surety approved by the City and on the forms approved by the City, each bond shall be in the amount of Nine Hundred Ninety Thousand Two hundred Forty Seven and 16/100 Dollars ($990,247.16) conditioned upon the full and faithful performance of all major terms and conditions of this contract and payment of all labor and material suppliers. It is further mutually agreed between the parties hereto that if at any time after the execution of this agreement and the surety bond(s) hereto attached for its faithful performance and payment of labor and material suppliers, the City shall deem the surety or sureties upon such bond(s) to be unsatisfactory, or if, for any reason, such bond(s) ceases to be adequate to cover the performance of the work, the Contractor shall, at its expense, within five (5) days after the receipt of notice from the City to do so, furnish an additional bond or bonds, in such form and amount, and with such surety or sureties as shall be satisfactory to the City. In such event no further paymentto the Contractor shall be deemed to be due under this contract until such new or additional security for the faithful performance of the work and the payment of labor and material suppliers shall be furnished in a manner and form satisfactory to the City. The corporate surety on any performance or payment bond must be licensed by the State of Missouri and if the required bond exceeds $25,000.00 must be listed in United States Treasury Circular 570.

5. Certification Regarding Disbarment, Eligibility, Indictments, Convictions or Civil Judgements for all Federal Aid Projects: By signing and submitting the bid, the president or authorized official of the bidder, under penalty of perjury under the laws of the USA, shall certify that, except as noted in the exceptions, the company or any person associated therewith in the capacity of owner, partner, director, officer, principal investor, project director, manager, auditor or any position involving the administration of federal funds:
(Reference can be made to "The System for Award Management" website as a helpful resource).

a. Is not currently under suspension, debarment, voluntary exclusion or determination of ineligibility by any federal agency.

b. Has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three years.

c. Does not have a proposed debarment or suspension pending.

d. Has not been indicted, convicted or had a civil judgment rendered against any of the listed parties by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three years.

5.1 If there are any exceptions, the bidder shall submit the exceptions on company letterhead, signed by the bidder and inserted inside the bid submitted. Exceptions will not necessarily result in denial of award, but will be considered in determining bidder responsibility. For any exception noted, the bidder shall indicate to whom it applies, the initiating agency, and dates of action. Providing false information may result in criminal prosecution or administrative sanctions.

5.2 By signing the contract, the contractor shall further certify that all related subcontracts of $25,000 shall comply with this requirement. This includes all subcontractors, material suppliers and vendors.

6. Contractor's responsibility for subcontractors. The Contractor shall be as fully responsible to the City for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as Contractor is for the acts and omissions of persons it directly employs. Contractor shall cause appropriate provisions to be inserted in all subcontracts relating to this work, to bind all subcontractors to Contractor by all the terms herein set forth, and insofar as applicable to the work of subcontractors and to give Contractor the same power regarding termination of any subcontract as the City may exercise over Contractor under any provisions of this contract. Nothing contained in this contract shall create any contractual relation between the subcontractor and the City or between any subcontractors.

7. General Independent Contractor Clause. This agreement does not create an employee/employer relationship between the parties. It is the parties' intention that the Contractor will be an independent contractor and not the City's employee for all purposes, including, but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, Missouri Revenue and Taxation laws, Missouri Workers' Compensation and Unemployment Insurance laws. The Contractor will retain sole and absolute discretion in the judgment of the manner and means of carrying out the Contractor's activities and responsibilities hereunder. The Contractor agrees that it is a separate and independent enterprise from the public employer, that it has a full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This agreement shall not be construed as creating any joint employment relationship between the Contractor and the City, and the City will not be liable for any obligation incurred by the Contractor, including but not limited to unpaid minimum wages and/or overtime premiums.

8. Liquidated Damages. Time of completion of work by the Contractor is of the essence. Should Contractor, or in the case of default, the surety, fail to complete the work within the time specified in the contract, or within such extra time as may be allowed in accordance with City of Joplin Standard Specifications, Division 0000, General Requirements and Provisions, Section 0400.19, (http://mo-joplin.civicplus.com/DocumentCenter/View/3460) Contractor (or surety) shall be liable to the City in the amount of $500.00 per day for each and every calendar day that exceeds 3 calendar days for between milling and paving operations, $2,500 per day if June 30, 2019 deadline is not met the contract remains uncompleted after the time allowed for completion, as liquidated damages, and not as a penalty, it being stipulated that actual damages to the City and the public arising from Contractor's failure to timely complete the work would be difficult, if not impossible, to ascertain. The amount assessed as liquidated damages may be withheld from any moneys otherwise due to Contractor from the City.

9. Termination. The City reserves the right to terminate this contract by giving at least five (5) days prior written notice to the Contractor, without prejudice to any other rights or remedies of the City should the Contractor be adjudged a bankrupt, or if Contractor should make a general assignment for the benefit of its creditors, or if a receiver should be appointed for Contractor or for any of its property, or if Contractor should persistently or repeatedly refuse or fail to supply enough properly skilled workmen or proper material, or if Contractor should refuse or fail to make prompt payment to any person supplying labor or materials for the work under the contract, or persistently disregard instructions of the City or fail to observe or perform any provisions of the contract.

10. City's Right to Proceed. In the event this contract is terminated pursuant to Paragraph 8, then the City may take over the work and prosecute the same to completion, by contract or otherwise, and Contractor and its sureties shall be liable to the City for any costs over the amount of this contract thereby occasioned by the City. In any such case, the City may take possession of, and utilize in completing the work, such materials, appliances and structures as may be on the work site and are necessary for completion of the work. The foregoing provisions are in addition to, and not in limitation of, the rights of the City under any other provisions of the contract, city ordinances, and state and federal laws.

11. Termination for Convenience of City. The City shall have the right at any time by written notice to Contractor to terminate and cancel this contract, without cause, for the convenience of the City, and Contractor shall immediately stop work. In such event City shall not be liable to Contractor except for payment for actual work performed prior to such notice in an amount proportionate to the completed contract price and for the actual costs of preparations made by Contractor for the performance of the cancelled portions of the contract, including a reasonable allowance of profit applicable to the actual work performed and such preparations. Anticipatory profits and consequential damages shall not be recoverable by Contractor.

12. Guards and Lights. The Contractor agrees that during the performance of said work, adequate barricades, guards and warning signs, lights or devices consistent with the requirements contained in the Manual on Uniform Traffic Control Devices shall be provided by Contractor during construction.

13. Liability and Indemnity.

a. In no event shall the City be liable to the Contractor for special, indirect, or consequential damages, except those caused by the City's gross negligence or willful or wanton misconduct arising out of or in any way connected with a breach of this contract. The maximum liability of the City shall be limited to the amount of money to be paid or received by the City under this contract.

b. The Contractor shall defend, indemnify and save harmless the City, its elected or appointed officials, agents and employees from and against any and all liability, suits, damages, costs (including attorney fees), losses, outlays and expenses from claims in any manner caused by, or allegedly caused by, or arising out of, or connected with, this contract, or the work or any subcontract thereunder (the Contractor hereby assuming full responsibility for relations with subcontractors), including, but not limited to, claims for personal injuries, death, property damage, or for damages from the award of this contract to Contractor, notwithstanding any possible negligence, whether sole or concurrent, on the part of the City, its officials, agents and employees.

c. The Contractor shall indemnify and hold the City harmless from all wages or overtime compensation due any employees in rendering services pursuant to this agreement or any subcontract, including payment of reasonable attorneys' fees and costs in the defense of any claim made under the Fair Labor Standards Act, the Missouri Prevailing Wage Law or any other federal or state law.

d. The indemnification obligations of Contractor hereunder shall not be limited by any limitations as to the amount or type of damages, compensation or benefits payable by or for the Contractor, under any federal or state law, to any person asserting the claim against City, its elected or appointed officials, agents and employees, for which indemnification is sought.

e. The indemnification obligations herein shall not negate, abridge or reduce in any way any additional indemnification rights of the City, its elected or appointed officials, agents and employees, which are otherwise available under statute, or in law or equity.

f. Contractor affirms that it has had the opportunity to recover the costs of the liability insurance required in this agreement in its contract price. Contractor's obligation under this agreement to defend, indemnify, and hold harmless any person from that person's own negligence or wrongdoing is limited to the coverage and limits of the applicable insurance required of the Contractor under this agreement.

g. The Contractor shall indemnify and hold the City harmless for any penalties, fines, fees or costs, including costs of defense, which are charged or assessed by any Federal, state or local agency including, but not limited to, Environmental Protection Agency or Department of Natural Resources.

14. Payment for Labor and Materials. The Contractor agrees and binds itself to pay for all labor done, and for all the materials used in the construction of the work to be completed pursuant to this contract.

15. Payment. The City will pay the Contractor in accordance with the rate set forth in the contract documents on file in the Public Works Department and by this reference made a part hereof, which shall constitute full and complete compensation for the Contractor's work provided hereunder. Such compensation will be paid in progress payments (less five (5) percent retainage), as established by the City, subject to receipt of a requisition for payment and a statement of work provided by the Contractor and agreement by both the City and the Contractor that the Contractor has fully performed the work to be paid for in such progress payments in conformance with the contract. If the City or the architect or engineer determines that a higher rate of retainage is required to ensure performance of the contract, the City may withhold up to ten (10) percent retainage until the work is fully completed and accepted by the City.

16. Contract Documents. The contract documents shall consist of the following:

a. This Contract
b. All Change Orders
c. Bid Plans and Specifications
d. City of Joplin Standard Specifications (Latest Revised Edition)

e. Special Conditions & Provisions
f. Proposal
g. Statement of Bidder's Qualifications
h. Acknowledgment
i. Performance Bond
h. Payment and Material Bond
k. Instructions to Bidders
l. Non-collusion Affidavit
m. Notice to Proceed

Notice to Contractors: This contract, together with the other documents enumerated in this paragraph, forms the contract between the parties. These documents are as fully a part of the contract as if attached hereto or repeated herein. The Contractor agrees to perform all of the work described in the contract documents and to comply with the terms and conditions defined therein for a total sum of Nine Hundred Ninety Thousand Two hundred Forty Seven and 16/100 Dollars ($990,247.16), said amount being subject to any approved addenda or change order.

17. Subsurface Conditions. Contractor agrees that information contained in the published reports and public actions of the Missouri Division of Geology and Land Survey shall be conclusive and binding upon the Contractor as to what subsurface conditions at the job site are reasonably anticipated or reasonably foreseeable. Contractor acknowledges and agrees that it shall not be entitled to any adjustment in the Contract Sum or Contract Times for any concealed condition of any nature, including but not limited to unknown physical conditions of an unusual nature which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, in addition to the information contained in the published reports and public actions of the Missouri Division of Geology and Land Survey. Contractor recognizes that it has assumed the risks of concealed conditions and is being compensated for assuming these risks.

18. Conflict of Interest. In accepting this contract, Contractor certifies that no member or officer of its firm or corporation is an officer or employee of the City of Joplin, Missouri, or any of its boards or agencies, and further that no officer or employee of the City has any financial interest, direct or indirect, in this contract. All applicable federal regulations and provisions of R.S.Mo. Section 105.450 et seq. shall not be violated.

19. Assignment. The Contractor shall not assign any interest in this contract, and shall not transfer any interest in the same (whether by assignment or novation), without prior written consent of the City thereto, provided, however, that claims for money due or to become due to the Contractor from the City under this Contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of such assignment or transfer shall be furnished in writing promptly to the City and the bond surety. Any such assignment is expressly subject to all rights and remedies of the City under this agreement, including the right to change or delete activities from the Contract or to terminate the same as provided herein, and no such assignment shall require the City to give any notice to any such assignee of any actions which the City may take under this agreement.

20. Nondiscrimination. The Contractor agrees in the performance of this contract not to discriminate on the ground or because of race, creed, color, national origin or ancestry, sex, religion, handicap, age, status as a protected veteran or status as a qualified individual with a disability, or political opinion or affiliation, against any employee of Contractor or applicant for employment and shall include a similar provision in all subcontracts let or awarded hereunder. The parties hereby incorporate the requirements of 41 C.F.R. §§ 60-1.4(a)(7), 29 C.F.R. Part 471, Appendix A to Subpart A, 41 C.F.R. § 60-300.5(a)ii and 41 C.F.R. § 60-741.5(a), if applicable.

a. This contractor and subcontractor shall abide by the requirements of 41 C.F.R. § 60-300.5(a). This regulation prohibits discriminations against qualified protected veterans, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.

b. This contractor and subcontractor shall abide by the requirements of 41 C.F.R. § 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

21. Nonresident/Foreign Contractors. The Contractor shall procure and maintain during the life of this contract:

a. If the Contractor is a foreign corporation, a certificate of authority to transact business in the State of Missouri from the Secretary of State, unless exempt pursuant to the provisions of Section 351.570 R.S.Mo.

b. A certificate from the Missouri Director of Revenue evidencing compliance with the transient employer financial assurance law, unless exempt pursuant to the provisions of Section 285.230 RSMo.

22. Notices. All notices required or permitted hereinunder and required to be in writing may be given by FAX or by first class mail addressed to City and Contractor at the addresses shown above. The date of delivery of any notice given by mail shall be the date falling on the second full day after the day of its mailing. The date of delivery of notice by FAX transmission shall be deemed to be the date transmission occurs, except where the transmission is not completed by 5:00 p.m. on a regular business day at the terminal of the receiving party, in which case the date of delivery shall be deemed to fall on the next regular business day for the receiving party.

23. Records and Audits. The Contractor shall maintain accounts and records, including personnel, property, and financial records, adequate to identify and account for all costs pertaining to the Contract and such other records as may be deemed necessary by the City to assure proper accounting for all project funds. These records will be made available for audit purposes to the City or any authorized representative, and will be retained for three years after the expiration of this Contract.

24. Authorized Employees. Contractor acknowledges that Section285.530, RSMo, prohibits any business entity or employer from knowingly employing, hiring for employment, or continuing to employ an unauthorized alien to perform work within the State of Missouri. Contractor therefore covenants that is not knowingly in violation of subsection 1 or Section 285.530, RSMo, and that it will not knowingly employ, hire for employment, or continue to employ any unauthorized aliens to perform work on the Project, and that its employees are lawfully to work in the United States.

25. Interest of Contractor and Employees. The Contractor covenants that he/she presently has no interest and shall not acquire interest, direct or indirect, in the study area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his services hereunder. The Contractor further covenants that in the performance of this Contract, no person having any such interest shall be employed.

26. Interest of Members of a City. No member of the governing body of the City and no other officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Contract, and the Contractor shall take appropriate steps to assure compliance.

27. Interest of Other Local Public Officials. No member of the governing body of the locality and no other public official of such locality, who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Contract, and the Contractor shall take appropriate steps to assure compliance.

28. Affidavit for Contracts Over $5,000.00. That pursuant to Missouri Revised Statute Sections 285.525 through 285.550, if this contract exceeds the amount of $5,000.00 and Contractor is associated with a business entity, Contractor shall provide an acceptable notarized affidavit stating that the associated business entity is enrolled in and participates in a federal work authorization program with respect to the employees working in connection with the contracted services, and that said business entity does not knowingly employ any person who is an unauthorized alien in connection with the contracted services. Additionally, Contractor must provide documentation for said business entity evidencing current enrollment in a federal work authorization program.

29. City Benefits. The Contractor shall not be entitled to any of the benefits established for the employees of the City nor be covered by the Worker's Compensation Program of the City.

30. Occupational License: The Contractor shall obtain and maintain an occupational license with the City of Joplin, Missouri, if required by city code and any required state or federal license. The cost for this occupational license shall be borne by the Contractor. No contract will be executed by the City until this occupational license has been obtained and that the Contractor is current on any City taxes is verified.

31. Safety Training. Pursuant to Missouri Revised Statute Section 292.675, Contractors and subcontractors who sign a contract to work on public works projects must provide a 10-hour OSHA construction safety program, or similar program approved by the Department of Labor and Industrial Relations, to be completed by their on-site employees within sixty (60) days of beginning work on the construction project. Contractors and subcontractors in violation of this provision will forfeit to the public body $2,500 plus

$100 a day for each employee who is employed without training. Public bodies and contractors may withhold/assess these penalties from the payment due to those contractors and subcontractors if found to be in non-compliance.

32. Compliance with Laws. Contractor agrees to comply with all applicable federal, state and local laws or rules and regulations applicable to the provision of services and products hereunder. Contractor affirmatively states that payment of all local, state, and federal taxes and assessments owed by Contractor is current.

33. Entire Agreement. This agreement contains the entire agreement of the parties. No modification, amendment, or waiver of any of the provisions of this agreement shall be effective unless in writing specifically referring hereto, and signed by both parties.

34. Remedies. Except as may be otherwise found in the contract documents, all claims, disputes, counter-claims, and other matters in question between the Owner and Contractor arising out of or related to this agreement or the breech thereof, will be decided by arbitration if the parties hereto mutually agree, or in a court of competent jurisdiction within the state in which the Owner is located.

35. Jurisdiction. This agreement and every question arising hereunder shall be construed or determined according to the laws of the State of Missouri. Should any part of this agreement be adjudicated, venue shall be proper only in the Circuit Court of Jasper County, Missouri.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year herein stated.

CONTRACTOR:

CERTIFICATE OF DIRECTOR OF FINANCE

I certify that the expenditure contemplated by this document is within the purpose of the appropriation to which it is to be charged and that there is an unencumbered balance of appropriated and available funds to pay therefor.

By: _____

Printed Name: _____

Title: _____

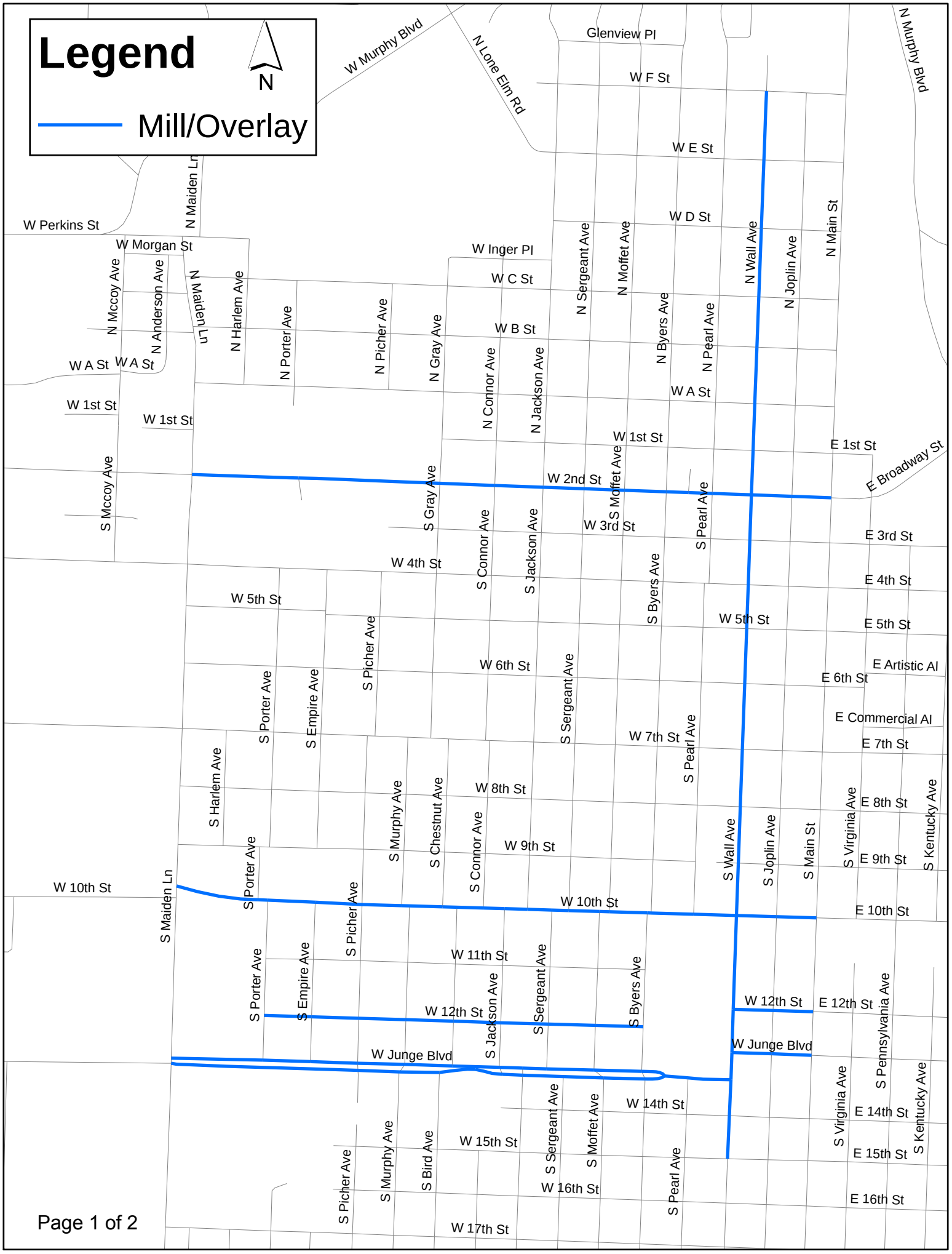
_____
Leslie Haase, Director of Finance

CITY OF JOPLIN, MISSOURI

APPROVED AS TO FORM

By: _____
David Hertzberg, Public Works Director

_____
Peter Edwards, City Attorney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N Sergeant Ave
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N Byers Ave
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N Wall Ave
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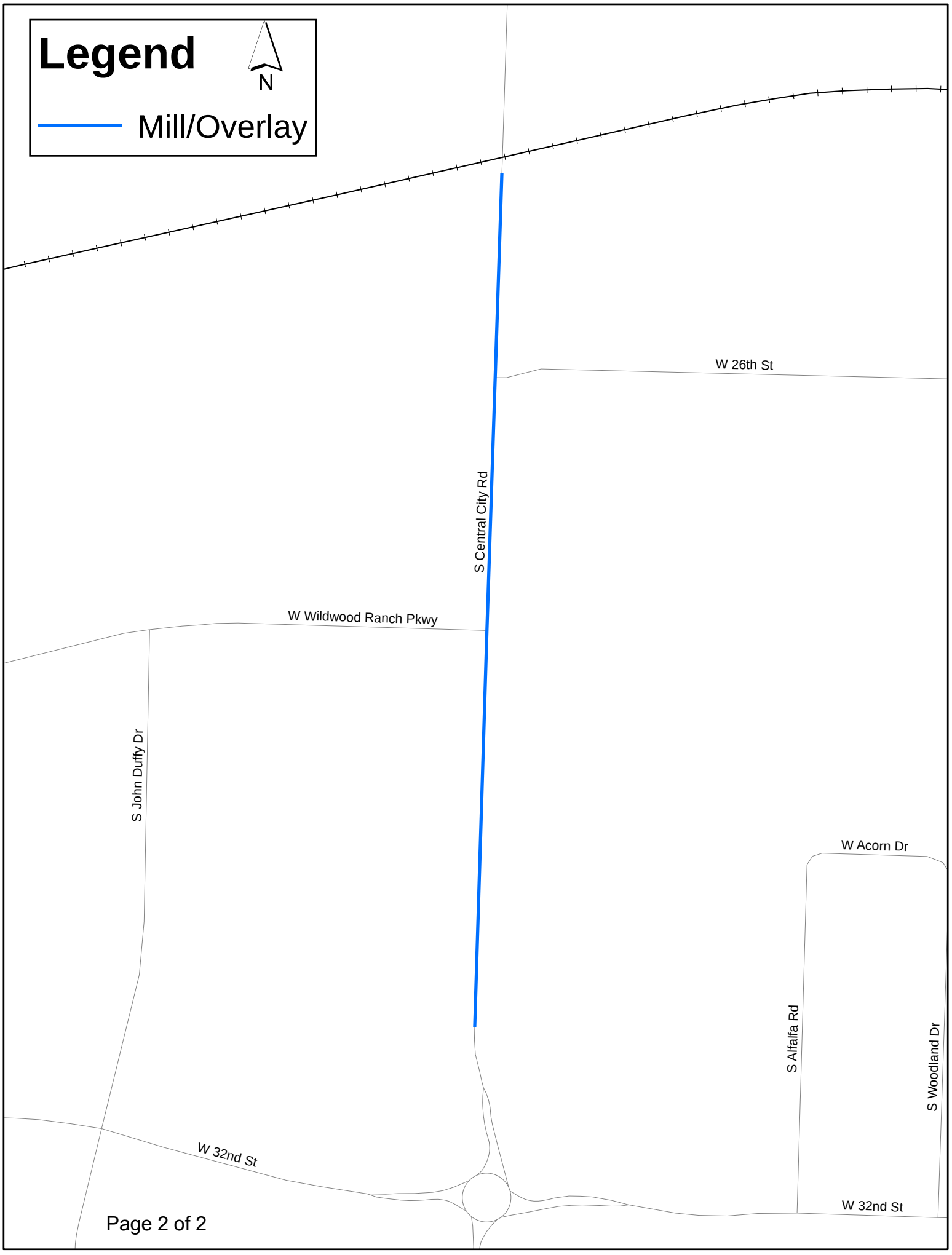
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W Acorn Dr
S Alfalfa Rd
S Woodland Dr
W 32nd St
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COUNCIL BILL NO. 2018-159 ORDINANCE NO

AN ORDINANCE approving a construction agreement with Emery Sapp & Sons Inc. for street resurfacing in the not to exceed amount Nine Hundred Ninety Thousand Two Hundred Forty-Seven and 16/100 Dollars, ($990,247.16) for the 2019 Resurfacing project and containing an emergency clause.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF JOPLIN, as follows:

Section 1. That the agreement with Emery Sapp & Sons Inc., for street resurfacing in the not to exceed amount of Nine Hundred Ninety Thousand Two Hundred Forty-Seven and 16/100 Dollars, ($ 990,247.16) in the City of Joplin, Jasper County, a copy of which is attached hereto as Exhibit A, be the same and 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 upon the final approval and acceptance of the contractor's work under said contract, in substantial conformance with the attached exhibits, in writing by the Director of Public Works, and his certification to that effect to the Director of Finance, the consultant shall be paid out of the Transportation Sales Tax – Street Projects Fund No. 140-4520-530-8650, appropriations having been approved in the 2018-2019 city budget.

Section 4. That the City of Joplin declares that this ordinance relating to a public improvement is an emergency within the meaning of Section 2.12(6) of the HOME RULE CHARTER of the City of Joplin, Missouri and the Council hereby declares that this ordinance shall be in full force and effect from and after its passage.

Passed by the Council of the City of Joplin, Missouri, this _____ day of

_____, 2018 by a _____ vote.

_____

ATTEST: Gary L. Shaw, Mayor

_____

Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM:

_____

Peter C. Edwards, City Attorney

Council Bill 2018-159

I hereby certify that a sufficient amount is available in Transportation Sales Tax – Street Projects Fund Account Number 140-4520-530-8650 to pay the amounts called for in the referenced Work Authorization.

_____

Leslie Haase, Director of Finance

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2018-160
Microsurfacing of Various Streets 2019
Construction Agreement and Change Order for Microsurfacing

MEETING DATE
December 17, 2018

ORIGINATING DEPT
Public Works

REVIEWED BY
Director of Public Works – David Hertzberg, Director of Finance – Leslie Haase. City Attorney – Peter C. Edwards, City Manager – Samuel L. Anselm

SUMMARY
This Council Bill approves a construction agreement and change order with Vance Brothers Inc. for the microsurfacing of streets in the not to exceed amount of Six Hundred Ninety-Three Thousand Seven Hundred Twenty-Six and 93/100 Dollars ($693,726.93)

BACKGROUND
As a part of the annual street maintenance program, the City provides preventive maintenance on asphalt streets on a seven year cycle. The Street Slurry Seal projects have been a major part of this seven-year preventive maintenance program since 1982. Staff has chosen to use Microsurfacing over the Type II Slurry Seal used in the past. Microsurfacing sets up more quickly and is more durable. This should allow roads to be opened up to the public in a shorter time frame. Microsurfacing was first used in 2004 resulting in fewer complaint calls to the Engineering division of Public Works.

City staff prepared bid documents for the project. Staff followed the City's procurement policy for advertising of said project. One company submitted bids (see attached Bid Tabulation), that were opened on November 8, 2018. Vance Brothers was the low bidder. The bid was below the Engineer's estimate. Staff evaluated the bid and existing city budget staff chose to add 3 extra streets by change order 1 from the remaining funds.

FUNDING SOURCE
These payments are included in the FY 2018-19 Account Number 140-4520-530-2545 in the Transportation Sales Tax Fund.

RECOMMENDATION
This ordinance is an emergency within the meaning of Section 2.12 (6) in that said ordinance provides for public improvements and is considered an emergency and as such shall become effective immediately upon passage as provided by the HOME RULE CHARTER for the City of Joplin. Specifically, this ordinance approves construction to begin immediately in the optimal construction time during the calendar year, and appropriations have been approved in the 2018-2019 city budget.

ATTACHMENTS

CB 2018-160 Ordinance; Bid Tabulation, Construction Agreement, Change Order, Location map

BID TABULATION

PROJECT: Micro Surfacing 2019

DATE OF BID OPENING: November 8 , 2018

CONTRACTOR	BID
Vance Brothers- Base Bid	574,928.29
Engineer Estimate- Base Bid	634,339.17
Vance Brothers – Change Order 1	118,798.64
Engineering Estimate – Change Order 1	131,203.00
Vance Brothers - Total	693,726.93
Engineering Estimate – Total	765,542.17

CHANGE ORDER

Change Order No. 1

Sheet No. 1 of 2

County_____

Route_____

To Vance Brother Inc.
5201 Brighton
Kansas City, MO 64130

Project Microsurfacing 2019

You are hereby directed to make the following changes from the contract.

❖❖❖

Department / Title

_____ Date _____

Name

_____

Department / Title

5. Settlement for Cost of the above Change to be made at Contract Unit Price Except as Noted:

1. CONTRACT AMOUNT		$574,928.29	The Terms of Settlement outlined above are hereby agreed to.
2. OVERRUN THIS ORDER	$	$118,798.64	CONTRACTOR
3. OVERRUN PREVIOUS	$		
4. TOTAL OVERRUN TO DATE	$	$118,798.64	by :_____
5. TOTAL		$693,726.93	Date
PERCENTAGE OF ORIGINAL CONTRACT		20.66%	

Emergency Provisions of Change Order Policy Used YES □ NO □ Date approved _____

Reason for Emergency and description of work approved _____

_____ _____ _____ _____

SUBMITTED ENGINEER DATE *APPROVAL DIRECTOR OF FINANCE DATE

_____ _____ _____ _____

APPROVAL PROJECT MANAGER DATE *APPROVAL CITY MANAGER DATE

_____ _____

APPROVALSUPERVISOR/ ENGINEERING REVIEWER DATE *When applicable.

_____ _____

APPROVAL OF DEPARTMENT HEAD DATE

AGREEMENT
BETWEEN
CITY OF JOPLIN AND VANCE BROTHERS

CITY		CONTRACTOR	
CITY OF JOPLIN **602 S. MAIN STREET** **JOPLIN, MO 64801**		Name: Vance Brothers Inc. Address: 5201 Brighton KANSAS CITY, MO 64130	
Attention:		Attention:	
Department:		Phone:	Fax:
Phone:	Fax:		

THIS AGREEMENT, made and entered into this ____ day of _____, 20____, by the parties identified above.

WITNESSETH: That whereas, the Contractor has become the lowest responsible bidder for furnishing the supervision, labor, tools, equipment, materials and supplies and for constructing the following City improvements:

MICROSURFACING 2019

The City and Contractor agree to the following:

1. Manner and Time for Completion. The Contractor will furnish all supervision, labor, tools, equipment, materials and supplies necessary to perform, and to perform said work at Contractor's own expense in accordance with the contract documents and any applicable City ordinances and state and federal laws by July 31, 2019 from the date Contractor is ordered to proceed, which order shall be issued by the Director of Public Works within 30 days after the date of this contract.

~~**2. Prevailing Wages**. All labor utilized in the construction of the aforementioned improvements shall be paid a wage of no less than the "prevailing hourly rate of wages" for work of a similar character in this locality, as established and amended at any time by the Department of Labor and Industrial Relations of the State of Missouri. At any time the contractor is found to not have paid prevailing wages, the contractor shall forfeit as a penalty to the city one hundred dollars for each underpaid worker employed, for each calendar day, or portion thereof such worker is paid less than the said stipulated rates for any work done under this contract.~~

3. Insurance Requirements. Without limiting any of the other obligations or liabilities of the Contractor, the Contractor shall secure and maintain at its own cost and expense, throughout the duration of this Contract and until the work is completed and accepted by the City of Joplin, insurance of such types and in such amounts as may be necessary to protect it and the interests of the City of Joplin against all hazards or risks of loss as hereunder specified or which may arise out of the performance of the Contract

Documents. The form and limits of such insurance, together with the underwriter thereof in each case, are subject to approval by the City of Joplin. Regardless of such approval, it shall be the responsibility of the contractor to maintain adequate insurance coverage at all times during the term of the Contract. Failure of the Contractor to maintain coverage shall not relieve it of any contractual responsibility or obligation or liability in general or under the Contract Documents.

