City of Joplin **City Council Agenda Item**

REQUESTED COUNCIL MEETING DATE: May 6, 2024 (Ch 100 hearing/1st reading)
May 20, 2024 (final readings)

ITEM: Council Bill No. 2024-001 approving a Chapter 100 plan, authorizing the City of Joplin, Missouri, to issue its Taxable Industrial Development Revenue Bonds and authorizing the execution of other documents connected therewith.

ORIGINATING DEPARTMENT: Legal Department
ATTACHMENTS: Council Bill No. 2024-001; copy of Chapter 100 Plan; copies of Bond Purchase Agreements; Trust Indentures; Lease Agreements; and Performance Agreements for each of two series of bonds described in the ordinance.

DEPARTMENT HEAD:	Peter C. Edwards	**DATE:**
FINANCE DIRECTOR:	Leslie Haase	**DATE:**
PLANNING, DEVELOPMENT:	Troy Bolander	**DATE:**
CITY MANAGER:	Nicholas Edwards	**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 in two series for the purpose of: (1) constructing an expansion of the existing General Mills facility located at 3007 Stephens Boulevard (also known as 3007 East 32nd Street) in Joplin, Missouri (the "Stephens Boulevard Site") consisting of the addition of approximately 33,328 square feet to such facility (the "Project Improvements"); (2) purchasing and installing equipment at the Stephens Boulevard Site as part of the installation of an additional manufacturing line to increase frozen dough output (the "Stephens Boulevard Equipment"); and, (3) purchasing and installing equipment at the existing Heartland Pet Food Manufacturing facility located at 8101 East 32nd Street in Joplin, Missouri (the "32nd Street Site") as part of the installation of additional manufacturing and packaging lines to increase output of pet food and treats (the "32nd Street Equipment," with the expansion and all new equipment collectively being the "Project"). The Council Bill authorizes the City to enter into certain agreements in connection with the issuance of the Bonds.

General Mills Operations, LLC, operates the Stephens Boulevard Site and Heartland Pet Food Manufacturing, Inc., operates the 32nd Street Site. Heartland Pet Food Manufacturing, Inc. is a subsidiary of General Mills, having been acquired by General Mills in 2018. Together, General Mills Operations, LLC, and Heartland Pet Food Manufacturing, Inc., are referred to as the "Companies."

DISCUSSION:

The project involves the expansion of an existing facility with an estimated cost of $13,000,000 for real property Project Improvements and the acquisition and installation of approximately $59,000,000 in equipment at the Stephens Boulevard Site and the 32nd Street Site (approximately $50,000,000 in Stephens Boulevard Equipment and approximately $9,000,000 in 32nd Street Equipment). The remaining Bond amount will cover the acquisition value of the Stephens Boulevard Site.

No Abatement on Existing Value

The existing Stephens Boulevard Site will not be subject to abatement. Under the Bond documents, a payment in lieu of tax will be made in each year calculated to equal the taxes that would otherwise be due on the existing Stephens Boulevard Site. The 32nd Street Site is already in City ownership pursuant to an existing plan for industrial development, which will not be affected by this Plan.

Abatement on Project Improvements

The Project Improvements will be subject to 100% abatement starting in 2024 and ending with tax year 2036. This is calculated to provide 12 years of abatement for the Project Improvements. The estimated value of abatement for the Project Improvements is $282,600.

Abatement on Project Equipment

The Stephens Boulevard Equipment and the 32nd Street Equipment will be subject to 100% abatement starting in 2025 and ending with tax year 2029. This is calculated to provide 5 years of abatement after installation of such equipment. The estimated value of abatement for the Stephens Boulevard Equipment is $1,943,311, and the estimated value of abatement for the 32nd Street Equipment is $334,400, for a total of $2,277,711 in Personal Property Taxes abated.

Total Chapter 100 Incentive

The Companies may also receive the benefit of applying the City's tax exemption certificate to purchases of construction materials for the Project Improvements. The total estimated benefit of the Chapter 100 incentive to the Companies is as follows:

Abatement on Project Improvements	$282,600
Abatement on Equipment	2,277,711
Sales and Use Tax Exemption on Construction Materials	737,263
Total Estimated Local Incentive	$3,297,574

Job Addition and Retention

The Companies currently employ approximately 581 employees at the Stephens Boulevard Site and approximately 273 employees at the 32nd Street Site. The Companies anticipate the addition of 47 jobs at the Stephens Boulevard Site but do not anticipate increasing employment at the 32nd Street Site.

Under the Performance Agreements, the Companies will be required to maintain certain minimum jobs and wage requirements at the project sites (based on the addition of jobs at the Stephens Boulevard Site and the retention of jobs at the 32nd Street Site). The Companies must also provide benefits commensurate with the benefits paid to other employees of the Companies in similar positions. If these

requirements are not met, the Companies will be required to make penalty payments to the taxing jurisdictions proportionate to the percentage of failure.

Other Benefits to the Joplin Area

General Mills is a leading global food manufacturer that has operated at the Stephens Boulevard Site since its acquisition of Pillsbury in 2000 and at the 32nd Street Site since it acquired Blue Buffalo / Heartland Pet Food in 2018. The company provides philanthropic support to local organizations in the communities that house its manufacturing plants and offices, with employees playing an active role by nominating local charities and organizing volunteer projects. The General Mills Global Hometown Grants program has provided support to the following organizations: Mercy Health Foundation (to support services at the Mercy Cancer Center in Joplin), Ozarks Food Harvest (to support Joplin school children), Children's Haven of Southwest Missouri, Spiva, Creative Learning Alliance, Joplin Trail Coalition, Special Olympics of Missouri and Moving Mountains, Inc. Such grants have totaled over $150,000 in funds donated. Currently, more than 20 members of the General Mills Joplin team volunteer in the Joplin community and 7 sit on community boards. In addition, General Mills donated food through its partner Feeding America in the amount of 125,589 pounds in fiscal year 2023 and 99,263 pounds in fiscal year 2024 (Q1-Q3), and Joplin area schools raised more than $25,000 in Box Tops for Education earnings since fiscal year 2019.

Chapter 100 Bonds

Chapter 100 Bonds will be offered at a public sale in accordance with the City's Charter. It is anticipated that the Companies and/or an affiliate or a related entity will place a bid to purchase the Bonds in the estimated aggregate principal amount of $77,300,000 to pay for the project costs and the costs of completing the Chapter 100 Bond transaction.

Chapter 100 Bonds are authorized pursuant to Chapter 100 of the Missouri Revised Statutes. This tax abatement tool provides for the City to be the actual owner of the Project. The Project is then leased to the Companies. During the time the Bonds remain unpaid and the City owns the Project, it is exempt from property taxes because title is held by the City as a tax-exempt entity. Chapter 100 Bonds are paid solely from revenue received from the lease of the Project and such Bonds are not an obligation or debt of the City, except for the obligation to apply lease payments to the bond debt service. Thus, in the unlikely event that the Companies were to default on the payment of their obligations under the Bond documents, the City is not liable to make such payments from any source other than revenue received from the leases. 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 Companies will agree to indemnify the City against any losses or liability that might arise out of the City's ownership of the Project. The Companies are also required to carry liability insurance to cover the City in an amount equal to the Missouri limits for waiver of

sovereign immunity.

RECOMMENDATION:
Staff recommends this be placed on First Reading.

CITY OF JOPLIN, MISSOURI,
the City

AND

UMB BANK, N.A.,
as Trustee

TRUST INDENTURE

Dated as of May 1, 2024

Relating to:

$68,300,000
(Aggregate Maximum Principal Amount)
City of Joplin, Missouri
Taxable Industrial Development Revenue Bonds
(Project Titan - Stephens Boulevard Location)
Series 2024

TRUST INDENTURE

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TRUST INDENTURE

THIS TRUST INDENTURE dated as of May 1, 2024 (the "Indenture"), is between the **CITY OF JOPLIN, MISSOURI**, a constitutional charter city and municipal corporation duly organized and existing under the laws of the State of Missouri (the "City"), and **UMB BANK, N.A.**, a national banking association duly organized and existing and authorized to accept and execute trusts of the character herein set forth under the laws of the United States of America, with a corporate trust office located in Kansas City, Missouri, as Trustee (the "Trustee");

RECITALS:

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

2. Pursuant to the Act, the City Council passed an ordinance (the "Ordinance") on May 20, 2024, authorizing the City to issue its Taxable Industrial Development Revenue Bonds (Project Titan - Stephens Boulevard Location), Series 2024, in the maximum principal amount of $68,300,000 (the "Bonds"), for the purpose of acquiring, constructing, improving, purchasing and equipping an existing General Mills facility located at 3007 Stephens Boulevard, also known as 3007 East 32nd Street, in the City (the "Project Site," as more fully described on **Exhibit A** hereto), including such land and the associated buildings, structures and fixtures, together with an expansion of approximately 33,328 square feet to such facility (the "Project Improvements," as more fully described on **Exhibit B** hereto) and equipment (the "Project Equipment," as more fully described on **Exhibit B** hereto, the Project Site, the Project Improvements, and the Project Equipment collectively being the "Project").

3. The Ordinance authorizes the City to lease the Project to General Mills Operations, LLC, a Delaware limited liability company (the "Company").

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

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

NOW, THEREFORE, THIS TRUST INDENTURE WITNESSETH:

GRANTING CLAUSES

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

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

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

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

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

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

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

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

ARTICLE I

DEFINITIONS

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

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

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

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

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

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

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

"Bond" or **"Bonds"** means the Taxable Industrial Development Revenue Bonds (Project Titan - Stephens Boulevard Location), Series 2024, in the maximum aggregate principal amount of $68,300,000, issued, authenticated and delivered under and pursuant to this Indenture.

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

"Bond Purchase Agreement" means the agreement by that name with respect to the Bonds, dated as of May 1, 2024, by and between the City and the Purchaser.

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

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

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

"Closing Price" means the amount specified in writing by the Purchaser and agreed to by the City as the amount required to pay for the initial issuance of the Bonds on the Closing Date.

"Company" means General Mills Operations, LLC, a Delaware limited liability company, and its successors or assigns.

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

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

"Cumulative Outstanding Principal Amount" means the aggregate principal amount of all Bonds Outstanding under the provisions of this Indenture, not to exceed $68,300,000, as reflected in the records maintained by the Trustee as provided in the Bonds and in this Indenture.

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

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

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

"Investment Securities" means any of the following securities:

(a) Government Securities;

(b) obligations of the Federal Financing Bank, the Federal Intermediate Credit Corporation, Federal Banks for Cooperatives and Federal Land Banks;

(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, and U.S. dollar denominated deposit accounts 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 or deposit accounts 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 that the aggregate market value of all such obligations securing each such certificate of deposit will at all times be an amount at least equal to the principal amount of each such certificate of deposit and the Trustee shall be entitled to rely on each such undertaking;

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

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

"Lease" means the Lease Agreement dated as of May 1, 2024, 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.

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

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

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

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

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

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

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

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

"Performance Agreement" means the Performance Agreement dated as of May 1, 2024, between the City and the Company, as amended and supplemented from time to time.

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

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

"Project Costs" means all costs of acquiring, purchasing, constructing, extending, improving and equipping the Project Site and the Project and of issuing the Bonds.

"Project Equipment" means the personal property to be acquired and installed at 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.

"Project Fund" means the "City of Joplin, Missouri, Project Fund -- Project Titan - Stephens Boulevard Location" created in **Section 501** hereof.

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

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

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

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

"State" means the State of Missouri.

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

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

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

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

"Unassigned Rights" means the City's rights under the Lease to receive moneys for its own account (including but not limited to payments in lieu of taxes), the City's rights to provide any consent or approval or enforce Lease provisions relating to compliance with law and conditions of the property, and the City's rights to indemnification or to be protected from liabilities by insurance policies required by the Lease, as provided in the Lease.

Section 102. Rules of Interpretation.

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

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

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

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

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

ARTICLE II

THE BONDS

Section 201. Title and Amount of Bonds. No Bonds may be issued under this Indenture except in accordance with the provisions of this Article. The Bonds authorized to be issued under this Indenture shall be designated as "City of Joplin, Missouri, Taxable Industrial Development Revenue Bonds (Project Titan - Stephens Boulevard Location), Series 2024." The maximum total principal amount of Bonds that may be issued hereunder is hereby expressly limited to $68,300,000.

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

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

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

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

Section 204. Method and Place of Payment of Bonds.

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

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

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

Schedule I as noted by the Trustee shall be conclusive evidence of the principal amount paid on the Bonds.

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

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

Section 205. Execution and Authentication of Bonds.

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

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

Section 206. Registration, Transfer and Exchange of Bonds.

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

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

Bonds, registered in the name of the transferee, of any denomination or denominations authorized by this Indenture, in an aggregate principal amount equal to the Outstanding principal amount of such Bond, of the same maturity and bearing interest at the same rate.

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

(d) If any Owner fails to provide a certified taxpayer identification number to the Trustee, the Trustee may make a charge against such Owner sufficient to pay any governmental charge required to be paid as a result of such failure, which amount may be deducted by the Trustee from amounts otherwise payable to such Owner under such Owner's Bond.

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

Section 208. Authorization of the Bonds.

(a) The Bonds are authorized in the aggregate maximum principal amount of $68,300,000 for the purpose of providing funds to pay the costs of the Project, which Bonds shall be designated "City of Joplin, Missouri, Taxable Industrial Development Revenue Bonds (Project Titan - Stephens Boulevard Location), Series 2024." The Bonds shall be dated as provided in **Section 203(b)** hereof, shall become due on **December 1, 2036** (subject to prior redemption as provided in **Article III** hereof) and shall bear interest as specified in **Section 208(f)** hereof, payable on the dates specified in **Section 208(f)** hereof.