The certificates of insurance, including evidence of the required endorsements hereunder or the policies, shall be filed with the City within ten (10) days after the date of the receipt of Notice of Award of the Contract to the Contractor and prior to the start of work. All insurance policies shall require that the insurance company in question provide thirty (30) days written notice prior to modification or cancellation of such insurance. Such notices shall be mailed, certified mail, return receipt requested, to:

City of Joplin - Public Works, 602 S. Main Street, Joplin, MO 64801

Such policies shall name the City as an additional insured, with limits of liability not less than the sovereign immunity limits for Missouri public entities calculated by the Missouri Department of Insurance as of January 1 each calendar year and published annually in the Missouri Register pursuant to Section 537.610, RSMo. (See, http://insurance.mo.gov/industry/sovimmunity.php)

As of January 1, 2018, the minimum coverage for the insurance referred to herein shall be as set out below:

a. Workers' Compensation.... Statutory coverage per RSMo 287.010 et seq

Employer's Liability..... $1,000,000.00

b. Commercial General Liability Insurance, including coverage for Premises, Operations, Products and Completed Operations, Contractual Liability, Broad Form Property Damage, Independent Contractors, Explosion, Collapse, and Underground Property Damage and endorsed for blasting if blasting required. Such coverage shall apply to bodily injury and property damage on an "Occurrence Form Basis" with limits of at least Two Million Eight Hundred Four Thousand Forty-Six and no/100 Dollars ($2,804,046.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Twenty Thousand Six Hundred Six and no/100 Dollars ($420,606.00) with respect to injuries and/or death of any one person in a single occurrence and an amount not less than at least $1,000,000 for all claims to property arising out of a single occurrence and at least $100,000 to any one owner with respect to damages to property. Contractor agrees that the proceeds of such insurance policy shall first be used to pay any award, damages, costs, and/or attorneys' fees incurred by or assessed against City, its employees, officers and agents, before payment of any award, damages, costs or attorneys' fees of Contractor, its employees, officers or agents. Contractor agrees to cause its insurer to name City as an additional insured on such insurance policy, including the City as an additional insured for coverage under its products-completed operations hazard, and said policy shall be primary and noncontributory.

c. Automobile Liability Insurance covering bodily injury and property damage for owned, non-owned and hired vehicles, with limits of at least Two Million Eight Hundred Four Thousand Forty-Six and no/100 Dollars ($2,804,046.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Twenty Thousand Six Hundred Six and no/100 Dollars ($420,606.00) with respect to injuries and/or death of any one person in a single accident or occurrence.

d. Owner's and Contractor's Protective Liability Insurance to protect the City, its agents, servants and employees from claims which may arise from the performance of this Contract, with limits of at least Two Million Eight Hundred Four Thousand Forty-Six and no/100 Dollars ($2,804,046.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Twenty Thousand Six Hundred Six and no/100 Dollars ($420,606.00) with respect to injuries and/or death of any one person in a single accident or occurrence.

The Owner's and Contractor's Protective Liability Insurance must:

(1) Be a separate policy with the named insured being: The City of Joplin, and

(2) Contain an endorsement that disclaims coverage for any claim barred by the doctrines of sovereign immunity or official immunity, except attorney's fees and other litigation costs incurred in defending a claim. Nothing contained in this policy (or this endorsement thereto) shall constitute any waiver of whatever kind of these defenses or sovereign immunity or official immunity for any monetary amount whatsoever.

e. Builders Risk Insurance for contracts involving unoccupied structures. The Contractor shall secure All Risk Builder's Risk Insurance. Unless specifically authorized by the City, the amount of such insurance shall not be less than the total contract price.

f. Subcontracts. In case any or all of this work is sublet, the Contractor shall require the subcontractor to procure and maintain all insurance required in subparagraphs (a), (b) and (c) hereof and in like amounts. Contractor shall require any and all subcontractors with whom it enters into a contract to perform work on this project to protect the City of Joplin through insurance against applicable hazards or risks and shall, upon request of the City, provide evidence of such insurance.

g. Notice. The Contractor and/or subcontractor shall furnish the City prior to beginning the work, the policy as specified in subparagraph (d), and satisfactory proof of carriage of all the insurance required by this contract, with the provision that policies shall not be canceled, modified or non-renewed without thirty (30) days written notice to the City of Joplin.

h. Legislative or Judicial Changes. In the event the scope or extent of the City's tort liability as a governmental entity as described in Section 537.600 through 537.650 RSMo is broadened or increased during the term of this agreement by legislative or judicial action, the City may require Contractor, upon 10 days written notice, to execute a contract addendum whereby the Contractor agrees to provide, at a price not exceeding Contractor's actual increased premium cost, additional liability insurance coverage as the City may require to protect the City from increased tort liability exposure as the result of such legislative or judicial action. Any such additional insurance coverage shall be evidenced by an appropriate certificate of insurance and shall take effect within the time set forth in the addendum.

4. Performance, Labor, and Materials Payment Bond: The Contractor shall furnish a Performance Bond and a Labor and Materials Payment Bond with surety approved by the City and on the forms approved by the City, each bond shall be in the amount of Five Hundred Seventy-Four Thousand Nine Hundred Twenty-Eight and 29/100 dollars ($574,928.29) conditioned upon the full and faithful performance of all major terms and conditions of this contract and payment of all labor and material suppliers. It is further mutually agreed between the parties hereto that if at any time after the execution of this agreement and the surety bond(s) hereto attached for its faithful performance and payment of labor and material suppliers, the City shall deem the surety or sureties upon such bond(s) to be unsatisfactory, or if, for any reason, such bond(s) ceases to be adequate to cover the performance of the work, the Contractor shall, at its expense, within five (5) days after the receipt of notice from the City to do so, furnish an additional bond or bonds, in such form and amount, and with such surety or sureties as shall be satisfactory to the City. In such event no further payment to the Contractor shall be deemed to be due under this contract until such new or additional security for the faithful performance of the work and the payment of labor and material suppliers shall be furnished in a manner and form satisfactory to the City. The corporate surety on any performance or payment bond must be licensed by the State of Missouri and if the required bond exceeds $25,000.00 must be listed in United States Treasury Circular 570.

5. Certification Regarding Disbarment, Eligibility, Indictments, Convictions or Civil Judgements for all Federal Aid Projects: By signing and submitting the bid, the president or authorized official of the bidder, under penalty of perjury under the laws of the USA, shall certify that, except as noted in the exceptions, the company or any person associated therewith in the capacity of owner, partner, director, officer, principal investor, project director, manager, auditor or any position involving the administration of federal funds:
(Reference can be made to "The System for Award Management" website as a helpful resource).

a. Is not currently under suspension, debarment, voluntary exclusion or determination of ineligibility by any federal agency.

b. Has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three years.

c. Does not have a proposed debarment or suspension pending.

d. Has not been indicted, convicted or had a civil judgment rendered against any of the listed parties by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three years.

5.1 If there are any exceptions, the bidder shall submit the exceptions on company letterhead, signed by the bidder and inserted inside the bid submitted. Exceptions will not necessarily result in denial of award, but will be considered in determining bidder responsibility. For any exception noted, the bidder shall indicate to whom it applies, the initiating agency, and dates of action. Providing false information may result in criminal prosecution or administrative sanctions.

5.2 By signing the contract, the contractor shall further certify that all related subcontracts of $25,000 shall comply with this requirement. This includes all subcontractors, material suppliers and vendors.

6. Contractor's responsibility for subcontractors. The Contractor shall be as fully responsible to the City for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as Contractor is for the acts and omissions of persons it directly employs. Contractor shall cause appropriate provisions to be inserted in all subcontracts relating to this work, to bind all subcontractors to Contractor by all the terms herein set forth, and insofar as applicable to the work of subcontractors and to give Contractor the same power regarding termination of any subcontract as the City may exercise over Contractor under any provisions of this contract. Nothing contained in this contract shall create any contractual relation between the subcontractor and the City or between any subcontractors.

7. General Independent Contractor Clause. This agreement does not create an employee/employer relationship between the parties. It is the parties' intention that the Contractor will be an independent contractor and not the City's employee for all purposes, including, but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, Missouri Revenue and Taxation laws, Missouri Workers' Compensation and Unemployment Insurance laws. The Contractor will retain sole and absolute discretion in the judgment of the manner and means of carrying out the Contractor's activities and responsibilities hereunder. The Contractor agrees that it is a separate and independent enterprise from the public employer, that it has a full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This agreement shall not be construed as creating any joint employment relationship between the Contractor and the City, and the City will not be liable for any obligation incurred by the Contractor, including but not limited to unpaid minimum wages and/or overtime premiums.

8. Liquidated Damages. Time of completion of work by the Contractor is of the essence. Should Contractor, or in the case of default, the surety, fail to complete the work within the time specified in the contract, or within such extra time as may be allowed in accordance with City of Joplin Standard Specifications, Division 0000, General Requirements and Provisions, Section 0400.19, (http://mo-joplin.civicplus.com/DocumentCenter/View/3460) Contractor (or surety) shall be liable to the City in the amount of $2,500.00 per day for each and every calendar day that the contract remains uncompleted after the time allowed for completion, as liquidated damages, and not as a penalty, it being stipulated that actual damages to the City and the public arising from Contractor's failure to timely complete the work would be difficult, if not impossible, to ascertain. The amount assessed as liquidated damages may be withheld from any moneys otherwise due to Contractor from the City.

9. Termination. The City reserves the right to terminate this contract by giving at least five (5) days prior written notice to the Contractor, without prejudice to any other rights or remedies of the City should the Contractor be adjudged a bankrupt, or if Contractor should make a general assignment for the benefit of its creditors, or if a receiver should be appointed for Contractor or for any of its property, or if Contractor should persistently or repeatedly refuse or fail to supply enough properly skilled workmen or proper material, or if Contractor should refuse or fail to make prompt payment to any person supplying labor or materials for the work under the contract, or persistently disregard instructions of the City or fail to observe or perform any provisions of the contract.

10. City's Right to Proceed. In the event this contract is terminated pursuant to Paragraph 8, then the City may take over the work and prosecute the same to completion, by contract or otherwise, and Contractor and its sureties shall be liable to the City for any costs over the amount of this contract thereby occasioned by the City. In any such case, the City may take possession of, and utilize in completing the work, such materials, appliances and structures as may be on the work site and are necessary for completion of the work. The foregoing provisions are in addition to, and not in limitation of, the rights of the City under any other provisions of the contract, city ordinances, and state and federal laws.

11. Termination for Convenience of City. The City shall have the right at any time by written notice to Contractor to terminate and cancel this contract, without cause, for the convenience of the City, and Contractor shall immediately stop work. In such event City shall not be liable to Contractor except for payment for actual work performed prior to such notice in an amount proportionate to the completed contract price and for the actual costs of preparations made by Contractor for the performance of the cancelled portions of the contract, including a reasonable allowance of profit applicable to the actual work performed and such preparations. Anticipatory profits and consequential damages shall not be recoverable by Contractor.

12. Guards and Lights. The Contractor agrees that during the performance of said work, adequate barricades, guards and warning signs, lights or devices consistent with the requirements contained in the Manual on Uniform Traffic Control Devices shall be provided by Contractor during construction.

13. Liability and Indemnity.

a. In no event shall the City be liable to the Contractor for special, indirect, or consequential damages, except those caused by the City's gross negligence or willful or wanton misconduct arising out of or in any way connected with a breach of this contract. The maximum liability of the City shall be limited to the amount of money to be paid or received by the City under this contract.

b. The Contractor shall defend, indemnify and save harmless the City, its elected or appointed officials, agents and employees from and against any and all liability, suits, damages, costs (including attorney fees), losses, outlays and expenses from claims in any manner caused by, or allegedly caused by, or arising out of, or connected with, this contract, or the work or any subcontract thereunder (the Contractor hereby assuming full responsibility for relations with subcontractors), including, but not limited to, claims for personal injuries, death, property damage, or for damages from the award of this contract to Contractor, notwithstanding any possible negligence, whether sole or concurrent, on the part of the City, its officials, agents and employees.

c. The Contractor shall indemnify and hold the City harmless from all wages or overtime compensation due any employees in rendering services pursuant to this agreement or any subcontract, including payment of reasonable attorneys' fees and costs in the defense of any claim made under the Fair Labor Standards Act, the Missouri Prevailing Wage Law or any other federal or state law.

d. The indemnification obligations of Contractor hereunder shall not be limited by any limitations as to the amount or type of damages, compensation or benefits payable by or for the Contractor, under any federal or state law, to any person asserting the claim against City, its elected or appointed officials, agents and employees, for which indemnification is sought.

e. The indemnification obligations herein shall not negate, abridge or reduce in any way any additional indemnification rights of the City, its elected or appointed officials, agents and employees, which are otherwise available under statute, or in law or equity.

f. Contractor affirms that it has had the opportunity to recover the costs of the liability insurance required in this agreement in its contract price. Contractor's obligation under this agreement to defend, indemnify, and hold harmless any person from that person's own negligence or wrongdoing is limited to the coverage and limits of the applicable insurance required of the Contractor under this agreement.

g. The Contractor shall indemnify and hold the City harmless for any penalties, fines, fees or costs, including costs of defense, which are charged or assessed by any Federal, state or local agency including, but not limited to, Environmental Protection Agency or Department of Natural Resources.

14. Payment for Labor and Materials. The Contractor agrees and binds itself to pay for all labor done, and for all the materials used in the construction of the work to be completed pursuant to this contract.

15. Payment. The City will pay the Contractor in accordance with the rate set forth in the contract documents on file in the Public Works Department and by this reference made a part hereof, which shall constitute full and complete compensation for the Contractor's work provided hereunder. Such compensation will be paid in progress payments (less five (5) percent retainage), as established by the City, subject to receipt of a requisition for payment and a statement of work provided by the Contractor and agreement by both the City and the Contractor that the Contractor has fully performed the work to be paid for in such progress payments in conformance with the contract. If the City or the architect or engineer determines that a higher rate of retainage is required to ensure performance of the contract, the City may withhold up to ten (10) percent retainage until the work is fully completed and accepted by the City.

16. Contract Documents. The contract documents shall consist of the following:

a. This Contract
b. All Change Orders
c. Bid Plans and Specifications
d. City of Joplin Standard Specifications (Latest Revised Edition)

e. Special Conditions & Provisions
f. Proposal
g. Statement of Bidder's Qualifications
h. Acknowledgment
i. Performance Bond
h. Payment and Material Bond
k. Instructions to Bidders
l. Non-collusion Affidavit
m. Notice to Proceed

Notice to Contractors: This contract, together with the other documents enumerated in this paragraph, forms the contract between the parties. These documents are as fully a part of the contract as if attached hereto or repeated herein. The Contractor agrees to perform all of the work described in the contract documents and to comply with the terms and conditions defined therein for a total sum of Five Hundred Seventy-Four Thousand Nine Hundred Twenty-Eight and 29/100 dollars ($574,928.29) dollars, said amount being subject to any approved addenda or change order.

17. Subsurface Conditions. Contractor agrees that information contained in the published reports and public actions of the Missouri Division of Geology and Land Survey shall be conclusive and binding upon the Contractor as to what subsurface conditions at the job site are reasonably anticipated or reasonably foreseeable. Contractor acknowledges and agrees that it shall not be entitled to any adjustment in the Contract Sum or Contract Times for any concealed condition of any nature, including but not limited to unknown physical conditions of an unusual nature which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, in addition to the information contained in the published reports and public actions of the Missouri Division of Geology and Land Survey. Contractor recognizes that it has assumed the risks of concealed conditions and is being compensated for assuming these risks.

18. Conflict of Interest. In accepting this contract, Contractor certifies that no member or officer of its firm or corporation is an officer or employee of the City of Joplin, Missouri, or any of its boards or agencies, and further that no officer or employee of the City has any financial interest, direct or indirect, in this contract. All applicable federal regulations and provisions of R.S.Mo. Section 105.450 et seq. shall not be violated.

19. Assignment. The Contractor shall not assign any interest in this contract, and shall not transfer any interest in the same (whether by assignment or novation), without prior written consent of the City thereto, provided, however, that claims for money due or to become due to the Contractor from the City under this Contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of such assignment or transfer shall be furnished in writing promptly to the City and the bond surety. Any such assignment is expressly subject to all rights and remedies of the City under this agreement, including the right to change or delete activities from the Contract or to terminate the same as provided herein, and no such assignment shall require the City to give any notice to any such assignee of any actions which the City may take under this agreement.

20. Nondiscrimination. The Contractor agrees in the performance of this contract not to discriminate on the ground or because of race, creed, color, national origin or ancestry, sex, religion, handicap, age, status as a protected veteran or status as a qualified individual with a disability, or political opinion or affiliation, against any employee of Contractor or applicant for employment and shall include a similar provision in all subcontracts let or awarded hereunder. The parties hereby incorporate the requirements of 41 C.F.R. §§ 60-1.4(a)(7), 29 C.F.R. Part 471, Appendix A to Subpart A, 41 C.F.R. § 60-300.5(a)ii and 41 C.F.R. § 60-741.5(a), if applicable.

a. This contractor and subcontractor shall abide by the requirements of 41 C.F.R. § 60-300.5(a). This regulation prohibits discriminations against qualified protected veterans, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.

b. This contractor and subcontractor shall abide by the requirements of 41 C.F.R. § 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

21. Nonresident/Foreign Contractors. The Contractor shall procure and maintain during the life of this contract:

a. If the Contractor is a foreign corporation, a certificate of authority to transact business in the State of Missouri from the Secretary of State, unless exempt pursuant to the provisions of Section 351.570 R.S.Mo.

b. A certificate from the Missouri Director of Revenue evidencing compliance with the transient employer financial assurance law, unless exempt pursuant to the provisions of Section 285.230 RSMo.

22. Notices. All notices required or permitted hereinunder and required to be in writing may be given by FAX or by first class mail addressed to City and Contractor at the addresses shown above. The date of delivery of any notice given by mail shall be the date falling on the second full day after the day of its mailing. The date of delivery of notice by FAX transmission shall be deemed to be the date transmission occurs, except where the transmission is not completed by 5:00 p.m. on a regular business day at the terminal of the receiving party, in which case the date of delivery shall be deemed to fall on the next regular business day for the receiving party.

23. Records and Audits. The Contractor shall maintain accounts and records, including personnel, property, and financial records, adequate to identify and account for all costs pertaining to the Contract and such other records as may be deemed necessary by the City to assure proper accounting for all project funds. These records will be made available for audit purposes to the City or any authorized representative, and will be retained for three years after the expiration of this Contract.

24. Authorized Employees. Contractor acknowledges that Section285.530, RSMo, prohibits any business entity or employer from knowingly employing, hiring for employment, or continuing to employ an unauthorized alien to perform work within the State of Missouri. Contractor therefore covenants that is not knowingly in violation of subsection 1 or Section 285.530, RSMo, and that it will not knowingly employ, hire for employment, or continue to employ any unauthorized aliens to perform work on the Project, and that its employees are lawfully to work in the United States.

25. Interest of Contractor and Employees. The Contractor covenants that he/she presently has no interest and shall not acquire interest, direct or indirect, in the study area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his services hereunder. The Contractor further covenants that in the performance of this Contract, no person having any such interest shall be employed.

26. Interest of Members of a City. No member of the governing body of the City and no other officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Contract, and the Contractor shall take appropriate steps to assure compliance.

27. Interest of Other Local Public Officials. No member of the governing body of the locality and no other public official of such locality, who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Contract, and the Contractor shall take appropriate steps to assure compliance.

28. Affidavit for Contracts Over $5,000.00. That pursuant to Missouri Revised Statute Sections 285.525 through 285.550, if this contract exceeds the amount of $5,000.00 and Contractor is associated with a business entity, Contractor shall provide an acceptable notarized affidavit stating that the associated business entity is enrolled in and participates in a federal work authorization program with respect to the employees working in connection with the contracted services, and that said business entity does not knowingly employ any person who is an unauthorized alien in connection with the contracted services. Additionally, Contractor must provide documentation for said business entity evidencing current enrollment in a federal work authorization program.

29. City Benefits. The Contractor shall not be entitled to any of the benefits established for the employees of the City nor be covered by the Worker's Compensation Program of the City.

30. Occupational License: The Contractor shall obtain and maintain an occupational license with the City of Joplin, Missouri, if required by city code and any required state or federal license. The cost for this occupational license shall be borne by the Contractor. No contract will be executed by the City until this occupational license has been obtained and that the Contractor is current on any City taxes is verified.

31. Safety Training. Pursuant to Missouri Revised Statute Section 292.675, Contractors and subcontractors who sign a contract to work on public works projects must provide a 10-hour OSHA construction safety program, or similar program approved by the Department of Labor and Industrial Relations, to be completed by their on-site employees within sixty (60) days of beginning work on the construction project. Contractors and subcontractors in violation of this provision will forfeit to the public body $2,500 plus

$100 a day for each employee who is employed without training. Public bodies and contractors may withhold/assess these penalties from the payment due to those contractors and subcontractors if found to be in non-compliance.

32. Compliance with Laws. Contractor agrees to comply with all applicable federal, state and local laws or rules and regulations applicable to the provision of services and products hereunder. Contractor affirmatively states that payment of all local, state, and federal taxes and assessments owed by Contractor is current.

33. Entire Agreement. This agreement contains the entire agreement of the parties. No modification, amendment, or waiver of any of the provisions of this agreement shall be effective unless in writing specifically referring hereto, and signed by both parties.

34. Remedies. Except as may be otherwise found in the contract documents, all claims, disputes, counter-claims, and other matters in question between the Owner and Contractor arising out of or related to this agreement or the breech thereof, will be decided by arbitration if the parties hereto mutually agree, or in a court of competent jurisdiction within the state in which the Owner is located.

35. Jurisdiction. This agreement and every question arising hereunder shall be construed or determined according to the laws of the State of Missouri. Should any part of this agreement be adjudicated, venue shall be proper only in the Circuit Court of Jasper County, Missouri.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year herein stated.

CONTRACTOR:

CERTIFICATE OF DIRECTOR OF FINANCE

I certify that the expenditure contemplated by this document is within the purpose of the appropriation to which it is to be charged and that there is an unencumbered balance of appropriated and available funds to pay therefor.

By: _____

Printed Name: _____

Title: _____

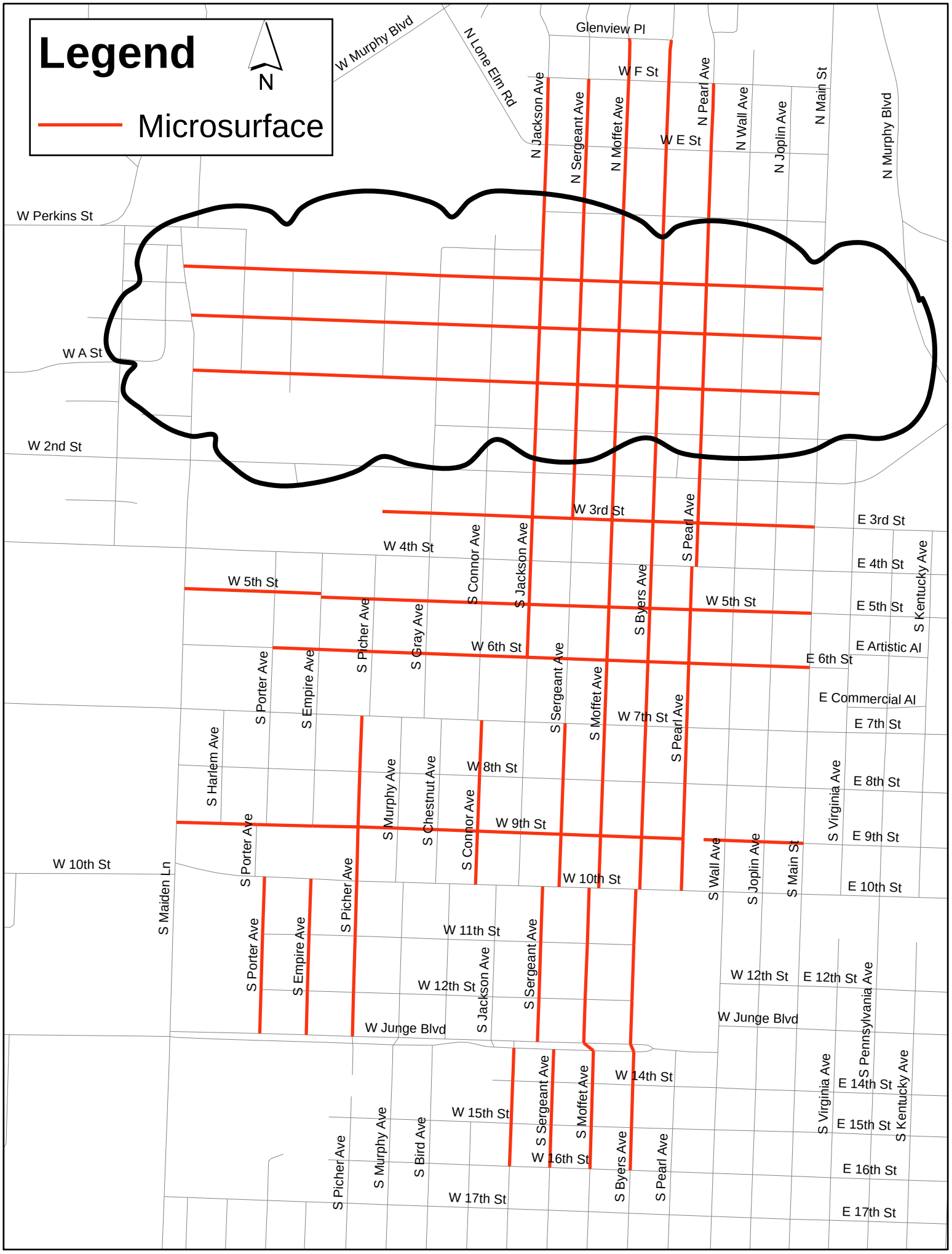
_____
Leslie Haase, Director of Finance

CITY OF JOPLIN, MISSOURI

APPROVED AS TO FORM

By: _____
David Hertzberg, Public Works Director

_____
Peter Edwards, City Attorney


Legend
N
Microsurface
W Murphy Blvd
N Lone Elm Rd
Glenview Pl
W F St
W E St
N Jackson Ave
N Sergeant Ave
N Moffet Ave
N Pearl Ave
N Wall Ave
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S Empire Ave
S Picher Ave
S Gray Ave
S Connor Ave
S Jackson Ave
S Byers Ave
S Pearl Ave
S Kentucky Ave
S Harlem Ave
S Murphy Ave
S Chestnut Ave
S Sergeant Ave
S Moffet Ave
S Wall Ave
S Joplin Ave
S Main St
S Virginia Ave
S Maiden Ln
S Bird Ave
S Pennsylvania Ave

COUNCIL BILL NO. 2018-160 ORDINANCE NO

AN ORDINANCE approving a construction agreement with Vance Brothers Inc. for street resurfacing in the not to exceed amount Six Hundred Ninety-Three Thousand Seven Hundred Ninety-Six and 93/100 Dollars ($693,796.93) for the 2019 Microsurfacing Project and containing an emergency clause.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF JOPLIN, as follows:

Section 1. That the agreement with Vance Brothers Inc. for street microsurfacing in the not to exceed amount of Six Hundred Ninety-Three Thousand Seven Hundred Ninety-Six and 93/100 Dollars ($693,796.93) in the City of Joplin, Jasper County, a copy of which is attached hereto as Exhibit A, be the same and 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 upon the final approval and acceptance of the contractor's work under said contract, in substantial conformance with the attached exhibits, in writing by the Director of Public Works, and his certification to that effect to the Director of Finance, the consultant shall be paid out of the Transportation Sales Tax – Street Projects Fund No. 140-4520-530-2545, appropriations having been approved in the 2018-2019 city budget.

Section 4. That the City of Joplin declares that this ordinance relating to a public improvement is an emergency within the meaning of Section 2.12(6) of the HOME RULE CHARTER of the City of Joplin, Missouri and the Council hereby declares that this ordinance shall be in full force and effect from and after its passage.

Passed by the Council of the City of Joplin, Missouri, this _____ day of

_____, 2018 by a _____ vote.

_____

ATTEST: Gary L. Shaw, Mayor

_____

Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM:

_____

Peter C. Edwards, City Attorney

Council Bill 2018-160

I hereby certify that a sufficient amount is available in Transportation Sales Tax – Street Projects Fund Account Number 140-4520-530-2545 to pay the amounts called for in the referenced Work Authorization.

_____

Leslie Haase, Director of Finance

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2018-163
Replacement Backhoe

MEETING DATE
December 17, 2018

ORIGINATING DEPARTMENT
Public Works

REVIEWED BY
Director of Public Works - David Hertzberg, Director of Finance - Leslie Haase, City Attorney - Peter Edwards, City Manager -Samuel L. Anselm

SUMMARY
This Council Bill approves the issuance of a Purchase Order to Fabick Cat to replace a backhoe for the street maintenance department.

BACKGROUND
Due to the wear and tear on equipment the Street Maintenance Department is in need of a replacement backhoe. Historically, vehicles and equipment replaced by the Street Department will then be declared surplus property and be placed into the city auction.

DISCUSSION
Following the approval of the 2018-2019 operating budget, city staff used the MoDOT state bid to find a replacement for the backhoe. The decision was made by the Public Works Department to use the state bid to purchase the backhoe from Fabick Cat in the amount of $110,800.00. This equipment meets city specification and existing equipment.

FUNDING SOURCE
These payments are included in the FY 2018-19 budget of the Transportation Sales Tax.

RECOMMENDATION
Staff recommends adoption of this Council Bill on an Emergency basis; being an ordinance dealing with public improvements, to be 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.

ATTACHMENTS
CB2018-163 Ordinance; Sales Agreement with Fabick Cat

FABICK CAT

SALES AGREEMENT

DATE Nov 30, 2018

One Fabick Drive, Fenton, MO 63026 Phone:1-800-845-9188 Visit our website: www.fabickcat.com

SOLD TO	PURCHASER	CITY OF JOPLIN FINANCE DEPARTMENT		SHIP TO	<SAME>
	STREET ADDRESS	602 S MAIN ST			
	CITY/STATE	JOPLIN, MO	COUNTY JASPER MO		
	POSTAL CODE	64801-2316	PHONE NO. 417-624-0820		
	CUSTOMER CONTACT: EQUIPMENT	DEAN SMITH			
	PRODUCT SUPPORT	DEAN SMITH			F.O.B. AT: Joplin

INDUSTRY CODE: GOVERNMENTAL HC(205A) PRINCIPAL WORK CODE: GOVERNMENT(1117)

CUSTOMER NUMBER	Sales Tax Exemption # (if applicable)	CUSTOMER PO NUMBER
2384400	12490440	

PAYMENT TERMS: NET PAYMENT ON RECEIPT OF INVOICE ☑ NET ON DELIVERY ☐ FINANCIAL SERVICES ☐ ISC ☐ LEASE CASH WITH ORDER: $0.00

DESCRIPTION OF EQUIPMENT ORDERED / PURCHASED

MAKE: CATERPILLAR INC. MODEL: 420F2 IT YEAR: 2018 NEW ☑ USED ☐

STOCK NUMBER: 18PM2439 SERIAL NUMBER: 0HWD03242 SMU: 3.7

420F2 BHL IT, TIER 4, HRC	450-8450	INSTRUCTIONS, ANSI	430-9944	LANE 2 ORDER	0P-9002
STICK, EXTENDABLE, 14FT	450-8730	SERIALIZED TECHNICAL MEDIA KIT	421-8926	BUCKET-HC SOIL, 24", 8.5 CFT - 18PM2439B	254-8941
PT, 4WD, AUTOSHIFT	450-8616	RIDE CONTROL	398-2681	4 in 1 bucket	18pm2475
ENGINE, 74.5KW,C4.4 ACERT, T4F	450-8757	COUPLING,QD,THREADED WITH CAPS	456-3390	12 inch bucket	219-3411
HYDRAULICS, MP, 6FCN/8BNK, IT	450-8533	LINES, COMBINED AUX, E-STICK	398-2853	18 inch bucket	254-8940
PRODUCT LINK, CELLULAR, PL641I	447-0049	COLD WEATHER PACKAGE, 120V HRC	398-2882	thumb	282-5409
CAB, DELUXE	450-8683	PLATE GROUP - BOOM WEAR	423-7607	Beacon	
WORKLIGHTS (8) HALOGEN LAMPS	491-6734	GUARD, STABILIZER	353-1389		
SEAT, DELUXE FABRIC	433-4806	FENDERS, FRONT	337-6851		
BELT, SEAT, 2" SUSPENSION	206-1747	PACK, DOMESTIC TRUCK	0P-0210		
AIR CONDITIONER, T4	450-8715	SHIPPING/STORAGE PROTECTION	461-6839		
TIRES, 12.5 80/19.5L-24, GY	379-2161	RUST PREVENTATIVE APPLICATOR	462-1033		
COUNTERWEIGHT, 1015 LBS	337-9696	RADIO, FM BLUETOOTH	540-2298		
STABILIZER PADS, FLIP-OVER	9R-6007	COUPLER, PG, MANUAL, DUAL LOCK	444-7500		

TRADE-IN EQUIPMENT

MODEL: YEAR: SN.:
PAYOUT TO: AMOUNT: PAID BY:
MODEL: YEAR: SN.:
PAYOUT TO: AMOUNT: PAID BY:
MODEL: YEAR: SN.:
PAYOUT TO: AMOUNT: PAID BY:
MODEL: YEAR: SN.:
PAYOUT TO: AMOUNT: PAID BY:

ALL TRADES-INS ARE SUBJECT TO EQUIPMENT BEING IN "AS INSPECTED CONDITION" BY VENDOR AT TIME OF DELIVERY OF REPLACEMENT MACHINE PURCHASE ABOVE.

PURCHASER HEREBY SELLS THE TRADE-IN EQUIPMENT DESCRIBED ABOVE TO THE VENDOR AND WARRANTS IT TO BE FREE AND CLEAR OF ALL CLAIMS, LIENS, MORTGAGES AND SECURITY INTEREST EXCEPT AS SHOWN ABOVE.

SELL PRICE	$110,800.00
EXT WARRANTY	Included
NET BALANCE DUE	$110,800.00
SALES TAX (0%)	$0.00
AFTER TAX BALANCE	$110,800.00

☑ CATERPILLAR EQUIPMENT WARRANTY INITIAL

The customer acknowledges that he has received a copy of the Caterpillar Warranty and has read and understood said warranty. Scheduled oil sampling (S.O.S.) is mandatory with this warranty. The customer is responsible for taking oil samples at designated intervals from all power train components and failure to do so may result in voiding the warranty.

Warranty applicable including expiration date where necessary:
12 Months, Unlimited Hours, Premier

5 year or 5000 hour powertrain hydraulic tech warranty

Payment Terms and Conditions:
Piggyback off State Bid
1FB605C018002773

CSA:

NOTES:

NO AGREEMENTS OTHER THAN THOSE EITHER PRINTED OR WRITTEN ON THIS ORDER ARE BINDING ON EITHER PARTY OF THIS CONTRACT. This order is subject to the terms and conditions set forth on both front and reverse sides including the applicable manufacture's warranty. In the event this machine is equipment with Product Link, I understand data concerning this machine, its condition, and its operation is being transmitted by Product Link to Caterpillar Inc., its affiliates (Caterpillar), and /or its dealers to better server me and to improve upon Caterpillar products and services. The information transmitted may include: machine serial number, machine location, and operation data, including but not limited to: fault codes, emissions data, fuel usage, service meter hours, software and hardware version numbers, and customer privacy. I agree to allow this data to be accessed by Caterpillar and/or its dealers.

Fabick

ORDER RECEIVED BY Audy Holman REPRESENTATIVE

PURCHASER

APPROVED AND ACCEPTED ON

CITY OF JOPLIN FINANCE DEPARTMENT

PURCHASER

BY

SIGNATURE

TITLE

COUNCIL BILL NO. 2018-163 ORDINANCE NO.

AN ORDINANCE approving a Purchase Order to be issued to Fabick Cat in the amount of One Hundred Ten Thousand Eight Hundred and no/100 Dollars ($110,800.00) for the purchase of a replacement backhoe as budgeted in the Annual Budget of the City of Joplin for the Fiscal Year 2018-2019 and containing an emergency clause.

WHEREAS, Fabick Cat holds the MoDOT state bid 1FB605CO18002773 for backhoe purchases.

WHEREAS, in the FY2018-2019 budget process, Council approved and budgeted funds to cover the purchase of a replacement backhoe

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, as follows:

Section 1. That a Purchase Order be issued to Fabick Cat. in the amount of One Hundred Ten Thousand Eight Hundred and no/100 Dollars ($110,800.00) for the purchase of a replacement backhoe, be and the same is, hereby approved.

Section 2. That Fiscal Year 2018-2019 budgeted reflect an appropriation in the total amount of One Hundred Ten Thousand Eight Hundred and no/100 Dollars ($110,800.00).

Section 3. That the City hereby declares this Ordinance, being an ordinance dealing with a public improvement, to be 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. Specifically, this Ordinance approves an appropriation that is budgeted.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____ day of _____, 2018, by a vote of _____.

_____
Gary L. Shaw, Mayor

ATTEST:

_____
Barbara Golhoffer, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2018-161
Parking Lots & Trail Sealing 2019
Construction Agreement for Parking Lots & Trails 2019

MEETING DATE
December 17, 2018

ORIGINATING DEPARTMENT
Public Works

REVIEWED BY
Director of Public Works – David Hertzberg, Director of Parks and Recreation – Paul Bloomberg, Director of Finance – Leslie Haase, City Attorney – Peter C. Edwards, City Manager – Samuel L. Anselm

SUMMARY
This Council Bill approves a construction agreement with Springfield Striping for the Parking Lots and Trails Sealing 2019 in the not to exceed amount of Forty-Nine Thousand Four Hundred Sixty-Two and 36/100 Dollars ($49,462.36).

BACKGROUND
City staff annually evaluates the conditions of the City parking lots. Based on a decision matrix it has been determined that preventative maintenance is key to pavement longevity. Part of this preventative maintenance strategy is sealing of lower use asphaltic cement pavements such as parking lots. One third of all lots are sealed or resurfaced each year and will be an annual housekeeping maintenance project.

The sealing process recommended will prevent further loss of volatiles and aggregate in the existing asphalt while protecting it from oxidizing. City owned lots are broken down into 3 groups based on a 3-year life cycle of parking lot sealing material. The lots studied this year were structurally sound, just in need of a seal course. City staff prepared bid documents and followed the City's procurement policy for advertising. Two companies submitted bids (see attached Bid Tabulation), that were opened on November 8, 2018. Springfield Striping was the low bidder. The bid was within 10 % of the Engineer's estimate.

FUNDING SOURCE
These payments are included in the FY 2018-19 Account Number 140-4520-530-8650 in the Transportation Sales Tax Fund in the amount of $43,277.59 And 130-6550-560-8652 Parks Trail Maintenance Fund in the amount of $6,184.77

RECOMMENDATION
This ordinance is an emergency within the meaning of Section 2.12 (6) in that said ordinance provides for public improvements and is considered an emergency by the Council and as such shall become effective immediately upon this passage as provided by the Home Rule Charter for the City of Joplin. Specifically, this ordinance approves construction to begin immediately in the optimal construction time during the calendar year, and appropriations for this contract have been approved in the 2018-2019 budget

ATTACHMENTS

CB2018-161 Ordinance; Bid Tabulation, Construction Agreement, Location Map

BID TABULATION

PROJECT: Parking Lot & Trails 2019

DATE OF BID OPENING: November 8 , 2018

CONTRACTOR	BID
Springfield Striping	49,462.36
Capital Paving	75,648.31
Engineer's Estimate	45,000.00

AGREEMENT
BETWEEN
CITY OF JOPLIN AND SPRINGFIELD STRIPPING

CITY		CONTRACTOR	
CITY OF JOPLIN 602 S. MAIN STREET JOPLIN, MO 64801		Name: Springfield Stripping & Sealing Address: 3809 E. Energy PL SPRINGFIELD, MO 65803	
Attention:		Attention:	
Department:		Phone:	Fax:
Phone:	Fax:		

THIS AGREEMENT, made and entered into this ____ day of _____, 20____, by the parties identified above.

WITNESSETH: That whereas, the Contractor has become the lowest responsible bidder for furnishing the supervision, labor, tools, equipment, materials and supplies and for constructing the following City improvements:

PARKING LOT AND TRAIL SEALING 2019

The City and Contractor agree to the following:

1. Manner and Time for Completion. The Contractor will furnish all supervision, labor, tools, equipment, materials and supplies necessary to perform, and to perform said work at Contractor's own expense in accordance with the contract documents and any applicable City ordinances and state and federal laws within 90 days from the date Contractor is ordered to proceed, which order shall be issued by the Director of Public Works within 30 days after the date of this contract.

~~**2. Prevailing Wages**. All labor utilized in the construction of the aforementioned improvements shall be paid a wage of no less than the "prevailing hourly rate of wages" for work of a similar character in this locality, as established and amended at any time by the Department of Labor and Industrial Relations of the State of Missouri. At any time the contractor is found to not have paid prevailing wages, the contractor shall forfeit as a penalty to the city one hundred dollars for each underpaid worker employed, for each calendar day, or portion thereof such worker is paid less than the said stipulated rates for any work done under this contract.~~

3. Insurance Requirements. Without limiting any of the other obligations or liabilities of the Contractor, the Contractor shall secure and maintain at its own cost and expense, throughout the duration of this Contract and until the work is completed and accepted by the City of Joplin, insurance of such types and in such amounts as may be necessary to protect it and the interests of the City of Joplin against all hazards or risks of loss as hereunder specified or which may arise out of the performance of the Contract Documents. The form and limits of such insurance, together with the underwriter thereof in each case, are subject to approval by

the City of Joplin. Regardless of such approval, it shall be the responsibility of the contractor to maintain adequate insurance coverage at all times during the term of the Contract. Failure of the Contractor to maintain coverage shall not relieve it of any contractual responsibility or obligation or liability in general or under the Contract Documents.

The certificates of insurance, including evidence of the required endorsements hereunder or the policies, shall be filed with the City within ten (10) days after the date of the receipt of Notice of Award of the Contract to the Contractor and prior to the start of work. All insurance policies shall require that the insurance company in question provide thirty (30) days written notice prior to modification or cancellation of such insurance. Such notices shall be mailed, certified mail, return receipt requested, to:

City of Joplin - Public Works, 602 S. Main Street, Joplin, MO 64801

Such policies shall name the City as an additional insured, with limits of liability not less than the sovereign immunity limits for Missouri public entities calculated by the Missouri Department of Insurance as of January 1 each calendar year and published annually in the Missouri Register pursuant to Section 537.610, RSMo. (See, http://insurance.mo.gov/industry/sovimmunity.php)

As of January 1, 2018, the minimum coverage for the insurance referred to herein shall be as set out below:

a. Workers' Compensation.... Statutory coverage per RSMo 287.010 et seq

Employer's Liability..... $1,000,000.00

b. Commercial General Liability Insurance, including coverage for Premises, Operations, Products and Completed Operations, Contractual Liability, Broad Form Property Damage, Independent Contractors, Explosion, Collapse, and Underground Property Damage and endorsed for blasting if blasting required. Such coverage shall apply to bodily injury and property damage on an "Occurrence Form Basis" with limits of at least Two Million Eight Hundred Four Thousand Forty-Six and no/100 Dollars ($2,804,046.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Twenty Thousand Six Hundred Six and no/100 Dollars ($420,606.00) with respect to injuries and/or death of any one person in a single occurrence and an amount not less than at least $1,000,000 for all claims to property arising out of a single occurrence and at least $100,000 to any one owner with respect to damages to property. Contractor agrees that the proceeds of such insurance policy shall first be used to pay any award, damages, costs, and/or attorneys' fees incurred by or assessed against City, its employees, officers and agents, before payment of any award, damages, costs or attorneys' fees of Contractor, its employees, officers or agents. Contractor agrees to cause its insurer to name City as an additional insured on such insurance policy, including the City as an additional insured for coverage under its products-completed operations hazard, and said policy shall be primary and noncontributory.

c. Automobile Liability Insurance covering bodily injury and property damage for owned, non-owned and hired vehicles, with limits of at least Two Million Eight Hundred Four Thousand Forty-Six and no/100 Dollars ($2,804,046.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Twenty Thousand Six Hundred Six and no/100 Dollars ($420,606.00) with respect to injuries and/or death of any one person in a single accident or occurrence.

d. Owner's and Contractor's Protective Liability Insurance to protect the City, its agents, servants and employees from claims which may arise from the performance of this Contract, with limits of at least Two Million Eight Hundred Four Thousand Forty-Six and no/100 Dollars ($2,804,046.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Twenty Thousand Six Hundred Six and no/100 Dollars ($420,606.00) with respect to injuries and/or death of any one person in a single accident or occurrence.

The Owner's and Contractor's Protective Liability Insurance must:

(1) Be a separate policy with the named insured being: The City of Joplin, and

(2) Contain an endorsement that disclaims coverage for any claim barred by the doctrines of sovereign immunity or official immunity, except attorney's fees and other litigation costs incurred in defending a claim. Nothing contained in this policy (or this endorsement thereto) shall constitute any waiver of whatever kind of these defenses or sovereign immunity or official immunity for any monetary amount whatsoever.

e. Builders Risk Insurance for contracts involving unoccupied structures. The Contractor shall secure All Risk Builder's Risk Insurance. Unless specifically authorized by the City, the amount of such insurance shall not be less than the total contract price.

f. Subcontracts. In case any or all of this work is sublet, the Contractor shall require the subcontractor to procure and maintain all insurance required in subparagraphs (a), (b) and (c) hereof and in like amounts. Contractor shall require any and all subcontractors with whom it enters into a contract to perform work on this project to protect the City of Joplin through insurance against applicable hazards or risks and shall, upon request of the City, provide evidence of such insurance.

g. Notice. The Contractor and/or subcontractor shall furnish the City prior to beginning the work, the policy as specified in subparagraph (d), and satisfactory proof of carriage of all the insurance required by this contract, with the provision that policies shall not be canceled, modified or non-renewed without thirty (30) days written notice to the City of Joplin.

h. Legislative or Judicial Changes. In the event the scope or extent of the City's tort liability as a governmental entity as described in Section 537.600 through 537.650 RSMo is broadened or increased during the term of this agreement by legislative or judicial action, the City may require Contractor, upon 10 days written notice, to execute a contract addendum whereby the Contractor agrees to provide, at a price not exceeding Contractor's actual increased premium cost, additional liability insurance coverage as the City may require to protect the City from increased tort liability exposure as the result of such legislative or judicial action. Any such additional insurance coverage shall be evidenced by an appropriate certificate of insurance and shall take effect within the time set forth in the addendum.

4. Performance, Labor, and Materials Payment Bond: The Contractor shall furnish a Performance Bond and a Labor and Materials Payment Bond with surety approved by the City and on the forms approved by the City, each bond shall be in the amount of Forty-Nine Thousand Four Hundred Sixty-Two and 36/100 ($49,462.36) conditioned upon the full and faithful performance of all major terms and conditions of this contract and payment of all labor and material suppliers. It is further mutually agreed between the parties hereto that if at any time after the execution of this agreement and the surety bond(s) hereto attached for its faithful performance and payment of labor and material suppliers, the City shall deem the surety or sureties upon such bond(s) to be unsatisfactory, or if, for any reason, such bond(s) ceases to be adequate to cover the performance of the work, the Contractor shall, at its expense, within five (5) days after the receipt of notice from the City to do so, furnish an additional bond or bonds, in such form and amount, and with such surety or sureties as shall be satisfactory to the City. In such event no further payment to the Contractor shall be deemed to be due under this contract until such new or additional security for the faithful performance of the work and the payment of labor and material suppliers shall be furnished in a manner and form satisfactory to the City. The corporate surety on any performance or payment bond must be licensed by the State of Missouri and if the required bond exceeds $25,000.00 must be listed in United States Treasury Circular 570.

5. Certification Regarding Disbarment, Eligibility, Indictments, Convictions or Civil Judgements for all Federal Aid Projects: By signing and submitting the bid, the president or authorized official of the bidder, under penalty of perjury under the laws of the USA, shall certify that, except as noted in the exceptions, the company or any person associated therewith in the capacity of owner, partner, director, officer, principal investor, project director, manager, auditor or any position involving the administration of federal funds:
(Reference can be made to "The System for Award Management" website as a helpful resource).

a. Is not currently under suspension, debarment, voluntary exclusion or determination of ineligibility by any federal agency.

b. Has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three years.

c. Does not have a proposed debarment or suspension pending.

d. Has not been indicted, convicted or had a civil judgment rendered against any of the listed parties by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three years.

5.1 If there are any exceptions, the bidder shall submit the exceptions on company letterhead, signed by the bidder and inserted inside the bid submitted. Exceptions will not necessarily result in denial of award, but will be considered in determining bidder responsibility. For any exception noted, the bidder shall indicate to whom it applies, the initiating agency, and dates of action. Providing false information may result in criminal prosecution or administrative sanctions.

5.2 By signing the contract, the contractor shall further certify that all related subcontracts of $25,000 shall comply with this requirement. This includes all subcontractors, material suppliers and vendors.

6. Contractor's responsibility for subcontractors. The Contractor shall be as fully responsible to the City for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as Contractor is for the acts and omissions of persons it directly employs. Contractor shall cause appropriate provisions to be inserted in all subcontracts relating to this work, to bind all subcontractors to Contractor by all the terms herein set forth, and insofar as applicable to the work of subcontractors and to give Contractor the same power regarding termination of any subcontract as the City may exercise over Contractor under any provisions of this contract. Nothing contained in this contract shall create any contractual relation between the subcontractor and the City or between any subcontractors.

7. General Independent Contractor Clause. This agreement does not create an employee/employer relationship between the parties. It is the parties' intention that the Contractor will be an independent contractor and not the City's employee for all purposes, including, but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, Missouri Revenue and Taxation laws, Missouri Workers' Compensation and Unemployment Insurance laws. The Contractor will retain sole and absolute discretion in the judgment of the manner and means of carrying out the Contractor's activities and responsibilities hereunder. The Contractor agrees that it is a separate and independent enterprise from the public employer, that it has a full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This agreement shall not be construed as creating any joint employment relationship between the Contractor and the City, and the City will not be liable for any obligation incurred by the Contractor, including but not limited to unpaid minimum wages and/or overtime premiums.

8. Liquidated Damages. Time of completion of work by the Contractor is of the essence. Should Contractor, or in the case of default, the surety, fail to complete the work within the time specified in the contract, or within such extra time as may be allowed in accordance with City of Joplin Standard Specifications, Division 0000, General Requirements and Provisions, Section 0400.19, (http://mo-joplin.civicplus.com/DocumentCenter/View/3460) Contractor (or surety) shall be liable to the City in the amount of $500.00 per day for each and every calendar day that the contract remains uncompleted after the time allowed for completion, as liquidated damages, and not as a penalty, it being stipulated that actual damages to the City and the public arising from Contractor's failure to timely complete the work would be difficult, if not impossible, to ascertain. The amount assessed as liquidated damages may be withheld from any moneys otherwise due to Contractor from the City.

9. Termination. The City reserves the right to terminate this contract by giving at least five (5) days prior written notice to the Contractor, without prejudice to any other rights or remedies of the City should the Contractor be adjudged a bankrupt, or if Contractor should make a general assignment for the benefit of its creditors, or if a receiver should be appointed for Contractor or for any of its property, or if Contractor should persistently or repeatedly refuse or fail to supply enough properly skilled workmen or proper material, or if Contractor should refuse or fail to make prompt payment to any person supplying labor or materials for the work under the contract, or persistently disregard instructions of the City or fail to observe or perform any provisions of the contract.

10. City's Right to Proceed. In the event this contract is terminated pursuant to Paragraph 8, then the City may take over the work and prosecute the same to completion, by contract or otherwise, and Contractor and its sureties shall be liable to the City for any costs over the amount of this contract thereby occasioned by the City. In any such case, the City may take possession of, and utilize in completing the work, such materials, appliances and structures as may be on the work site and are necessary for completion of the work. The foregoing provisions are in addition to, and not in limitation of, the rights of the City under any other provisions of the contract, city ordinances, and state and federal laws.

11. Termination for Convenience of City. The City shall have the right at any time by written notice to Contractor to terminate and cancel this contract, without cause, for the convenience of the City, and Contractor shall immediately stop work. In such event City shall not be liable to Contractor except for payment for actual work performed prior to such notice in an amount proportionate to the completed contract price and for the actual costs of preparations made by Contractor for the performance of the cancelled portions of the contract, including a reasonable allowance of profit applicable to the actual work performed and such preparations. Anticipatory profits and consequential damages shall not be recoverable by Contractor.

12. Guards and Lights. The Contractor agrees that during the performance of said work, adequate barricades, guards and warning signs, lights or devices consistent with the requirements contained in the Manual on Uniform Traffic Control Devices shall be provided by Contractor during construction.

13. Liability and Indemnity.

a. In no event shall the City be liable to the Contractor for special, indirect, or consequential damages, except those caused by the City's gross negligence or willful or wanton misconduct arising out of or in any way connected with a breach of this contract. The maximum liability of the City shall be limited to the amount of money to be paid or received by the City under this contract.

b. The Contractor shall defend, indemnify and save harmless the City, its elected or appointed officials, agents and employees from and against any and all liability, suits, damages, costs (including attorney fees), losses, outlays and expenses from claims in any manner caused by, or allegedly caused by, or arising out of, or connected with, this contract, or the work or any subcontract thereunder (the Contractor hereby assuming full responsibility for relations with subcontractors), including, but not limited to, claims for personal injuries, death, property damage, or for damages from the award of this contract to Contractor, notwithstanding any possible negligence, whether sole or concurrent, on the part of the City, its officials, agents and employees.

c. The Contractor shall indemnify and hold the City harmless from all wages or overtime compensation due any employees in rendering services pursuant to this agreement or any subcontract, including payment of reasonable attorneys' fees and costs in the defense of any claim made under the Fair Labor Standards Act, the Missouri Prevailing Wage Law or any other federal or state law.

d. The indemnification obligations of Contractor hereunder shall not be limited by any limitations as to the amount or type of damages, compensation or benefits payable by or for the Contractor, under any federal or state law, to any person asserting the claim against City, its elected or appointed officials, agents and employees, for which indemnification is sought.

e. The indemnification obligations herein shall not negate, abridge or reduce in any way any additional indemnification rights of the City, its elected or appointed officials, agents and employees, which are otherwise available under statute, or in law or equity.

f. Contractor affirms that it has had the opportunity to recover the costs of the liability insurance required in this agreement in its contract price. Contractor's obligation under this agreement to defend, indemnify, and hold harmless any person from that person's own negligence or wrongdoing is limited to the coverage and limits of the applicable insurance required of the Contractor under this agreement.

g. The Contractor shall indemnify and hold the City harmless for any penalties, fines, fees or costs, including costs of defense, which are charged or assessed by any Federal, state or local agency including, but not limited to, Environmental Protection Agency or Department of Natural Resources.

14. Payment for Labor and Materials. The Contractor agrees and binds itself to pay for all labor done, and for all the materials used in the construction of the work to be completed pursuant to this contract.

15. Payment. The City will pay the Contractor in accordance with the rate set forth in the contract documents on file in the Public Works Department and by this reference made a part hereof, which shall constitute full and complete compensation for the Contractor's work provided hereunder. Such compensation will be paid in progress payments (less five (5) percent retainage), as established by the City, subject to receipt of a requisition for payment and a statement of work provided by the Contractor and agreement by both the City and the Contractor that the Contractor has fully performed the work to be paid for in such progress payments in conformance with the contract. If the City or the architect or engineer determines that a higher rate of retainage is required to ensure performance of the contract, the City may withhold up to ten (10) percent retainage until the work is fully completed and accepted by the City.

16. Contract Documents. The contract documents shall consist of the following:

a. This Contract
b. All Change Orders
c. Bid Plans and Specifications
d. City of Joplin Standard Specifications (Latest Revised Edition)

e. Special Conditions & Provisions
f. Proposal
g. Statement of Bidder's Qualifications
h. Acknowledgment
i. Performance Bond
h. Payment and Material Bond
k. Instructions to Bidders
l. Non-collusion Affidavit
m. Notice to Proceed

Notice to Contractors: This contract, together with the other documents enumerated in this paragraph, forms the contract between the parties. These documents are as fully a part of the contract as if attached hereto or repeated herein. The Contractor agrees to perform all of the work described in the contract documents and to comply with the terms and conditions defined therein for a total sum of Forty-Nine Thousand Four Hundred Sixty-Two and 36/100 ($49,462.36) dollars, said amount being subject to any approved addenda or change order.

17. Subsurface Conditions. Contractor agrees that information contained in the published reports and public actions of the Missouri Division of Geology and Land Survey shall be conclusive and binding upon the Contractor as to what subsurface conditions at the job site are reasonably anticipated or reasonably foreseeable. Contractor acknowledges and agrees that it shall not be entitled to any adjustment in the Contract Sum or Contract Times for any concealed condition of any nature, including but not limited to unknown physical conditions of an unusual nature which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, in addition to the information contained in the published reports and public actions of the Missouri Division of Geology and Land Survey. Contractor recognizes that it has assumed the risks of concealed conditions and is being compensated for assuming these risks.

18. Conflict of Interest. In accepting this contract, Contractor certifies that no member or officer of its firm or corporation is an officer or employee of the City of Joplin, Missouri, or any of its boards or agencies, and further that no officer or employee of the City has any financial interest, direct or indirect, in this contract. All applicable federal regulations and provisions of R.S.Mo. Section 105.450 et seq. shall not be violated.

19. Assignment. The Contractor shall not assign any interest in this contract, and shall not transfer any interest in the same (whether by assignment or novation), without prior written consent of the City thereto, provided, however, that claims for money due or to become due to the Contractor from the City under this Contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of such assignment or transfer shall be furnished in writing promptly to the City and the bond surety. Any such assignment is expressly subject to all rights and remedies of the City under this agreement, including the right to change or delete activities from the Contract or to terminate the same as provided herein, and no such assignment shall require the City to give any notice to any such assignee of any actions which the City may take under this agreement.

20. Nondiscrimination. The Contractor agrees in the performance of this contract not to discriminate on the ground or because of race, creed, color, national origin or ancestry, sex, religion, handicap, age, status as a protected veteran or status as a qualified individual with a disability, or political opinion or affiliation, against any employee of Contractor or applicant for employment and shall include a similar provision in all subcontracts let or awarded hereunder. The parties hereby incorporate the requirements of 41 C.F.R. §§ 60-1.4(a)(7), 29 C.F.R. Part 471, Appendix A to Subpart A, 41 C.F.R. § 60-300.5(a)ii and 41 C.F.R. § 60-741.5(a), if applicable.

a. This contractor and subcontractor shall abide by the requirements of 41 C.F.R. § 60-300.5(a). This regulation prohibits discriminations against qualified protected veterans, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.

b. This contractor and subcontractor shall abide by the requirements of 41 C.F.R. § 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

21. Nonresident/Foreign Contractors. The Contractor shall procure and maintain during the life of this contract:

a. If the Contractor is a foreign corporation, a certificate of authority to transact business in the State of Missouri from the Secretary of State, unless exempt pursuant to the provisions of Section 351.570 R.S.Mo.

b. A certificate from the Missouri Director of Revenue evidencing compliance with the transient employer financial assurance law, unless exempt pursuant to the provisions of Section 285.230 RSMo.

22. Notices. All notices required or permitted hereinunder and required to be in writing may be given by FAX or by first class mail addressed to City and Contractor at the addresses shown above. The date of delivery of any notice given by mail shall be the date falling on the second full day after the day of its mailing. The date of delivery of notice by FAX transmission shall be deemed to be the date transmission occurs, except where the transmission is not completed by 5:00 p.m. on a regular business day at the terminal of the receiving party, in which case the date of delivery shall be deemed to fall on the next regular business day for the receiving party.

23. Records and Audits. The Contractor shall maintain accounts and records, including personnel, property, and financial records, adequate to identify and account for all costs pertaining to the Contract and such other records as may be deemed necessary by the City to assure proper accounting for all project funds. These records will be made available for audit purposes to the City or any authorized representative, and will be retained for three years after the expiration of this Contract.

24. Authorized Employees. Contractor acknowledges that Section285.530, RSMo, prohibits any business entity or employer from knowingly employing, hiring for employment, or continuing to employ an unauthorized alien to perform work within the State of Missouri. Contractor therefore covenants that is not knowingly in violation of subsection 1 or Section 285.530, RSMo, and that it will not knowingly employ, hire for employment, or continue to employ any unauthorized aliens to perform work on the Project, and that its employees are lawfully to work in the United States.

25. Interest of Contractor and Employees. The Contractor covenants that he/she presently has no interest and shall not acquire interest, direct or indirect, in the study area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his services hereunder. The Contractor further covenants that in the performance of this Contract, no person having any such interest shall be employed.

26. Interest of Members of a City. No member of the governing body of the City and no other officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Contract, and the Contractor shall take appropriate steps to assure compliance.

27. Interest of Other Local Public Officials. No member of the governing body of the locality and no other public official of such locality, who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Contract, and the Contractor shall take appropriate steps to assure compliance.

28. Affidavit for Contracts Over $5,000.00. That pursuant to Missouri Revised Statute Sections 285.525 through 285.550, if this contract exceeds the amount of $5,000.00 and Contractor is associated with a business entity, Contractor shall provide an acceptable notarized affidavit stating that the associated business entity is enrolled in and participates in a federal work authorization program with respect to the employees working in connection with the contracted services, and that said business entity does not knowingly employ any person who is an unauthorized alien in connection with the contracted services. Additionally, Contractor must provide documentation for said business entity evidencing current enrollment in a federal work authorization program.

29. City Benefits. The Contractor shall not be entitled to any of the benefits established for the employees of the City nor be covered by the Worker's Compensation Program of the City.

30. Occupational License: The Contractor shall obtain and maintain an occupational license with the City of Joplin, Missouri, if required by city code and any required state or federal license. The cost for this occupational license shall be borne by the Contractor. No contract will be executed by the City until this occupational license has been obtained and that the Contractor is current on any City taxes is verified.

31. Safety Training. Pursuant to Missouri Revised Statute Section 292.675, Contractors and subcontractors who sign a contract to work on public works projects must provide a 10-hour OSHA construction safety program, or similar program approved by the Department of Labor and Industrial Relations, to be completed by their on-site employees within sixty (60) days of beginning work on the construction project. Contractors and subcontractors in violation of this provision will forfeit to the public body $2,500 plus

$100 a day for each employee who is employed without training. Public bodies and contractors may withhold/assess these penalties from the payment due to those contractors and subcontractors if found to be in non-compliance.

32. Compliance with Laws. Contractor agrees to comply with all applicable federal, state and local laws or rules and regulations applicable to the provision of services and products hereunder. Contractor affirmatively states that payment of all local, state, and federal taxes and assessments owed by Contractor is current.

33. Entire Agreement. This agreement contains the entire agreement of the parties. No modification, amendment, or waiver of any of the provisions of this agreement shall be effective unless in writing specifically referring hereto, and signed by both parties.

34. Remedies. Except as may be otherwise found in the contract documents, all claims, disputes, counter-claims, and other matters in question between the Owner and Contractor arising out of or related to this agreement or the breech thereof, will be decided by arbitration if the parties hereto mutually agree, or in a court of competent jurisdiction within the state in which the Owner is located.

35. Jurisdiction. This agreement and every question arising hereunder shall be construed or determined according to the laws of the State of Missouri. Should any part of this agreement be adjudicated, venue shall be proper only in the Circuit Court of Jasper County, Missouri.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year herein stated.

CERTIFICATE OF DIRECTOR OF FINANCE

I certify that the expenditure contemplated by this document is within the purpose of the appropriation to which it is to be charged and that there is an unencumbered balance of appropriated and available funds to pay therefor.

_____

Leslie Haase, Director of Finance

APPROVED AS TO FORM

_____

Peter Edwards, City Attorney

CONTRACTOR:

By: _____

Printed Name: _____

Title: _____

CITY OF JOPLIN, MISSOURI

By: _____

David Hertzberg, Public Works Director

COUNCIL BILL NO. 2018-161 ORDINANCE NO

AN ORDINANCE approving a construction agreement with Springfield Striping for Parking Lots and Trails Sealing 2019 in the not to exceed amount Forty-Nine Thousand Four Hundred Sixty-Two and 36/100 Dollars ($49,462.36) for the 2019 Parking Lots and Trails Sealing 2019 and containing an emergency clause.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF JOPLIN, as follows:

Section 1. That the construction agreement with Springfield Striping for Parking Lots and Trails Sealing 2019 in the not to exceed amount of Forty-Nine Thousand Four Hundred Sixty-Two and 36/100 Dollars ($49,462.36) in the City of Joplin, Jasper County, a copy of which is attached hereto as Exhibit A, be the same and 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 Upon the final approval and acceptance of the contractor's work under said contract, in substantial conformance with the attached exhibits, in writing by the Director of Public Works, and his certification to that effect to the Director of Finance, the consultant shall be paid out of the Transportation Sales Tax – Street Projects Fund No. 140-4520-53-8650 and the Parks Trail Maintenance Fund 130-6550-560-8652 appropriations have been approved in the FY 2018-2019 City Budget.