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

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

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

(2) This Indenture, the Lease, the Performance Agreement and the Bond Purchase Agreement;

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

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

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

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

(d) When the documents specified in subsection (c) of this Section have been filed with the Trustee, and when the Bonds have been executed and authenticated as required by this Indenture, the Purchaser shall pay the Closing Price to the Trustee, and the Trustee shall endorse the Bonds in an amount equal to the Closing Price and then either hold the Bonds in trust or if so directed in writing deliver the Bonds to or upon the order of the Purchaser.

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

(f) The Bonds shall bear interest at the rate of 8.00% 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, 2024, and continuing thereafter until the Cumulative Outstanding Principal Amount is paid in full; provided that the aggregate maximum principal amount shall not exceed $68,300,000 and further provided that the Bonds shall be paid in full no later than **December 1, 2036**. Interest shall be calculated on the basis of a year of 360 days consisting of twelve months of 30 days each.

(g) The Trustee shall keep and maintain a record of the amount deposited or deemed to be deposited into the Project Fund pursuant to the terms of this Indenture as "Principal Amount Advanced" and shall enter the aggregate principal amount of the Bonds then Outstanding on its records as the

"Cumulative Outstanding Principal Amount." On each date upon which a portion of the Cumulative Outstanding Principal Amount is paid to the Owners, pursuant to the redemption provisions of this Indenture, the Trustee shall enter on its records the principal amount paid on the Bonds as "Principal Amount Redeemed," and shall enter the then Outstanding principal amount of the Bonds as "Cumulative Outstanding Principal Amount." The records maintained by the Trustee as to amounts deposited into the Project Fund or principal amounts paid on the Bonds shall be the official records of the Cumulative Outstanding Principal Amount for all purposes, absent manifest error, and shall be in substantially the form of the Table of Cumulative Outstanding Principal Amount as set out in the form of Bonds in **Exhibit C** hereto. If any moneys are deposited by the Trustee into the Project Fund, then the Trustee shall provide a statement of receipts and disbursements with respect thereto to the City and the Company on a monthly basis. After the Project has been completed and the certificate of payment of all costs is filed as provided in **Section 504** hereof, the Trustee, upon written request of the City or the Company, to the extent it has not already done so pursuant to this Section or **Section 1012** hereof, shall file a final statement of receipts and disbursements with respect thereto with the City and the Company.

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

Section 210. Cancellation and Destruction of Bonds Upon Payment.

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

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

ARTICLE III

REDEMPTION OF BONDS

Section 301. Redemption of Bonds.

(a) The Bonds are subject to redemption and payment at any time before the stated maturity thereof, at the option of the Company, (1) in whole, if the Company exercises its option to purchase the Project and deposits an amount sufficient to effect such purchase pursuant to the Lease on the applicable redemption date, or (2) in part, if the Company prepays additional Basic Rent pursuant to the Lease. If

only a portion of the Bonds are to be redeemed, (1) Bonds aggregating at least 10% of the maximum aggregate principal amount of Bonds authorized hereunder shall not be subject to redemption and payment before the stated maturity thereof, and (2) the Trustee shall keep a record of the amount of Bonds to remain Outstanding following such redemption. Any redemption of Bonds pursuant to this paragraph shall be at a redemption price equal to the par value thereof being redeemed, plus accrued interest thereon, without premium or penalty, to the redemption date.

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

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

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

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

Section 303. Notice of Redemption. If the Bonds are to be called for redemption as provided in **Section 301(a)** hereof, the Company shall deliver written notice to the City and the Trustee that it has elected to redeem all or a portion of the Bonds at least 40 days (10 days if the Company is the Owner) prior to the scheduled redemption date. The Trustee shall then deliver written notice to the Owners at least 30 days (five days if the Company is the Owner) prior to the scheduled redemption date by facsimile

and by first-class mail stating the date upon which the Bonds will be redeemed and paid, unless such notice period is waived by the Owners in writing.

ARTICLE IV

FORM OF BONDS

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

ARTICLE V

CUSTODY AND APPLICATION OF BOND PROCEEDS

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

(a) "City of Joplin, Missouri, Project Fund – Project Titan - Stephens Boulevard Location" (herein called the "Project Fund");

(b) "City of Joplin, Missouri, Costs of Issuance Fund – Project Titan - Stephens Boulevard Location" (herein called the "Costs of Issuance Fund"); and

(c) "City of Joplin, Missouri, Bond Fund – Project Titan - Stephens Boulevard Location" (herein called the "Bond Fund").

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

Section 503. Disbursements from the Project Fund.

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

(b) If, pursuant to **Section 208** hereof, the Trustee is deemed to have deposited into the Project Fund the amount specified in the requisition certificates submitted by the Company in accordance with the provisions of **Article IV** of the Lease, the Trustee shall upon endorsement of the Bonds in an

equal amount be deemed to have disbursed such funds from the Project Fund to the Company (or such other purchaser designated by the Company) in satisfaction of the requisition certificate.

(c) In paying any requisition under this Section, the Trustee may rely as to the completeness and accuracy of all statements in such requisition certificate if such requisition certificate is signed by the Authorized Company Representative. It is understood that the Trustee shall not make any inspections of the Project or Project Site nor of any improvements thereon, make any provision to obtain completion bonds, mechanic's or materialmen's lien releases or otherwise supervise any repair of any casualty loss or substitution of any condemnation loss in connection with the Project. The approval of each requisition certificate by the Authorized Company Representative shall constitute unto the Trustee an irrevocable determination that all conditions precedent to the payment of the specified amounts from the Project Fund have been completed. If the City so requests in writing, a copy of each requisition certificate submitted to the Trustee for payment under this Section shall be promptly provided by the Trustee to the City. The City hereby authorizes and directs the Trustee to make disbursements in the manner and as provided for by the aforesaid provisions of the Lease.

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

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

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

ARTICLE VI

REVENUES AND FUNDS

Section 601. Deposits Into the Bond Fund.

(a) The Trustee shall deposit into the Bond Fund, as and when received, (a) all accrued interest on the Bonds, if any, paid by the Purchaser; (b) all Basic Rent payable by the Company to the

City specified in **Section 5.1** of the Lease; (c) any Additional Rent payable by the Company specified in **Section 5.2** of the Lease; (d) any amount in the Project Fund to be transferred to the Bond Fund pursuant to **Section 504** hereof upon completion of the Project or pursuant to **Section 506** hereof upon acceleration of the Bonds; (e) any excess Net Proceeds (as defined in the Lease) of condemnation awards or insurance received by the Trustee pursuant to **Section 9.1(b)** or **Section 9.2(b)** of the Lease; (f) the amounts to be deposited in the Bond Fund pursuant to **Sections 9.1(f)** and **9.2(c)** of the Lease; (g) all interest and other income derived from investments of Bond Fund moneys as provided in **Section 702** hereof; and (h) all other moneys received by the Trustee under and pursuant to any of the provisions of the Lease when accompanied by written directions from the Person depositing such moneys that such moneys are to be paid into the Bond Fund.

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

Section 602. Application of Moneys in the Bond Fund.

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

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

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

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

Section 603. Payments Due on Days Other than Business Days. In any case where the date of maturity of principal of or interest, if any, on the Bonds or the date fixed for redemption of any Bonds

is not a Business Day, then payment of principal or interest, if any, need not be made on such date but may be made on the next succeeding Business Day with the same force and effect as if made on the date of maturity or the date fixed for redemption, and no interest, if any, shall continue to accrue for the period after such date.

Section 604. Nonpresentment of Bonds. If any Bond is not presented for payment when the principal thereof becomes due, either at maturity or otherwise, or at the date fixed for redemption thereof, if funds sufficient to pay such Bond shall have been made available to the Trustee, all liability of the City to the Owner thereof for the payment of such Bond shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Trustee to hold such fund or funds, without liability for interest thereon, for the benefit of the Owner of such Bond who shall thereafter be restricted exclusively to such fund or funds for any claim of whatever nature on his part under this Indenture or on, or with respect to, said Bond. If any Bond is not presented for payment within one year following the date when such Bond becomes due, whether by maturity or otherwise, the Trustee shall without liability for interest thereon repay to the Company the funds theretofore held by it for payment of such Bond, and such Bond shall, subject to the defense of any applicable statute of limitation, thereafter be an unsecured obligation of the Company, and the Owner thereof shall be entitled to look only to the Company for payment, and then only to the extent of the amount so repaid, and the Company shall not be liable for any interest thereon and shall not be regarded as a trustee of such money.

ARTICLE VII

SECURITY FOR DEPOSITS AND INVESTMENT OF FUNDS

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

Section 702. Investment of Moneys in Funds. Moneys held in the Project Fund and the Bond Fund shall, pursuant to written direction of the Company, signed by the Authorized Company Representative, be separately invested and reinvested by the Trustee in Investment Securities which mature or are subject to redemption by the Owner before the date such funds will be needed. Moneys in the Costs of Issuance fund shall be held un-invested. If the Company fails to provide written directions concerning investment of moneys held in the Project Fund and the Bond Fund, the Trustee shall invest in such Investment Securities specified in paragraph (e) of the definition of Investment Securities, provided they mature or are subject to redemption before the date such funds will be needed. The Trustee is specifically authorized to implement its automated cash investment system to assure that cash on hand is invested and to charge its normal cash management fees and cash sweep account fees, which may be deducted from income earned on investments; provided that any such fees shall not exceed the interest income on the investment. Any such Investment Securities shall be held by or under the control of the Trustee and shall be deemed at all times a part of the fund in which such moneys are originally held, and the interest accruing thereon and any profit realized from such Investment Securities shall be credited to such fund, and any loss resulting from such Investment Securities shall be charged to such fund. After the Trustee has notice pursuant to **Section 1001(h)** hereof of the existence of an Event of Default, the Trustee

shall direct the investment of moneys in the Bond Fund and the Project Fund. The Trustee shall sell and reduce to cash a sufficient amount of such Investment Securities whenever the cash balance in any Fund is insufficient for the purposes of such Fund. In determining the balance in any Fund, investments in such Fund shall be valued at the lower of their original cost or their fair market value as of the most recent Payment Date. The Trustee may make any and all investments permitted by the provisions of this Section through its own bond department or any affiliate or short-term investment department.

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

ARTICLE VIII

GENERAL COVENANTS AND PROVISIONS

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

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

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

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

Section 805. Recordings and Filings. The City shall file or cause to be kept and filed all financing statements, and hereby authorizes the Trustee to file or cause to be kept and filed continuation

statements with respect to such originally filed financing statements related to this Indenture in order to fully preserve and protect the security of the Owners and the rights of the Trustee hereunder provided a copy of the originally filed financing statement is timely delivered to the Trustee. Unless otherwise notified in writing by the Company or City, the Trustee may conclusively rely upon any originally filed financing statements in filing any continuation statements hereunder. The City will cooperate in causing this Indenture and all Supplemental Indentures, the Lease and all Supplemental Leases and all other security instruments to be recorded and filed in such manner and in such places as may be required by law in order to fully preserve and protect the security of the Owners and the rights of the Trustee hereunder.

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

Section 807. Enforcement of Rights Under the Lease.

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

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

ARTICLE IX

DEFAULT AND REMEDIES

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

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

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

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

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

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

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

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

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

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

Section 903. Surrender of Possession of Trust Estate; Rights and Duties of Trustee in Possession. If an Event of Default has occurred and is continuing after the notice and cure period described in **Section 901** hereof elapses, the City, upon demand of the Trustee, shall forthwith surrender the possession of, and it shall be lawful for the Trustee, by such officer or agent as it may appoint, to take possession of all or any part of the Trust Estate, together with the books, papers and accounts of the City pertaining thereto, and including the rights and the position of the City under the Lease, and to hold, operate and manage the same, and from time to time make all needful repairs and improvements. The Trustee may lease the Project or any part thereof, in the name and for account of the City, and collect,

receive and sequester the rents, revenues and receipts therefrom, and out of the same and any moneys received from any receiver of any part thereof pay, and set up proper reserves for the payment of all proper costs and expenses of so taking, holding and managing the same, including without limitation (a) reasonable compensation to the Trustee, its agents and counsel, (b) any reasonable charges of the Trustee hereunder, (c) any taxes and assessments and other charges having a lien that is senior to the lien of this Indenture, (d) all expenses of such repairs and improvements and (e) any amounts payable under the Performance Agreement. The Trustee shall apply the remainder of the moneys so received in accordance with the provisions of **Section 908** hereof. Whenever all that is due upon the Bonds has been paid and all defaults cured, the Trustee shall surrender possession of the Trust Estate to the City, its successors or assigns, the same right of entry, however, to exist upon any subsequent Event of Default. While in possession of such property, the Trustee shall render annually to the City and the Company a summarized statement of receipts and expenditures in connection therewith.

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

Section 905. Exercise of Remedies by the Trustee.

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

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

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

Section 906. Limitation on Exercise of Remedies by Owners. No Owner shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of this Indenture or for the execution of any trust hereunder or for the appointment of a receiver or any other remedy hereunder, unless (a) a default has occurred of which the Trustee has been notified as provided in

Section 1001(h) hereof or of which by said subsection the Trustee is deemed to have notice, (b) such default has become an Event of Default, (c) the Owners of 25% in aggregate principal amount of Bonds then Outstanding have made written request to the Trustee, have offered it reasonable opportunity either to proceed for such reasonable period not to exceed 60 days following such notice and to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name, and have offered to the Trustee indemnity as provided in **Section 1001(l)** hereof, and (d) the Trustee thereafter fails or refuses to exercise the powers herein granted or to institute such action, suit or proceeding in its own name; such notification, request and offer of indemnity are hereby declared in every case, at the option of the Trustee, to be conditions precedent to the execution of the powers and trusts of this Indenture, and to any action or cause of action for the enforcement of this Indenture, or for the appointment of a receiver or for any other remedy hereunder, it being understood and intended that no one or more Owners shall have any right in any manner whatsoever to affect, disturb or prejudice this Indenture by their action or to enforce any right hereunder except in the manner herein provided, and that all proceedings at law or equity shall be instituted, had and maintained in the manner herein provided and for the equal benefit of the Owners of all Bonds then Outstanding. Nothing in this Indenture contained shall, however, affect or impair the right of any Owner to payment of the principal of and interest on any Bond at and after the maturity thereof or the obligation of the City to pay the principal of and interest on each of the Bonds issued hereunder to the respective Owners thereof at the time, place, from the source and in the manner herein and in the Bonds expressed.

Section 907. Right of Owners to Direct Proceedings.

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

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

Section 908. Application of Moneys in Event of Default.

(a) All moneys received by the Trustee pursuant to any right given or action taken under the provisions of this Article shall, after payment *first* 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) and amounts to be paid pursuant to **Section 903** hereof, and *second* of any obligations outstanding under the Lease, be deposited in the Bond Fund and all moneys so deposited in the Bond Fund shall be applied as follows:

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

FIRST -- To the payment to the Persons entitled thereto of all installments of interest, if any, then due and payable on the Bonds, in the order in which such

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

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

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

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

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

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

Section 909. Remedies Cumulative. No remedy by the terms of this Indenture conferred upon or reserved to the Trustee or to the Owners is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Trustee or to the Owners hereunder or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right, power or remedy accruing upon any Event of Default shall impair any such right, power or remedy or shall be construed to be a waiver of any such Event of Default or acquiescence therein; every such right, power or remedy may be exercised from time to time and as often as may be deemed expedient. If the Trustee has proceeded to enforce any right under this Indenture by the appointment of a receiver, by entry, or otherwise, and such proceedings have been discontinued or

abandoned for any reason, or have been determined adversely, then and in every such case the City, the Company, the Trustee and the Owners shall be restored to their former positions and rights hereunder, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

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

ARTICLE X

THE TRUSTEE

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

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

(b) The Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or through agents, affiliates, attorneys or receivers and shall not be responsible for any misconduct or negligence on the part of any agent, attorney or receiver appointed or chosen by it with due care. The Trustee may conclusively rely upon and act or refrain from acting upon any opinion or advice of counsel, who may be counsel to the City or to the Company, concerning all matters of trust hereof and the duties hereunder, and may in all cases

pay such reasonable compensation to all such agents, attorneys and receivers as may reasonably be employed in connection with the trusts hereof. The Trustee shall not be responsible for any loss or damage resulting from any action or nonaction by it taken or omitted to be taken in good faith in reliance upon such opinion or advice of counsel addressed to the City and the Trustee.

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

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

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

(f) As to the existence or nonexistence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, or whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established before taking, suffering or omitting any action hereunder, the Trustee shall be entitled to rely upon a certificate signed by the Authorized City Representative or an Authorized Company Representative as sufficient evidence of the facts therein contained, and before the occurrence of a default of which the Trustee has been notified as provided in subsection (h) of this Section or of which by said subsection it is deemed to have notice, the Trustee shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient, but may at its discretion secure such further evidence deemed necessary or advisable, but shall in no case be bound to secure the same. The Trustee is under no duty to perform an independent investigation as to any statement or fact contained in any such certificate, opinion or advice it obtains regarding the accuracy or truth of any statement or correctness of any opinion. The Trustee shall not be liable for any action or inaction taken in good faith in reliance on such a certificate or any advice received from counsel, and the Trustee may conclusively rely as to the truth of the statements and the correctness of the opinions or statements expressed therein.

(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. In no event shall the Trustee be liable for consequential damages. The Trustee shall not be liable for any act or omission, in the absence of bad faith, when the Trustee reasonably believes the act or failure to act is authorized and within its powers to perform under the Indenture.

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

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

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

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

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

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

(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 and shall have no responsibility for compliance with any state or federal securities laws in connection with the Bonds.

(o) None of the provisions of this Indenture shall require the Trustee to expend or risk its own funds or otherwise to incur any liability, financial or otherwise, in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers if it shall have reasonable grounds for believing that repayment of such funds or indemnity satisfactory to it against such risk or liability is not assured to it.

(p) In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, pandemics, epidemics, recognized public emergencies, quarantine restrictions, hacking or cyber-attacks, or other use or infiltration of the Trustee's technological infrastructure exceeding authorized access, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Trustee shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

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

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

Section 1004. Intervention by the Trustee. In any judicial proceeding to which the City is a party and which, in the opinion of the Trustee and its counsel, has a substantial bearing on the interests of Owners, the Trustee may intervene on behalf of Owners and, subject to the provisions of **Section 1001(l)**

hereof, shall do so if requested in writing by the Owners of at least 25% of the aggregate principal amount of Bonds then Outstanding.

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

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

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 Company and the Owners and signed by the City. The Trustee's rights to indemnity and to any fees, charges or other amounts due and payable to it shall survive such removal.

Section 1008. Appointment of Successor Trustee. If the Trustee hereunder resigns or is removed, or otherwise becomes incapable of acting hereunder, or if it is taken under the control of any public officer or officers or of a receiver appointed by a court, a successor Trustee (a) reasonably acceptable to the City may be appointed by the Company (so long as no Event of Default has occurred and is continuing), or (b) reasonably acceptable to the City and the Company may be appointed by the Owners of a majority in aggregate principal amount of Bonds then Outstanding, by an instrument or concurrent instruments in writing; provided, nevertheless, that in case of such vacancy, the City, by an instrument executed and signed by its Mayor and attested by its City Clerk under its seal, may appoint a temporary Trustee to fill such vacancy until a successor Trustee shall be appointed in the manner above provided. Any such temporary Trustee so appointed by the City shall immediately and without further acts be superseded by the successor Trustee so appointed as provided above. Every such Trustee appointed pursuant to the provisions of this Section shall be a trust company or bank in good standing and qualified to accept such trust with a corporate trust office in the State, and having, or whose obligations are guaranteed by a financial institution having, a reported capital, surplus and undivided profits of not less than $50,000,000. If no successor Trustee has been so appointed and accepted appointment in the manner herein provided, the Trustee or any Owner may petition any court of competent jurisdiction for the appointment of a successor Trustee, until a successor shall have been appointed as above provided.

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

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

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

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

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

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

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

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

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

ARTICLE XI

SUPPLEMENTAL INDENTURES

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

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

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

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

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

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

Section 1102. Supplemental Indentures Requiring Consent of Owners.

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

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

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

Section 1104. Opinion of Counsel. In executing, or accepting the additional trusts created by, any Supplemental Indenture permitted by this Article or the modification thereby of the trusts created by this Indenture, the Trustee and the City shall receive, and, shall be fully protected in relying upon, an opinion of counsel addressed and delivered to the Trustee and the City stating that the execution of such Supplemental Indenture is permitted by and in compliance with this Indenture and will, upon the execution and delivery thereof, be a valid and binding obligation of the City. The Trustee may, but shall not be obligated to, enter into any such Supplemental Indenture which affects the Trustee's rights, duties or immunities under this Indenture or otherwise.

ARTICLE XII

SUPPLEMENTAL LEASES

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

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

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

ARTICLE XIII

SATISFACTION AND DISCHARGE OF INDENTURE

Section 1301. Satisfaction and Discharge of this Indenture.

(a) When the principal of and interest on all the Bonds have been paid in accordance with their terms or provision has been made for such payment, as provided in **Section 1302** hereof, and provision also made for paying all other sums payable hereunder and under the Lease and the Performance Agreement, including the reasonable fees and expenses of the Trustee, the City and Paying Agent to the date of retirement of the Bonds, then the right, title and interest of the Trustee in respect

hereof shall thereupon cease, determine and be void. Thereupon, the Trustee shall cancel, discharge and release this Indenture and shall upon the written request of the City or the Company execute, acknowledge and deliver to the City such instruments of satisfaction and discharge or release as shall be required to evidence such release and the satisfaction and discharge of this Indenture, and shall assign and deliver to the City (subject to the City's obligations under **Section 11.2** of the Lease) any property at the time subject to this Indenture which may then be in its possession, except amounts in the Bond Fund required to be paid to the Company under **Section 602** hereof and except funds or securities in which such funds are invested held by the Trustee for the payment of the principal of and interest on the Bonds.

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

Section 1302. Bonds Deemed to be Paid.

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

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

(c) Notwithstanding any provision of any other section of this Indenture which may be contrary to the provisions of this Section, all moneys or Government Securities set aside and held in trust pursuant to the provisions of this Section for the payment of Bonds shall be applied to and used solely for the payment of the particular Bonds, with respect to which such moneys and Government Securities have been so set aside in trust.

ARTICLE XIV

MISCELLANEOUS PROVISIONS

Section 1401. Consents and Other Instruments by Owners.

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

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

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

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

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

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

(a) To the City:

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

(b) To the Trustee:

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

(c) To the Company:

General Mills Operations, LLC, a Delaware limited liability company
_____
_____
Attn: _____

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

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

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

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

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

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

Section 1408. Electronic Notice to Trustee. The Trustee agrees to accept and act upon instructions or directions pursuant to this Indenture sent in writing or by electronic notice, provided, however, that such instructions or directions shall be signed by an Authorized Company Representative. If the Company elects to give the instructions by electronic notice, the Trustee may deem such instructions controlling. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. Pursuant to the Lease, the Company agrees to assume all risks arising out of the use of such electronic notice to submit instructions and directions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions, and the risk or interception and misuse by third parties.

[remainder of this page intentionally left blank]

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

CITY OF JOPLIN, MISSOURI

By: _____
Name: Douglas Lawson
Title: Mayor

[SEAL]

ATTEST:

By: _____
Name: Holly Nagy
Title: City Clerk

Approved as to form:

_____
City Attorney

UMB BANK, N.A.,
as Trustee

By _____
Name:
Title:

[SEAL]

ATTEST:

By _____
Name:
Title:

EXHIBIT A

PROJECT SITE

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

[**insert legal description**]

EXHIBIT B

PROJECT IMPROVEMENTS

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

The purchase and expansion of the existing General Mills facility located at 3007 Stephens Boulevard, also known as 3007 East 32nd Street, in Joplin, Missouri, including the addition of approximately 33,328 square feet to such facility, site improvements and related fixtures and improvements.

PROJECT EQUIPMENT

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

All items of machinery, equipment and parts or other personal property installed or acquired in the Project Improvements or elsewhere on the Project Site, relating to the installation of an additional manufacturing line to increase frozen dough output; provided that no personal property located at the Project Site prior to December 31, 2023 shall be included in the Project Equipment; and further provided that all personal property shall cease to be Project Equipment as of December 31, 2029.

EXHIBIT C

FORM OF BONDS

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

No. 1

Not to Exceed $68,300,000

UNITED STATES OF AMERICA
STATE OF MISSOURI

CITY OF JOPLIN, MISSOURI
TAXABLE INDUSTRIAL DEVELOPMENT REVENUE BOND
(PROJECT TITAN - STEPHENS BOULEVARD LOCATION)
SERIES 2024

Interest Rate	Maturity Date	Dated Date
8.00%	December 1, 2036	_____ ___, 2024

OWNER: **GENERAL MILLS OPERATIONS, LLC**

MAXIMUM PRINCIPAL AMOUNT: **SIXTY-EIGHT MILLION THREE HUNDRED THOUSAND DOLLARS**

THE CITY OF JOPLIN, MISSOURI, a constitutional charter city and municipal corporation duly organized and existing under the laws of the State of Missouri (the "City"), for value received, promises to pay, but solely from the source hereinafter referred to, to the Owner named above, or registered assigns thereof, on the Maturity Date shown above, the principal amount shown above, or such lesser amount as may be outstanding hereunder as reflected on **Schedule I** hereto held by the Trustee as provided in the hereinafter referred to Indenture. The City agrees to pay such principal amount to the Owner in any coin or currency of the United States of America which on the date of payment thereof is legal tender for the payment of public and private debts (or by book entry as provided in the Indenture and Lease), and in like manner to pay to the Owner hereof, either by check or draft mailed to the Owner at a stated address as it appears on the bond registration books of the City kept by the Trustee under the within mentioned Indenture or, in certain situations authorized in the Indenture, by internal bank transfer (or by book entry as provided in the Indenture and Lease), or by wire transfer to an account in a commercial bank or savings institution located in the continental United States. Interest on the Cumulative Outstanding Principal Amount (as hereinafter defined) at the per annum Interest Rate stated above, payable in arrears on each December 1, commencing on December 1, 2024, and continuing thereafter until the earlier of the date on which said Cumulative Outstanding Principal Amount is paid in full or the Maturity Date. Interest on each advancement of the principal amount of this Bond shall accrue from the date that such advancement is made, computed on the basis of a year of 360 days consisting of 12 months of 30 days each.