Section 4. That the City of Joplin declares that this ordinance relating to a public improvement is an emergency within the meaning of Section 2.12(6) of the HOME RULE CHARTER of the City of Joplin, Missouri and the Council hereby declares that this ordinance shall be in full force and effect from and after its passage.

Passed by the Council of the City of Joplin, Missouri, this _____ day of

_____, 2018 by a _____ vote.

_____

ATTEST: Gary L. Shaw, Mayor

_____

Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM:

_____

Peter C. Edwards, City Attorney

Council Bill 2018-161

I hereby certify that a sufficient amount is available in Transportation Sales Tax – Street Projects Fund Account Number 140-4520-530-8650 and the Parks Trail Maintenance Account Number 130-6550-560-8652 to pay the amounts called for in the referenced Work Authorization.

_____

Leslie Haase, Director of Finance



Date: 6/11/2018

1 " = 154 '

0 75 150 300 ft

N

DISCLAIMER

This drawing is neither a legally recorded map or a survey and is not intended to be used as one. This map is compilation of records, information, and data located from the City of Joplin, Jasper and Newton Counties, and other State and Federal Offices, and other sources, affecting the area shown, and is to be used for reference purposes only. The City is not responsible for any inaccuracies herein.



Date: 6/11/2018

1 " = 154 '

0 75 150 300 ft

N

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Date: 6/11/2018

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Date: 6/11/2018

1 " = 154 '

0 75 150 300 ft

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Date: 6/11/2018

1 " = 308 '

0 150 300 600 ft

N

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Date: 6/11/2018

1 " = 154 '

0 75 150 300 ft

N

DISCLAIMER

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Date: 6/11/2018

1 " = 616 '

0 300 600 1,200 ft

N

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Date: 6/11/2018

1 " = 616 '

0 300 600 1,200 ft

N

DISCLAIMER

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CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2018-164
Replacement of 2 Dump Truck with Snow Plows

MEETING DATE
December 17, 2018

ORIGINATING DEPARTMENT
Public Works

REVIEWED BY
Director of Public Works - David Hertzberg, Director of Finance - Leslie Haase, City Attorney - Peter Edwards, City Manager - Samuel L. Anselm

SUMMARY
This Council Bill approves the issuance of a Purchase Order to Tag Truck Enterprises of Missouri LLC to replace 2 dump trucks which includes chassis, snow boxes, snow plows and side mount snow plows for the street maintenance department.

BACKGROUND
Due to the wear and tear on equipment the Street Maintenance Department needs to replace 2 dump truck which includes Chassis, snow boxes, snow plows and side mount snow plows. Historically, vehicles and equipment replaced by the Street Department will then be declared surplus property and be placed into the city auction.

DISCUSSION
Following the approval of the 2018-2019 operating budget, city staff used the MoDOT state bid to find a replacement for the 2 dump trucks needing to be replaced and optimizing options for the truck to maximize efficiency for the operator. The decision was made by the Public Works Department to use the state bid to purchase the 2 dump trucks from Tag Truck Enterprises of Missouri LLC in the amount of $392,627.74. This equipment meets city specification and existing equipment.

FUNDING SOURCE
These payments are included in the FY 2018-19 budget of the Transportation Sales Tax.

RECOMMENDATION
Staff recommends adoption of this Council Bill on an Emergency basis; being an ordinance dealing with public improvements, to be 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.

ATTACHMENTS
CB2018-163 Ordinance; Sales Quotation from Tag Truck Enterprises of Missouri LLC

Prepared for:
DARYL HAY
VIKING CIVES MIDWEST CITY
OF JOPLIN
PO BOX295
MORLEY, MO 63767
Phone: 573-262-3545

Prepared by:
Dean Spurlock
TAG TRUCK ENTERPRISES OF
MISSOURI, LLC
307 LYNUAL STREET
SIKESTON, MO 63801
Phone: 573-471-7100

QUOTATION

114SD CONVENTIONAL CHASSIS

SET FORWARD AXLE - TRUCK
CUM L9 350 HP @ 2000 RPM, 2200 GOV RPM, 1150 LB/FT @ 1400 RPM
ALLISON 3000 RDS AUTOMATIC TRANSMISSION WITH PTO PROVISION
MT-40-14X 40,000# R-SERIES TANDEM REAR AXLE
HENDRICKSON HAULMAAX @40,000# REAR SUSPENSION
DETROIT DA-F-18.0-5 18,000# FL1 71.0 KPI/3.74 DROP SINGLE FRONT AXLE
18,000# TAPERLEAF FRONT SUSPENSION
114 INCH BBC FLAT ROOF ALUMINUM CONVENTIONAL CAB
5625MM (221 INCH) WHEELBASE
7/16X3-9/16X11-1/8 INCH STEEL FRAME (11.11MMX282.6MM/0.437X11.13 INCH) 120KSI
1775MM (70 INCH) REAR FRAME OVERHANG
PARTIAL INNER FRAME REINFORCEMENT AT FRONT SUSPENSION
BODY COMPANY INSTALLED ADDITIONAL FRONT FRAME REINFORCEMENT FOR SNOW PLOW

			PER UNIT		TOTAL
VEHICLE PRICE	**TOTAL # OF UNITS (2)**	$	95,626.00	$	191,252.00
EXTENDED WARRANTY		$	4,269.00	$	8,538.00
VIKING-CIVES MIDWEST INSTALLED OPTIONS		$	96,418.87	$	192,837.74.00
CUSTOMER PRICE BEFORE TAX		**$**	***196,313.87***	**$**	***392,627.74***
TAXES AND FEES					
TAXES AND FEES		$	0	$	0
OTHER CHARGES		$	0	$	0
		$	(0)	$	(0)
BALANCE DUE	**(LOCAL CURRENCY)**	**$**	**196,313.87**	**$**	**392,627.74**

COMMENTS: Projected delivery on ___ / ___ / ___ provided the order is received before ___ / ___ / ___.
APPROVAL: Please indicate your acceptance of this quotation by signing below: Customer:
X_____ Date: ___ / ___ / ___.

Daimler Truck Financial
Financing that works for you.

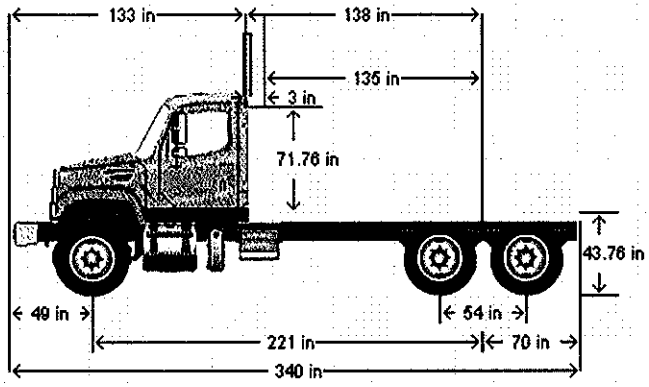
See your local dealer for a competitive quote from Daimler Truck Financial, or contact us at Information@dtfoffers.com.
Daimler Truck Financial offers a variety of finance, lease and insurance solutions to fit your business needs. For more information about our products and services, visit our website at www.daimler-truckfinancial.com.

Stark Bid # IFB605CO1800696

Prepared for:
DARYL HAY
VIKING CIVES MIDWEST CITY
OF JOPLIN
PO BOX295
MORLEY, MO 63767
Phone: 573-262-3545

Prepared by:
Dean Spurlock
TAG TRUCK ENTERPRISES OF
MISSOURI, LLC
307 LYNUAL STREET
SIKESTON, MO 63801
Phone: 573-471-7100

DIMENSIONS



VEHICLE SPECIFICATIONS SUMMARY - DIMENSIONS

Model 114SD
Wheelbase (545) ..... 5625MM (221 INCH) WHEELBASE
Rear Frame Overhang (552) ..... 1775MM (70 INCH) REAR FRAME OVERHANG
Fifth Wheel (578) ..... NO FIFTH WHEEL
- Mounting Location (577) ..... NO FIFTH WHEEL LOCATION
- Maximum Forward Position (in) 0
- Maximum Rearward Position (in) 0
- Amount of Slide Travel (in) 0
- Slide Increment (in) 0
- Desired Slide Position (in) 0.0

Cab Size (829) ..... 114 INCH BBC FLAT ROOF ALUMINUM CONVENTIONAL CAB
Sleeper (682) ..... NO SLEEPER BOX/SLEEPERCAB
Exhaust System (016) ..... RH OUTBOARD UNDER STEP MOUNTED HORIZONTAL AFTERTREATMENT SYSTEM ASSEMBLY WITH RH B-PILLAR MOUNTED VERTICAL TAILPIPE

TABLE SUMMARY - DIMENSIONS

Prepared for:
DARYL HAY
VIKING CIVES MIDWEST CITY
OF JOPLIN
PO BOX295
MORLEY, MO 63767
Phone: 573-262-3545

Prepared by:
Dean Spurlock
TAG TRUCK ENTERPRISES OF
MISSOURI, LLC
307 LYNUAL STREET
SIKESTON, MO 63801
Phone: 573-471-7100

Dimensions	Inches
Bumper to Back of Cab (BBC)	132.9
Bumper to Centerline of Front Axle (BA)	49.4
Min. Cab to Body Clearance (CB)	3.0
Back of Cab to Centerline of Rear Axle(s) (CA)	137.5
Effective Back of Cab to Centerline of Rear Axle(s) (Effective CA)	134.5
Back of Cab Protrusions (Exhaust/Intake) (CP)	0.0
Back of Cab Protrusions (Side Extenders/Trim Tab) (CP)	0.0
Back of Cab Protrusions (CNG Tank)	0.0
Back of Cab Clearance (CL)	3.0
Back of Cab to End of Frame	207.5
Cab Height (CH)	71.8
Wheelbase (WB)	221.0
Frame Overhang (OH)	70.0
Overall Length (OAL)	340.4
Rear Axle Spacing	54.0
Unladen Frame Height at Centerline of Rear Axle	43.8

Performance calculations are estimates only. If performance calculations are critical, please contact Customer Application Engineering.

Prepared for:
DARYL HAY
VIKING CIVES MIDWEST CITY
OF JOPLIN
PO BOX295
MORLEY, MO 63767
Phone: 573-262-3545

Prepared by:
Dean Spurlock
TAG TRUCK ENTERPRISES OF
MISSOURI, LLC
307 LYNUAL STREET
SIKESTON, MO 63801
Phone: 573-471-7100

G V W R

VEHICLE SPECIFICATIONS SUMMARY - GVWR

Model	114SD
Cab Size (829)	114 INCH BBC FLAT ROOF ALUMINUM CONVENTIONAL CAB
Expected Front Axle(s) Load (lbs)	18000.0
Expected Pusher Axle(s) Load (lbs)	0.0
Expected Rear Axle(s) Load (lbs)	40000.0
Expected Tag Axle(s) Load (lbs)	0.0
Expected GVW (lbs)	58000
Expected GCW (lbs)	80000.0
Front Axle (400)	DETROIT DA-F-18.0-5 18,000# FL1 71.0 KPI/3.74 DROP SINGLE FRONT AXLE
Front Suspension (620)	18,000# TAPERLEAF FRONT SUSPENSION
Front Hubs (418)	CONMET PRESET PLUS PREMIUM IRON FRONT HUBS
Front Disc Wheels (502)	ACCURIDE 29039 22.5X9.00 10-HUB PILOT 5.25 INSET 5-HAND STEEL DISC FRONT WHEELS
Front Tires (093)	CONTINENTAL CITY SERVICE HA3 315/80R22.5 20 PLY RADIAL FRONT TIRES
Front Brakes (402)	MERITOR 16.5X6 Q+ CAST SPIDER CAM FRONT BRAKES, DOUBLE ANCHOR, FABRICATED SHOES
Steering Gear (536)	TRW THP-60 POWER STEERING WITH RCH45 AUXILIARY GEAR
Rear Axle (420)	MT-40-14X 40,000# R-SERIES TANDEM REAR AXLE
Rear Suspension (622)	HENDRICKSON HAULMAAX @40,000# REAR SUSPENSION
Rear Hubs (450)	CONMET PRESET PLUS PREMIUM IRON REAR HUBS
Rear Disc Wheels (505)	ACCURIDE 28828 22.5X8.25 10-HUB PILOT 2-HAND HD STEEL DISC REAR WHEELS
Rear Tires (094)	CONTINENTAL HDR2 11R22.5 14 PLY RADIAL REAR TIRES
Rear Brakes (423)	MERITOR 16.5X7 Q+ CAST SPIDER CAM REAR BRAKES, DOUBLE ANCHOR, FABRICATED SHOES
Pusher / Tag Axle (443)	NO PUSHER OR TAG AXLE
Pusher / Tag Suspension (626)	NO PUSHER OR TAG SUSPENSION
Pusher / Tag Hubs (449)	NO PUSHER OR TAG HUBS
Pusher/Tag Disc Wheels (509)	NO PUSHER/TAG DISC WHEELS
Pusher / Tag Tires (095)	NO PUSHER/TAG TIRES
Pusher / Tag Brakes (456)	NO PUSHER/TAG BRAKES

TABLE SUMMARY - GVWR

Prepared for:
DARYL HAY
VIKING CIVES MIDWEST CITY
OF JOPLIN
PO BOX295
MORLEY, MO 63767
Phone: 573-262-3545

Prepared by:
Dean Spurlock
TAG TRUCK ENTERPRISES OF
MISSOURI, LLC
307 LYNUAL STREET
SIKESTON, MO 63801
Phone: 573-471-7100

	Front	Rear 1	Rear 2
Axle Component Weight Ratings			
Axles	18000	20000	20000
Suspension	18000	20000	20000
Hubs	23000	26000	26000
Brakes	20000	21000	21000
Wheels	20000	32000	32000
Tires	20000	23360	23360
Power Steering	22000	N/A	N/A
GAWR (per axle)	18000	20000	20000
GAWR (per axle system)	18000		40000
Expected Load (per axle system)	18000		40000
Vehicle GVWR Summary			
Calculated GVWR	58000		
Expected GVWR	58000		
All weights displayed in pounds			

Performance calculations are estimates only. If performance calculations are critical, please contact Customer Application Engineering.

COUNCIL BILL NO. 2018-164 ORDINANCE NO.

AN ORDINANCE approving a Purchase Order to be issued to Tag Truck Enterprises of Missouri LLC in the amount of Three Hundred Ninety-Two Thousand Six Hundred Twenty-Seven and 74/100 Dollars ($392,627.74) for the purchase of a 2 dump trucks with snow plows as budgeted in the Annual Budget of the City of Joplin for the Fiscal Year 2018-2019 and containing an emergency clause.

WHEREAS, Tag Truck Enterprises of Missouri LLC holds the MoDOT state bid IFB605CO18000696 for dump truck purchases.

WHEREAS, in the FY 2018-2019 budget process, Council approved and budgeted funds to cover the purchase of 2 dump trucks with snow plows.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, as follows:

Section 1. That a Purchase Order be issued to Tag Truck Enterprises of Missouri LLC in the amount of Three Hundred Ninety-Two Thousand Six Hundred Twenty-Seven and 74/100 Dollars ($392,627.74) for the purchase of a 2 dump trucks with snow plows, be and the same is, hereby approved.

Section 2. That Fiscal Year 2018-2019 budgeted reflect an appropriation in the total amount of Three Hundred Ninety-Two Thousand Six Hundred Twenty-Seven and 74/100 Dollars ($392,627.74) for the replacement of 2 dump trucks with snowplows.

Section 3. That the City hereby declares this Ordinance, being an ordinance dealing with a public improvement, to be 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. Specifically, this Ordinance approves an appropriation that is budgeted.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____ day of _____, 2018, by a vote of _____.

_____
Gary L. Shaw, Mayor

ATTEST:

_____
Barbara Golhoffer, City Clerk

APPROVED AS TO FORM:

_____

Peter C. Edwards, City Attorney

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2018-524 – Approving a request to appoint Tereasa Edwards to the Northpark Lane Community Improvement District board.

MEETING DATE
December 17, 2018

ORIGINATING DEPT
Finance

ATTACHMENTS
CB 2018-524 Ordinance; Exhibit "A" Board Request for appointment

REVIEWED BY
Department Head: Leslie Haase; City Attorney: Peter Edwards; City Manager: Sam Anselm

SUMMARY
This Council Bill approves a request to appoint Tereasa Edwards to the Northpark Lane Community Improvement District board.

BACKGROUND
In June of 2014, the City approved the Northpark Lane Community Improvement District (CID) in order to make $10 million in improvements to the mall property through the assessment of an additional 1% sales tax. The District is a separate political subdivision governed by a board of directors, appointed by the Mayor, with the consent of the City Council. The Finance Director serves as an ex-officio member to the Board. The District has requested the appointment of Tereasa Edwards to the board. She has served on the board since its inception in 2014.

FUNDING SOURCE
Not applicable.

RECOMMENDATION
Staff recommends approval of this council bill on an emergency basis.

COUNCIL BILL NO. 2018-524 **ORDINANCE NO.**

AN ORDINANCE approving a request to appoint Tereasa Edwards to the Board of Directors of the Northpark Lane Community Improvement District; and containing an emergency clause.

WHEREAS, the City of Joplin, Missouri (the "City") is a charter city and a political subdivision 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 Northpark Lane Community Improvement District (the "District") was established pursuant to Joplin City Ordinance No. 2014-90 on or about June 16, 2014 ("2014 Ordinance"); and

WHEREAS, pursuant to the 2014 Ordinance and the Missouri Community Improvement District Act, Section 67.1401 to 67.1571, RSMo. (the "CID Act"), successor directors to the Board of Directors of the District shall be appointed by the City and approved by the City Council and the term of all successor directors shall be four (4) years; and

WHEREAS, the District has requested that Tereasa Edwards be appointed to the Board of Directors of the District pursuant to the certain correspondence addressed to Mayor Gary Shaw and dated November 15, 2018 as attached hereto as Exhibit A.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, as follows:

Section 1. That Tereasa Edwards is hereby appointed as a Director of the Board of Directors of the District for a term of four (4) years.

Section 2. It is hereby declared to be the intention of the City Council that each and every part, section and subsection of this Ordinance shall be separate and severable from each and every other part, section and subsection hereof and that the City Council intends to adopt each said part, section and subsection separately and independently of any other part, section and subsection. In the event that any part, section or subsection of this Ordinance shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, sections and subsections shall be and remain in full force and effect, unless the court making such finding shall determine that the valid portions standing alone are incomplete and are incapable of being executed in accord with the legislative intent.

Section 3. This Ordinance is declared by the City Council to be an emergency within this meaning of Section 2.12, subparagraphs (1) and (3), of the Home Rule Charter of the City of Joplin, Missouri, and as such shall become effective immediately upon its passage.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____ day of _____, 2018, by a _____ vote.

_____
Gary L. Shaw, Mayor

ATTEST:

_____
Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

EXHIBIT "A"

HUSCH BLACKWELL

Matthew Ahlers
Attorney

190 Carondelet Plaza, Suite 600
St. Louis, MO 63105
Direct: 314.345.6624
Fax: 314.480.1505
matthew.ahlers@huschblackwell.com

November 15, 2018

COPY

VIA USPS, Certified Mail
Mayor Gary Shaw
City of Joplin
602 S. Main Street
Joplin, MO 64801

Re: Northpark Lane Community Improvement District – Board of Directors

Dear Mayor Shaw:

This undersigned represents CBL Properties, which is the owner of the property commonly known as Northpark Mall (the "Property") in the City of Joplin. The Property is contained within the Northpark Lane Community Improvement District (the "District"), a political subdivision created pursuant to the Missouri Community Improvement District Act, Section 67.1401 to 67.1571, RSMo. (the "CID Act").

The District is governed by a Board of Directors (the "Board") appointed by you, with the consent of the City Council. Certain Directors on the Board have terms that are expiring or have otherwise become ineligible to continue as directors of the Board. The CID Act provides that, in the event of a vacancy, "[s]uccessor directors shall be appointed in the same manner as the initial directors and shall serve for a term of years specified by the district prior to the appointment." Per the Petition to Establish the District (the "Petition"), the initial Directors were "appointed by the City" and "the term of office for all successor directors shall be four (4) years, as permitted by the [CID] Act."

Pursuant to the provisions of the CID Act and the Petition, we now submit the following slate for your consideration, approval, and submission of the same to the City Council, and we request your assistance in obtaining a City Council resolution appointing the proposed successor director.

(i) Tereasa Edwards to be appointed as a director to the Board of Directors of the District with term expiring four (4) years from the date of nomination. Contact information for the proposed appointment is Tereasa Edwards, 1060 Mid Rivers Mall, St. Peters, MO 63376. Tereasa Edwards is a legally authorized representative of CBL Properties, an owner of real property within the District.

Thank you in advance for your time, consideration and cooperation If you need further information, please do not hesitate to contact me at (314)480-1500.

Sincerely,

Matthew Ahlers

cc: Joan Ghani, via e-mail
Leslie Haase, via e-mail

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2018-027 – authorizing the City of Joplin to amend the Memorandum of Understanding and Agreement with Connect2Culture previously approved as Ordinance 2017-149 for the purpose of extending timeframes.

MEETING DATE
December 17, 2018

REVIEWED BY
Peter Edwards, City Attorney; Sam Anselm, City Manager.

SUMMARY
This Council Bill approves an amendment to the Memorandum of Understanding and Agreement with Connect2Culture previously approved as Ordinance 2017-149 for the purpose of extending timeframes.

BACKGROUND
Council approved a Memorandum of Understanding and Agreement with Connect2Culture via Ordinance 2017-149 on October 2, 2017.

The agreement specified that the City would obtain ownership to certain real estate from the State of Missouri no later than July 1, 2018. The City has performed all of its obligations to the State of Missouri under the Land Swap Letter of Intent Agreement between the State and City, and the City is waiting on the State to execute a Deed to its real estate to complete the land swap. The amendment extends this timeframe to April 1, 2019.

The agreement also stated that Connect2Culture would initiate a private Capital Campaign as soon as possible with culmination of that campaign no later than November 30, 2018. The amendment extends this timeframe to June 1, 2019.

FUNDING SOURCE
N/A

RECOMMENDATION
Staff recommends approval of this Council Bill on first reading and advancement to second and third reading.

ATTACHMENTS
Council Bill 2018-027
Exhibit “A” - Amendment
Ordinance 2017-149

COUNCIL BILL NO. 2018-027 ORDINANCE NO.

AN ORDINANCE authorizing the City of Joplin to amend the Memorandum of Understanding and Agreement with Connect2Culture previously approved as Ordinance 2017-149 for the purpose of extending timeframes and authorizing the City Manager to execute the same by and on behalf of the City of Joplin.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF JOPLIN, as follows:

Section 1. That the Amendment to the Memorandum of Understanding and Agreement by and between the City of Joplin and Connect2Culture previously approved as Ordinance 2017-149, a true and accurate copy of said Amendment 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, is hereby authorized and directed to execute said amendment, or amendment in substantially similar form, by and on behalf of the City of Joplin.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____ day of _____, 201___.

_____
Gary L. Shaw, Mayor

ATTEST:

_____
Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

Exhibit "A"

FIRST AMENDMENT TO MEMORANDUM OF UNDERSTANDING AND AGREEMENT

This First Amendment to Memorandum of Understanding and Agreement ("Agreement") is made and entered into this ____ day of January, 2019, by and between the City of Joplin, Missouri, a Municipal Corporation (hereinafter "City") and Connect2Culture, a Missouri Non-For-Profit Corporation (hereinafter "Connect2Culture"), with the City and Connect2Culture being referred to collectively as the "parties."

WHEREAS, City and Connect2Culture entered into a Memorandum of Understanding and Agreement effective October 2, 2017, whereby City agreed to obtain ownership of certain real estate described on Exhibit A no later than July 1, 2018; and

WHEREAS, Connect2Culture agreed to initiate a private Capital Campaign as soon as possible with culmination of that campaign no later than November 30, 2018; and

WHEREAS, the parties desire to extend these timeframes.

NOW, THEREFORE, in consideration of the mutual agreements set forth below, and other good and valuable consideration, the parties do hereby agree as follows:

1. The Agreement is hereby amended to provide that the date for City to obtain ownership of certain real estate escribed on Exhibit A under Section 4 subparagraphs b and e shall be April 1, 2019, and this date may be extended by the City in the event an extension is needed. The parties acknowledge that City has performed all of its obligations to the State of Missouri under the Land Swap Letter of Intent Agreement between the State and City, and that the City is merely waiting on the State to execute a Deed to its real estate to complete the land swap.

2. The Agreement is hereby amended to provide that the date for Connect2Culture to culminate its private Capital Campaign under Section 4 subparagraph d shall be June 1, 2019.

3. All other terms, conditions and requirements of the Memorandum of Understanding and Agreement shall remain in full force and effect, except as modified by this Amendment.

4. This document may be signed in separate counterparts by the parties and the signed counterparts, taken together, shall be deemed to constitute an executed original of this document.

CITY OF JOPLIN:	**CONNECT2CULTURE:**
By:_____	By:_____
Name:_____	Name:_____

Title:_____ Title:_____

Date:_____ Date:_____

Exhibit "A"

CROSSROADS REALTY, LLC BOUNDARY

PROPERTY DESCRIPTION:

A TRACT OF LAND IN THE NORTHWEST QUARTER (NW-1/4) OF SECTION 14, TOWNSHIP 27 NORTH, RANGE 32 WEST, IN JASPER COUNTY, MISSOURI, BEING MORE FULLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST QUARTER (W-1/4) CORNER OF SAID SECTION 14, A FOUND 5/8 INCH IRON PIN;
THENCE NORTH 00°54'45" EAST ALONG THE WEST LINE OF SAID QUARTER SECTION A DISTANCE OF 1,064.48 FEET;
THENCE SOUTH 89°05'15" EAST, A DISTANCE OF 80.00 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF PRIGMORE AVENUE (COUNTY ROAD 190), THE POINT OF BEGINNING;
THENCE NORTH 00°54'45" EAST ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 609.96 FEET;
THENCE SOUTH 89°04'46" EAST, LEAVING SAID RIGHT-OF-WAY LINE, A DISTANCE OF 389.68 FEET;
THENCE SOUTH 00°54'45" WEST, A DISTANCE OF 609.91 FEET;
THENCE NORTH 89°05'15" WEST, A DISTANCE OF 389.68 FEET TO THE POINT OF BEGINNING.
CONTAINING 5.46 ACRES, MORE OR LESS.

BASIS OF BEARINGS: WEST LINE OF NW-1/4 OF SECTION 14 AT A BEARING OF NORTH 00°54'45" EAST.

Exhibit "B"

Enhanced Enterprise Zone Tax Abatement Guidelines

Number of Jobs / Wages	10	50	100	250	500	750
80% CAW	10 yr / 60%	10 yr / 70%	10 yr / 80%	10 yr / 90%	10 yr / 100%	10 yr / 100% 5 yr / 50%
90% CAW	10 yr / 70%	10 yr / 80%	10 yr / 90%	10 yr / 100%	10 yr / 100% 5 yr / 50%	10 yr /100% 5yr / 75%
County Avg.	10 yr / 80%	10 yr / 90%	**10 yr / 100%**	10 yr / 100% 2 yr / 50%	10 yr / 100% 5 yr / 75%	15 yr / 100%
120% CAW	10 yr / 90%	10 yr / 100%	10 yr / 100% 2 yr / 50%	10 yr / 100% 5 yr / 50%	15 yr / 100%	15 yr / 100% 5yr / 50%
140% CAW	10 yr / 100%	10 yr / 100% 2 yr / 50%	10 yr / 100% 2 yr / 75%	10 yr / 100% 5 yr / 75%	15 yr / 100% 5 yr / 50%	20 yr / 100%

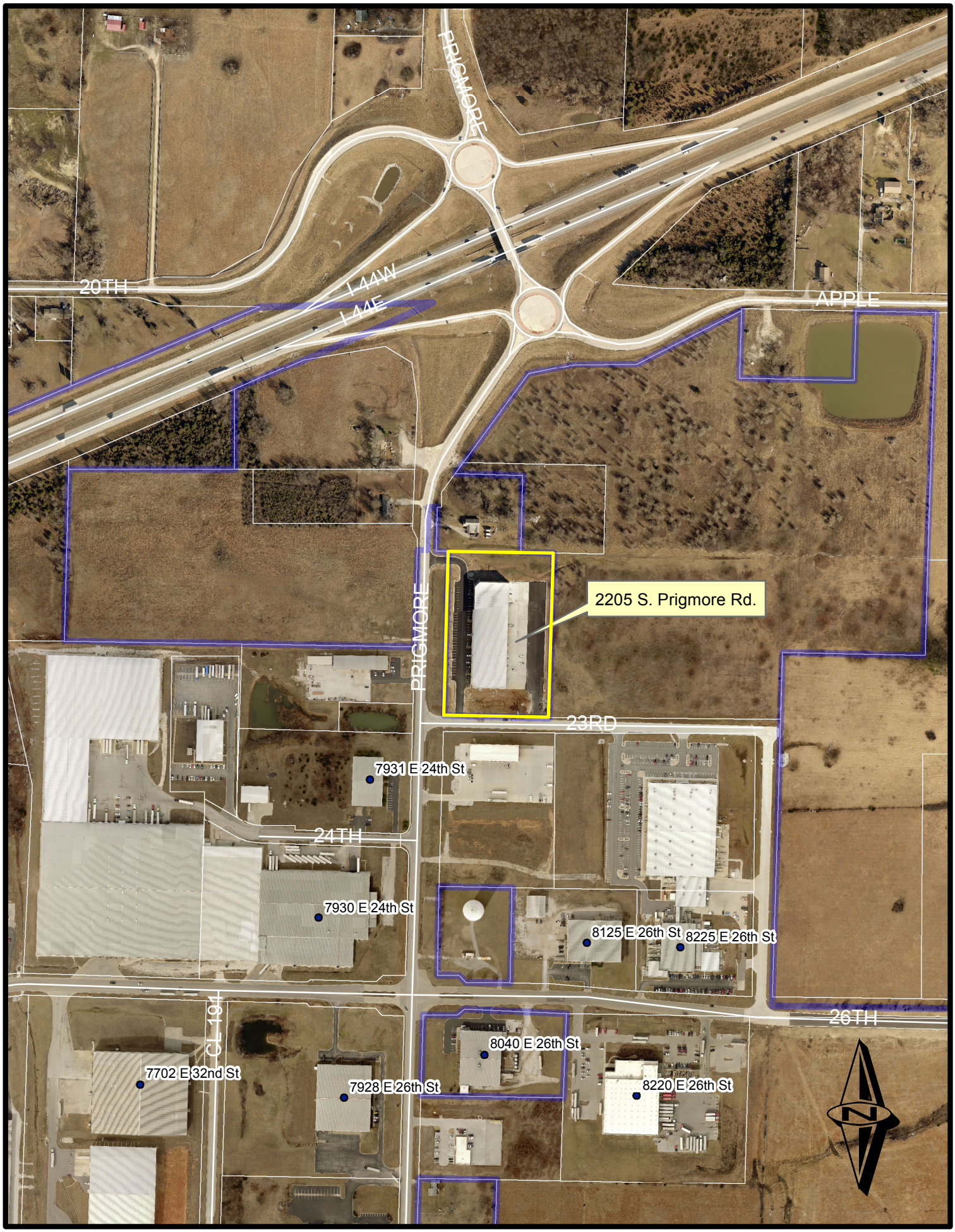
Base: 10 yr / 50% for companies creating a minimum of two jobs and not in the targeted clusters, with approval of EEZ Adv Brd.

Enhanced: As per chart above, for companies in the targeted clusters.

County Avg. Wage: Average of Jasper and Newton County avg. wages, as defined by state DED. New companies must meet CAW as avg. of all employees in new operation. Existing firms qualify based on avg. wage of existing employment base.

Job Creation: Number of FTE in twenty-four months after beginning new/expanded operation.

EXHIBIT C


PRIGMORE
20TH
I-44W
I-44E
APPLE
2205 S. Prigmore Rd.
PRIGMORE
23RD
7931 E 24th St
24TH
7930 E 24th St
8125 E 26th St
8225 E 26th St
26TH
CL 191
8040 E 26th St
7702 E 32nd St
7928 E 26th St
8220 E 26th St
N

COUNCIL BILL NO. 2018-275 ORDINANCE NO.