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

THIS BOND is one of a duly authorized series of Bonds of the City designated "City of Joplin, Missouri, Taxable Industrial Development Revenue Bonds (Project Titan - Stephens Boulevard Location), Series 2024," in the maximum aggregate principal amount of $68,300,000 (the "Bonds"), to be issued for the purpose of acquiring, constructing, improving and equipping a project located at 3007 Stephens Boulevard, also known as 3007 East 32nd Street, in the City (the "Project"). The City will lease the land on which the Project is located (the "Project Site"), the improvements thereon and equipment to be installed therein (collectively, the "Project") to a private sector company (the "Company"), under the terms of a Lease Agreement dated as of May 1, 2024 (said Lease Agreement, as amended and supplemented from time to time in accordance with the provisions thereof, being herein called the "Lease"), between the City and the Company, all pursuant to the authority of and in full compliance with the provisions, restrictions and limitations of the Constitution, the statutes of the State of Missouri, including particularly the Act, the charter of the City and pursuant to proceedings duly had by the Council of the City.

THE BONDS are issued under and are equally and ratably secured and entitled to the protection given by a Trust Indenture dated as of May 1, 2024 (said Trust Indenture, as amended and supplemented from time to time in accordance with the provisions thereof, being herein called the "Indenture"), between the City and UMB Bank, N.A., as trustee (the "Trustee"). *Capitalized terms not defined herein shall have the meanings set forth in the Indenture.*

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

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

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

THE OWNER of this Bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any Event of Default under the Indenture, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Indenture. In certain events, on the conditions, in the manner and with the effect set forth in the Indenture, the principal of all the Bonds issued under the Indenture and then Outstanding

may become or may be declared due and payable before the stated maturity thereof, together with interest accrued thereon. Modifications or alterations of this Bond or the Indenture may be made only to the extent and in the circumstances permitted by the Indenture.

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

THE BONDS are issuable in the form of one fully-registered Bond in the maximum principal amount of $68,300,000.

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

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

[remainder of page intentionally left blank]

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

CERTIFICATE OF AUTHENTICATION

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

Registration Date: _____

UMB Bank, N.A.,
as Trustee

By _____
Authorized Signatory

CITY OF JOPLIN, MISSOURI

By: _____
Mayor

ATTEST: (Seal)

_____
City Clerk

SCHEDULE I

TABLE OF CUMULATIVE OUTSTANDING PRINCIPAL AMOUNT

CITY OF JOPLIN, MISSOURI
TAXABLE INDUSTRIAL DEVELOPMENT REVENUE BOND
(PROJECT TITAN - STEPHENS BOULEVARD LOCATION)
SERIES 2024

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: _____.

_____

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

Place signature medallion below:

EXHIBIT D

FORM OF REPRESENTATION LETTER

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

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

Re: $68,300,000 Maximum Principal Amount of Taxable Industrial Development Revenue Bonds (Project Titan - Stephens Boulevard Location), Series 2024 of the City of Joplin, Missouri

Ladies and Gentlemen:

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

1. The Purchaser fully understands that (a) the Bonds have been issued under and pursuant to a Trust Indenture dated as of May 1, 2024 (the "Indenture"), between the City of Joplin, Missouri (the "City") and UMB Bank, N.A., as trustee (the "Trustee"), and (b) the Bonds are payable solely out of certain rents, revenues and receipts to be derived from the leasing or sale of the Project (as defined in the Indenture) to a private sector company (the "Company"), under a Lease Agreement dated as of May 1, 2024 (the "Lease"), between the City and the Company, with certain of such rents, revenues and receipts being pledged and assigned by the City to the Trustee under the Indenture to secure the payment of the principal of and interest on the Bonds.

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

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

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

5. The Company has (a) furnished to the Purchaser such information about itself as the Purchaser deems necessary in order for it to make an informed investment decision with respect to the

purchase of the Bonds, (b) made available to the Purchaser, during the course of this transaction, ample opportunity to ask questions of, and to receive answers from, appropriate officers of the City and the terms and conditions of the offering of the Bonds, and (c) provided to the undersigned all additional information which it has requested.

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

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

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

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

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

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

Dated: _____, 20___

[PURCHASER OF BONDS]

By:_____
Name: _____
Title: _____

CITY OF JOPLIN, MISSOURI,
As Lessor,

AND

GENERAL MILLS OPERATIONS, LLC,
As Lessee

LEASE AGREEMENT

Dated as of May 1, 2024

Relating to:

$68,300,000
(Aggregate Maximum Principal Amount)
City of Joplin, Missouri
Taxable Industrial Development Revenue Bonds
(Project Titan - Stephens Boulevard Location)
Series 2024

Certain rights of the City of Joplin, Missouri (the "City"), in this Lease Agreement have been pledged and assigned to UMB Bank, N.A., Kansas City, Missouri, as Trustee under the Trust Indenture dated as of May 1, 2024, between the City and the Trustee.

LEASE AGREEMENT

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LEASE AGREEMENT

THIS LEASE AGREEMENT, dated as of May 1, 2024 (the "Lease"), is between the **CITY OF JOPLIN, MISSOURI**, a constitutional charter city and municipal corporation duly organized and existing under the laws of the State of Missouri, as lessor (the "City"), and **GENERAL MILLS OPERATIONS, LLC**, a Delaware limited liability company, as lessee, and its successors or assigns, as permitted hereunder (the "Company");

RECITALS:

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

2. Pursuant to the Act, the City Council passed an ordinance (the "Ordinance") on May 20, 2024, authorizing the City to issue its Taxable Industrial Development Revenue Bonds (Project Titan - Stephens Boulevard Location), Series 2024, in the maximum principal amount of $68,300,000 (the "Bonds"), for the purpose of acquiring, constructing, improving, purchasing and equipping an existing General Mills facility located at 3007 Stephens Boulevard, also known as 3007 East 32nd Street, in the City (the "Project Site," as more fully described on **Exhibit A** hereto), including such land and the associated buildings, structures and fixtures, together with an expansion of approximately 33,328 square feet to such facility (the "Project Improvements," as more fully described on **Exhibit B** hereto) and equipment (the "Project Equipment," as more fully described on **Exhibit B** hereto, the Project Site, the Project Improvements, and the Project Equipment collectively being the "Project").

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

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

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

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

ARTICLE I

DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 1.2. Rules of Interpretation.

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

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

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

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

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

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

ARTICLE II

REPRESENTATIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE III

GRANTING PROVISIONS

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

Section 3.2. Lease Term. This Lease shall become effective upon its delivery, and subject to sooner termination pursuant to the provisions of this Lease, shall have a term commencing as of the date of this Lease and terminating on **December 1, 2036.**

Section 3.3. Possession and Use of the Project.

(a) The City covenants and agrees that as long as neither the City nor the Trustee has exercised any of the remedies set forth in **Section 12.2** hereof following the occurrence and continuance

of an Event of Default, as defined in **Section 12.1** hereof, the Company shall have sole and exclusive possession of the Project (subject to Permitted Encumbrances and the City's and the Trustee's right of access pursuant to **Section 10.3** hereof) and shall and may peaceably and quietly have, hold and enjoy the Project during the Lease Term. The City covenants and agrees that it will not take any action, other than expressly pursuant to **Article XII** hereof, to prevent the Company from having quiet and peaceable possession and enjoyment of the Project during the Lease Term and will, at the request and expense of the Company, cooperate with the Company in order that the Company may have quiet and peaceable possession and enjoyment of the Project and will defend the Company's enjoyment and possession thereof against all parties.

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

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

ARTICLE IV

CONSTRUCTION, IMPROVEMENT AND INSTALLATION OF THE PROJECT

Section 4.1. Issuance of the Bonds. To provide funds for the payment of Project Costs, the City agrees that, upon request of the Company, it will issue, sell and cause to be delivered the Bonds to the purchaser thereof in accordance with the provisions of the Indenture and the Bond Purchase Agreement. The proceeds of the sale of the Bonds, when received, shall be paid over to the Trustee for the account of the City. The Trustee shall promptly deposit such proceeds, when received, as provided in the Indenture, to be used and applied as hereinafter provided in this Lease and in the Indenture. Alternatively, the Trustee may, (pursuant to **Section 208** of the Indenture) 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. Acquisition, Construction, Improvement and Installation of the Project. The City and the Company agree that the Company, as the agent of the City, shall acquire, construct, improve and install the Project Improvements and the Project Equipment as follows:

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

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

(c) The Company will purchase and install the Project Equipment at the Project Site. The Company shall transfer title to the Project Equipment to the City from time to time by bills of sale or other instruments of transfer. On or before March 1 of each year or such other date required by law for reporting personal property declarations, the Company shall furnish to the City, Jasper County and the Trustee a list of items (based on the Company's internal record keeping) comprising the Project Equipment as of January 1 of such year. ***No item of personal property shall appear on the list of Project Equipment after December 31, 2029.*** The improper inclusion or exclusion of any Project Equipment pursuant to such list may be rectified by the Company within 30 days after notice of such improper inclusion or exclusion. The improper inclusion or exclusion of an item on or from such list shall not affect the items comprising the Project Equipment for the purpose of this Lease or title thereto as intended by the parties hereto. The Company shall provide such information to the City, Jasper County and the Trustee as may be requested in order to ensure that such list corresponds to the list of Project Equipment maintained by the Trustee pursuant to **Section 10.8**. Each bill of sale or other instrument of transfer and each personal property declaration form shall be of sufficient specificity so as to enable Jasper County's officials (including representatives of the Assessor's office) to determine which personal property as reported on the annual personal property declaration constitutes Project Equipment (and therefore is owned by the City) and which personal property does not constitute Project Equipment (and therefore is owned by the Company). The City and the Company agree that, pursuant to **Section 4.8**, property purchased in whole or in part by the Company with its own funds, and not Bond proceeds, shall not constitute part of the Project Equipment and shall remain the property of the Company and therefore subject to taxation. ***On December 31, 2029, title to all personal property comprising the Project Equipment shall be, and hereby is, conveyed to the Company, without further act of the City or the Company.***

(d) The Company agrees that it will use reasonable efforts to cause the acquisition, construction, improvement and installation of the Project to be completed as soon as practicable

with all reasonable dispatch. In the event such acquisition, construction, improvement and installation commences prior to the receipt of proceeds from the sale of the Bonds, the Company agrees to advance all funds necessary for such purpose.

(e) The Company will comply with the provisions of Section 107.170 of the Revised Statutes of Missouri, as amended, to the extent applicable to the construction of the Project and will not commence any portion of the Project for which a payment bond, to the extent so required, has not been delivered to the City.

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

Section 4.4. Payment for Project Costs. The City hereby authorizes and directs the Trustee to make disbursements from the Project Fund, upon receipt by the Trustee of certificates in substantially the form attached hereto as **Exhibit C**, signed by an Authorized Company Representative. 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 shall constitute unto the Trustee an irrevocable determination that all conditions precedent to the payments requested have been completed. The Trustee shall retain copies of all requisition certificates for the same period of record retention described in **Section 703** of the Indenture.

Section 4.5. Establishment of Completion Date. The Completion Date shall be evidenced to the Trustee by a certificate signed by the Authorized Company Representative stating (a) the acquisition, construction, improvement and installation of the Project has been substantially completed in substantial accordance with the Plans and Specifications, in all material respects, (b) that all costs and expenses incurred in the acquisition, construction, improvement and installation of the Project have been paid except costs and expenses the payment of which is not yet due or is being retained or contested in good faith by the Company, and (c) amounts to be retained by Trustee with respect to item (b) above. Notwithstanding the foregoing, such certificate shall state that it is given without prejudice to any rights against third parties which exist at the date of such certificate or which may subsequently come into being. The Company and the City agree to cooperate in causing such certificate to be furnished to the Trustee.

Section 4.6. Surplus or Deficiency in Project Fund.

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

(b) If the Project Fund shall be insufficient to pay fully all Project Costs and to complete the Project free of liens and encumbrances other than Permitted Encumbrances, the Company shall pay, in

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

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

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

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

ARTICLE V

RENT PROVISIONS

Section 5.1. Basic Rent. The Company covenants and agrees to pay to the Trustee in same day funds for the account of the City during this Lease Term, on or before 11:00 a.m., Trustee's local time, on or before each December 1 (each a "Payment Date"), commencing December 1, 2024 and continuing until the principal of and interest on the Bonds shall have been fully paid, as "Basic Rent" for the Project, an amount which, when added to any collected funds then on deposit in the Bond Fund and available for the payment of principal of the Bonds and the interest thereon on such Payment Date, shall be equal to the amount payable on such Payment Date as interest on the Bonds (except as offset pursuant to the right of the Company described herein). On **December 1, 2036** (or such earlier date as the Company may elect to redeem the Bonds), the Company shall also pay an amount equal to all principal

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

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

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

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

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

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

Section 5.3. Obligations of Company Absolute and Unconditional.

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

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

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

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

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

ARTICLE VI

MAINTENANCE, TAXES AND UTILITIES

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

Section 6.2. Taxes, Assessments and Other Governmental Charges.

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

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

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

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

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

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

ARTICLE VII

INSURANCE

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

Section 7.2. Property Insurance.

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

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

Section 7.3. Commercial General Liability Insurance.

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

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

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

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

ARTICLE VIII

ALTERATION OF THE PROJECT

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

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

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

Section 8.2. Removal and Replacement of Project Equipment.

(a) The Company may, if no uncured Event of Default (as defined in **Section 12.1** hereof) exists and is continuing, remove from the Project Site and sell, exchange, replace or otherwise dispose of, without responsibility or accountability to the City or the Trustee with respect thereto, any items of machinery and equipment, or parts thereof, which constitute a part of the Project Equipment and which have become inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary or which, in the sound discretion of the Company, are otherwise no longer useful to the Company in its operations. Before any such removal of any items of equipment or machinery with a then-market value of greater than $2,000,000 in the aggregate within any one calendar year, the Company shall deliver to the City and the Trustee a certificate signed by an Authorized Company Representative containing a complete description of any machinery or equipment that the Company proposes to remove. Upon request by the Company, the City will execute and deliver a bill of sale that transfers full and complete title to the Company of the Project Equipment removed. Notwithstanding anything contained herein to the contrary, title to any item of the Project removed from the Project Site shall automatically vest in the Company without further instrument or action, and such vesting of title shall be self-operative effective upon removal. Any Project Equipment removed from the Project Site shall no longer be entitled to the tax exemption afforded by virtue of the City's ownership thereof.