AN ORDINANCE authorizing the City council to issue the abatement of ad valorem taxes to real property located in the Joplin Area Enhanced Enterprise Zone; generally described as located at 2205 S. Prigmore Rd. and owned by Crossroads Realty, LLC.

WHEREAS, the Department of Economic Development of the State of Missouri has confirmed that the area known as the Joplin Area Enhanced Enterprise Zone which includes portions of the City of Joplin, Jasper County, Newton County, and other participating communities meets the guidelines for the designation as an Enhanced Enterprise Zone, as set forth in 135.953, RSMo; and

WHEREAS, the jobs to be created are in the field of distribution.

WHEREAS, Sections 135.950 to 135.973, RSMo, provides a means and opportunity for the City of Joplin, to cooperate with the State of Missouri to relieve economic distress and attract new jobs to our area; and

WHEREAS, IT IS IN THE INTEREST OF THE City of Joplin, that efforts be made to encourage economic development within the Joplin Area Enhanced Enterprise Zone.

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, as follows:

Section 1. That the Council does hereby grant a tax abatement of the ad valorem real property taxes for property located at 2205 S. Prigmore Rd, Joplin, MO more particularly described being attached hereto as Exhibit "A" hereinafter "the Property", in the amount of fifty percent (50%) commencing January 1, 2019 and continuing to and ending after December 31, 2028.

Section 2. That the City Council supports and endorses the recommendation of the Enhanced Enterprise Zone Board of Directors regarding the level of benefit based upon *Benefit Level Options* as noted on Exhibit B (Enhanced Enterprise Zone Tax Abatement Guidelines).

Section 3. That Crossroads Realty is required to file an application requesting abatement with the designated Administrator of the Joplin Area Enhance Enterprise Zone and with the Jasper County Assessor prior to the end of the tax year.

Section 4. That Crossroads Realty has twenty-four months beginning January 1, 2019 to create 2 jobs.

Section 5. That the Administrator of the Joplin Area Enhanced Enterprise Zone is hereby authorized to execute said abatement of ad valorem taxes for aforementioned property by and on behalf of the City of Joplin, Missouri.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____ day of _____, 2018.

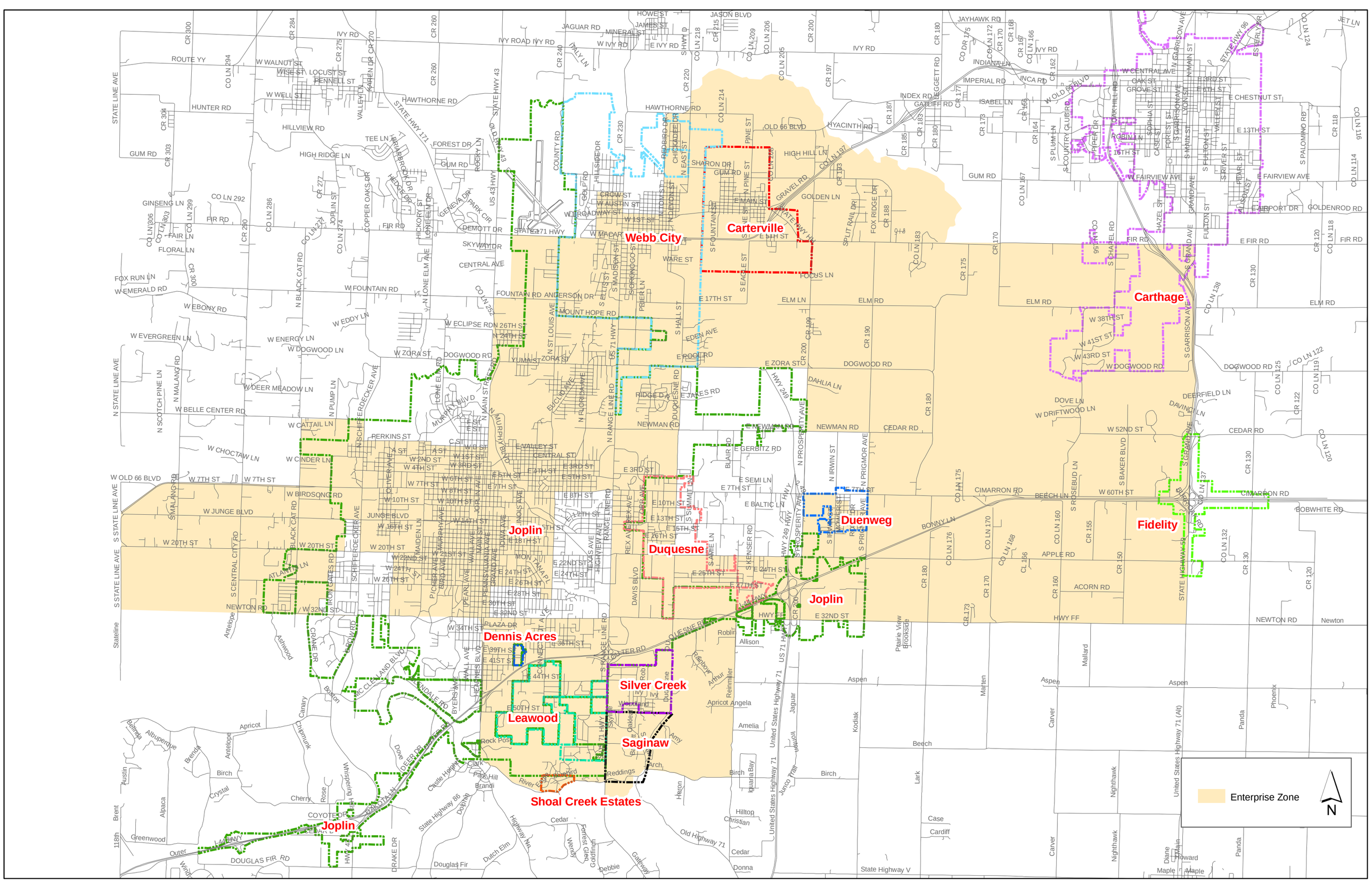
_____
Gary L. Shaw, Mayor

ATTEST:

_____
Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney


Webb City
Carterville
Carthage
Joplin
Duquesne
Duenweg
Fidelity
Dennis Acres
Silver Creek
Leawood
Saginaw
Shoal Creek Estates
Joplin
Joplin
Enterprise Zone
N

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM:
Council Bill No. 2018-275

ORIGINATING DEPARTMENT:
Planning, Development, and Neighborhood Services

MEETING DATE:
December 17, 2018

REVIEWED BY;
Director of Planning, Development and Neighborhood Services- Troy Bolander, Director of Finance-Leslie Haase, City Attorney- Peter Edwards, City Manager-Sam Anselm.

SUMMARY REQUEST;
A request by Crossroad's Realty (Mr. Lou Vlasaty) for the abatement of ad valorem taxes on a building located in the Crossroads Industrial Park. The taxes will be abated through the Joplin Area Enhanced Enterprise Zone (EEZ) Program that was approved by City Council in 2007.

BACKGROUND;
Crossroad's Realty, L.L.C. purchased a new building located at 2205 S. Prigmore Road in the Crossroads Industrial Park. The building contains two businesses. The first business is Midland Paper. Midland Paper is the Midwest's largest distributor of paper and photo stock. The Joplin operation currently serves several printers and photographers in the tri-state area. They currently employee six people. The second company is Douglass Companies. Douglass Companies is the largest convenience store supplier in the "midsouth" region. The company is a 45-year-old company based in Arkansas. They typically supply stores with gum, beverages, small auto parts, groceries and other items you typically see in a convenience store. The company currently employees 16 employees in their Joplin operation.

The minimum requirements in the state statute that created the EEZ Program requires the governing body to offer a minimum of a 50% tax abatement for 10-years for the creation of at least two jobs. There are currently 22 employees in the building and the companies in this facility will create an additional 2 jobs. There is the potential for creating more jobs since there is additional tenant space in the building. But, the owner is not requesting additional abatement on the potential for creating more jobs in the empty tenant space. The average annual wages of the two new jobs created are at least $48,000. The minimum abatement under the EEZ program is being offered to Crossroad's Realty, L.L.C.

The amount of abatement offered is based upon the minimum program requirements under the state statue and a sliding scale (see Exhibit B) that was developed and approved by the Joplin Area Enhanced Enterprise Zone Board. Staff is recommending that Crossroad's Realty ad valorem taxes on the building be abated at 50% for 10 years. The recommendation is based on the data submitted by the property owner that the companies will pay an average wage of $48,000 per job which is approximately 17.5% more than the current county average wage of $40,871 for Jasper County. The companies will create a minimum of 2 jobs within two years and provide employee benefits.

FUNDING SOURCE
N.A.

RECOMMENDATION
Staff recommends approval of this council bill.

ATTACHMENTS
CB 2018-275, Exhibit A-Legal Description, Exhibit B-Enhanced Enterprise Zone Tax Abatement Guidelines, Exhibit C-Property Location Map, Enhanced Enterprise Zone Location Map.

2018 HOMEOWNER OCCUPIED REHABILITATION
AGREEMENT BETWEEN
CITY OF JOPLIN, MISSOURI
AND
ECONOMIC SECURITY CORPORATION of SOUTHWEST AREA

THIS AGREEMENT, made and entered into on this __day of _____, 2019 by and between the City of Joplin, Missouri, located at 602 S. Main, Joplin, Missouri, hereinafter referred to as the "Government" and the Economic Security Corporation of Southwest Area, hereinafter referred to as "Subrecipient", a non-stock, nonprofit Missouri corporation.

RECITALS

WHEREAS, Government, in accordance with the regulations codified at 24 CFR 92.102 - 92.104 for the HOME Investment Partnership Program, has been designated a Participating Jurisdiction by the U.S. Department of Housing and Urban Development.

WHEREAS, Government has applied for and received a HOME Investment Partnership Grant from the U.S. Department of Housing and Urban Development for FY 2018 (HOME funds).

WHEREAS, Subrecipient requests the Government to reserve $110,000.00 from its 2018 HOME funds for a Homeowner-occupied Rehabilitation Program.

WHEREAS, the Government is responsible for ensuring that HOME funds are used in accordance with all program requirements; and,

WHEREAS, federal regulations require the participating jurisdiction to enter into a written agreement with Subrecipient ensuring compliance with all applicable federal regulations.

WHEREAS, Subrecipient has established a program to assist low income homeowners with housing rehabilitation projects.

NOW THEREFORE, in consideration of the foregoing and mutually agreed upon promises, conditions, and covenants hereinafter set forth, the Government and Subrecipient hereto agree as follows:

ARTICLE I

1. Subrecipient agrees to implement a Homeowner Rehabilitation Program in accordance with the HOME Investment Partnerships Program regulations as stated in 24 CFR Part 92 and in accordance with the guidelines adopted by the Government, which are incorporated herein in Article IV as additional provisions. Implementation shall include, but is not limited to, attracting eligible participants to the program, assessing their eligibility under the HOME program, and informing participants of the requirements for receipt of HOME loans.

2. The term of the Agreement shall begin on the date specified above and end two years from this date or until the entire HOME funds allocated for the Homeowner Rehabilitation Program

pursuant to this Agreement have been loaned or marked for a particular loan, or whichever comes first.

3. Subrecipient shall provide any reports and information as required by the Government to document compliance with HUD HOME Program regulations. This shall include the following information on each homebuyer: level of income (households <=30% of area median income, households >30% and <=50% of median income, and households >50% and <=80% of median income), household size, race, ethnicity, and national origin.

4. Subrecipient shall be responsible (in the manner and to the extent permitted by law) for all lawfully proven claims, losses, actions, and expenses (including legal expenses), including claims against the Government, arising from the performance of Subrecipient of the terms of this agreement in accordance with the requirements of the HOME Investment Partnerships Program but excepting any such claims, losses, causes of action and expenses arising as a result of fault on the part of the Government, its officers, agents and employees. Subrecipient is not responsible for negligent acts of the Government, its officers, agents, and employees.

5. Subrecipient shall insure that all potential recipients of HOME Homeowner Rehabilitation funds receive homeownership counseling.

6. Subrecipient shall recommend to the Government eligible homeowners for non-repayable loans. Each such recommendation shall include income and eligibility verification and certifications as to the program eligibility of the client and property. Subrecipient will also provide a recommendation as to the amount of the HOME loans and a signed statement from the prospective homeowner that HOME Program requirements were explained to them.

7. Subrecipient agrees that all residential loans awarded under the Homeowner Rehabilitation Program will be in accordance with the conditions of this agreement.

ARTICLE II

1. Under any program funded in whole or in part with HOME funds, Subrecipient shall not exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States on the grounds of race, color, national origin, religion, or sex.

2. Subrecipient agrees to comply with the requirements of the Fair Housing Act (42 U.S.C. 3601-20) and implementing regulations at 24 CFR part 100; Executive Order 11063, as amended by Executive Order 12259 (3 CFR, 1958-1963 Comp., p. 652 and 3 CFR, 1980 Comp., p. 307) (Equal Opportunity in Housing) and implementing regulations at 24 CFR part 107; and title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) (Nondiscrimination in Federally Assisted Programs) and implementing regulations issued at 24 CFR part 1.

3. Subrecipient agrees to comply with the requirements of the Age Discrimination Act of 1975 (42 U.S.C. 6101-07) and implementing regulations at 24 CFR part 146: the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8; the requirements of Executive Order 11246 (3 CFR 1964-65, Comp., p. 339) (Equal Employment Opportunity) and the implementing regulations issued at 41 CFR chapter 60; and, the requirements of section 3 of the Housing and Urban Development Act of

1968 (12 U.S.C. 1701u). Please see Attachment B for the Section 3 Clause, which lists the full requirements of the Subrecipient.

4. As it may be applicable, Subrecipient agrees to comply with the Minority/Women's Business Outreach section of the Annual Action Plan as adopted by the Government and as approved by the U.S Department of Housing and Urban Development.

5. Subrecipient agrees to comply with all applicable regulations and requirements of the HOME program as set out in 24 CFR 92, and to maintain adequate records to document such compliance.

6. Subrecipient agrees to comply with HUD Regulations governing the treatment of lead-based paint hazards in HOME Assisted Residential Housing at 24 CFR Part 35.

7. Subrecipient represents and agrees that it is enrolled and participating a Federal Work Authorization Program ("FWAP") that ensures that all of its employees or agents or subcontractors 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. Subrecipient agrees that it does not knowingly employee any unauthorized alien in connection with the contracted services with the City. Subrecipient agrees to provide an Affidavit of Compliance stating that they are in enrolled and participating in a FWAP, and that Subrecipient does not knowingly employ any unauthorized aliens in connection with the contracted services, upon execution of this Agreement. All Subcontractors shall state, in writing, in their contracts with Subrecipient, 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. Upon execution of each contract, an Affidavit will have to be signed by the principal of the contracting company.

ARTICLE III

1. The Government agrees to reserve $110,000.00 from its 2018 HOME funds for use by eligible clients of Subrecipient in the implementation of a Homeowner Rehabilitation Program assisting approximately six (6) homes.

2. Subrecipient agrees to use and the Government agrees to provide funding, pursuant to performance of these activities in an amount not exceeding $110,000.00 from its 2018 HOME funds overall and not exceeding $27,500 per homeowner assisted including project-specific soft costs according to the budget in Attachment A.

3. The Government agrees to monitor the performance of Subrecipient to assure compliance with all applicable federal regulations; however, monitoring does not relieve Subrecipient of primary responsibility for compliance.

4. The Government agrees to prepare and submit any and all required reports to the U.S. Department of Housing and Urban Development.

5. The Government agrees to assist Subrecipient staff in interpreting HOME regulations, resolving eligibility and contract problems, and the inspection of properties to insure those homes meet local housing codes.

6. The Government agrees to award, to eligible prospective homeowners referred to it by Subrecipient, forgivable loans as described in the 2008 Owner-occupied Rehabilitation Program Policies and Procedures.

7. Government agrees to be responsible (in the manner and to the extent permitted by law) for all lawfully proven claims, losses, actions, and expenses (including legal expenses) including claims against Subrecipient, arising from the proven negligent performance of Government of the terms of this agreement in accordance with the requirements of the HOME Investment Partnerships Program but excepting any such claims, losses, causes of action and expenses arising as a result of fault on the part of Subrecipient, its officers, agents, and employees. Government is not responsible for negligent acts of Subrecipient, its officers, agents, and employees.

ARTICLE IV

1. Upon receipt of a completed loan application from an eligible Homeowner Rehabilitation Program loan applicant, the Government will award HOME financing assistance according to the 2008 Owner-occupied Rehabilitation Program Policies and Procedures.

2. Subrecipient clients will have exclusive access to the Joplin HOME Consortium funds committed under this agreement for Homeowner Rehabilitation Program.

3. Subrecipient will ensure that all prospective homeowners will receive counseling on the obligations, terms, and conditions associated with a HOME-funded rehabilitation of a house.

ARTICLE V

1. No right, benefit, or advantage inuring to Subrecipient and no burden imposed on Subrecipient hereunder may be assigned or otherwise transferred without the prior written approval of the Government.

2. This agreement, or any part hereof, may be amended from time to time hereafter only in writing executed by the Government and Subrecipient.

3. This agreement, in accordance with 24 CFR 85.43 can be terminated if Subrecipient fails to comply with any term of the agreement. This agreement may be terminated for convenience in accordance with 24 CFR 85.44 upon written notice by the participating jurisdiction.

4. The failure to perform or comply with any of the covenants, warranties, terms or conditions as set forth in this agreement shall constitute events of breach and default entitling the Government to take all action set out in this agreement or as otherwise allowed by law, including an action for specific performance.

5. All notices hereunder shall be sufficiently given and shall be deemed given when delivered or mailed by certified mail, postage prepaid, return receipt requested, to the parties at their respective addresses as first set out herein.

ARTICLE VI

1. *Program income.* Program income and other receipts of Subrecipient related to activities under this agreement are to be remitted to the Government.

2. Subrecipient is required to comply with applicable uniform administrative requirements, as described in § 92.505.

3. Subrecipient is required to carry out each activity in compliance with all Federal laws and regulations described in 24CFR Part 92, except that the subrecipient does not assume the participating jurisdiction's responsibilities for environmental review under § 92.352 and the intergovernmental review process in § 92.357 does not apply.

4. Subrecipient is responsible for affirmative marketing in accordance with § 92.351, if the HOME funds administered by Subrecipient will be used for housing containing five or more assisted units.

5. Subrecipient may not request disbursement of funds under the agreement until the funds are needed for payment of eligible costs. The amount of each request must be limited to the amount needed. Program income must be disbursed before the subrecipient requests funds from the participating jurisdiction.

6. *Reversion of assets.* Upon expiration of this agreement, Subrecipient must transfer to the participating jurisdiction any HOME funds on hand at the time of expiration and any accounts receivable attributable to the use of HOME funds.

7. *Records and reports.* Subrecipient must maintain records and provide reports required by the Government from time to time.

8. *Enforcement of the agreement.* Remedies for breach of the provisions of the agreement include but are not limited to repayment of any funds deemed to have been expended in an ineligible manner. In accordance with 24 CFR 85.43, suspension or termination may occur if Subrecipient materially fails to comply with any term of the agreement. The agreement may be terminated for convenience in accordance with 24 CFR 85.44.

9. If Subrecipient provides HOME funds to for-profit owners or developers, nonprofit owners or developers, subrecipients, homeowners, homebuyers, tenants receiving tenant-based rental assistance, or contractors, Subrecipient must have a written agreement with each party which meets the requirements of this section.

IN WITNESS WHEREOF, the parties have executed this Contract at Joplin, Missouri, on this ___day of _____, 2018.

Economic Security Corporation of Southwest Area
A non-stock, nonprofit Missouri Corporation

ATTEST:

John Joines
Chief Executive Officer

Curtis Scott
Director of Home Repair

CITY OF JOPLIN, MISSOURI
A Municipal Corporation

Troy Bolander
Director of Planning, Development and Neighborhood Services

ATTEST:

Barbara Gollhoffer
City Clerk

APPROVED AS TO FORM:

Peter Edwards
City Attorney

ATTACHMENT A

Detailed budget of funding and projected expenditures

$ 25,000	Amount of homeowner rehabilitation assistance per applicant.
$ 2,500	Amount of homeowner rehabilitation administration per applicant.

ATTACHMENT B

Section 3 Clause

The SUBRECIPIENT agrees to comply with the federal regulations governing training, employment and business opportunities as follows:

A. It is agreed that the WORK to be performed under this agreement is on a project assisted under a program providing direct Federal financial assistance from the US Department of Housing and Urban Development 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 u, as well as any and all applicable amendments thereto. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given low and moderate income residents of the project area, and that contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the project area.

B. The SUBRECIPIENT shall comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 Code of Federal Regulations and all applicable rules and orders of the AGENCY of Housing and Urban Development issued thereunder as well as any and all applicable amendments thereto prior to the execution of this contract as well as during the term of this contract. The SUBRECIPIENT certifies and agrees that it is under no contractual or other disability, which would prevent it from complying with these requirements as well as any and all applicable amendments thereto.

C. The SUBRECIPIENT agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause. The SUBRECIPIENT will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. The SUBRECIPIENT will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the CITY, take appropriate action pursuant to the subcontractor upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, in 24 Code of Federal Regulations.

The SUBRECIPIENT will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 code of Federal Regulations and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with these requirements as well as with any and all applicable amendments thereto.

E. The SUBRECIPIENT will certify that any vacant employment positions, including training

positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the SUBRECIPIENT's obligations under 24 CFR part 135.

F. Compliance with the provisions of Section 3, the regulations set forth in 24 Code of Federal Regulations and all applicable rules and orders of the AGENCY of Housing and Urban Development issued thereunder prior to the execution of the contract shall be a condition precedent to federal financial assistance being provided to the PROJECT as well as a continuing condition, binding upon the applicant or recipient for such assistance, its successors, and assigns. Failure to fulfill these requirements shall subject the SUBRECIPIENT or recipient, its contractors and subcontractors, its successors, and assigns to those sanctions specified by 24 Code of Federal Regulations as well as with any and all applicable amendments thereto.

ATTACHMENT C

HOMEOWNER AGREEMENT

Whereas, _____ ("Homeowner") is receiving HOME Investment Partnerships (HOME) Program financial assistance from Economic Security Corporation ("Subrecipient") in the amount of $_____ to provide funding to rehabilitate home located at <*insert address*> in compliance with City of Joplin building codes and HOME Program Housing Quality Standards. The estimated after-rehabilitation value of the home is $_____.[1]

Now, therefore, the Subrecipient has an option to recoup assistance used on the above described property upon the terms, conditions and contingencies herein set forth.

Principal Residency and Income Eligibility
Homeowner agrees that if during the <*insert occupancy period*> the Homeowner uses the property as (1) an investment property or (2) the Homeowner uses the Property as a recreational house or "second" home, then the Subrecipient may require immediate payment in full of the entire loan amount provided by the Subrecipient.

Homeowner agrees that if during the <*insert occupancy period*> he/she/they sell part or all of the property without Subrecipient's prior written consent then the Subrecipient may require payment in full the amount of the loan outstanding at time of sale.

Homeowner certifies that he/she has provided complete, accurate, and current information regarding household income to demonstrate Homeowner's eligibility to receive CDBG funds.

Completion of Work

The Subrecipient agrees to complete all rehabilitation work on the home by _____, ____, _____.

Enforcement
The Homeowner and the subrecipient acknowledge that the subrecipient has the right and responsibility to enforce this agreement.

Whereas, if the Homeowner does not violate any of the terms listed in this agreement, then this agreement will be considered paid in full on the_____of _____ and the Note will be released.

Attachment

A. **Scope of Work**
B. **Recapture Provisions (Deed Restriction)**

[1] The after-rehabilitation value must not exceed 95 percent of the median area purchase price, as required under 24 CFR 92.254(a)(2)(iii)

IN WITNESS WHEREOF, the undersigned homeowner(s) has/have affixed his/her signature(s) and seal(s) this **___day of _____.**

Signed, sealed and delivered in the presence of:

_____

_____

Economic Security Corporation **Homeowner**

_____

_____

Notary Public **City of Joplin**

Commission Expiration Date:

STATE OF _____)
) ss.
COUNTY OF _____)

AFFIDAVIT OF COMPLIANCE
(Missouri Unauthorized Alien Workers Act)

My name is _____(name) and I am the _____(Title) of_____(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:

_____

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM:
Council Bill No. 2018-416

ORIGINATING DEPARTMENT:
Planning, Development, and Neighborhood Services

MEETING DATE:
December 17, 2018

REVIEWED BY;
Director of Planning, Development and Neighborhood Services- Troy Bolander, Director of Finance-Leslie Haase, City Attorney- Peter Edwards, City Manager-Sam Anselm.

SUMMARY REQUEST;
The following agreement is between the City of Joplin and Economic Security Corporation of Southwest Area to manage the 2018 Homeowner Rehabilitation Program.

BACKGROUND;
Economic Security Corporation has operated a successful homeowner rehabilitation program for numerous years. Currently projects that were funded under 2017 program year funds are being completed, and the Community Development office desires to make available 2018 program year funds to allow activities to remain uninterrupted. The attached agreement is a renewal of funding for Economic Security Corporation to continue the Homeowner Rehabilitation Program on the behalf of the Joplin HOME Consortium.

FUNDING SOURCE
This Council Bill provides One Hundred Ten Thousand Dollars and Zero Cents ($110,000.00) from Community Development Block Grant M18DC290209.

RECOMMENDATION
These activities have received prior approval from the Council as part of the 2018 Action Plan.

Staff recommends approval of the agreement.

ATTACHMENTS
Council Bill No. 2018-416; 2018 Homeowner Rehabilitation Agreement

COUNCIL BILL NO. 2018-416 ORDINANCE NO.

AN ORDINANCE approving an Agreement between the City of Joplin, Missouri, and Economic Security Corporation of Southwest Area that pertains to 2018 HOME funds; authorizing the City Manager or his designee to execute same on behalf of the City.

WHEREAS, the City of Joplin and Economic Security Corporation of Southwest Area, are desirous of entering into an agreement whereby Economic Security Corporation of Southwest Area will manage the 2018 Homeowner Rehabilitation Program on behalf of the Joplin Consortium HOME Investment Partnership Program.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF JOPLIN, MISSOURI, AS FOLLOWS:

Section 1: That an Agreement between the City of Joplin, Missouri, Economic Security Corporation of Southwest Area is entered into for one hundred ten thousand dollars ($110,000.00), 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 or his designee, the Director of Planning, Development and Neighborhood Services of the City of Joplin, Missouri, is hereby authorized to execute said Agreement in substantially similar form, by and on behalf of the City of Joplin.

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 Edwards, City Attorney

City of Joplin **City Council Agenda Item**

REQUESTED COUNCIL MEETING DATE: December 3, 2018 (1st reading)
December 17, 2018 (Ch 100 hearing / final readings)

ITEM: Council Bill No. 2018-026 approving a Chapter 100 Plan, authorizing the City of Joplin, Missouri, to issue its Taxable Industrial Revenue Bonds and authorizing the execution of other documents connected therewith.

ORIGINATING DEPARTMENT: Legal Department
ATTACHMENTS: Council Bill No. 2018-026; copy of Chapter 100 Plan, Bond Purchase Agreement; Trust Indenture; Lease Agreement; Performance Agreement.

DEPARTMENT HEAD:	Peter C. Edwards	**DATE:**
CITY MANAGER:	Sam Anselm	**DATE:**
PLANNING, DEVELOPMENT:	Troy Bolander	**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 and installing equipment to manufacture bearings (the "Project Equipment") in a facility operated by Schaeffler Group USA, Inc. (the "Company"). The Project Equipment will be located the Company's facility at 3900 Range Line Road Joplin, MO 64804 (the "Facility") and used in the manufacturing of bearings for automotive and industrial applications. The Council Bill authorizes the City to enter into certain agreements in connection with the issuance of the Bonds.

DISCUSSION:

The project involves the acquisition and installation of approximately $67,140,000 in machinery and equipment. Various portions of the Project Equipment will be depreciated, depending on type of equipment, on a 3-year or 7-year basis. The Chapter 100 Plan provides abatement for the Project Equipment as follows:

Type	*Rate of Abatement*	*Period of Abatement*
3-year depreciable property	100%	5 years
7-year depreciable property	100%	7 years

Each item of Project Equipment will receive abatement starting with the calendar year after it is installed. Installation of the Project Equipment will occur starting in 2018 and ending in 2023. The final abatement period ends in 2030. The value of abatement is anticipated to be $2,506,842 over the entire period for all Project Equipment.

Due to a change in law that became effective in August of 2018, the Newton County Ambulance District has the right to reimbursement of amounts it otherwise would lose to abatement in a Chapter 100

transaction. For this reason, it is anticipated that the Company will be required to pay a payment in lieu of tax equal to the amount that would otherwise have been due to the Newton County Ambulance District during the life of the abatement. No other taxing jurisdictions are anticipated to receive payments in lieu of tax.

The Company is expected to add 60 jobs in connection with the Project Equipment. Under the Performance Agreement, the Company is required to retain 262 jobs at the Facility and add 60 new jobs in order to retain the abatement. The jobs must pay an average wage of $20.42 (equal to 120% of the current average wage in Newton County). 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 operations at the Facility, the abatement is terminated.

The Company has represented that it will use local contractors for the installation of the Project Equipment to the greatest extent possible and that every effort will be made to hire local venders and contractors that will bring business to the Joplin area. Outside suppliers will only be used for specialized work/materials where no resources are available in the Joplin area.

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 Equipment. The Project Equipment is then leased to the Company. During the time the Bonds remain unpaid and the City owns the Project Equipment, 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 Equipment 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 Equipment. 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.

$67,215,000
(AGGREGATE MAXIMUM PRINCIPAL AMOUNT)
CITY OF JOPLIN, MISSOURI
TAXABLE INDUSTRIAL REVENUE BONDS
(SCHAEFFLER EXPANSION PROJECT)
SERIES 2018

Dated as of December 1, 2018

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, Schaeffler Group USA Inc., a Delaware corporation (the "Purchaser"), offers to purchase from the City of Joplin, Missouri (the "City"), the above-referenced Taxable Industrial Revenue Bonds (Schaeffler Expansion Project), Series 2018, dated as provided in the Indenture (hereinafter defined), in the maximum aggregate principal amount of $67,215,000 (the "Bonds"), to be issued by the City under and pursuant to an Ordinance adopted by the governing body of the City on December 17, 2018 (the "Ordinance"), and a Trust Indenture dated as of December 1, 2018 (the "Indenture") by and between the City and UMB Bank, N.A., as trustee (the "Trustee"). *Capitalized terms not otherwise defined herein shall have the meanings set forth in 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 home rule charter city duly organized and validly existing under the laws of the State of Missouri. The City is authorized pursuant to the Constitution, the laws of the State of Missouri, and the charter and ordinances of the City, and all necessary action has been taken to authorize, issue and deliver the Bonds and to consummate all transactions contemplated by this Bond Purchase Agreement, the Ordinance, the Indenture and the Lease Agreement dated as of December 1, 2018 (the "Lease Agreement") by and between the City and the Purchaser and any and all other agreements relating thereto. The proceeds of the Bonds shall be used for the purpose of acquiring and installing the Project Equipment and paying 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 to the City's knowledge 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 obligations

represented by the Bonds or the validity of the Bonds, the Lease Agreement, the Indenture or the Performance Agreement.

(b) The Purchaser represents as follows:

(1) *Organization.* The Purchaser is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, and duly authorized to transact business in the State of Missouri.

(2) *No Conflict or Breach*. The execution, delivery and performance of this Bond Purchase Agreement by the Purchaser have been duly authorized by all necessary action of the Purchaser and do 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) *Documents Legal, Valid and Binding*. 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.

(4) *Purchaser's Certificates*. 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 parties 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), which amount shall be applied as provided in the Indenture and the Lease Agreement. From time to time after the Closing Date, the Purchaser shall make additional payments with respect to the Bonds ("Additional Payments") to the Trustee under the Indenture, which Additional Payments shall be applied to the payment of Project Costs or as provided in the Indenture and the Lease Agreement; provided that the sum of the Closing Price and all such Additional Payments shall not, in the aggregate, exceed $67,215,000.

As used herein, the term "Closing Date" shall mean December ___, 2018, or such other date as shall be mutually agreed upon by the City and the Purchaser; the term "Closing Price" shall mean that certain amount specified in an initial requisition under the Indenture and the Lease and/or a closing memorandum for the Bonds as the amount required to pay for the initial issuance of the Bonds on the Closing Date.