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

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

Section 8.4. Mechanics' Liens.

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

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

ARTICLE IX

DAMAGE, DESTRUCTION AND CONDEMNATION

Section 9.1. Damage or Destruction.

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

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

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

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

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

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

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

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

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

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

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

Section 9.2. Condemnation.

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

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

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

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

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

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

ARTICLE X

SPECIAL COVENANTS

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

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

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

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

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

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

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

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

(c) The City acknowledges and agrees that the Company may finance and refinance its rights and interests in the Project, this Lease and the leasehold estate created hereby and, in connection therewith, the Company may execute Financing Documents with one or more Financing Parties. Notwithstanding anything contained to the contrary in this Lease, the Company may, at any time and from time to time, with prior notice to but without the consent of the City, (i) execute one or more Financing Documents upon the terms contained in this **Section 10.4** and (ii) sublease or assign this Lease, the leasehold estate, any sublease and rights in connection therewith, and/or grant liens or security interests therein, to any Financing Party. Any further sublease or assignment by any Financing Party shall be subject to the provisions of **Section 13.1**.

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

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

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

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

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

foreclosure and to appoint a receiver for the Project, all without obtaining the prior written consent of the City but subject to the provisions of **Section 10.4(b)**;

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

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

(e) In connection with the execution of one or more Financing Documents, upon the request of the Company, the City agrees to execute such documents as shall be reasonably requested by a Financing Party and which are usual and customary in connection with the closing of the financing or refinancing pursuant to the Financing Documents, provided that the same shall not impose any additional liability or obligations on the City with respect to payments, notices or otherwise or change any terms of this Lease. The Company agrees to reimburse the City for any and all costs and expenses incurred by the City pursuant to this Section, including reasonable attorneys' fees and expenses, in complying with such request, up to a maximum of $10,000 with respect to any one request.

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 (collectively, the "Indemnified Parties") 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 the Performance Agreement, this Lease, the Bond Purchase Agreement or the Indenture (including any violation by the Company of, or failure by the Company to comply with, any federal or state securities laws in connection with the Bonds) and from the conduct or management of, or from any work or thing done in or on the Project during the Lease Term, and against and from all claims, demands, costs, liabilities, damages or expenses, including reasonable attorneys' fees, arising during the Lease Term from (a) any condition of the Project, (b) any breach or default on the part of the Company in the performance of any of its obligations under the Performance Agreement, this Lease or any related document, (c) any contract entered into in connection with the purchase, construction, extension, improvement or equipping of the Project, (d) any act of negligence of the Company or of any of its agents, contractors, servants, employees or licensees, (e) any liability of an Indemnified Party resulting from a failure to comply with Section 107.170 of the Revised Statues of Missouri, as amended, with respect to the Project, (f) unless the Company has been released from liability pursuant to **Section 13.1**, 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, (g) obtaining any applicable state and local sales and use tax exemptions for materials or goods that become part of the Project, and (h) any claim relating to the presence on, escape or removal from the Project during the term of the Lease of any hazardous substance or other material regulated by any applicable Environmental Law, or compliance with any applicable Environmental Law, whether such claim arises before, during or after the term of this Lease, including claims relating to personal injury or damage to property; provided, however, the indemnification contained in this **Section 10.5** shall not extend to (i) the City if such claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, are the result of work being performed at the Project by employees of the City or the result of negligence or willful misconduct by the City (except in the case of failure to comply with Section 107.170), or (ii) the Trustee if such claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, are the result of the negligence or willful misconduct of the Trustee or (iii) the City for any claim relating to the failure of such party to perform its obligations under this Lease or the Indenture. 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 or the satisfaction and discharge of the Indenture.

In case any action shall be brought against one or more of the Indemnified Parties based upon the foregoing indemnification and in respect of which indemnity may be sought against the Company, the Indemnified Parties shall promptly notify the Company in writing and the Company shall promptly assume the defense thereof, including the employment of counsel satisfactory to the Indemnified Parties, the payment of all reasonable expenses and the right to negotiate and consent to settlement. If the Company shall have wrongfully failed to assume the defense of such action, the reasonable fees and expenses of counsel retained by the Indemnified Party shall be paid by the Company. If any of the Indemnified Parties is advised by counsel retained by the Company to defend such action that there may be legal defenses available to it which are adverse to or in conflict with those available to the Company or any other Indemnified Party, and that the defense of such Indemnified Party should be handled by separate counsel, the Company shall not have the right to assume the defense of such Indemnified Party, but shall be responsible for the reasonable fees and expenses of counsel retained by such Indemnified Party in assuming its own defense. Any one or more of the Indemnified Parties shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but except as otherwise set forth in this Section, the fees and expenses of such counsel shall be at the expense of such Indemnified Party or Indemnified Parties unless employment of such counsel has been specifically authorized by the Company. The Company shall not be liable for any settlement of any such action effected without its consent by any of the Indemnified Parties, but if settled with the consent of the Company or if there be a final judgment for the plaintiff in any such action against the Company or any of the Indemnified Parties, with or without the consent of the Company, the provided that the Company was given prompt written notice and the ability to assume the defense thereof as required by this paragraph, the Company agrees to indemnify and hold harmless the Indemnified Parties to the extent provided herein.

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

Section 10.7. Company to Maintain its Corporate Existence. The Company agrees that until the Bonds are paid or payment is provided for in accordance with the terms of the Indenture, it will maintain its existence, and will not dissolve or otherwise dispose of all or substantially all of its assets; provided, however, that the Company may, without violating the agreement contained in this Section,

consolidate with or merge into another Person or permit one or more other Persons to consolidate with or merge into it, or may sell or otherwise transfer to another Person all or substantially all of its assets as an entirety and thereafter cease operations, dissolve and/or convert into a different type of legal entity, if the surviving, resulting or transferee Person expressly assumes in writing all the obligations of the Company contained in this Lease and the Performance Agreement.

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

ARTICLE XI

OPTION AND OBLIGATION TO PURCHASE THE PROJECT

Section 11.1. Option to Purchase the Project.

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

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

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

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

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

(5) the sum of $10.00.

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

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

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

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

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

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

(5) the sum of $10.00.

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

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

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

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

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

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

Section 11.4. Obligation to Purchase the Project.

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

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

ARTICLE XII

DEFAULTS AND REMEDIES

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

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

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

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

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

Section 12.2. Remedies on Default. If any Event of Default referred to in **Section 12.1** hereof has occurred and continues beyond the period provided to cure, then the City may at the City's election (subject, however, to any restrictions against acceleration of the maturity of the Bonds or termination of this Lease in the Indenture), then or at any time thereafter, and while such default continues, take any one or more of the following actions:

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

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

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

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

Section 12.5. Rights and Remedies Cumulative. The rights and remedies reserved by the City and the Company hereunder are in addition to those otherwise provided by law and shall be construed as cumulative and continuing rights. No one of them shall be exhausted by the exercise thereof on one or more occasions. The City and the Company shall each be entitled to specific performance and

injunctive or other equitable relief for any breach or threatened breach of any of the provisions of this Lease, notwithstanding the availability of an adequate remedy at law, and each party hereby waives the right to raise such defense in any proceeding in equity. Notwithstanding anything in this **Section 12.5** or elsewhere in this Lease to the contrary, however, the Company's option to purchase the property as provided in **Article XI** above shall not be terminated upon an Event of Default unless and until this Lease is terminated to the extent permitted pursuant to **Section 12.2(b)** above.

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

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

ARTICLE XIII

ASSIGNMENT AND SUBLEASE

Section 13.1. Assignment; Sublease.

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

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

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

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

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

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

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

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

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

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

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

ARTICLE XIV

AMENDMENTS, CHANGES AND MODIFICATIONS

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

ARTICLE XV

MISCELLANEOUS PROVISIONS

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

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

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

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

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

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

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

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

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

Section 15.10 Complete Agreement. THE COMPANY AND THE CITY UNDERSTAND THAT ORAL OR UNEXECUTED AGREEMENTS OR COMMITMENTS TO LOAN MONEY, EXTEND CREDIT OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT INCLUDING PROMISES TO EXTEND OR RENEW SUCH DEBT ARE NOT ENFORCEABLE. TO PROTECT THE COMPANY AND THE CITY FROM MISUNDERSTANDING OR DISAPPOINTMENT, ANY AGREEMENTS THE COMPANY AND THE CITY REACH COVERING SUCH MATTERS ARE CONTAINED IN THIS LEASE AND THE PERFORMANCE AGREEMENT, WHICH ARE THE COMPLETE AND EXCLUSIVE STATEMENTS OF THE AGREEMENT BETWEEN THE COMPANY AND THE CITY, EXCEPT AS THE COMPANY AND THE CITY MAY LATER AGREE IN WRITING TO MODIFY THIS LEASE OR THE PERFORMANCE AGREEMENT.

[remainder of page intentionally left blank]

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

CITY OF JOPLIN, MISSOURI

By: _____
Name: Douglas Lawson
Title: Mayor

[SEAL]

ATTEST:

By: _____
Name: Holly Nagy
Title: City Clerk

Approved as to form:

_____
City Attorney

GENERAL MILLS OPERATIONS, LLC,
a Delaware limited liability company

By: _____
Name:
Title:

EXHIBIT A

PROJECT SITE

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

[**insert legal description**]

EXHIBIT B

PROJECT IMPROVEMENTS

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

The purchase and expansion of the existing General Mills facility located at 3007 Stephens Boulevard, also known as 3007 East 32nd Street, in Joplin, Missouri, including the addition of approximately 33,328 square feet to such facility, site improvements and related fixtures and improvements.

PROJECT EQUIPMENT

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

All items of machinery, equipment and parts or other personal property installed or acquired in the Project Improvements or elsewhere on the Project Site, relating to the installation of an additional manufacturing line to increase frozen dough output; provided that no personal property located at the Project Site prior to December 31, 2023 shall be included in the Project Equipment; and further provided that all personal property shall cease to be Project Equipment as of December 31, 2029.

EXHIBIT C

FORM OF REQUISITION CERTIFICATE

Requisition No. _____
Date: _____

REQUISITION CERTIFICATE

TO: UMB BANK, N.A., AS TRUSTEE UNDER A TRUST INDENTURE DATED AS OF MAY 1, 2024, BETWEEN CITY OF JOPLIN, MISSOURI, AND THE TRUSTEE, AND THE LEASE AGREEMENT DATED AS OF MAY 1, 2024, BETWEEN CITY OF JOPLIN, MISSOURI AND GENERAL MILLS OPERATIONS, LLC, A DELAWARE LIMITED LIABILITY COMPANY.

The undersigned Authorized Company Representative hereby states and certifies that:

1. The total shown on **Schedule 1** is requested to pay for Project Costs (as defined in the Indenture) of the Project Improvements and/or Project Equipment.

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

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

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

5. With respect to any personal property described in this Requisition Certificate and for which Project Costs are disbursed pursuant to this Requisition Certificate, in consideration of such disbursement, such personal property is hereby BARGAINED and SOLD, and the Company by these presents does now GRANT and CONVEY, unto the CITY OF JOPLIN, MISSOURI, and its successors and assigns, all of its right, title and interest, if any, in and to such personal property, and such personal property shall constitute a portion of the "Project" as defined under the Lease Agreement dated as of May 1, 2024, 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.

6. The Authorized Company Representative (i) certifies they have reviewed any wire instructions set forth in this written disbursement direction to confirm such wire instructions are accurate, and (ii) agrees they will not seek recourse from the Trustee as a result of losses incurred by it for making the disbursement in accordance with this disbursement direction.

GENERAL MILLS OPERATIONS, LLC

By: _____
Authorized Company Representative

SCHEDULE 1 TO REQUISITION CERTIFICATE

PROJECT COSTS

Payee and Address	Description	Amount

APPENDIX I

PERFORMANCE AGREEMENT

$68,300,000
(AGGREGATE MAXIMUM PRINCIPAL AMOUNT)
CITY OF JOPLIN, MISSOURI
TAXABLE INDUSTRIAL DEVELOPMENT REVENUE BONDS
(PROJECT TITAN - STEPHENS BOULEVARD LOCATION)
SERIES 2024

DATED AS OF MAY 1, 2024

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, General Mills Operations, LLC, a Delaware limited liability company (the "Purchaser"), offers to purchase from the City of Joplin, Missouri (the "City"), the above-referenced series of Taxable Industrial Development Revenue Bonds (the "Bonds"), to be issued by the City, under and pursuant to Ordinance No. _____ passed by the governing body of the City on May 20, 2024 (the "Ordinance") and a Trust Indenture dated as of May 1, 2024 (the "Indenture"), by and between the City and UMB Bank, N.A., Kansas City, Missouri, as trustee (the "Trustee"). Capitalized terms not otherwise defined herein shall have the meanings set forth in **Section 101** of the Indenture.