The Bonds shall be issued under and secured as provided in the Ordinance, the Indenture and the Lease Agreement 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 $67,215,000 and bearing interest at 5.00% per annum; provided, that the principal amount of the Bonds outstanding at any time shall be that amount recorded in the 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 OBLIGATIONS

The obligations hereunder shall be subject to the due performance by the parties of the obligations and agreements to be performed hereunder on or prior to the Closing Date and to the accuracy of and compliance with the 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 Trust Indenture and the Lease Agreement 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 to its knowledge 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 obligations represented by the Bonds or the validity of the Bonds or any proceedings in relation to the issuance or sale thereof.

(c) The Purchaser shall execute a certificate, dated the Closing Date, to the effect that (i) no litigation, proceeding or investigation is pending against the Purchaser or its affiliates or, to the knowledge of the Purchaser, 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 Purchaser, (ii) no litigation, proceeding or investigation is pending or, to the knowledge of the Purchaser, threatened against the Purchaser that could reasonably be expected to adversely affect its ability to perform its obligations hereunder, (iii) the representations and warranties of the Purchaser 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.

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 or by telegraph 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. 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 City, Trustee or Company at the times and at the addresses set forth for notices in the Indenture.

SECTION 8. 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 to any entity controlled by, under common control with or controlling the Purchaser. Any such assignee shall agree to be bound by the terms of this Bond Purchase Agreement. Upon such assignment, the Purchaser shall be released from and have no further obligations under this Bond Purchase Agreement.

SECTION 9. EXECUTION OF COUNTERPARTS; ELECTRONIC STORAGE

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. 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.

[remainder of page intentionally left blank]

Very truly yours,

SCHAEFFLER GROUP USA INC.,
as Purchaser

By: _____
Name:
Title:

Accepted and Agreed to by:

CITY OF JOPLIN, MISSOURI

By: _____
Mayor

[SEAL]

ATTEST:

By: _____
City Clerk

Approved as to form:

_____
City Attorney

LEASE AGREEMENT

Dated as of December 1, 2018

between the

CITY OF JOPLIN, MISSOURI,
as Lessor,

and

SCHAEFFLER GROUP USA INC.,
as Lessee

Relating to:

$67,215,000
(Aggregate Maximum Principal Amount)
City of Joplin, Missouri
Taxable Industrial Revenue Bonds
(Schaeffler Expansion Project)
Series 2018

Certain rights of City of Joplin, Missouri (the "City"), in this Lease Agreement have been pledged and assigned to UMB Bank, N.A., as Trustee under the Trust Indenture dated as of December 1, 2018, between the City and the Trustee.

LEASE AGREEMENT

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LEASE AGREEMENT

THIS LEASE AGREEMENT, dated as of December 1, 2018 (the "Lease"), between the **CITY OF JOPLIN, MISSOURI,** a home rule charter city organized and existing under the laws of the State of Missouri (the "City"), as lessor, and **SCHAEFFLER GROUP USA INC.,** a Delaware corporation (the "Company"), as lessee;

RECITALS:

1. The City is authorized and empowered pursuant to the provisions of Article VI, Section 27(b) of the Missouri Constitution, as amended, Sections 100.010 through 100.200, inclusive, of the Revised Statutes of Missouri, as amended, and the City's Charter (collectively, the "Act"), to purchase, construct, extend and improve certain projects (as defined in Section 100.010 of the Revised Statutes of Missouri, as amended) 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, office industries and industrial development purposes upon such terms and conditions as the City shall deem advisable.

2. Pursuant to the Act, the governing body of the City has heretofore passed an ordinance (the "Ordinance") on December 17, 2018, authorizing the City to issue its Taxable Industrial Revenue Bonds (Schaeffler Expansion Project), Series 2018, in the maximum principal amount of $67,215,000 (the "Bonds"), for the purpose of purchasing and installing certain equipment (the "Project Equipment," as more fully described on **Exhibit A** hereto) to be used by the Company at 3900 Rangeline Road, Joplin, Missouri (the "Project Site"), and authorizing the City to lease the Project Equipment to the Company.

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., 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 purchase and install the Project Equipment and will lease the Project Equipment 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. Pursuant to the foregoing, the City desires to lease the Project Equipment to the Company and the Company desires to lease the Project Equipment 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 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, capitalized words and terms used in this Lease shall have the meanings given to such words and terms in **Section 101** of the Indenture (which definitions are hereby incorporated by reference).

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 home rule charter city 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 proposes to purchase and install the Project Equipment or cause the Project Equipment to be purchased and installed at the Project Site. The City proposes to lease the Project Equipment to the Company and sell the Project Equipment to the Company if the Company exercises its option to purchase the Project Equipment or upon termination of this Lease, all for the purpose of furthering the public purposes of the Act.

(c) The purchase and installation of the Project Equipment will further the public purposes of the Act.

(d) No member of the governing body of the City 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.

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 validly existing and in good standing under the laws of the State of Delaware and is authorized to conduct 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 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 best of 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) The Project Equipment will be located at the Project Site and will comply in all material respects with all presently applicable laws, rules and regulations.

(e) The Project Site is located wholly within the incorporated limits of the City.

ARTICLE III

GRANTING PROVISIONS

Section 3.1. Granting of Leasehold Estate. The City hereby rents, leases and lets the Project Equipment to the Company, and the Company hereby rents, leases and hires the Project Equipment 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. Subject to earlier termination pursuant to the provisions of this Lease, the lease of the Project Equipment shall terminate on **December 1, 2030**.

Section 3.3. Possession and Use of the Project Equipment.

(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** following the occurrence and continuance of an Event of Default, the Company shall have sole and exclusive possession of the Project Equipment (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 Equipment 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 Equipment 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 Equipment 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 right to use the Project Equipment for any lawful purpose contemplated by the Act and consistent with the terms of the Performance Agreement. The Company shall 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 Equipment, as to the manner of use or the condition of the Project Equipment. 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 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 shall have the right, at its own cost and expense, to 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.

ARTICLE IV

PURCHASE AND INSTALLATION OF THE PROJECT EQUIPMENT

Section 4.1. Issuance of the Bonds. To provide funds for the payment of Project Costs, the City agrees that it will issue, sell and cause to be delivered the Bonds to the purchaser of the Bonds in accordance with the provisions of the Indenture and the Bond Purchase Agreement. The proceeds of the sale of the Bonds, when received, shall be paid over to the Trustee for the account of the City. The Indenture requires the Trustee to promptly deposit such proceeds, when received, as provided therein, to be used and applied as hereinafter provided in this Lease and in the Indenture. Alternatively, the Indenture permits the Trustee (pursuant to **Section 208(d)** of the Indenture) to endorse the Bonds in an amount equal to the requisition certificates submitted pursuant to **Section 4.4** below. In that event, the

purchaser of the Bonds shall be deemed to have deposited funds with the Trustee in an amount equal to the amount stated in the requisition certificate.

Section 4.2. Purchase and Installation of the Project Equipment. The City and the Company agree that the Company as the agent of the City shall, but solely from the Project Fund, purchase and install the Project Equipment as follows:

(a) The City will acquire any portion of the Project Equipment installed or located at the Project Site at the execution hereof. Concurrently with the execution of this Lease, a bill of sale and any other necessary instruments of transfer will be delivered to the City, which may consist of a requisition containing conveyance language.

(b) The Company will purchase and install the Project Equipment at the Project Site. Except as provided in the next sentence, title to the Project Equipment shall be evidenced by bills of sale or other instruments of transfer (which may consist of a requisition containing conveyance language), including purchase orders or other instruments pursuant to which the City acquires title to personal property directly from the vendor thereof. Subject to **Section 8.2**, all Project Equipment substituted by the Company shall automatically become part of the Project Equipment subject to this Lease, and full title and ownership of such Project Equipment shall be automatically vested in the City, without the requirement of a bill of sale or other instrument of conveyance unless otherwise requested by the City. In any event, on or before March 1 of each year, the Company shall furnish to the City 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, designating each item of Project Equipment as Three-Year Property or Seven-Year Property and setting out the date such property was acquired with Bond proceeds and the date on which the Abatement Period for each item of such property ends in accordance with **Exhibit E** to the Indenture. No property shall be included on such list of Project Equipment unless such property is within the Abatement Period for such property. 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 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**. The City and the Company agree that property that, (1) pursuant to **Section 4.8**, is purchased by the Company with its own funds and not Bond proceeds, or (2) is outside of its Abatement Period, shall not constitute part of the Project Equipment and shall be the property of the Company and therefore subject to taxation.

(c) The Company will use its reasonable commercial efforts to cause the purchase and installation of the Project Equipment to be completed as soon as practicable. If such purchase and installation commences before 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.

Section 4.4. Payment for Project Costs. Except with respect to Project Costs paid pursuant to **Section 503(d)** of the Indenture, all Project Costs as specified in **Section 4.3** hereof shall be paid by the Trustee from the Project Fund. 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 B**, signed by an Authorized Company Representative and approved by an Authorized City Representative:

(a) requesting payment 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;

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

(c) designating all Project Equipment for which such Project Costs are requested as either Three-Year Property or Seven-Year Property;

(d) stating that each item for which payment is requested is or was desirable and appropriate in connection with the purchase and installation of the Project Equipment, 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

(e) stating that, except for the amounts, if any, stated in said certificate, to the best of his knowledge there are no outstanding disputed statements for which payment is requested for labor, wages, materials, supplies or services in connection with the purchase and installation of the Project Equipment which might become the basis of a vendors', mechanics', laborers' or materialmen's statutory or other similar lien upon the Project Equipment 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 an Authorized City Representative shall constitute, unto the Trustee, an irrevocable determination that all conditions precedent to the payments requested have been completed.

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) that the purchase and installation of the Project Equipment has been completed and the date thereof, and (b) that all costs and expenses incurred in the purchase and installation of the Project Equipment 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. 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.

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 is insufficient to pay fully all Project Costs and to complete the Project Equipment free of liens and encumbrances other than Permitted Encumbrances, the Company shall pay into the Project Fund the full amount of any such deficiency, and the Trustee shall use those Project Fund moneys to make payments to the contractors and to the suppliers of materials and services as the same become due in accordance with the applicable contracts entered into with such contractors and suppliers all in accordance with the provisions for payment of Project Costs set forth in **Section 4.4** of this Lease, and the Company shall save and hold harmless the City and the Trustee from any obligation to pay such deficiency.

Section 4.7. Project Equipment Property of City.

(a) The Project Equipment installed on or located at the Project Site at the execution hereof and which the Company desires to convey to the City, all Project Equipment as acquired, anything under this Lease which becomes, is deemed to be, or constitutes a part of the Project Equipment, except as otherwise specifically provided herein, shall immediately when installed or purchased become the absolute property of the City, subject only to this Lease, the Indenture and the Leasehold Security Agreement, if any.

(b) This Agreement is not to be construed as transferring to the City or the Trustee any right, title, or interest to, or granting license rights under, any intellectual property owned or acquired by the Company covering the Project Equipment, other than to use the Project Equipment in the manner and to the extent provided by this Agreement.

Section 4.8. Machinery and Equipment Property of the Company. Any improvements or items of machinery or equipment which do not constitute part of the Project Equipment 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 Equipment for purposes of **Section 6.4**. When any property reaches the end of its Abatement Period, such property shall immediately cease to be part of the Project Equipment and shall become the absolute property of the Company, free and clear of the Lease and the Indenture.

ARTICLE V

RENT PROVISIONS

Section 5.1. Basic Rent.

(a) 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 each Payment Date, as Basic Rent for the Project Equipment, an amount which, when added to any collected funds then on deposit in the Bond Fund and available for the payment of principal on the Bonds and the interest thereon on such payment date, shall be equal to the amount payable on such payment date as principal of the Bonds and the interest thereon as provided in the Indenture. 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.

(b) As long as the Company owns all of the Bonds, then 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 may deliver to the Trustee for cancellation Bonds not previously paid and 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 the Indenture, this Lease or the Performance Agreement, as and when the same become due;

(b) all costs incident to the issuance of the Bonds 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) all fees, charges and expenses incurred in connection with the enforcement of any rights under the Indenture, this Lease or the Performance Agreement by the City, the Trustee or the Owners, including counsel fees and expenses; and

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

Section 5.3. Obligations of Company Absolute and Unconditional.

(a) Except as expressly stated in this Agreement and Section 204(d) of the Indenture, 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, 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 Equipment has been purchased or installed, 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 Equipment 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 Equipment, legal curtailment of the Company's use thereof, 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.

(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.

At its option, the Company 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, in accordance with the terms of the Indenture.

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 Equipment in a safe operating condition and keep the Project Equipment in 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.

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 Equipment, or any part thereof or interest therein (including the leasehold estate of the Company therein) 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 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 Equipment; 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 shall have the right, in its own name or in the City's name, to 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 at least 10 days 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 so to do, (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. The Company shall save and hold harmless the City from any costs and expenses the City 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 with respect to the Project Equipment paid pursuant to this Section.

Section 6.3. Utilities. All utilities and utility services used by the Company in, on or about the Project Site shall be paid by the Company and shall be contracted by the Company in the Company's own name, 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 Equipment is owned by the City and is subject to the Lease, the Project Equipment will be exempt from all *ad valorem* 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 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. Reserved.

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 Equipment 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 or self-insured retention provisions not to exceed the amounts normally or generally carried by the Company). 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 as may be selected by the Company. Copies of certificates of insurance for such policies shall be delivered by the Company to the City and the Trustee on the date of execution of this Lease. All such policies of insurance pursuant to this Section, and all renewals thereof, shall name the City and the Company as 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. The Company will provide immediate notice to the City and the Trustee of the intent to cancel such insurance.

(b) In the event of loss or damage to the Project Equipment, the Net Proceeds of property insurance carried pursuant to this Section shall be paid over to the Trustee and shall be applied as provided in **Article IX** of this Lease, or as may be directed by, or on behalf of, the Owners of 100% in principal amount of the Bonds outstanding.

Section 7.3. Public 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 and automobile liability insurance (including but not limited to coverage for all losses whatsoever arising from the ownership, maintenance, operation or use of any automobile, truck or other motor vehicle), under which the City, the Company and the Trustee are the named or 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. Certificates of such policies shall be furnished to the Trustee on the date of execution of this Lease. The Company will provide immediate notice to the City and the Trustee of the intent to cancel such insurance.

(b) In the event of a general or automobile 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. Blanket Insurance Policies. 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.

Section 7.5. Worker's Compensation. The Company agrees throughout the Lease Term to maintain or cause to be maintained the Worker's Compensation coverage required by the laws of the State of Missouri.

ARTICLE VIII

MODIFICATIONS, REPAIRS AND IMPROVEMENTS OF THE PROJECT EQUIPMENT

Section 8.1. Additions of Machinery and Equipment on the Project Site. Following the earlier to occur of (1) submission of requisition certificates pursuant to **Section 4.4** in an amount equal to $67,215,000 or (2) **December 31, 2023**, any additions of personal property installed on the Project Site by the Company shall, except as provided in **Section 8.2**, remain the property of the Company and shall not become part of the Project Equipment. Such personal property shall be subject to *ad valorem* taxes.

Section 8.2. Removal and Replacement of Project Equipment.

(a) The Company may, if it is not in default in making payments of Basic Rent or Additional Rent hereunder, 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 at the Project Site. Before any such removal, the Company shall deliver to the City and the Trustee a certificate signed by an Authorized Company Representative containing a complete description, including the make, model and serial numbers, if any, of any machinery or equipment constituting a part of the Project Equipment that the Company proposes to remove. Upon request, 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 Equipment 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.

(b) In all cases, the Company shall pay all of the costs and expenses of any such removal and shall immediately repair at its expense all damage to the Project Site caused thereby. 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 replaces any portion of the Project Equipment due to wear or damage, such 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, provided that such replacement shall only benefit from such exemption during the original Abatement Period of the property replaced by it.

(d) If the Company replaces any portion of the Project Equipment for any other purpose, and the Company treats or could treat the cost of the replacement equipment as a capital expenditure for federal income tax purposes, then such replacement equipment shall not become part of the Project Equipment and shall be subject to *ad valorem* taxes.

(e) If the Company replaces any portion of the Project Equipment, and the Company treats or could treat the cost of the replacement equipment as an ordinary expenditure for federal income tax purposes, then such replacement equipment shall become part of the Project Equipment and shall not be subject to *ad valorem* taxes.

(f) Simultaneous with its furnishing of the list of Project Equipment to the City and the Trustee pursuant to **Section 4.2**, the Company shall (1) identify any Project Equipment that is being replaced, (2) identify the replacement equipment, and (3) state whether the replacement equipment will become part of the Project Equipment.

Section 8.3. Reserved.

Section 8.4. 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, restoration, replacement, modification or addition to the Project Equipment, 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 strict 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 8.5. 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 Equipment, 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 Equipment, 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 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 City title to any of the Project Equipment.

(b) Notwithstanding paragraph (a) above, the Company may contest any such mechanics' or other similar lien if the Company (i) within 60 days after the Company becomes aware of an such lien, notifies the City and the Trustee in writing of its intention so to do, (ii) diligently prosecutes such contest, (iii) at all times effectively stays or prevents any official or judicial sale of the Project Equipment, or any part thereof or interest therein, under execution or otherwise, (iv) promptly pays or otherwise satisfies any final judgment adjudging or enforcing such contested lien claim and (v) thereafter promptly procures record release or satisfaction thereof. The Company may permit the lien so contested to remain unpaid during the period of such contest and any appeal therefrom unless the Company is notified by the City

that, in the opinion of counsel, the interest of the City in the Project Equipment will be subject to loss or forfeiture if the lien remains unpaid during the pendency of the contest. In that event, the Company shall promptly, at its own expense, take such action as may be necessary to duly discharge or remove any such pledge, lien, charge, encumbrance or claim if the same shall arise at any time. The Company shall save and hold harmless the City from any loss, costs or expenses the City may incur related to any such contest. The Company shall reimburse the City for any expense incurred by it in order to discharge or remove any such 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 Equipment is damaged or destroyed by fire or any other casualty, whether or not covered by insurance, the Company, as promptly as practicable, shall either (1) make the determination described in subsection (f) below, or (2) repair, restore or replace the same so that upon completion of such repairs, restoration or replacement such Project Equipment is of a value not less than the value thereof immediately prior to the occurrence of such damage or destruction.

If the Company elects to repair, restore or replace the Project Equipment, any reference to the words "Project Equipment" shall be deemed to include any such new machinery, equipment and fixtures.

Unless the Company makes the determination described in subsection (f) below, the Net Proceeds of property insurance required by **Article VII** hereof received with respect to such damage or loss to Project Equipment shall be used to pay the cost of repairing, restoring or replacing such Project Equipment or any part thereof. Insurance monies in an amount less than $100,000 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 $100,000 or more shall be 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 or replacing the Project Equipment or any part thereof. 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 or replacement, and this Lease has not been terminated, the excess shall be deposited in the Bond Fund, subject to the rights of any Leasehold Security Agreement or Financing Party. Completion of such repairs, restoration or replacement shall be evidenced by a certificate of completion in accordance with the provisions of **Section 4.5** hereof. If the Net Proceeds are insufficient to pay the entire cost of such repairs, restoration or replacement, 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 over $100,000.

(f) If the Company determines that repairing, replacing or restoring the Project Equipment is not practicable and desirable, any Net Proceeds of property 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 secured party under any Leasehold Security Agreement (if any) and the Financing Party under any Financing Documents (if any). The Company agrees to be reasonable in exercising its judgment pursuant to this subsection (f).

(g) The Company shall not, by reason of its inability to use all or any part of the Project Equipment during any period in which the Project Equipment is damaged or destroyed or is being repaired, replaced or restored, nor by reason of the payment of the costs of such 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. Reserved.

Section 9.3. Owner Approval. Notwithstanding anything to the contrary contained in this **Article IX**, the proceeds of any insurance received subsequent to a casualty may prior to 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 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 Equipment 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 Equipment 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 because of the Company's default hereunder or upon the cancellation or termination of this Lease for any reason other than the Company's purchase of the Project Equipment pursuant to **Article XI** hereof, the Company shall peacefully surrender possession of the Project Equipment to the City in good condition and repair.

Section 10.3. Right of Access to the Project Equipment. The City may conduct such periodic inspections of the Project Equipment 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 shall have the right at reasonable times during normal business hours and, except in the event of emergencies, upon not less than one Business Day's prior notice, subject to the Company's usual safety and security requirements, to enter upon the Project Site (a) to examine and inspect the Project Equipment 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 acquisition, installation or maintenance of the Project Equipment, (d) to perform such work in and about the Project Equipment made necessary by reason of the Company's default under any of the provisions of this Lease, and (e) upon either (i) the occurrence and continuance of an Event of Default or (ii) the Company's failure to purchase the Project Equipment at the end of the Lease Term, to exhibit the Project Equipment to prospective purchasers, lessees or trustees.

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

(a) Subject to **Section 10.4(c)** and **(d)**, if no Event of Default under this Lease has happened and is continuing, the Company may at any time or times (1) grant subleases (as permitted in **Section 13.1(b)** hereof), or licenses, of the Project Equipment, or parts thereof, (2) release or terminate existing subleases, or licenses, all with or without consideration and upon such terms and conditions as the Company shall determine, or (3) 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 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, license, 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 Equipment, will not materially adversely affect the security intended to be given by or under the Indenture and will be 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 Equipment 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:

(i) 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; and

(ii) such mortgage shall contain a covenant to the effect that the net proceeds of all insurance policies and the condemnation award shall be held, used and applied for the purposes and in the manner provided for in this Lease.

(c) The City acknowledges and agrees that the Company may finance and refinance its rights and interests in the Project Equipment, 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)**.

(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:

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

(ii) 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;

(iii) 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;

(iv) 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;

(v) upon the occurrence and continuance of an Event of Default by the Company under this Lease, 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

(vi) the Financing Parties (and their designees, nominees, assignees or transferees) shall have the right to enter, possess and use the Project Equipment at such reasonable times and manner as are necessary or desirable to effectuate the remedies and enforce their respective rights under the Financing Documents.

(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.

(f) The Company's obligations under any mortgage or Financing Document relating to the Project Equipment shall be subordinate to the Company's obligations under this Lease.

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, including attorneys' fees, by or on behalf of any Person, firm or corporation arising from the issuance of the Bonds and the execution of this Lease, the Performance Agreement or the Indenture and from the conduct or management of, or from any work or thing done in or on the Project Equipment during the Lease Term, and against and from all claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, arising during the Lease Term from (a) any condition of the Project Equipment, (b) any breach or default on the part of the Company in the performance of any of its obligations under this Lease, the Performance Agreement, the Indenture or any related document, (c) any contract entered into in connection with the purchase or installation of the Project Equipment, (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) any violation of Section 107.170 of the Revised Statutes of Missouri, as amended, and (g) the acceptance or administration by the Trustee of the trust created by the Indenture; provided, however, the indemnification contained in this **Section 10.5** shall not extend to the City or Trustee if such claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, are (i)

the result of work being performed on the Project Equipment by employees of the City, or (ii) the result of gross negligence or willful misconduct by the City or the Trustee. Upon notice from the City or the Trustee, the Company shall defend them or either of them in any such action or proceeding. This **Section 10.5** shall survive any termination of this Lease and the Performance Agreement, the satisfaction and discharge of the Indenture or the resignation or removal of the Trustee.

Section 10.6. Depreciation, Investment Tax Credit and Other Tax Benefits. The City agrees that any depreciation, interest expense deduction, investment tax credits or any other tax benefits with respect to the Project Equipment or any part thereof shall, for federal and state income tax purposes, belong 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, interest expense deduction, investment tax credits or other tax benefits.

Section 10.7. Company to Maintain its 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 dissolve, provided, the surviving, resulting or transferee Person (a) expressly assumes in writing all the obligations of the Company contained in this Lease, and (b) (i) the long-term debt rating of such Person or the long-term debt rating of an entity controlled by, under common control with or controlling such Person, is the same as or better than the long-term debt rating category by any nationally recognized rating service as the Company, (ii) such Person is controlled by, under common control with or controls the Company, or (iii) such Person has a Net Worth of at least $50,000,000. For purposes hereof, "Net Worth" shall mean total assets less total liabilities as reported on the financial statements of such Person pursuant to generally accepted accounting principles.

Section 10.8. Security Interests.

(a) To secure the payment of all of the Company's obligations under this Lease, to the extent permitted by law, the Trustee retains a security interest in all personal property consisting of the Project Equipment, including all additions, attachments, accessions thereto, substitutions therefor and on any proceeds therefrom.

(b) 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 hereunder. At the written request of all of the Owners, the City and the Company agree to enter into any other instruments necessary for perfection of and continuance of the perfection of the security interests of the City and the Trustee in the Project Equipment. Upon the written instructions of the Owners of 100% of the Bonds then Outstanding, the Trustee shall file all 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 file or 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** and **Section 8.2** hereof.

ARTICLE XI

OPTION AND OBLIGATION TO PURCHASE THE PROJECT

Section 11.1. Option to Purchase the Project Equipment.

(a) The Company shall have, and is hereby granted, the option to purchase the Project Equipment at any time, upon payment in full of all Bonds then outstanding or provision for their payment having been made pursuant to **Article XIII** of the Indenture.

(b) 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 30 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 foregoing, if the City or the Trustee provides notice of its intent to exercise its remedies hereunder upon an Event of Default (a "Remedies Notice"), 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 notice has not been rescinded by such date. The Company may rescind such exercise by providing written notice to the City and the Trustee on or before the 29th day 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 Section 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 and the Paying Agent'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) the sum of $10.00.

At its option, to be exercised at least five (5) days before 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.

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

(a) A release of the Project Equipment 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, all executed by a duly authorized officer of the Trustee, on behalf of the Trustee as assignee of the City.

(b) Documents, including without limitation a bill of sale, conveying to the Company legal title to the Project Equipment, as it then exists, subject to the following: (1) those liens and encumbrances, if any, to which title to the Project Equipment was subject when conveyed to the City; (2) those liens and encumbrances created by the Company or to the creation or suffering of which the Company consented; (3) those liens and encumbrances resulting from the failure of the Company to perform or observe any of the agreement on its part contained in this Lease; (4) Permitted Encumbrances other than the Indenture and this Lease; and (5) if the Project Equipment 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 Equipment 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, provided that such default will not result in nonfulfillment of any condition to the exercise of any such option and further provided that all options herein granted shall terminate upon the termination of this Lease.

Section 11.4. Obligation to Purchase the Project Equipment. The Company hereby agrees to purchase, and the City hereby agrees to sell, the Project Equipment upon 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. The amount of the purchase price under this Section shall be equal to the amount set forth in **Section 11.1(b)(1), (2), (3)** and **(4)** above.

ARTICLE XII

DEFAULTS AND REMEDIES

Section 12.1. 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" or "default" under this Lease:

(a) Default in the due and punctual payment of Basic Rent or Additional Rent; 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 continues for 30 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 30-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 Company abandons the Project Equipment or any material portion thereof, and the same remains uncared for or abandoned for a period of 90 days, or if the Company ceases operations (as defined in **Section 3.6** of the Performance Agreement) at the Project Site or is ejected from the Project Site; or

(e) The Company fails to (1) pay amounts due under the Performance Agreement or (2) comply with the other material terms of the Performance Agreement, and such default referred to in clause (2) continues for 60 days after the City, the Trustee or any other party to the Performance Agreement has given the Company written notice specifying such default (or such longer period as is reasonably required to cure such default; provided that (a) the Company has commenced such cure within such 60-day period, and (b) the Company diligently prosecutes such cure to completion).

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; 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 30 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** hereof, the Company's rights to possession of the Project Equipment shall cease and this Lease shall thereupon be terminated, and the City may take possession of the Project Equipment or, if the Company has paid all obligations due and owing under the Indenture, this Lease and the Performance Agreement, convey the Project 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 and perform all other obligations provided for in this Lease, all at the time or times provided in this Lease.

Section 12.4. Performance of the Company's Obligations by the City. If the Company fails to keep or perform any of its obligations as provided in this Lease in the making of any payment or performance of any obligation, then 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, 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 and those provided by law 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.

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, transfer, encumber or dispose of this Lease or any interest herein or part hereof for any lawful purpose under the Act. With respect to any assignment, the Company shall comply with the following conditions:

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

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

(3) A duplicate original of such assignment shall be delivered to the City and the Trustee within 10 days after the execution thereof, together with an assumption agreement, duly executed and acknowledged by the assignee and in proper form for recording, by which the assignee shall assume all of the terms, covenants and conditions of this Lease on the part of the Company to be performed and observed.

(b) The Company shall have the right to sublet all or any part of the Project Equipment to a single entity for any lawful purpose under the Act. The Company shall, within ten (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 may provide, at the Company's option, for further subletting by the sublessee thereunder, without the consent of the City, if such further subletting is for a similar purpose as the original sublease and is for a purpose permissible under the Act.

(c) Notwithstanding the foregoing, the right of the Company to assign or sublease any interests in this Lease without the prior written consent of the City shall only apply to assignments made to an entity that satisfies the requirements of **Section 10.7** hereof. 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.

Section 13.2. Assignment of Revenues by City. The Company understands that the City will, pursuant to the Indenture, pledge and assign certain rents, revenues and receipts receivable under this Lease to the Trustee as security for payment of the principal of and interest on the Bonds, and the Company hereby consents to such pledge and assignment.

Section 13.3. Reserved.

Section 13.4. Restrictions on Sale or Encumbrance of Project Equipment by City. During the Lease Term, the City agrees that, except to secure the Bonds to be issued pursuant to the Indenture, it will not sell, assign, encumber, mortgage, transfer or convey the Project Equipment or any interest therein.

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 Trustee, given in accordance with the provisions of the Indenture, which consent, however, shall not be unreasonably withheld.

ARTICLE XV

MISCELLANEOUS PROVISIONS

Section 15.1. Notices. Any notice or other communication to be given under this Lease may be given by mailing or delivering the same in writing to the City, Trustee or Company at the times and at the addresses set forth for notices in 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 or refuse to give such approvals or consents or refuse to execute 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 Equipment 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; Electronic Storage. 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. 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.

[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: _____
Mayor

[SEAL]

ATTEST:

By: _____
City Clerk

Approved as to form:

_____
City Attorney

SCHAEFFLER GROUP USA INC.

By: _____
Name:
Title:

EXHIBIT A

PROJECT EQUIPMENT

All equipment financed with the proceeds of the Bonds located on the Project Site in Joplin, Newton County, Missouri, to and until the end of the Abatement Period for each such item of equipment. No Project Equipment shall be acquired with Bond proceeds after December 31, 2023.

EXHIBIT B

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, 2018, BETWEEN THE CITY OF JOPLIN, MISSOURI, AND THE TRUSTEE, AND LEASE AGREEMENT DATED AS OF DECEMBER 1, 2018, BETWEEN THE CITY OF JOPLIN, MISSOURI, AND SCHAEFFLER GROUP USA INC.

The undersigned Authorized Company Representative hereby states and certifies that:

1. A total of $_____ is requested to pay for Project Costs (as defined in said Trust Indenture).

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

3. Set forth on **Schedule 2** hereto is a description of the Project Equipment acquired by the Company and which is being paid for pursuant to this Requisition Certificate.

4. Each of the items for which payment is requested are or were desirable and appropriate in connection with the purchase and installation of the Project Equipment (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.

5. 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 and installation of the Project Equipment which, if unpaid, might become the basis of a vendors', mechanics', laborers' or materialmen's statutory or similar lien upon the Project Equipment or any part thereof.

6. With respect to all 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 Equipment" as defined under the Lease Agreement dated as of December 1, 2018, 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.

SCHAEFFLER GROUP USA INC.

By: _____
Authorized Company Representative

SCHEDULE 1
TO REQUISITION CERTIFICATE

Payee and Address	**Description**	**Amount**

SCHEDULE 2
TO REQUISITION CERTIFICATE

PROJECT EQUIPMENT

Item (Description)	**Serial or Identification Number**	**Designate 3-Year or 7-Year Property (GDS)**

PERFORMANCE AGREEMENT

Dated as of December 1, 2018

BY AND BETWEEN

SCHAEFFLER GROUP USA INC.