SECTION 1. REPRESENTATIONS AND AGREEMENTS

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

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

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

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

(b) The Purchaser represents as follows:

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

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

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

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

SECTION 2. PURCHASE, SALE AND DELIVERY OF THE BONDS

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

The Bonds shall be sold to the Purchaser by the City on the Closing Date (hereinafter defined) upon payment of an amount equal to the Closing Price (hereinafter defined) for the Bonds, which amount shall be applied as provided in the Indenture and shall thereafter on the Closing Date immediately be applied to the payment of Project Costs as provided in the Lease. From time to time after the Closing Date as additional Project Costs are incurred, the Purchaser may make additional payments with respect to the Bonds ("Additional Payments") to the Trustee, which Additional Payments shall constitute the purchase price for corresponding additional principal amounts of the Bonds, and shall be applied to the payment of Project Costs or as otherwise provided in the Indenture, and the outstanding principal amount of the Bonds shall increase by each such Additional Payment; provided that the sum of the Closing Price and all such Additional Payments for the Bonds shall not, in the aggregate, exceed $68,300,000.

As used herein, the term "Closing Date" shall mean May 31, 2024, or such other date as shall be mutually agreed upon by the City and the Purchaser; the term "Closing Price" shall mean, with respect to the Bonds, that certain amount specified in writing by the Purchaser and agreed to by the City in the Certificate as to Closing Price.

The Bonds shall be issued under and secured as provided in the Ordinance, the Indenture and the Lease authorized thereby and the Bonds shall have the maturity, interest rate and shall be subject to redemption as set forth therein. The delivery of the Bonds shall be made in definitive form as a fully registered bond in the maximum aggregate principal denomination of $68,300,000; provided, that the principal amount of the Bonds outstanding at any time shall be that amount recorded in the official bond registration records of the Trustee and further provided that interest shall be payable on the Bonds only on the outstanding principal amount of the Bonds, as more fully provided in the Indenture.

SECTION 3. CONDITIONS TO THE PURCHASER'S OBLIGATIONS

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

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

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

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

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

SECTION 4. THE PURCHASER'S RIGHT TO CANCEL

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

SECTION 5. CONDITIONS OF OBLIGATIONS

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

SECTION 6. REPRESENTATIONS AND AGREEMENTS TO SURVIVE DELIVERY

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

SECTION 7. PAYMENT OF EXPENSES

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

SECTION 8. NOTICE

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

SECTION 9. APPLICABLE LAW; ASSIGNABILITY

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

SECTION 10. EXECUTION OF COUNTERPARTS

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

[remainder of page intentionally left blank]

Executed as of the date first written above

Very truly yours,

GENERAL MILLS OPERATIONS, LLC,
a Delaware limited liability company,
as Purchaser

By: _____
Name:
Title:

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

GENERAL MILLS OPERATIONS, LLC,
a Delaware limited liability company,
as Company

By: _____
Name:
Title:

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

CITY OF JOPLIN, MISSOURI

By: _____
Name: Doug Lawson
Title: Mayor

[SEAL]

ATTEST:

By: _____
Name: Holly Nagy
Title: City Clerk

Approved as to form:

_____
City Attorney

PERFORMANCE AGREEMENT

Dated as of May 1, 2024

BETWEEN

THE CITY OF JOPLIN, MISSOURI

AND

GENERAL MILLS OPERATIONS, LLC

PERFORMANCE AGREEMENT

THIS PERFORMANCE AGREEMENT, dated as of May 1, 2024, as from time to time amended and supplemented in accordance with the provisions hereof (this "Agreement"), between the **CITY OF JOPLIN, MISSOURI**, a constitutional charter city organized and existing under the laws of the State of Missouri (the "City"), and **GENERAL MILLS OPERATIONS, LLC**, a Delaware limited liability company (the "Company").

RECITALS:

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

2. Pursuant to the Act, the City Council passed an ordinance (the "Ordinance") on May 20, 2024, authorizing the City to issue its Taxable Industrial Development Revenue Bonds (Project Titan - Stephens Boulevard Location), Series 2024, in the maximum principal amount of $68,300,000 (the "Bonds"), for the purpose of acquiring, constructing, improving, purchasing and equipping an existing General Mills facility located at 3007 Stephens Boulevard, also known as 3007 East 32nd Street, in the City (the "Project Site"), including such land and the associated buildings, structures and fixtures, together with an expansion of approximately 33,328 square feet to such facility (the "Project Improvements") and equipment (the "Project Equipment," with the Project Site, the Project Improvements, and the Project Equipment collectively being the "Project");

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

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

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

ARTICLE I

DEFINITIONS

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

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

"Agreement" means this Performance Agreement dated as of May 1, 2024, between the City and the Company, as from time to time amended and supplemented in accordance with the provisions hereof.

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

"Base Wage" means an amount not less than 90% of the county average wage for Jasper County, Missouri, published by the Missouri Department of Economic Development through its Missouri Economic Research and information Center (MERIC) (or its successor) calculated as follows: for the year of determination, the sum of: (a) base wages paid, plus (b) incentive and bonuses awarded to those persons which are engaged in the Jobs hereunder, divided by the average number of Jobs maintained at the Project Site for such year.

"CBA" means the Cost Benefit Analysis attached to the Plan for an Industrial Development Project for Manufacturing Facilities (Project Titan) dated April 2, 2024 and approved by the City in connection with the Project.

"Chamber" means the Joplin Area Chamber of Commerce.

"County" means Jasper County, Missouri.

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

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

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

"Job" means a full-time equivalent employment position of the Company of not less than 35 hours per week at the Project Site (provided that part time positions can be aggregated to equal a full time equivalent position, i.e. two 0.5 full-time equivalent employment positions equals one Job), which includes employee benefits offered by the Company to similarly situated employees (which shall include the Company paying at least 50% of such employee's health insurance premiums) and all such Jobs, when averaged together, pay an average wage equivalent (when aggregated to a full time basis) equal to or greater than the current Base Wage. Positions filled by workers who are not directly employed by the Company or its affiliates do not qualify as "Jobs" for purposes of this definition. Accordingly, Jobs may be full time or part time. Jobs may pay more or less than Base Wage, provided all Jobs, when averaged together, equal or exceed the Base Wage.

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

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

"Project" means, collectively, the Project Site, the Project Improvements and the Project Equipment as they may exist from time to time.

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

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

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

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

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

"Required Number of Jobs" means 625 Jobs.

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

"Test Date" means September 30 of each year, beginning on September 30, 2025, and ending on September 30, 2036.

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

ARTICLE II

ISSUANCE OF BONDS

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

ARTICLE III

PROPERTY TAX EXEMPTION; PILOT PAYMENTS

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

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

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

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

(a) In the event the Company fails to spend at least $54,640,000 (approximately 80% of anticipated Project Costs) on the Project on or before September 30, 2025 (as certified to the Trustee and the City through requisition certificates submitted to the Trustee in accordance with the Lease Agreement), the Company shall make Additional PILOT Payments in an amount equal to the Investment Deficiency Percentage (calculated as shown below) multiplied by the amount of the difference between the PILOT Payments and the Taxes Otherwise Due during the year in which the failure occurs and any subsequent year in which such failure persists as of September 30 of such year and during which the Exemption applies by virtue of City ownership. The Investment Deficiency Percentage shall be calculated, beginning at zero percent (0%) for compliance, in accordance with the following formula, with the result expressed as a percentage:

Investment Deficiency Percentage = (1 – (certified Project Costs / $54,640,000)) x 100.

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

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

a = Highest number of Jobs during the 90 day period ending on Test Date, and
b = Required Number of Jobs for the Test Date.

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

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

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

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

(2) the amount shown as the "Estimated Assessed Value of Project Improvements" for the applicable year on page 4 of the CBA; *plus*

(3) the amount shown as the "Estimated Assessed Value of Stephens Boulevard Equipment" for the applicable year on page 7 of the CBA;

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

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

The City covenants that it will not act or fail to act in a manner that may cause or induce the Exemption to not be recognized. The City covenants that it will not act or fail to act in a manner that may cause or induce any levy or assessment of Property Taxes on the Project. In the event such a levy or assessment of Property Taxes should occur, the City shall, at the Company's request and at the

Company's expense, cooperate with the Company in all reasonable ways to prevent and/or remove any levy or assessment of Property Taxes against the Project. Nothing herein shall prevent the Company from paying any such levy or assessment of Property Taxes under protest.

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

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

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

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

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

Section 3.10. PILOT Reserve Account.

(a) On or prior to the issuance date of the Bonds (and as a condition precedent to the issuance of the Bonds), the Company shall deposit $115,000 (the "PILOT Reserve Requirement") to an account held by a financial institution designated in writing by the City (the "PILOT Reserve Account"), by check or electronic transfer at the direction of the City. The City shall hold the PILOT Reserve Account separate and apart from other funds of the City. If, by 5:00 P.M. on any date on which a PILOT Payment is due under this Agreement (or the following business day if such date does not fall on a business day), the City (or the County if the City has directed the Company to make payment to the County) has not received payment from the Company in the amount of the PILOT Payment due on such date, the City may withdraw an amount equal to such PILOT Payment from the PILOT Reserve Account and apply such funds to the payment of such PILOT Payment.

(b) If any funds are withdrawn from the PILOT Reserve Account in accordance with subsection (a), above, the Company shall replenish the balance of the PILOT Reserve Account to the PILOT Reserve Requirement within 10 days after receipt by the Company of written notice sent by the City by certified mail stating the failure to receive payment of the PILOT Payment, the amount of funds withdrawn from the PILOT Reserve Account and applied to payment of the PILOT Payment, and the difference between the balance in the PILOT Reserve Account and the PILOT Reserve Requirement, which is to be replenished by the Company. Failure by the Company to replenish the PILOT Reserve Account within such 10-day period by check or electronic transfer to the City shall constitute an Event of Default for purposes of this Agreement and the Lease without the passage of additional time or opportunity for cure.

(c) Any interest earnings on funds held in the PILOT Reserve Account shall be the property of the Company. If requested by the Company after payment of the PILOT Payment due on December 1 in any year, the City shall remit by check to the Company any amounts in the PILOT Reserve Account in excess of the PILOT Reserve Requirement (provided that no such remittance shall be required for an amount less than $5,000).

(d) On December 1, 2036, the balance of the PILOT Reserve Account shall be applied by the City to payment of the PILOT Payments due on such date. Any amounts remaining in the PILOT Reserve Account after payment of all PILOT Payments due and owing on such date shall be promptly returned to the Company.

ARTICLE IV

COVENANTS, REPRESENTATIONS AND AGREEMENTS

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

Section 4.2. Representations and Warranties.

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

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

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

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

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

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

(6) To the Company's knowledge, the Project is and will be in material compliance with all applicable federal, state and local laws, statutes, ordinances, rules, regulations, executive orders and codes pertaining to or affecting the Project, including environmental laws, subject to all applicable rights of the Company to contest the same.

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

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

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

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

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

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

Section 4.4. Sales and Use Tax Exemption.

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

(b) *[Reserved].*

(c) *Liability for Sales Determined to be Taxable.* Upon a determination by the Missouri Department of Revenue that any purchase made using a project exemption certificate described herein was not exempt from sales or use tax, the Company shall pay to the Missouri Department of Revenue all sales or use taxes so determined to be due (whether by virtue of failure of the Company to comply with the terms of this Agreement or the procedures and requirements of DED or otherwise). The Company shall indemnify and defend the City and its respective officers, employees and agents against and from any and all causes of action or actions in law or equity, liens, claims damages, loss, costs or expenses of any nature whatsoever by any person or entity, arising out of the City's furnishing of the project exemption certificates to the Company or its affiliates. There shall be no reduction in PILOT Payments or Additional PILOT Payments for any sales or use taxes paid by the Company in connection with the Project.

Section 4.5. City Administrative Costs. The Company shall reimburse the City for costs of administering the plan, including costs associated with this Agreement, in an amount equal to $5,000 per year. Such amount will be due to the City on December 1 of each year.

ARTICLE V

SALE AND ASSIGNMENT

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

ARTICLE VI

DEFAULT AND REMEDIES

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

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

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

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

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

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

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

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

ARTICLE VII

TERM OF AGREEMENT

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

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

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

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

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

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

ARTICLE VIII

MISCELLANEOUS PROVISIONS

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

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

Section 8.3. Severability; Effect of Invalidity. If for any reason any provision of this Agreement shall be determined to be invalid or unenforceable, such invalid or unenforceable term will be deemed severed from this Agreement and the validity and enforceability of the other provisions hereof shall not be affected thereby (except in the event that the Exemption is determined to be invalid or unenforceable, then the provisions requiring any PILOT Payments or Additional PILOT Payments shall also be deemed invalid and unenforceable). If this Agreement, or any portion hereof, or any agreements related hereto, are determined to be invalid, the City may not recover or recapture any taxes subject to abatement as provided herein or benefits accruing to the Company prior to such determination if the Company has paid the PILOT Payments and Additional PILOT Payments due under this Agreement prior to such date.

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

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

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

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

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

Section 8.9. Employee Verification. The Company will comply with and satisfy the requirements of Section 285.530.2, RSMo. with respect to the Project, which requires (1) any business entity receiving tax abatement to, by sworn affidavit and provision of documentation, annually affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the Project, and (2) every such business entity to annually sign an affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the Project. The Company shall provide such affidavits and documentation to the City on or before December 1 of each year during the term of this Agreement, beginning December 1, 2024.

[remainder of page intentionally left blank]

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

CITY OF JOPLIN, MISSOURI

By: _____
Name: Douglas Lawson
Title: Mayor

[SEAL]

ATTEST:

By: _____
Name: Holly Nagy
Title: City Clerk

Approved as to form:

_____
City Attorney

GENERAL MILLS OPERATIONS, LLC,
a Delaware limited liability company

By: _____
Name:
Title:

EXHIBIT A

ANNUAL JOBS REPORT –GENERAL MILLS OPERATIONS, LLC PROJECT

To be filed with the City and the Chamber on or before November 15 of each year during the term of the Lease Agreement, starting on November 15, 2025:

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

The undersigned, duly authorized representative of GENERAL MILLS OPERATIONS, LLC hereby states and certifies that the information set forth in this report is true and correct.

Authorized Signature	Date
Contact Name	Phone Number

Please send form to:

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

and

Director of Planning, Development and Neighborhood Services
602 S. Main Street
Joplin, MO 64801

EXHIBIT B

SCHEDULE OF PILOT PAYMENTS

	Year	Payment in Lieu of Taxes
Construction	2024	$95,363
Abatement Year 1	2025	98,224
Abatement Year 2	2026	98,224
Abatement Year 3	2027	101,171
Abatement Year 4	2028	101,171
Abatement Year 5	2029	104,206
Abatement Year 6	2030	104,206
Abatement Year 7	2031	107,332
Abatement Year 8	2032	107,332
Abatement Year 9	2033	110,552
Abatement Year 10	2034	110,552
Abatement Year 11	2035	113,869
Abatement Year 12	2036	113,869

CITY OF JOPLIN, MISSOURI,
the City

AND

UMB BANK, N.A.,
as Trustee

TRUST INDENTURE

Dated as of May 1, 2024

Relating to:

$9,000,000
(Aggregate Maximum Principal Amount)
City of Joplin, Missouri
Taxable Industrial Development Revenue Bonds
(Project Titan - 32nd Street Location)
Series 2024

TRUST INDENTURE

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TRUST INDENTURE

THIS TRUST INDENTURE dated as of May 1, 2024 (the "Indenture"), is between the **CITY OF JOPLIN, MISSOURI**, a constitutional charter city and municipal corporation duly organized and existing under the laws of the State of Missouri (the "City"), and **UMB BANK, N.A.**, a national banking association duly organized and existing and authorized to accept and execute trusts of the character herein set forth under the laws of the United States of America, with a corporate trust office located in Kansas City, Missouri, as Trustee (the "Trustee");

RECITALS:

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

2. Pursuant to the Act, the City Council passed an ordinance (the "Ordinance") on May 20, 2024, authorizing the City to issue its Taxable Industrial Development Revenue Bonds (Project Titan - 32nd Street Location), Series 2024, in the maximum principal amount of $9,000,000 (the "Bonds"), for the purpose of acquiring and installing certain equipment (the "Project Equipment," as more fully described on **Exhibit B** hereto) at the existing Heartland Pet Food Manufacturing facility located at 8101 East 32nd Street in Joplin, Missouri (the "Project Site") as part of the installation of additional manufacturing and packaging lines to increase output of pet food and treats at the Project Site.

3. The Ordinance authorizes the City to lease the Project Equipment to Heartland Pet Food Manufacturing, LLC, a Delaware limited liability company (the "Company").

4. Pursuant to the Ordinance, the City is authorized to execute and deliver (a) this Indenture for the purpose of issuing and securing the Bonds, (b) the Lease Agreement of even date herewith (the "Lease") with the Company, under which the City, as lessor, will, or will cause the Company to, acquire 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, and (c) the Performance Agreement for the purpose of setting forth the terms and conditions of the Project Equipment's exemption from ad valorem personal property taxes and payments in lieu of taxes to be made by the Company with respect to the Project Equipment under certain circumstances.

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

NOW, THEREFORE, THIS TRUST INDENTURE WITNESSETH:

GRANTING CLAUSES

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

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

(b) All right, title and interest of the City in, to and under the Lease (excluding the Unassigned Rights), and all rents, revenues and receipts derived by the City from the Project 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 or now or hereafter required to be paid to the Trustee under the terms of this Indenture, and any and all other personal property of every kind and nature from time to time hereafter, by delivery or by writing of any kind, pledged, assigned or transferred as and for additional security hereunder by the City or by anyone in its behalf, or with its written consent, to the Trustee, which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof.

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

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

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

THIS INDENTURE FURTHER WITNESSETH, and it is hereby expressly declared, covenanted and agreed by and between the parties hereto, that all Bonds issued and secured hereunder are

to be issued, authenticated and delivered and that all the Trust Estate is to be held and applied under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed, and the City does hereby agree and covenant with the Trustee and with the respective Owners from time to time, as follows:

ARTICLE I

DEFINITIONS

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

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

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

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

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

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

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

"Bond" or **"Bonds"** means the Taxable Industrial Development Revenue Bonds (Project Titan - 32nd Street Location), Series 2024, in the maximum aggregate principal amount of $9,000,000, issued, authenticated and delivered under and pursuant to this Indenture.

"Bond Fund" means the "City of Joplin, Missouri, Bond Fund -- Project Titan - 32nd Street Location" created in **Section 501** of this Indenture.

"Bond Purchase Agreement" means the agreement by that name with respect to the Bonds, dated as of May 1, 2024, by and between the City and the Purchaser.

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

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

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

"Closing Price" means the amount specified in writing by the Purchaser and agreed to by the City as the amount required to pay for the initial issuance of the Bonds on the Closing Date.

"Company" means Heartland Pet Food Manufacturing, LLC, a Delaware limited liability company, and its successors or assigns.

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

"Costs of Issuance Fund" means the "City of Joplin, Missouri, Costs of Issuance Fund -- Project Titan - 32nd Street Location" created in **Section 501** hereof.

"Cumulative Outstanding Principal Amount" means the aggregate principal amount of all Bonds Outstanding under the provisions of this Indenture, not to exceed $9,000,000, as reflected in the records maintained by the Trustee as provided in the Bonds and in this Indenture.

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

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

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

"Investment Securities" means any of the following securities:

(a) Government Securities;

(b) obligations of the Federal Financing Bank, the Federal Intermediate Credit Corporation, Federal Banks for Cooperatives and Federal Land Banks;

(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, and U.S. dollar denominated deposit accounts 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 or deposit accounts 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 that the aggregate market value of all such obligations securing each such certificate of deposit will at all times be an amount at least equal to the principal amount of each such certificate of deposit and the Trustee shall be entitled to rely on each such undertaking;

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

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

"Lease" means the Lease Agreement dated as of May 1, 2024, 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.

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

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

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

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

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

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

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

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

"Performance Agreement" means the Performance Agreement dated as of May 1, 2024, between the City and the Company, as amended and supplemented from time to time.

"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 acquiring and installing the Project Equipment and of issuing the Bonds.

"Project Equipment" means the personal property to be acquired and installed at 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.

"Project Fund" means the "City of Joplin, Missouri, Project Fund -- Project Titan - 32nd Street Location" created in **Section 501** hereof.

"Project Site" means the location described in **Exhibit A** attached hereto and by this reference made a part hereof.

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

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

"State" means the State of Missouri.

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

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

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

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

"Unassigned Rights" means the City's rights under the Lease to receive moneys for its own account (including but not limited to payments in lieu of taxes), the City's rights to provide any consent or approval or enforce Lease provisions relating to compliance with law and conditions of the property, and the City's rights to indemnification or to be protected from liabilities by insurance policies required by the Lease, as provided in the Lease.

Section 102. Rules of Interpretation.

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

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

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

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

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

ARTICLE II

THE BONDS

Section 201. Title and Amount of Bonds. No Bonds may be issued under this Indenture except in accordance with the provisions of this Article. The Bonds authorized to be issued under this Indenture shall be designated as "City of Joplin, Missouri, Taxable Industrial Development Revenue Bonds (Project Titan - 32nd Street Location), Series 2024." The maximum total principal amount of Bonds that may be issued hereunder is hereby expressly limited to $9,000,000.

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,

the State or any political subdivision thereof, and neither the City, the State or related political subdivision thereof shall be liable thereon, and the Bonds shall not constitute an indebtedness within the meaning of any constitutional, charter or statutory debt limitation or restriction, and are not payable in any manner by taxation.

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

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

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

Section 204. Method and Place of Payment of Bonds.

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

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

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

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

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

Lease in an amount equal to the remaining principal on the Bond so tendered for cancellation plus accrued interest thereon.

Section 205. Execution and Authentication of Bonds.

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

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

Section 206. Registration, Transfer and Exchange of Bonds.

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

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

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

(d) If any Owner fails to provide a certified taxpayer identification number to the Trustee, the Trustee may make a charge against such Owner sufficient to pay any governmental charge required to be paid as a result of such failure, which amount may be deducted by the Trustee from amounts otherwise payable to such Owner under such Owner's Bond.

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

Section 208. Authorization of the Bonds.

(a) The Bonds are authorized in the aggregate maximum principal amount of $9,000,000 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 Development Revenue Bonds (Project Titan - 32nd Street Location), Series 2024." The Bonds shall be dated as provided in **Section 203(b)** hereof, shall become due on **December 1, 2029** (subject to prior redemption as provided in **Article III** hereof) and shall bear interest as specified in **Section 208(f)** hereof, payable on the dates specified in **Section 208(f)** hereof.

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

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

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

(2) This Indenture, the Lease, the Performance Agreement and the Bond Purchase Agreement;

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

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

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

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

(d) When the documents specified in subsection (c) of this Section have been filed with the Trustee, and when the Bonds have been executed and authenticated as required by this Indenture, the Purchaser shall pay the Closing Price to the Trustee, and the Trustee shall endorse the Bonds in an amount equal to the Closing Price and then either hold the Bonds in trust or if so directed in writing deliver the Bonds to or upon the order of the Purchaser.

(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 set forth in the requisition, endorse the Bonds in an amount equal to the amount set forth in each requisition certificate. The date of endorsement of each Principal Amount Advanced (as defined in subsection (g) below) as set forth on **Schedule I** to the Bonds shall be the date of the Trustee's receipt of each requisition certificate. The Company shall be deemed to have paid over to the Trustee, and the Trustee shall be deemed to have deposited into the Project Fund, an amount equal to the amount of such requisition. The Trustee shall, at the time of each endorsement, send revised **Schedule I** to the Bonds via facsimile or electronic mail to the Owner and the Company (if not the sole Owner of the Bonds) and the City. The Trustee shall keep a record of the total requisitions submitted by the Company for the Project Equipment, and shall notify the Company and the City in writing if the requisitions submitted exceed the maximum principal amount of the Bonds.

(f) The Bonds shall bear interest at the rate of 8.00% 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, 2024, and continuing thereafter until the Cumulative Outstanding Principal Amount is paid in full; provided that the aggregate maximum principal amount shall not exceed $9,000,000 and further provided that the Bonds shall be paid in full no later than **December 1, 2029**. Interest shall be calculated on the basis of a year of 360 days consisting of twelve months of 30 days each.

(g) The Trustee shall keep and maintain a record of the amount deposited or deemed to be deposited into the Project Fund pursuant to the terms of this Indenture as "Principal Amount Advanced" and shall enter the aggregate principal amount of the Bonds then Outstanding on its records as the "Cumulative Outstanding Principal Amount." On each date upon which a portion of the Cumulative Outstanding Principal Amount is paid to the Owners, pursuant to the redemption provisions of this Indenture, the Trustee shall enter on its records the principal amount paid on the Bonds as "Principal Amount Redeemed," and shall enter the then Outstanding principal amount of the Bonds as "Cumulative Outstanding Principal Amount." The records maintained by the Trustee as to amounts deposited into the Project Fund or principal amounts paid on the Bonds shall be the official records of the Cumulative Outstanding Principal Amount for all purposes, absent manifest error, and shall be in substantially the form of the Table of Cumulative Outstanding Principal Amount as set out in the form of Bonds in **Exhibit C** hereto. If any moneys are deposited by the Trustee into the Project Fund, then the Trustee shall provide a statement of receipts and disbursements with respect thereto to the City and the Company on a monthly basis. After the Project Equipment has been completed and the certificate of payment of all costs is filed as provided in **Section 504** hereof, the Trustee, upon written request of the City or the

Company, to the extent it has not already done so pursuant to this Section or **Section 1012** hereof, shall file a final statement of receipts and disbursements with respect thereto with the City and the Company.

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

Section 210. Cancellation and Destruction of Bonds Upon Payment.

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

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

ARTICLE III

REDEMPTION OF BONDS

Section 301. Redemption of Bonds.

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

(b) The Bonds are subject to mandatory redemption, in whole or in part, to the extent of amounts deposited in the Bond Fund pursuant to **Section 9.1** or **9.2** of the Lease, in the event of substantial damage to or destruction or condemnation of substantially all of the Project 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. Before giving notice of redemption to the Owners pursuant to this paragraph (b), money in an amount equal to the redemption price shall have been deposited in the Bond Fund.

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

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

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

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

ARTICLE IV

FORM OF BONDS

Section 401. Form Generally. The Bonds and the Trustee's Certificate of Authentication to be endorsed thereon shall be issued in substantially the forms set forth in **Exhibit C** hereto. The Bonds may have endorsed thereon such legends or text as may be necessary or appropriate to conform to any

applicable rules and regulations of any governmental authority or any custom, usage or requirements of law with respect thereto.

ARTICLE V

CUSTODY AND APPLICATION OF BOND PROCEEDS

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

(a) "City of Joplin, Missouri, Project Fund – Project Titan - 32nd Street Location" (herein called the "Project Fund");

(b) "City of Joplin, Missouri, Costs of Issuance Fund – Project Titan - 32nd Street Location" (herein called the "Costs of Issuance Fund"); and

(c) "City of Joplin, Missouri, Bond Fund – Project Titan - 32nd Street Location" (herein called the "Bond Fund").