AND

CITY OF JOPLIN, MISSOURI

PERFORMANCE AGREEMENT

THIS PERFORMANCE AGREEMENT, dated as of December 1, 2018, as from time to time amended and supplemented in accordance with the provisions hereof (this "**Agreement**"), by and between the City of Joplin, Missouri, a municipal corporation duly organized and existing under the laws of the State of Missouri (the "**City**"), and Schaeffler Group USA Inc., a Delaware corporation (hereinafter, together with its wholly owned affiliates, referred to as the "**Company**");

RECITALS:

WHEREAS, the City is authorized by Sections 100.010 to 100.210, RSMo, as amended, and Article VI Section 27(b) of the Missouri Constitution (the "**Act**"), to purchase, construct, extend and improve certain facilities for commercial, industrial, warehousing and manufacturing purposes, to enter into leases and lease-purchase agreements with any person, firm or corporation for said projects, and to issue revenue bonds for the purpose of paying the cost of any such facilities; and

WHEREAS, pursuant to the Act, the City Council of the City has passed an ordinance authorizing the City to issue its Taxable Industrial Revenue Bonds (Schaeffler Expansion Project), Series 2018 (the **"Bonds"**), in the principal amount of not to exceed $67,215,000 for the purpose of equipping the Company's facility located on certain real estate in Joplin, Missouri (the "**Project Site**"), by the acquisition and installation of certain machinery and equipment (the "**Project Equipment**"), and together with any additions, alterations, replacements, substitutions thereto now or hereafter acquired and installed within the facility located on the Project Site by the Company (the **"Project"**), and authorizing the City to lease the Project Equipment to the Company pursuant to a Lease Agreement to be entered into by and between the City, as lessor, and the Company, as lessee, at the time the Bonds are issued (the "**Lease**"); and

WHEREAS, pursuant to the foregoing, the City desires to enter into this Agreement with the Company in consideration of the Company's desire to cause the acquisition and installation of the Project as more fully described in the Lease 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 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 word and terms defined in the Recitals, the following words and terms as used herein shall have the following meanings:

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

"Ambulance District" means the Newton County Ambulance District.

"Annual Jobs Report" means the Annual Jobs Report required to be filed by the Company by **Section 4.4** hereof.

"Average Wage" means $20.42 per hour calculated as follows: for a specified period, the sum of: (a) base wages paid, (b) the cost of fringe benefits provided, plus (c) incentive and bonuses awarded to those persons which are engaged in the Jobs hereunder, divided by the number of hours performed by such persons during such specified period.

"County" means Newton County, Missouri.

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

"Grant" or **"Grants"** means payments in lieu of taxes made by the Company to the City pursuant to **Section 3.1** of this Agreement.

"Indenture" means the Trust Indenture dated as of December 1, 2018 relating to the issuance of the Bonds, as amended from time to time.

"Job" means a full-time position with the Company of not less than 30 hours per week at the Project. Positions filled by workers who are not directly employed by the Company do not qualify as "Jobs" for purposes of this definition; provided, however that workers who are employed by a third party company at the Project Site pursuant to a written agreement with the Company during an employee's probationary period shall qualify as a "Job" for purposes of this definition; provided, further, that workers performing less than 30 hours per week but not less than 20 hours per week shall constitute one-half of a "Job" for purposes of this definition; provided, further, that such workers who are employed by a Related Taxpayer shall qualify as a "Job" for purposes of this definition.

"Lease" means the Lease Agreement to be entered into by and between the City and the Company at the time of issuance of the Bonds.

"Penalty Payments" means the penalty payments provided for in **Article III** hereof.

"Project" means the acquisition and installation of the Project Equipment at the Project Site.

"Project Costs" means all costs and expenses of every nature relating to the acquisition, purchase and installation of the Project Equipment.

"Project Equipment" has the meaning given in the Indenture.

"Project Site" means 3900 South Rangeline Road, Joplin, Missouri 64804.

"Related Taxpayer" means (i) a corporation, partnership, trust or association controlled by the Company; or (ii) a corporation, partnership, trust or association controlled by an individual, corporation, partnership, trust or association in control of the Company or Related Taxpayer. For the purposes of this definition, "control of a corporation" shall mean ownership, directly or indirectly, of stock possessing at least fifty percent of the total combined voting power of all classes of stock entitled to vote; "control of a partnership or association" shall mean ownership of at least fifty percent of the capital or profits interest in such partnership or association; and "control of a trust" shall mean ownership, directly or indirectly, of at least fifty percent of the beneficial interest in the principal or income of such trust; ownership shall be determined as provided in Section 318 of the U.S. Internal Revenue Code.

"Replacement Project Equipment" means personal property located on the Project Site which is purchased, acquired and installed by the Company to replace Project Equipment which has become, as

certified in writing by the Company to the City, inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary or otherwise no longer useful to the Company in its operations conducted on the Project Site.

"Required Number of Jobs" means 262 Jobs on September 30, 2019 and September 30, 2020; and 322 Jobs on September 30, 2021, and each Test Date thereafter.

"Test Date" means September 30 of each year, beginning on September 30, 2019, and ending on September 30, 2030.

ARTICLE II

ISSUANCE OF BONDS

Section 2.1. Issuance of the Bonds. The City intends to issue the Bonds under the Act for the purposes of paying the Project Costs. In connection with the issuance of the Bonds, the City shall acquire title to the Project Equipment.

ARTICLE III

PERSONAL PROPERTY TAX EXEMPTION; PENALTY PAYMENTS

Section 3.1. Personal Property Tax Exemption. So long as the City owns title to the Project Equipment, the City expects the Project to be exempt from ad valorem taxes on personal property. Each item of property that is a part of the Project Equipment shall be exempt from ad valorem taxes during the Abatement Period for such item of Project Equipment. The Replacement Project Equipment shall be exempt from ad valorem taxes on personal property for the remaining Abatement Period for the Project Equipment so replaced. Notwithstanding any other provision of this Agreement to the contrary, the last year of the final Abatement Period shall be 2030. The Company shall pay, or cause to be paid, to the City the Grants for the Project in the amounts, and on the dates set forth, on **Exhibit C** hereto. The Grants shall be distributed by the City to the Ambulance District.

Section 3.2. Penalty Payments Upon Non-Performance.

(a) The Company covenants to maintain the Required Number of Jobs at the Project Site for so long as this Agreement is in effect. The Company further covenants that the Required Number of Jobs shall have not less than the Average Wage for so long as this Agreement is in effect.

(b) In the event the Company fails to maintain the Required Number of Jobs at the Project Site measured by determining the highest actual number of Jobs during the 90-day period ending on each Test Date or the Company fails to maintain the Required Number of Jobs at not less than the Average Wage, the Company shall pay to the City Penalty Payments in an amount equal to a percentage of the personal property taxes that would otherwise be due on the Project Equipment if the Project Equipment were not exempt by reason of the City's ownership, beginning at a Zero Percent (0%) Penalty Payment for compliance, in accordance with the following formula:

$$\frac{(a \times c)}{(b \times d)} \times 100 = \text{Percent of Deficiency}$$

100% minus the Percent of Deficiency = Pro Rata % of Increase in Penalty Payment from Zero Percent

a = Actual Number of Jobs as of Test Date
b = Projected Required Number of Jobs as of Test Date
c = Actual Average Wage as of Test Date
d = Projected Average Wage as of Test Date

(c) In the event Penalty Payments are required by **Section 3.2(b)** hereof, the Company covenants and agrees to make the Penalty Payments to the City on or before December 1 of the year in which the Company fails to maintain the Required Number of Jobs at the Average Wage, commencing December 1, 2019 and to and including December 1, 2030. All such Penalty Payments shall be made to the City which shall transfer and allocate the same to each of the taxing districts in which the Project is located proportionately based on their respective then current tax levies compared to the then current total tax levies of all such taxing districts pursuant to Section 100.050 of the Revised Statutes of Missouri, as amended (provided that any Grants payable to the Ambulance District for such year shall be deducted from any penalty payments that would otherwise be allocable to the Ambulance District). In no event will the total amount of the Grants and the Penalty Payments exceed the amount of property taxes payable for the Project Equipment assuming the Project Equipment were subject to ad valorem property taxes.

Section 3.3. Obligation to Effect Tax Abatement. The City shall take all actions within its control to obtain and/or maintain in effect the exemption referred to in **Section 3.1** above, including any filing required with any governmental authorities; provided, however, the City shall not be liable for any failure of any other governmental taxing authority to recognize the exemption provided herein.

Section 3.4. Other Property Taxes in Connection with the Project Equipment; Credits. The personal property tax exemption provided by the City's ownership of the Project Equipment is expected to apply to all interests in the Project Equipment during the period it is owned by the City. If any property taxes are levied by or on behalf of the City or any other taxing jurisdiction against any interest in the Project Equipment during the period the City owns the Project Equipment (including, without limitation, any taxes levied against the Company's rights in the Lease), the amount of tax payments related to such levy or levies which are paid by the Company and received by the City or any other taxing jurisdiction shall be credited against and reduce on a pro rata basis the amount of the Penalty Payments the Company is obligated to pay pursuant to this Agreement. The Company shall be responsible for any taxes related to any interest in the Project Equipment which the Company owns in its own name or granted to the Company other than pursuant to the Lease.

Section 3.5. Costs of the City. The Company agrees to make an annual payment to the City to reimburse the City for administrative costs connected with this Agreement; provided, however that such payments shall not exceed $1,000 per year. Said payments will be made on or before December 1 of each year beginning in 2019 and continuing until the expiration or termination of this Agreement. The City shall give 30 days notice of the actual amount due at least 30 days prior to the payment due date.

Section 3.6. Sales Tax. The parties expect that the acquisition of the Project Equipment will be exempt from any sales taxes imposed by any governmental authority by virtue of the equipment being purchased for use in a manufacturing process; however, the Company shall be responsible for any taxes levied or assessed by the Missouri Department of Revenue in relation to the Project and any such sales

taxes paid by the Company shall not be offset against Grants or Penalty Payments that may be due under this Agreement.

Section 3.7. Company's Right To Protest Taxes. Notwithstanding any other provision of this Agreement to the contrary, nothing in 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 right to appeal, protest or otherwise contest any property tax valuation, assessment, classification or similar action.

Section 3.8. Cessation of Operations at the Project. If for any reason the Company ceases operation at the Project Site during the term of this Agreement, the Company shall make a Penalty Payment to the City equal to 100% of the amounts that would otherwise be payable to each taxing jurisdiction if the Project were not otherwise exempt from taxation on or before December 31 in the year in which the Company ceases operation and on each December 31 thereafter for each year in which the Project is, on January 1 of such year, still titled in the name of the City, and the Company has ceased operations. Within 30 days of the date of receipt of such Penalty Payment and after reduction for administrative costs of the City as provided by **Section 3.5**, the City shall divide each Penalty Payment among the taxing jurisdictions within the City in proportion to the amount of the then current ad valorem tax levy of each taxing jurisdiction.

"Ceases operations" or "cessation of operations" means the failure of the Company to employ an average of at least 90 full-time equivalent employees at the Project for a period of 12 consecutive months; provided, however, that if such failure is due to a casualty at the Project, such failure shall not constitute the "cessation of operations" provided that the Company promptly commences the reconstruction of the Project and diligently pursues such reconstruction and such reconstruction is completed within 12 months of the casualty event. In the event of such a casualty, the period of time for calculating compliance with the requirements under **Section 3.1** and any amounts due under **Section 3.2** shall exclude the period from the date of the casualty until 6 months after the reconstruction of the Project is complete.

Section 3.9. No Abatement on Special Assessments. The City and the Company hereby agree that the property tax exemptions described in this Agreement shall not apply to special assessments. The Company hereby agrees to make a payment to the City or the County on or before each December 31 in an amount equal to 100% of the special assessment which would otherwise be due with respect to the Project if such Project were not exempt from taxation.

ARTICLE IV

COVENANTS, REPRESENTATIONS AND AGREEMENTS OF THE COMPANY

Section 4.1. Inspection. The Company agrees that the City and its duly authorized agents shall have the right at reasonable times (during business hours), subject to at least 48 hours advance written notice and to 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 which demonstrate compliance with this Agreement.

Section 4.2. Compliance with Laws. To the best of the Company's knowledge, the Project is and shall be in compliance with all applicable federal, state and local laws, statutes, ordinances, rules, regulations, executive orders and codes pertaining to or affecting the Project, including all applicable building and zoning, health, environmental and safety ordinances and laws.

Section 4.3. Purchase, Construction, Improvement, Equipping and Operation. The Project will be acquired, constructed, improved, equipped and operated in a manner which is consistent with the

description of the Project herein and in the Lease. In the event the Project is completed in a manner which the City determines, in its reasonable discretion, is materially inconsistent with the description of the Project contained herein and in the Lease and in the presentation to the City Council of the City, the City reserves the right to declare an Event of Default in accordance with **Section 6.1** hereof.

Section 4.4. Annual Jobs Reports. The Company shall file with the City annually, commencing on November 15, 2010, and continuing on each November 15 thereafter while this Agreement remains in effect, a report stating the number of Jobs at the Project Site and Average Wages with respect to such jobs in such form reasonably satisfactory to the City.

Section 4.5. City Approvals. The City intends that the approval of the Project granted by the City pursuant to this Agreement shall not affect or constitute any approval required by any other City department or pursuant to any City ordinance, code, regulation or any other governmental approval required by law, nor does any approval by the City pursuant to this Agreement constitute approval of the quality, structural soundness or safety of any portion of the Project. The City will not unreasonably withhold any consent or approval required by any City ordinance, code, regulation or any other governmental approval required by law related to the Project; *provided that* nothing herein shall be construed to obligate the City, acting as a party hereto, to grant permits or other approvals the City would not be obligated to grant, acting as a political subdivision, absent this Agreement.

Section 4.6. General. The Company represents, warrants and covenants 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:

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

(b) The Company has the right, power and authority to enter into, execute, deliver and perform this Agreement;

(c) 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 which would impair its ability to perform under this Agreement or its financial condition; and

(d) The Company has obtained (or will, prior to the commencement of construction or operation obtain) and shall maintain all required government permits, certificates and consents (including without limitation appropriate environmental approvals) necessary to conduct its business and to construct, complete and operate the Project.

Section 4.7. Survival of Covenants. All warranties, representations, covenants and agreements of the Company contained herein shall survive termination of this Agreement for any reason.

Section 4.8. Indemnification of City. The Company shall indemnify, defend and save the City and its officials, officers, employees and agents, including members of the City Council, harmless from and against all claims, demands, costs, liabilities, damages or reasonable expenses, including reasonable attorneys' fees, by or on behalf of any person, firm or corporation arising from the conduct or management of, or from any work or thing done in, on or about, the Project during the term of the Lease or this Agreement, and against and from all claims, demands, costs, liabilities, damages or reasonable expenses, including reasonable attorneys' fees, arising during the term of the Lease or this Agreement 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 this Agreement or the Lease, or any action requested of the

City by the Company pursuant to the Lease or this Agreement, (c) any contract entered into in connection with the acquisition, construction, furnishing and equipping of the Project, (d) any act of negligence of the Company or of any of its agents, contractors, servants, employees or licensees, and (e) any act of negligence of any permitted assignee or sublessee of the Company, or of any agents, contractors, servants, employees or licensees of any permitted assignee or sublessee of the Company.

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 (other than to an entity controlled by or under common control with or controlling the Company, so long as such entity has a net worth at the time of such assignment at least equal to the net worth of the Company at the date of such assignment), assigned, pledged or in any other manner hypothecated without the express written consent of the City; but nothing herein shall preclude the Company from assigning or pledging its interest in the Project so long as the Company continues to occupy the Project and otherwise remains responsible for its undertakings herein.

ARTICLE VI

DEFAULT AND REMEDIES

Section 6.1. Events of Default. If any one or more of the following events shall occur and be continuing, it is hereby defined as and declared to be and to constitute an Event of Default hereunder (certain performance standards defined in **Section 3.2** above which result in a penalty payment for failure to meet the defined standards shall not be declared to constitute an Event of Default so long as said penalty payments are made in accordance with the terms of this Agreement):

(a) the Company shall fail to perform any of its obligations hereunder for (i) a period of 30 days (or such longer period as the City and the Company may agree in writing) following written notice to the Company from the City of such failure which notice shall include a specific description of the Company's failure hereunder), or (ii) if such failure is not subject to cure within such 30 days, the Company shall have failed to initiate action to cure such default and shall pursue such action diligently;

(b) the Company shall breach any material covenant contained herein and continuance of such breach for a period of 30 days (or such longer period as the City and the Company may agree in writing) after there has been given to the Company by the City a written notice specifying such breach and requiring it to be remedied; provided, that if such breach cannot be fully remedied within such 30-day period, but can reasonably be expected to be fully remedied, such breach shall not constitute an event of default if the Company shall promptly upon receipt of such notice commence the curing of such breach and shall thereafter prosecute and complete the same with due diligence and dispatch; or

(c) any representation of the Company contained herein shall prove to be materially false or erroneous and shall not be corrected or brought into compliance within 30 days (or such longer period as the City and the Company may agree in writing) after there has been given to the Company by the City a written notice specifying such false or erroneous representation and requiring it to be remedied; provided, that if such default cannot be fully remedied within such 30-day period, but can reasonably be expected to be fully remedied, such default shall not constitute an event of default if the Company shall promptly upon receipt of such notice commence the curing of such default and shall thereafter prosecute and complete the same with due diligence and dispatch.

Section 6.2. Remedies on Default. Except as otherwise provided in this Agreement, upon an Event of Default hereunder, this Agreement may be terminated by written notice to the Company from the City. Upon such termination, the Company shall make Penalty Payments (i) to the payees set forth in **Section 3.2(b)** equal to the pro rata amount of Penalty Payments payable pursuant to such **Section 3.2(b)** hereof from January 1 through the effective date of termination, and (ii) to the City the pro rata amount of taxes that would be due for the remaining portion of the year assuming the Project was placed on the tax rolls effective on the date of termination through December 31 which, within 30 days of the date of receipt by the City and after reduction for administrative costs of the City as provided by **Section 3.5**, the City shall divide among the taxing jurisdictions levying ad valorem taxes within the City in proportion to the amount of the then current ad valorem tax levy of each taxing jurisdiction.

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 10% per annum from the date such payment was first due.

Section 6.4. Failure of the City to Perform its Obligations. In the event the City shall fail to perform any of its obligations hereunder for (i) a period of 30 days (or such longer period as the Company and the City may agree in writing) following written notice to the City from the Company of such failure which notice shall include a specific description of the City's failure hereunder), or (ii) if such failure is not subject to cure within such 30 days, the City shall have failed to initiate action to cure such default and shall pursue such action diligently; the Company may declare that the City is in default under this Agreement and may pursue any legal remedy available to it to enforce this Agreement.

ARTICLE VII

TERM OF AGREEMENT

This Agreement shall become effective upon execution, and subject to earlier termination pursuant to the provisions of this Agreement (including particularly the following paragraph and **Article VI** hereof), shall have an initial term commencing as of the date of this Agreement and terminating on **December 31, 2030** (the "Stated Expiration Date"). This Agreement shall automatically terminate prior to the Stated Expiration Date in the event the Bonds (or any bonds issued to refund the Bonds) are no longer outstanding.

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. In addition, if legislation is proposed by or in any governmental body having jurisdiction over the Project which would have the effect of limiting the ability of the City to issue the Bonds to finance the Project, the City agrees to use its best efforts to issue the Bonds prior to the effective date of any such legislation.

Section 8.2. Severability. If for any reason any provision of this Agreement shall be determined to be invalid or unenforceable, the validity and enforceability of the other provisions hereof shall not be affected thereby.

Section 8.3. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Missouri.

Section 8.4. 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 8.5. Waiver. The City and the Company acknowledge and agree that the amounts payable hereunder shall constitute payments due the City under the Lease 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 either or both Company in any bankruptcy court.

Section 8.6. Entire Agreement. This Agreement constitutes the entire agreement and supersedes all prior agreements and understandings, both written and oral, between the City and the Company with respect to the subject matter hereof.

Section 8.7. Notices. Unless otherwise specified, any notice, demand or request required hereunder shall be given in writing at the addresses and in the manner set forth in the Indenture.

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.

[remainder of page intentionally left blank]

THIS PERFORMANCE AGREEMENT is dated the date first above written.

CITY OF JOPLIN, MISSOURI

By:_____
Mayor

(SEAL)

ATTEST:

By: _____
City Clerk

Approved as to form:

_____
City Attorney

THIS PERFORMANCE AGREEMENT is dated the date first above written.

SCHAEFFLER GROUP USA INC.

By:_____
Name:
Title:

EXHIBIT A

Description of the Project Site

3900 South Rangeline Road, Joplin, Missouri

EXHIBIT B

Description of the Project Equipment

All equipment financed with the proceeds of the Bonds located on the Project Site in Joplin, Newton County, Missouri, to and until the end of the Abatement Period for each such item of equipment. No Project Equipment shall be acquired with Bond proceeds after December 31, 2023.

EXHIBIT C

Grant Payments

During each year in which this Agreement is in effect and during which Missouri law so requires, and provided that the Ambulance District then imposes *ad valorem* property taxes on personal property located in the area of the Project Site, the Company shall pay to the City for distribution to the Ambulance District, an amount calculated by the City to be equal to one hundred percent of the amount of *ad valorem* property tax revenues that the Ambulance District would have received in such year (based on the estimated assessed value in such year of the Project Equipment) in the absence of the tax exemption provided by virtue of ownership of the Project Equipment by the City; provided that the Ambulance District may set the rate of reimbursement at less than one hundred percent by a written instrument filed with the City.

BEFORE THE

CITY COUNCIL

OF THE

CITY OF JOPLIN, MISSOURI

PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT FOR SCHAEFFLER GROUP USA, INC.

Mailed November 27, 2018

PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT
FOR SCHAEFFLER GROUP USA, INC.

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 and the Company. The project consists of acquiring and installing equipment to manufacture bearings (the "Project Equipment") in a facility located within the City and operated by Schaeffler Group USA, Inc. ("Schaeffler Group"). The Project Equipment will be located at 3900 Range Line Road Joplin, MO 64804. The Project Equipment is designed to be used in the manufacturing of products sold by Schaeffler Group, a Delaware corporation that provides roller and spherical bearings for automotive and industrial applications.

2. Estimate of the Cost of the Project Equipment. The total cost of the installed Project Equipment is estimated to be $67,140,000. The Company (defined below under paragraph 4) may make improvements to its Joplin facility to accommodate the installation of the Project Equipment, but will not receive tax abatement incentives with respect to any real property improvements. The personal property abated will include only the Project Equipment. Real and personal property currently owned and not part of the Project Equipment will not receive abatement under this plan.

3. Source of Funds to be Expended for the Project Equipment. The source of funds to be expended for the Project Equipment will be the proceeds of $67,215,000 estimated aggregate principal amount of taxable industrial revenue bonds (the "Bonds"), to be issued by the City for the Project Equipment and to pay costs of issuing the Bonds.

4. Statement of the Terms Upon Which the Project Equipment is to be Leased and Otherwise Disposed of by the City. The City will take legal ownership of the Project Equipment as it is acquired. The Project Equipment will be leased by the City (with an option to purchase the City's interest in the Project Equipment) to Schaeffler Group, or an affiliate thereof (the "Company"). The lease payments will equal the principal and interest on the Bonds. 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 Equipment and the Bonds will not be an indebtedness or general obligation, debt or liability of the City.

5. Bond Purchase Arrangements. The Company or a related entity will purchase the Bonds in the estimated aggregate principal amount of $67,215,000.

6. Affected School District, Community College District, County, City and Emergency Services Districts. The Joplin R-VIII School District of Jasper County, Missouri; Newton County, Missouri; and the Newton County Ambulance District are the school district, county and ambulance district board affected by the project. All other taxing districts affected by project are described in the Cost Benefit Analysis attached hereto as **Exhibit A**. No fire district or community college district is affected by the project. The City does not levy its ad valorem taxes on personal property.

7. **Equalized Assessed Valuation.** No real property is included in the project. The most recent equalized assessed valuation of the Project Equipment is $-0-. The estimated total equalized assessed valuation of the Project Equipment after completion of the Project Equipment is as follows (showing valuation as of the first day of each year based on acquisitions to such point and depreciation of prior acquisitions):

Year	Estimated A.V.
2019	$1,159,166
2020	3,548,770
2021	7,163,529
2022	10,901,382
2023	11,262,403
2024	9,652,898

8. **Cost Benefit Analysis.** Attached hereto as **Exhibit A** is the Cost Benefit Analysis for the affected taxing jurisdictions, which assumes 100% tax abatement, except as described below for the Newton County Ambulance District, for the following property for the following periods:

3-year depreciable property	5 years
7-year depreciable property	7 years

Each component of the Project Equipment will be subject to abatement for either 5 or 7 years based on its depreciable life, starting with the tax year after the year in which it is placed in service. After the abatement period ends for a particular component, it will be subject to taxation.

9. **Payments in Lieu of Taxes.** This plan provides for 100% tax abatement for the Project Equipment components for 5 or 7 years depending on the depreciable life for such components; provided that the Newton County Ambulance District shall have the right during the time that the law so requires and during such time as the Newton County Ambulance District imposes property tax in the area in which the Project Equipment is located, to reimbursement of amounts that would otherwise be payable to the Newton County Ambulance District in absence of this plan. The attached Cost Benefit Analysis assumes receipt by the Newton County Ambulance District of 100% of the taxes that would be due if the Project Equipment were completed without abatement. This plan does not create a contractual right of the Newton County Ambulance District to such funds and the amount of such payments shall vary in accordance with the actual implementation of the Project Equipment, the then-current levy rate of the Newton County Ambulance District in each year and the continued imposition of property tax by the Newton County Ambulance District in the area in which the Project Equipment is located.

* * *

EXHIBIT A

COST BENEFIT ANALYSIS

The accompanying spreadsheet shows the detailed cost/benefit amounts of the proposed project. The 2018 personal property tax levy rates were utilized for all taxing jurisdictions. Amounts shown for any particular taxing jurisdiction are subject to change based on the then-current levy rates of all relevant taxing jurisdictions.

City of Joplin, Missouri
(Schaeffler Expansion 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

- Initial year taxes assessed 2019

- Annual investments of personal property (Project Equipment)

	3-Year	7-Year
2018	$ -	$ 3,895,000
2019	600,000	8,360,000
2020	1,500,000	13,585,000
2021	2,000,000	16,530,000
2022	1,200,000	9,025,000
2023	4,200,000	515,000

- Assessed value as a percentage of appraised value (personal) 33.33%

- Terms of abatement:

Years 1-5 (3-year property)	100.0%
Years 1-7 (7-year property)	100.0%

- Personal property is depreciated using the following 3-year and 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 and on	5.00%	10.00%	10.00%	15.00%	15.00%	20.00%

Summary of Tax Impact Analysis

Taxing Jurisdiction	Tax Rate	Tax Revenue for Project Equipment Without Abatement	Revenue Generated from PILOT Payments	Value of Abatement
Newton County - Mental Health	0.0833	$ 49,171	$ -	$ 49,171
Newton County Sheltered Workshop	0.0501	29,574	-	29,574
Newton County - County Fair	0.0100	5,903	-	5,903
Newton County - Health Department	0.0500	29,514	-	29,514
Joplin R-VIII School District	3.6964	2,181,946	-	2,181,946
Joplin Special Road District	0.2270	133,996	-	133,996
Neosho Newton County Library	0.1000	59,029	-	59,029
Newton County Ambulance District	0.1919	113,277	113,277	-
State of Missouri	0.0300	17,709	-	17,709
	4.4387	$ 2,620,118	$ 113,277	$ 2,506,842

Projected Tax Revenues Without Abatement
on Project Equipment

Estimated Assessed Value of Project Equipment		$1,159,166	$3,548,770	$7,163,529	$10,901,382	$11,262,403	$9,652,898	$6,803,328	$4,411,193	$2,550,379	$1,226,391	$ 332,352	$ 17,165	
Taxing Jurisdiction	Tax Rate per $100	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	Total
Newton County - Mental Health	0.0833	$ 966	$ 2,956	$ 5,967	$ 9,081	$ 9,382	$ 8,041	$ 5,667	$ 3,675	$ 2,124	$ 1,022	$ 277	$ 14	$ 49,171
Newton County Sheltered Workshop	0.0501	581	1,778	3,589	5,462	5,642	4,836	3,408	2,210	1,278	614	167	9	29,574
Newton County - County Fair	0.0100	116	355	716	1,090	1,126	965	680	441	255	123	33	2	5,903
Newton County - Health Department	0.0500	580	1,774	3,582	5,451	5,631	4,826	3,402	2,206	1,275	613	166	9	29,514
Joplin R-VIII School District	3.6964	42,847	131,177	264,793	402,959	416,303	356,810	251,478	163,055	94,272	45,332	12,285	634	2,181,946
Joplin Special Road District	0.2270	2,631	8,056	16,261	24,746	25,566	21,912	15,444	10,013	5,789	2,784	754	39	133,996
Neosho Newton County Library	0.1000	1,159	3,549	7,164	10,901	11,262	9,653	6,803	4,411	2,550	1,226	332	17	59,029
Newton County Ambulance District	0.1919	2,224	6,810	13,747	20,920	21,613	18,524	13,056	8,465	4,894	2,353	638	33	113,277
State of Missouri	0.0300	348	1,065	2,149	3,270	3,379	2,896	2,041	1,323	765	368	100	5	17,709
	4.4387	$ 51,452	$ 157,519	$ 317,968	$ 483,880	$ 499,904	$ 428,463	$ 301,979	$ 195,800	$ 113,204	$ 54,436	$ 14,752	$ 762	$2,620,118

Personal Property Assessed Value (3-Year Depreciation)

		2019	2020	2021	2022	2023	2024	2025	2026	2027	2028
2018	-	-	-	-	-	-	-				
2019	600,000		149,985	74,993	24,998	9,999	9,999				
2020	1,500,000			374,963	187,481	62,494	24,998	24,998			
2021	2,000,000				499,950	249,975	83,325	33,330	33,330		
2022	1,200,000					299,970	149,985	49,995	19,998	19,998	
2023	4,200,000						1,049,895	524,948	174,983	69,993	69,993
	9,500,000	-	149,985	449,955	712,429	622,438	1,318,202	633,270	228,311	89,991	69,993

Personal Property Assessed Value (7-Year Depreciation)

		2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
2018	3,895,000	1,159,166	910,820	715,700	556,670	397,640	238,610	129,820					
2019	8,360,000		2,487,966	1,954,930	1,536,136	1,194,803	853,471	512,138	278,639				
2020	13,585,000			4,042,944	3,176,761	2,496,221	1,941,555	1,386,890	832,224	452,788			
2021	16,530,000				4,919,387	3,865,429	3,037,359	2,362,452	1,687,544	1,012,637	550,945		
2022	9,025,000					2,685,872	2,110,436	1,658,328	1,289,844	921,360	552,876	300,803	
2023	515,000						153,266	120,429	94,630	73,603	52,576	31,549	17,165
	51,910,000	1,159,166	3,398,785	6,713,574	10,188,953	10,639,965	8,334,696	6,170,058	4,182,882	2,460,388	1,156,398	332,352	17,165

Projected PILOT Amount
on Project Equipment

Estimated Assessed Value of Personal Property Acquired in 2018		$1,159,166	$ 910,820	$ 715,700	$ 556,670	$ 397,640	$ 238,610	$ 129,820						
PILOT Payment		0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%						
Estimated Assessed Value of Personal Property Acquired in 2019			$2,637,951	$2,029,922	$1,561,133	$1,204,802	$ 863,470	$ 512,138	$ 278,639					
PILOT Payment			0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%					
Estimated Assessed Value of Personal Property Acquired in 2020				$4,417,907	$3,364,242	$2,558,714	$1,966,553	$1,411,887	$ 832,224	$ 452,788				
PILOT Payment				0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%				
Estimated Assessed Value of Personal Property Acquired in 2021					$5,419,337	$4,115,404	$3,120,684	$2,395,782	$1,720,874	$1,012,637	$550,945			
PILOT Payment					0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%			
Estimated Assessed Value of Personal Property Acquired in 2022						$2,985,842	$2,260,421	$1,708,323	$1,309,842	$ 941,358	$552,876	$300,803		
PILOT Payment						0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%		
Estimated Assessed Value of Personal Property Acquired in 2023							$1,203,161	$ 645,377	$ 269,613	$ 143,596	$122,569	$ 31,549	$ 17,165	
PILOT Payment							0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	
Taxing Jurisdiction	Tax Rate per $100	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	Total
Newton County - Mental Health	0.0833	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Newton County Sheltered Workshop	0.0501	-	-	-	-	-	-	-	-	-	-	-	-	-
Newton County - County Fair	0.0100	-	-	-	-	-	-	-	-	-	-	-	-	-
Newton County - Health Department	0.0500	-	-	-	-	-	-	-	-	-	-	-	-	-
Joplin R-VIII School District	3.6964	-	-	-	-	-	-	-	-	-	-	-	-	-
Joplin Special Road District	0.2270	-	-	-	-	-	-	-	-	-	-	-	-	-
Neosho Newton County Library	0.1000	-	-	-	-	-	-	-	-	-	-	-	-	-
Newton County Ambulance District	0.1919	2,224	6,810	13,747	20,920	21,613	18,524	13,056	8,465	4,894	2,353	638	33	113,277
State of Missouri	0.0300	-	-	-	-	-	-	-	-	-	-	-	-	-
	4.4387	$ 2,224	$ 6,810	$ 13,747	$ 20,920	$ 21,613	$ 18,524	$ 13,056	$ 8,465	$ 4,894	$ 2,353	$ 638	$ 33	$113,277

*Newton County Ambulance District assumed to receive full PILOT. See Paragraph 9 of the Plan for a discussion of related assumptions.