Section 502. Deposits into the Project Fund. The proceeds of the sale of the Bonds (whether actually paid or deemed paid under **Section 208** hereof), including Additional Payments provided for in the Bond Purchase Agreement, when received, excluding such amounts required to be paid into the Bond Fund pursuant to **Section 601** hereof, shall be deposited by the Trustee into the Project Fund. Any money received by the Trustee from any other source for the purpose of 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** hereof, the Trustee is deemed to have deposited into the Project Fund the amount specified in the requisition certificates submitted by the Company in accordance with the provisions of **Article IV** of the Lease, the Trustee shall upon endorsement of the Bonds in an equal amount be deemed to have disbursed such funds from the Project Fund to the Company (or such other purchaser designated by the Company) in satisfaction of the requisition certificate.

(c) In paying any requisition under this Section, the Trustee may rely as to the completeness and accuracy of all statements in such requisition certificate if such requisition certificate is signed by the Authorized Company Representative. It is understood that the Trustee shall not make any inspections of the Project Equipment or Project Site nor of any improvements thereon, make any provision to obtain completion bonds, mechanic's or materialmen's lien releases or otherwise supervise any repair of any casualty loss or substitution of any condemnation loss in connection with the Project Equipment. The approval of each requisition certificate by the Authorized Company Representative shall constitute unto the Trustee an irrevocable determination that all conditions precedent to the payment of the specified

amounts from the Project Fund have been completed. If the City so requests in writing, a copy of each requisition certificate submitted to the Trustee for payment under this Section shall be promptly provided by the Trustee to the City. The City hereby authorizes and directs the Trustee to make disbursements in the manner and as provided for by the aforesaid provisions of the Lease.

Section 504. Completion of the Project Equipment. The completion of the acquisition 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 after the Completion Date any balance remaining in the Project Fund shall without further authorization be transferred by the Trustee to the Bond Fund and applied as provided in **Section 4.6** of the Lease.

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

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

ARTICLE VI

REVENUES AND FUNDS

Section 601. Deposits Into the Bond Fund.

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

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

Section 602. Application of Moneys in the Bond Fund.

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

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

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

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

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

Section 604. Nonpresentment of Bonds. If any Bond is not presented for payment when the principal thereof becomes due, either at maturity or otherwise, or at the date fixed for redemption thereof, if funds sufficient to pay such Bond shall have been made available to the Trustee, all liability of the City to the Owner thereof for the payment of such Bond shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Trustee to hold such fund or funds, without liability for interest thereon, for the benefit of the Owner of such Bond who shall thereafter be restricted

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

ARTICLE VII

SECURITY FOR DEPOSITS AND INVESTMENT OF FUNDS

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

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

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

ARTICLE VIII

GENERAL COVENANTS AND PROVISIONS

Section 801. Payment of Principal and Interest. The City covenants and agrees that it will, but solely from the rents, revenues and receipts derived from the Project 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 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 shall file or cause to be kept and filed all financing statements, and hereby authorizes the Trustee to file or cause to be kept and filed continuation statements with respect to such originally filed financing statements related to this Indenture in order to fully preserve and protect the security of the Owners and the rights of the Trustee hereunder provided a copy of the originally filed financing statement is timely delivered to the Trustee. Unless otherwise notified in writing by the Company or City, the Trustee may conclusively rely upon any originally filed financing statements in filing any continuation statements hereunder. The City will cooperate in causing this Indenture and all Supplemental Indentures, the Lease and all Supplemental Leases and all other security instruments to be recorded and filed in such manner and in such places as may be required by law in order to fully preserve and protect the security of the Owners and the rights of the Trustee hereunder.

Section 806. Inspection of Project Books. The City covenants and agrees that all books and documents in its possession relating to the Project 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.

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

(b) The City covenants and agrees that it will enforce all of its rights and all of the obligations of the Company (at the expense of the Company) under the Lease to the extent necessary to preserve the Project 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 Unassigned Rights and any rights under the Performance Agreement) 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;

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

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

No default specified above shall constitute an Event of Default until the Trustee or the Owners of 25% in aggregate principal amount of all Bonds Outstanding has given actual notice of such default by registered or certified mail to the City and the Company, and the City and the Company have had 30 days after receipt of such notice to correct said default or cause said default to be corrected and have not corrected said default or caused said default to be corrected within such period; provided, however, if any

such default (other than a default in the payment of any money) is such that it cannot be corrected within such period, it shall not constitute an Event of Default if corrective action is instituted by the City or the Company (as the case may be) within such period and diligently pursued until the default is corrected. While the Company shall have no obligation to cure any default under this Indenture (except for such defaults as result from a default under **Section 12.1** of the Lease), the cure of any default hereunder by the Company shall be accepted as if such cure was made by the City.

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

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

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

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

Section 903. Surrender of Possession of Trust Estate; Rights and Duties of Trustee in Possession. If an Event of Default has occurred and is continuing after the notice and cure period described in **Section 901** hereof elapses, the City, upon demand of the Trustee, shall forthwith surrender the possession of, and it shall be lawful for the Trustee, by such officer or agent as it may appoint, to take possession of all or any part of the Trust Estate, together with the books, papers and accounts of the City pertaining thereto, and including the rights and the position of the City under the Lease, and to hold, operate and manage the same, and from time to time make all needful repairs and improvements. The Trustee may lease the Project 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 having a lien that is senior to the lien of this Indenture, (d) all expenses of such repairs and improvements and (e) any amounts payable under the Performance Agreement. The Trustee shall apply the remainder of the moneys so received in accordance with the provisions of **Section 908** hereof. Whenever all that is due upon the Bonds has been paid and all defaults cured, the Trustee shall surrender possession of the Trust Estate to the City, its successors or assigns, the same right of entry, however, to exist upon any subsequent Event of Default.

While in possession of such property, the Trustee shall render annually to the City and the Company a summarized statement of receipts and expenditures in connection therewith.

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

Section 905. Exercise of Remedies by the Trustee.

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

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

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

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

for any other remedy hereunder, it being understood and intended that no one or more Owners shall have any right in any manner whatsoever to affect, disturb or prejudice this Indenture by their action or to enforce any right hereunder except in the manner herein provided, and that all proceedings at law or equity shall be instituted, had and maintained in the manner herein provided and for the equal benefit of the Owners of all Bonds then Outstanding. Nothing in this Indenture contained shall, however, affect or impair the right of any Owner to payment of the principal of and interest on any Bond at and after the maturity thereof or the obligation of the City to pay the principal of and interest on each of the Bonds issued hereunder to the respective Owners thereof at the time, place, from the source and in the manner herein and in the Bonds expressed.

Section 907. Right of Owners to Direct Proceedings.

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

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

Section 908. Application of Moneys in Event of Default.

(a) All moneys received by the Trustee pursuant to any right given or action taken under the provisions of this Article shall, after payment *first* 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) and amounts to be paid pursuant to **Section 903** hereof, and *second* of any obligations outstanding under the Lease, be deposited in the Bond Fund and all moneys so deposited in the Bond Fund shall be applied as follows:

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

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

SECOND -- To the payment to the Persons entitled thereto of the unpaid principal of any of the Bonds which shall have become due and payable (other than Bonds called for redemption for the payment of which moneys are held pursuant to the provisions of this Indenture), in the order of their due dates, and, if the amount available shall not be sufficient to pay in full Bonds due on any particular date, together with such

interest, then to the payment, ratably, according to the amount of principal due on such date, to the Persons entitled thereto without any discrimination or privilege.

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

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

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

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

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

Section 910. Waivers of Events of Default. The Trustee shall waive any Event of Default hereunder and its consequences and rescind any declaration of maturity of principal of and interest, if any, on Bonds, and only upon the written request of the Owners of at least 50% in aggregate principal amount of all the Bonds then Outstanding, provided, however, that (1) there shall not be waived without the consent of the City an Event of Default hereunder arising from an Event of Default under **Section 12.1(a)** of the Lease (but only if such Event of Default is based upon the nonpayment of Additional Rent),

Section 12.1(b) of the Lease (but only with respect to Unassigned Rights), or **Section 12.1(c)** or **(d)** of the Lease, and (2) there shall not be waived without the consent of the Owners of all the Bonds Outstanding (a) any Event of Default in the payment of the principal of any Outstanding Bonds when due (whether at the date of maturity or redemption specified therein), or (b) any Event of Default in the payment when due of the interest on any such Bonds, unless prior to such waiver or rescission, all arrears of interest, or all arrears of payments of principal when due, as the case may be, and all reasonable expenses of the Trustee and the City (including reasonable attorneys' fees and expenses), in connection with such default, shall have been paid or provided for. In case of any such waiver or rescission, or in case any proceeding taken by the Trustee on account of any such default shall have been discontinued or abandoned or determined adversely, then and in every such case the City, the Company, the Trustee and the Owners shall be restored to their former positions, rights and obligations hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other default, or impair any right consequent thereon, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

ARTICLE X

THE TRUSTEE

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

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

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

(c) The Trustee shall not be responsible for any recital herein or in the Bonds (except with respect to the Certificate of Authentication of the Trustee endorsed on the Bonds), or except as provided in the Lease and particularly **Section 10.8** thereof, for the recording or rerecording, filing or refiling of this Indenture or any security agreement in connection therewith (excluding the continuation of Uniform Commercial Code financing statements), or for insuring the Project 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, unless the Trustee has acted with negligence or willful misconduct in following the specific investment instructions given by the Company.

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

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

(f) As to the existence or nonexistence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, or whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established before taking, suffering or omitting any action hereunder, the Trustee shall be entitled to rely upon a certificate signed by the Authorized City Representative or an Authorized Company Representative as sufficient evidence of the facts therein contained, and before the occurrence of a default of which the Trustee has been notified as provided in subsection (h) of this Section or of which by said subsection it is deemed to have notice, the Trustee shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient, but may at its discretion secure such further evidence deemed necessary or advisable, but shall in no case be bound to secure the same. The Trustee is under no duty to perform an independent investigation as to any statement or fact contained in any such certificate, opinion or advice it obtains regarding the accuracy or truth of any statement or correctness of any opinion. The Trustee shall not be liable for any action or inaction taken in good faith in reliance on such a certificate or any advice received from counsel, and the Trustee may conclusively rely as to the truth of the statements and the correctness of the opinions or statements expressed therein.

(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. In no event shall the Trustee be liable for consequential damages. The Trustee shall not be liable for any act or omission, in the absence of bad faith,

when the Trustee reasonably believes the act or failure to act is authorized and within its powers to perform under the Indenture.

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

(i) At any and all reasonable times and subject to the Company's reasonable and standard security procedures, the Trustee and its duly authorized agents, attorneys, experts, engineers, accountants and representatives may, but shall not be required to, inspect any and all of the Project 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 may, but shall not be required to, demand, in respect of the authentication of any Bonds, the withdrawal of any cash, the release of any property, or any action whatsoever within the purview of this Indenture, any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required, as a condition of such action by the Trustee deemed desirable for the purpose of establishing the right of the City to the authentication of any Bonds, the withdrawal of any cash, or the taking of any other action by the Trustee.

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

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

(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 and shall have no responsibility for compliance with any state or federal securities laws in connection with the Bonds.

(o) None of the provisions of this Indenture shall require the Trustee to expend or risk its own funds or otherwise to incur any liability, financial or otherwise, in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers if it shall have

reasonable grounds for believing that repayment of such funds or indemnity satisfactory to it against such risk or liability is not assured to it.

(p) In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, pandemics, epidemics, recognized public emergencies, quarantine restrictions, hacking or cyber-attacks, or other use or infiltration of the Trustee's technological infrastructure exceeding authorized access, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Trustee shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

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

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

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

Section 1005. Successor Trustee Upon Merger, Consolidation or Sale. With the prior written consent of the Company, any corporation or association into which the Trustee may be merged or

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

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

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 Company and the Owners and signed by the City. The Trustee's rights to indemnity and to any fees, charges or other amounts due and payable to it shall survive such removal.

Section 1008. Appointment of Successor Trustee. If the Trustee hereunder resigns or is removed, or otherwise becomes incapable of acting hereunder, or if it is taken under the control of any public officer or officers or of a receiver appointed by a court, a successor Trustee (a) reasonably acceptable to the City may be appointed by the Company (so long as no Event of Default has occurred and is continuing), or (b) reasonably acceptable to the City and the Company may be appointed by the Owners of a majority in aggregate principal amount of Bonds then Outstanding, by an instrument or concurrent instruments in writing; provided, nevertheless, that in case of such vacancy, the City, by an instrument executed and signed by its Mayor and attested by its City Clerk under its seal, may appoint a temporary Trustee to fill such vacancy until a successor Trustee shall be appointed in the manner above provided. Any such temporary Trustee so appointed by the City shall immediately and without further acts be superseded by the successor Trustee so appointed as provided above. Every such Trustee appointed pursuant to the provisions of this Section shall be a trust company or bank in good standing and qualified to accept such trust with a corporate trust office in the State, and having, or whose obligations are guaranteed by a financial institution having, a reported capital, surplus and undivided profits of not less than $50,000,000. If no successor Trustee has been so appointed and accepted appointment in the manner herein provided, the Trustee or any Owner may petition any court of competent jurisdiction for the appointment of a successor Trustee, until a successor shall have been appointed as above provided.

Section 1009. Vesting of Trusts in Successor Trustee. Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the City and the Company an instrument in writing accepting such appointment hereunder, and thereupon such successor shall, without any further act, deed or conveyance, become fully vested with all the trusts, powers, rights, obligations, duties, remedies, immunities and privileges of its predecessor and the duties and obligations of such predecessor hereunder shall thereafter cease and terminate; but such predecessor shall,

nevertheless, on the written request of the City, execute and deliver an instrument transferring