Projected Tax Abatement
on Project Equipment

Estimated Assessed Value of Personal Property														
Acquired in 2018	$1,159,166	$ 910,820	$ 715,700	$ 556,670	$ 397,640	$ 238,610	$ 129,820							
Abatement Percentage	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%							
Estimated Assessed Value of Personal Property														
Acquired in 2019		$2,637,951	$2,029,922	$1,561,133	$1,204,802	$ 863,470	$ 512,138	$ 278,639						
Abatement Percentage		100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%						
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Acquired in 2020			$4,417,907	$3,364,242	$2,558,714	$1,966,553	$1,411,887	$ 832,224	$ 452,788					
Abatement Percentage			100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%					
Estimated Assessed Value of Personal Property														
Acquired in 2021				$5,419,337	$4,115,404	$3,120,684	$2,395,782	$1,720,874	$1,012,637	$550,945				
Abatement Percentage				100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%				
Estimated Assessed Value of Personal Property														
Acquired in 2022					$2,985,842	$2,260,421	$1,708,323	$1,309,842	$ 941,358	$552,876	$300,803			
Abatement Percentage					100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%			
Estimated Assessed Value of Personal Property														
Acquired in 2023						$1,203,161	$ 645,377	$ 269,613	$ 143,596	$122,569	$ 31,549	$ 17,165		
Abatement Percentage						100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%		

Taxing Jurisdiction	Tax Rate per $100	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	Total
Newton County - Mental Health	0.0833	$ 966	$ 2,956	$ 5,967	$ 9,081	$ 9,382	$ 8,041	$ 5,667	$ 3,675	$ 2,124	$ 1,022	$ 277	$ 14	$ 49,171
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Newton County - County Fair	0.0100	116	355	716	1,090	1,126	965	680	441	255	123	33	2	5,903
Newton County - Health Department	0.0500	580	1,774	3,582	5,451	5,631	4,826	3,402	2,206	1,275	613	166	9	29,514
Joplin R-VIII School District	3.6964	42,847	131,177	264,793	402,959	416,303	356,810	251,478	163,055	94,272	45,332	12,285	634	2,181,946
Joplin Special Road District	0.2270	2,631	8,056	16,261	24,746	25,566	21,912	15,444	10,013	5,789	2,784	754	39	133,996
Neosho Newton County Library	0.1000	1,159	3,549	7,164	10,901	11,262	9,653	6,803	4,411	2,550	1,226	332	17	59,029
Newton County Ambulance District	0.1919	-	-	-	-	-	-	-	-	-	-	-	-	-
State of Missouri	0.0300	348	1,065	2,149	3,270	3,379	2,896	2,041	1,323	765	368	100	5	17,709
	4.4387	$ 49,227	$ 150,709	$ 304,221	$ 462,960	$ 478,292	$ 409,939	$ 288,924	$ 187,334	$ 108,310	$ 52,082	$ 14,114	$ 729	$ 2,506,842

TRUST INDENTURE

Dated as of December 1, 2018

between the

CITY OF JOPLIN, MISSOURI,

AND

UMB BANK, N.A.,
as Trustee

Relating to:

$67,215,000
(Aggregate Maximum Principal Amount)
City of Joplin, Missouri
Taxable Industrial Revenue Bonds
(Schaeffler Expansion Project)
Series 2018

TRUST INDENTURE

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TRUST INDENTURE

THIS TRUST INDENTURE dated as of December 1, 2018, between the **CITY OF JOPLIN, MISSOURI,** a home rule charter city 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, as amended, Sections 100.010 through 100.200, inclusive, of the Revised Statutes of Missouri, as amended, and the City's Charter (collectively, the "Act"), to purchase, construct, extend and improve certain projects (as defined in Section 100.010 of the Revised Statutes of Missouri, as amended) 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, office industries and industrial development purposes upon such terms and conditions as the City shall deem advisable.

2. Pursuant to the Act, the governing body of the City passed an ordinance (the "Ordinance") on December 17, 2018, authorizing the City to issue its Taxable Industrial Revenue Bonds (Schaeffler Expansion Project), Series 2018, in the maximum principal amount of $67,215,000 (the "Bonds"), for the purpose of purchasing and installing certain equipment (the "Project Equipment," as more fully described on **Exhibit B** hereto) to be used by Schaeffler Group USA Inc., a Delaware corporation (the "Company") at 3900 South Rangeline Road, Joplin, Missouri (the "Project Site"), and authorizing the City to lease the Project Equipment to the Company.

3. Pursuant to the Ordinance, the City is authorized to execute and deliver this Trust Indenture (the "Indenture") for the purpose of issuing and securing the Bonds (as hereinafter defined), and to enter into 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, purchase and install the Project Equipment and will lease the Project Equipment to the Company, as lessee, in consideration of rentals that will be sufficient to pay the principal of and interest on the Bonds.

4. 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 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 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 Bonds contained, does hereby pledge and assign to the Trustee and its successors and assigns forever, 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 in and to the Project Equipment together with the tenements, hereditaments, appurtenances, rights, privileges and immunities thereunto belonging or appertaining;

(b) All right, title and interest of the City in, to and under the Lease (excluding the City's right 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 therein or herein), and all rents, revenues and receipts derived by the City from the Project Equipment 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 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 thereby 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 **Section 1.1** of 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:

"Abatement Period" shall mean: (1) for Three-Year Property, the period starting on the date on which such property is acquired or deemed to be acquired with Bond proceeds and ending on December 31 of the 5th full calendar year after the year of such acquisition, and (2) for Seven-Year Property, the period starting on the date on which such property is acquired or deemed to be acquired with Bond proceeds and ending on December 31 of the 7th full calendar year after the year of such acquisition; as such periods are more specifically detailed on **Exhibit E** hereto.

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

"Additional Rent" means the additional rental described in **Section 5.2** of the Lease.

"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. Such certificate may designate an alternate or alternates, each of whom shall be entitled to perform all duties of the Authorized Company Representative.

"Authorized City Representative" means the Mayor, the 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.

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

"Bond" or **"Bonds"** means the Taxable Industrial Revenue Bonds (Schaeffler Expansion Project), Series 2018, in the maximum aggregate principal amount of $67,215,000, issued, authenticated and delivered under and pursuant to this Indenture.

"Bond Fund" means the "City of Joplin, Missouri, Bond Fund -- Schaeffler Group USA Inc." created in **Section 601** of this Indenture.

"Bond Purchase Agreement" means the Bond Purchase Agreement dated as of December 1, 2018, 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 payment office of the Trustee are required or authorized by law to remain closed or a day on which the payment system of the Federal Reserve is not operational.

"Company" means Schaeffler Group USA Inc., a Delaware corporation, and its successors or assigns.

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

"City" means the City of Joplin, Missouri, a home rule charter city organized and existing under the laws of the State of Missouri, and its successors and assigns.

"Closing Date" means the date mutually agreed upon by the City and the Purchaser for the issuance of the Bonds as expressed in the Bond Purchase Agreement.

"Closing Price" means the amount described as such in the Bond Purchase Agreement.

"Cumulative Outstanding Principal Amount" means the aggregate principal amount of all Bonds outstanding under the provisions of this Indenture, as reflected in the records maintained by the Trustee as provided in the Bonds and this Indenture.

"Disbursement Agent" means Schaeffler Group USA Inc., or any successor or assign.

"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, security agreement, mortgage, participation agreement, lease agreement, sublease, hedging agreement or other document executed by or on behalf of a Financing Party.

"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 Equipment or interests or rights in the Lease, or any part thereof, including any trustee or agent acting on any such Person's behalf.

"Full Insurable Value" means the reasonable replacement cost of the Project Equipment, less physical depreciation, as determined in accordance with **Section 7.2(a)** of the Lease.

"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) any bonds or other obligations which as to principal and interest constitute direct obligations of, or are unconditionally guaranteed by, the United States of America, including obligations of any of the federal agencies set forth in clause (b) below to the extent they are unconditionally guaranteed by the United States of America;

(b) obligations of the Federal Financing Bank, 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 Standard & Poor's 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, 2018, 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 Equipment permitted pursuant to the provisions of **Section 10.4** of the Lease.

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

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

(a) Bonds theretofore 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" 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 of or interest on any Bond 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, 2018, between the City and the Company, as amended from time to time.

"Permitted Encumbrances" means (a) liens for *ad valorem* taxes and special assessments not yet due or which are being contested in good faith by appropriate actions, provided that adequate reserves with respect thereto are maintained on the books of the Company in conformity with generally acceptable accounting principles, (b) land1ords', carriers', warehousemen's, mechanics', materialmen's, repairmen's or other like liens arising in the ordinary course of business which are not overdue for a period of more than 60 days or which are being contested in good faith by appropriate actions, (c) easements, rights-of-way, restrictions and other similar encumbrances incurred in the ordinary course of business which, in the aggregate, are not substantial in amount in relation to the value of the property subject thereto and which do not in any case materially detract from the value of the property subject thereto or materially interfere with the ordinary conduct of the business of the Company, (d) the Indenture and the Lease and (e) liens or security interests granted pursuant to any Financing Documents.

"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 Costs" means all costs of purchasing and installing the Project Equipment, including the following:

(a) all costs and expenses necessary or incident to the acquisition of any portion of the Project Equipment at the execution of the Lease and which the Company conveys to the City;

(b) fees and expenses of consultants for any preliminary investigations and items necessary to the determination of the necessary equipment replacements and upgrades, preparation of specifications for the Project Equipment and supervision of the installation of the Project Equipment, as well as for the performance of all other duties of professionals and consultants in relation to the purchase and installation of the Project Equipment or the issuance of the Bonds;

(c) all costs and expenses of every nature incurred in purchasing and installing the Project Equipment, including the actual cost of labor, materials, machinery, furnishings and equipment as payable to contractors and materialmen in connection with the purchase and installation of the Project Equipment;

(d) interest accruing on the Bonds during the purchase and installation period of the Project Equipment;

(e) reasonable expenses of administration, supervision and inspection properly chargeable to the Project Equipment, 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 purchase and installation of the Project Equipment;

(f) 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; (2) the purchase and installation of the Project Equipment; and (3) the financing thereof; and

(g) 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 all items of machinery, equipment or other personal property acquired or installed or acquired for installation 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 by this reference made a part hereof, and all replacements thereof and substitutions therefor which, pursuant to **Section 8.2** of the Lease, constitute part of the Project Equipment; ***provided that*** the Project Equipment subject to this Indenture and the Lease at any given time shall not include any property that has reached the end of its Abatement Period.

"Project Fund" means the "City of Joplin, Missouri, Project Fund -- Schaeffler Group USA Inc." created in **Section 501** of this Indenture.

"Project Site" means the location described herein and in the Lease Agreement upon which the Project Equipment will be situated.

"Purchaser" means Schaeffler Group USA Inc.

"Seven-Year Property" means personal property having a class life of seven years or longer under the general depreciation system for federal taxation purposes.

"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.

"Three-Year Property" means personal property having a class life of less than seven years under the general depreciation system for federal taxation purposes.

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

"Trustee" means UMB Bank, N.A., Kansas City, Missouri, 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.

Section 102. 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, 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.

(c) 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.

(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 Indenture as a whole and not to any particular Article, Section or subdivision.

(e) 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.

(f) 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 Revenue Bonds (Schaeffler Expansion Project), Series 2018." The maximum total principal amount of Bonds that may be issued hereunder is hereby expressly limited to $67,215,000.

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 Equipment 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 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.

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

(a) The Bonds shall be issuable in the form of one Bond in the maximum principal amount of $67,215,000. The Bonds shall be substantially in the form hereinafter set forth in **Exhibit C** hereto.

(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 designated payment office of any Paying Agent named in the Bonds. The payment of principal on the Bonds shall be noted on **Schedule I** to the Bonds and on the registration books maintained by the Trustee pursuant to **Section 206**. 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 Owners. If the Bonds are held by the Trustee, the Trustee shall, on each Payment Date, send a revised copy of **Schedule I** via email 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. If the Company owns all of the Bonds, then the Company may set-off its obligation for the Basic Rent to the City as Lessee under the Lease Agreement against the City's obligation to the Company as 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 Bonds not previously paid and 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 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**, 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 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. The Bonds have not been registered under the Securities Act of 1933, as amended, or any state securities law, and the Bonds may not be transferred unless the City and the Trustee are furnished a written legal opinion from counsel acceptable to the City, the Trustee and the Company, to the effect that such transfer is exempt from the registration requirements of the Securities Act of 1933, as amended, and any applicable state securities law. The Bonds may also be transferred to any entity controlled by, under common control with or controlling the Company without the necessity of obtaining such an opinion. The Bonds may only be transferred to Approved Investors. For this purpose, Approved Investors are defined as (i) an "accredited investor," as that term is defined in Rule 501 of

Regulation D promulgated under the Securities Act of 1933, as amended (the "1933 Act"), or (ii) a "qualified institutional buyer," as that term is defined in Rule 144A promulgated under the 1933 Act. 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 for the purpose of providing funds to pay the costs of the Project Equipment, which Bonds shall be designated "City of Joplin, Missouri, Taxable Industrial Revenue Bonds (Schaeffler Expansion Project) Series 2018." The Bonds shall be dated as provided in **Section 203(b)** hereof, shall become due on **December 1, 2030** (subject to prior redemption as hereinafter provided in **Article III**) 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.

(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 Lease and the Performance Agreement;

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

(3) A representation letter from the Purchaser in 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 the Purchaser upon transfer of funds in accordance with the Notice of Bond Sale. 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 stating that the Bonds are exempt from registration under the Securities Act of 1933, as amended, and the Indenture is exempt from qualification under the Trust Indenture Act of 1939, as amended; 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 of the Bonds 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 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 the Bonds in an amount equal to the Closing Price and then deliver the Bonds to the Company (or another purchaser designated by the Company).

In either case, the Purchaser of the Bonds 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 on the amount of 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 set forth on Schedule 1 to the Bonds shall be the date of the City's approval of each requisition certificate.

(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, 2019, and continuing thereafter until the Cumulative Outstanding Principal Amount is paid in full; provided that the aggregate maximum principal amount

shall not exceed $67,215,000 and further provided that the Bonds shall be paid in full no later than December 1, 2030. 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 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 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. 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 prior to the stated maturity thereof, at the option of the City, upon written instructions from the Company, (1) in whole, if the Company exercises its option to purchase the Project Equipment 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; provided, however, if only a portion of the Bonds are to be redeemed, Bonds aggregating 10% of the maximum aggregate principal amount of Bonds authorized hereunder shall not be subject to redemption and payment prior to the stated maturity thereof. 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(f)** of the Lease, in the event of substantial damage to or destruction or condemnation of all or substantially all of the Project Equipment. 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.

(c) 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 sole 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 sole Owner) prior to the scheduled redemption

date by email 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**. 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 Project Fund. There is hereby created and ordered to be established in the custody of the Trustee a special trust fund in the name of the City to be designated the "City of Joplin, Missouri, Project Fund -- Schaeffler Group USA Inc." (herein called the "Project 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), when received, excluding such amounts required to be paid into the Bond Fund pursuant to **Section 602** 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 acquiring and installing the Project Equipment 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)**, the Trustee is deemed to have deposited into the Project Fund the amount specified in a requisition certificate, 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 entity 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.

(d) As an alternative to the disbursement procedures set forth in **Section 503(a)**, the Trustee shall, upon instructions of the Company, on the issuance date of the Bonds transfer all money on deposit in the Project Fund to the Disbursement Agent. The Disbursement Agent shall use such money to pay or reimburse the Company (or any other party that has made payment on behalf of the Company) for payment of Project Costs. Thereafter, the Trustee shall have no further responsibility with respect to the Project Fund. On or prior to each March 1, the Disbursement Agent shall provide to the City and the Trustee a certificate showing (i) the amount disbursed from the Project Fund during the preceding calendar year, (ii) the amounts, payees and purposes for which such funds were disbursed, and (iii) a description of any Project Equipment acquired with such funds. This Section does not eliminate the Company's obligations to provide information to the City and the Trustee under **Section 4.2** of the Lease, nor the Trustee's obligations to maintain the list of Project Equipment under **Section 10.8** of the Lease.

Section 504. Completion of the Purchase and Installation of the Project Equipment. The completion of the purchase and installation of the Project Equipment 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 any balance remaining in the Project Fund shall without further authorization be transferred to the Trustee, if the Disbursement Agent is disbursing funds from the Project Fund, and deposited in the Bond Fund and applied as provided in **Section 4.6** of the Lease.

Section 505. 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 hereinafter provided in **Article IX**, 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. Creation of the Bond Fund. There is hereby created and ordered established in the custody of the Trustee a special trust fund in the name of the City to be designated the "City of Joplin, Missouri, Bond Fund -- Schaeffler Group USA Inc." (herein called the "Bond Fund").

Section 602. Deposits Into the Bond Fund. 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 of the Bonds; (b) all Basic Rent payable by the Company to the City specified in **Section 5.1** of the Lease; (c) any amount in the Project Fund to be transferred to the Bond Fund pursuant to **Section 504** hereof upon completion of the installation of the Project Equipment or pursuant to **Section 505** hereof upon acceleration of the Bonds; (d) the balance of any Net Proceeds (as defined in the Lease) of condemnation awards or insurance received by the Trustee pursuant to **Article IX** of the Lease; (e) the amounts to be deposited in the Bond Fund pursuant to **Section 9.1(f)** of the Lease; (f) all interest and other income derived from investments of Bond Fund moneys as provided in **Section 702** hereof; and (g) all other moneys received by the Trustee under and pursuant to any of the provisions of the Lease when accompanied by directions from the Person depositing such moneys that such moneys are to be paid into the Bond Fund.

The Trustee shall notify the Company in writing, at least 15 days prior to 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 603. Application of Moneys in the Bond Fund.

(a) Except as provided in **Section 605** and **Section 908** hereof or in **Section 4.6(a)** of the Lease, moneys in the Bond Fund shall 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 prior to 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 602** 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 prior to 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 may 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 604. 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 605. 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.

Section 702. Investment of Moneys in Project Fund and Bond Fund.

(a) 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 prior to the date such funds will be needed. 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.

(b) The City and the Company hereby agree that confirmations of Permitted Investments are not required to be issued by the Trustee for each month in which a monthly statement relating to the applicable fund or account is rendered. No statement need be rendered for any fund or account if no activity occurred in such fund or account during such month.

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 Equipment 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 Equipment 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 Equipment.

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 of Missouri 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 Equipment 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 hereby authorizes 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 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 Equipment Books. The City covenants and agrees that all books and documents in its possession relating to the Project Equipment and the rents, revenues and receipts derived from the Project Equipment 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. The City covenants and agrees that it shall 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 Equipment 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 Equipment 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; or

(c) Default as specified in **Section 12.1** of the Lease shall have occurred.

Anything herein to the contrary notwithstanding and subject to **Section 907**, no default specified above shall constitute an Event of Default until actual notice of such default by registered or certified mail has been given by the City, the Trustee or by the Owners of 25% in aggregate principal amount of all Bonds Outstanding to the Company and the Company has had 30 days after receipt of such notice to correct said default or cause said default to be corrected, and has not corrected said default or caused said default to be corrected within such period.

Section 902. Acceleration of Maturity in Event of Default. If an Event of Default has occurred and is continuing, 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 shall thereupon become and be immediately due and payable.

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, 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 possession 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 Equipment 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 prior 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 made good, 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, 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 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, and if requested to do so by (1) the City (in the case of an Event of Default arising out of **Section 12.1(b), (c), (d)** or **(e)** 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)** 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 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)**, 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 shall have the right, at any time, by an instrument or instruments in writing executed and delivered to the Trustee and the City, to (i) 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, or (ii) direct the Trustee and the City to refrain, for such period of time as such Owners may specify, from exercising any remedies available to the Trustee or the City under this Indenture, the Lease or applicable law; 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 or the Lease 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(b), (c), (d)** or **(e)** 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 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 thereof 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**, 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 603** 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 may in its discretion 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 shall do so 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(b), (c), (d)** or **(e)** 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 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.

ARTICLE X

THE TRUSTEE

Section 1001. Acceptance of the Trusts. The Trustee hereby accepts the trusts imposed upon it by this 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, prior to the occurrence of an Event of Default and after the curing of all Events of Default which 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)** below, 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, 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 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 filed in connection with and at the time of the issuance of the Bonds, provided that copies of the filed statements are timely delivered to the Trustee), or for insuring the Project Equipment 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.

(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 prior to 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 prior to 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**, 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 shall have the right, but shall not be required, to inspect any and all of the Project Equipment, and all books, papers and records of the City pertaining to the Project Equipment 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 Equipment.

(k) The Trustee shall have the right, 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.

(n) The Trustee shall have no responsibility with respect to any information, statement or recital in any official statement, offering memorandum or any other disclosure material prepared or distributed with respect to the Bonds, except for any information provided by the Trustee, and shall have no responsibility for compliance with any state or federal securities laws in connection with the Bonds.

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. 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 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 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 prior to 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** 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. 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.

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 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 Equipment 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 Equipment, 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 of Missouri) 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 Company or the Owner, a monthly accounting to the Company and the Owner, 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;

(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 the Project Equipment;

(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 shall have the right, from time to time, anything contained in this Indenture to the contrary notwithstanding, to 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 shall request 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 principal 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 which affects any rights of the Company 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 at least 15 days prior to 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 Equipment 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.

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 principal 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 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 603** hereof and except funds or securities in which such funds are invested and 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 or coupons 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 of Missouri 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 prior to 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 prior to their respective stated maturities, proper notice of such redemption shall have been given in accordance with **Article III** of this Indenture 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. 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:

(a) 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 acknowledgements within such jurisdiction that the Person signing such instrument acknowledged before him the execution thereof, or by affidavit of any witness to such execution.

(b) 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.

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 or sent by email:

(a) To the City:

City of Joplin, Missouri
602 S. Main St.
Joplin, Missouri 64801
ATTN: City Manager
Email: sanselm@joplinmo.org

(b) To the Trustee:

UMB Bank, N.A.
1010 Grand Blvd, 4th Floor
Kansas City, MO 64106
ATTN: Corporate Trust Department
Email: Tremaine.Duarte@umb.com

(c) To the Company:

Schaeffler Group USA Inc.
308 Springhill Farm Road
Fort Mill, South Carolina 29715
Facsimile: (803) 548-8589
ATTN: General Counsel

with a copy to:

_____
_____
_____

(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 principal 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. All notices given by overnight delivery or other delivery service shall be deemed fully given as of the date when receipted. All notices given by email shall be deemed fully given as of the date when receipted. 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 of Missouri.

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.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, the 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, UMB Bank, N.A. has caused this Indenture to be signed in its name and behalf by its duly authorized officer, all as of the date first above written.

CITY OF JOPLIN, MISSOURI

By: _____
Mayor

[SEAL]

ATTEST:

By: _____
City Clerk

Approved as to form:

_____
City Attorney

UMB BANK, N.A., as Trustee

By: _____
Name:
Title:

EXHIBIT A

THE PROJECT SITE

3900 South Rangeline Road, Joplin, Missouri 64804

EXHIBIT B

THE PROJECT EQUIPMENT

All equipment financed with the proceeds of the Bonds located on the Project Site in Joplin, Newton County, Missouri, to and until the end of the Abatement Period for each such item of equipment. No Project Equipment shall be acquired with Bond proceeds after December 31, 2023.

EXHIBIT C

FORM OF BOND

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 $67,215,000**

UNITED STATES OF AMERICA
STATE OF MISSOURI

CITY OF JOPLIN, MISSOURI
TAXABLE INDUSTRIAL REVENUE BOND
(SCHAEFFLER EXPANSION PROJECT)
SERIES 2018

Interest Rate	**Maturity Date**	**Dated Date**
5.00%	**December 1, 2030**	**December ___, 2018**

OWNER: **SCHAEFFLER GROUP USA INC.**

MAXIMUM PRINCIPAL AMOUNT: **SIXTY-SEVEN MILLION TWO-HUNDRED FIFTEEN THOUSAND DOLLARS**

THE CITY OF JOPLIN, MISSOURI, a home rule charter city 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, 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 electronic 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, 2019, and continuing thereafter until the said Cumulative Outstanding Principal Amount is paid in full. 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 the aggregate principal amount of 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 Revenue Bonds (Schaeffler Expansion Project), Series 2018," in the maximum aggregate principal amount of $67,215,000 (the "Bonds"), to be issued for the purpose of providing funds to pay the cost of purchasing and installing the Project Equipment, to be leased to the Company, under the terms of a Lease Agreement dated as of December 1, 2018 (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, statutes of the State of Missouri and the City's Charter, including particularly the Act, and pursuant to proceedings duly had by the governing body 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, 2018 (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 shall be subject to redemption in accordance with 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 Owner of this Bond 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.

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 Equipment and the Lease and not from any other fund or source of the City, and is secured by a pledge and assignment of the Project Equipment 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 account created by the City and designated the "City of Joplin, Missouri, Bond Fund -- Schaeffler Group USA Inc."

THE OWNER of this Bond shall have no right to enforce the provision 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 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, without coupons, and 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 have not been registered under the Securities Act of 1933, as amended, or any state securities law, and the Bonds may not be transferred unless the City and the Trustee are furnished a written legal opinion from counsel acceptable to the City, the Trustee and the Company, to the effect that such transfer is exempt from the registration requirements of the Securities Act of 1933, as amended, and any applicable state securities law. The Bonds may also be transferred to any entity controlled by, under common control with or controlling the Company without the necessity of obtaining such an opinion. The Bonds may only be transferred to Approved Investors. For this purpose, Approved Investors are defined as (i) an "accredited investor," as that term is defined in Rule 501 of Regulation D promulgated under the Securities Act of 1933, as amended (the "1933 Act"), or (ii) a "qualified institutional buyer," as that term is defined in Rule 144A promulgated under the 1933 Act. 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** attached to the Indenture.

THE BONDS are issuable in the form of one fully-registered Bond in the maximum principal amount of $67,215,000.

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.

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.

[remainder of page intentionally left blank]

CITY OF JOPLIN, MISSOURI

By _____
Mayor

(SEAL)

ATTEST:

By _____
City Clerk

CERTIFICATE OF AUTHENTICATION

This Bond is the Taxable Industrial Revenue Bond (Schaeffler Expansion Project), Series 2018, described in the Trust Indenture. The effective date of registration of this Bond is set forth below.

UMB BANK, N.A., as Trustee

_____ By _____
Date Authorized Signatory

SCHEDULE I

TABLE OF CUMULATIVE OUTSTANDING PRINCIPAL AMOUNT

CITY OF JOPLIN, MISSOURI
TAXABLE INDUSTRIAL REVENUE BOND
(SCHAEFFLER EXPANSION PROJECT)
SERIES 2018

Bond No. 1

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 _____ agent 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: _____.

_____

PLACE SIGNATURE MEDALLION BELOW:

EXHIBIT D

FORM OF REPRESENTATION LETTER

City of Joplin, Missouri
Joplin, Missouri
ATTN: City Clerk

UMB Bank, N.A.
1010 Grand Blvd, 4th Floor
Kansas City, MO 64106
ATTN: Corporate Trust Department

Re: $67,215,000 Maximum Principal Amount of Taxable Industrial Revenue Bonds (Schaeffler Expansion Project), Series 2018, of the City of Joplin, Missouri

Ladies and Gentlemen:

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

1. The Investor understands that (a) the Bonds are being issued under and pursuant to a Trust Indenture dated as of December 1, 2018 (the "Indenture"), between 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 Equipment (as defined in the Indenture) to Schaeffler Group USA Inc. (the "Company"), under a Lease Agreement dated as of December 1, 2018 (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 Investor 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 its distribution or for the purpose of offering, selling or otherwise participating in a distribution of the Bonds.

3. The Investor agrees not to attempt to offer, sell, hypothecate or otherwise distribute the Bonds to others unless authorized by the terms of the Indenture and upon receipt of any required opinion of counsel acceptable to the City, the Company and the purchaser that all registration and disclosure requirements of the Securities and Exchange Commission and all other appropriate federal and Missouri securities laws and the securities law of any other applicable state are complied with.

4. The City and the Company have (a) furnished such information as the Investor deems necessary to make an informed investment decision with respect to the purchase of the Bonds, (b) made available to Investor ample opportunity to ask questions of, and to receive answers from, appropriate officers of the City and the Company and the terms and conditions of the offering of the Bonds, and (c) provided to the Investor all additional information which it has requested.

5. The Investor is familiar with the operations of the Company and fully aware of terms and risks of the Bonds. The Investor believes the Bonds that it is acquiring are a security of the kind that it wishes to purchase and hold for investment and that the nature and amount thereof are consistent with its investment program. The Investor is able to bear the economic risk of an investment in the Bonds, including a complete loss of such investment

6. The Investor is fully aware of and satisfied with (a) the current status of the title to the Project Equipment and any issues related thereto and (b) the terms, amounts and providers of the insurance maintained pursuant to **Article VII** of the Lease, and the Investor is purchasing the Bonds with full knowledge of such matters.

7. The Investor understands and agrees that the interest on the Bonds is subject to federal and state income taxation.

8. Check applicable section:

____ The Investor is familiar with Rule 144A promulgated under the 1933 Act and is a "qualified institutional buyer" as defined in Rule 144A; it is aware that the sale of Bonds to it is made in reliance on Rule 144A and understands that such Bonds may be offered, resold, pledged or transferred only (a) to a person who the Investor reasonably believes is a "qualified institutional buyer" that purchases for its own account or for the account of a qualified institutional buyer to whom notice is given that the resale, pledge or transfer is being made in reliance on Rule 144A, or (b) pursuant to another exemption from registration under the 1933 Act; or

____ The Investor is familiar with Regulation D promulgated under the 1933 Act and is a sophisticated institutional investor and an "accredited investor" within the meaning of Regulation D; it understands that such Bonds may be resold, pledged or transferred only (a) to a person who the seller reasonably believes is a sophisticated institutional investor and an accredited investor that purchases for its own account; or (b) pursuant to another exemption from registration under the 1933 Act.

Dated: _____ Investor Name: _____

By: _____
Title: _____

EXHIBIT E

ABATEMENT PERIOD

It is anticipated that the Project Equipment will be acquired over the course of several years. All Project Equipment shall be designated by the Company as either Three-Year Property or Seven-Year Property in accordance with the requirements of the Lease. For each item of Three-Year Property and Seven-Year Property acquired in the years shown below, the abatement period shall terminate as shown below. No Project Equipment shall be acquired with Bond proceeds after December 31, 2023.

Date of Acquisition	Three-Year Property End of Abatement Period	Seven-Year Property End of Abatement Period
Before 12/31/18	December 31, 2023	December 31, 2025
1/1/19 to 12/31/19	December 31, 2024	December 31, 2026
1/1/20 to 12/31/20	December 31, 2025	December 31, 2027
1/1/21 to 12/31/21	December 31, 2026	December 31, 2028
1/1/22 to 12/31/22	December 31, 2027	December 31, 2029
1/1/23 to 12/31/23	December 31, 2028	December 31, 2030

COUNCIL BILL NO. 2018-026 ORDINANCE NO. _____

AN ORDINANCE APPROVING A PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT CONSISTING OF THE ACQUISITION AND INSTALLATION OF MANUFACTURING EQUIPMENT, AUTHORIZING THE CITY OF JOPLIN, MISSOURI TO ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS IN A PRINCIPAL AMOUNT NOT TO EXCEED $67,215,000 AND APPROVING CERTAIN RELATED DOCUMENTS AND ACTIONS.

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, Schaeffler Group USA Inc., a Delaware corporation (the "Company"), has proposed a project consisting of acquiring and installing manufacturing equipment in its facility located at 3900 South Rangeline Road, Joplin, Missouri (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 November 27, 2018 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 December 17, 2018, 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 November 30, 2018 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 Revenue Bonds (Schaeffler Expansion Project), in an aggregate principal amount not to exceed $67,215,000, 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 the bond trustee named therein (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 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; and

(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 of certain agreements by the Company.

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.

[remainder of page intentionally left blank]

PASSED by the City Council of the City of Joplin, Missouri and APPROVED by the Mayor this _____ day of December, 2018.

_____
GARY L. SHAW, MAYOR

[SEAL]
ATTEST:

_____
Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

EXHIBIT A

PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT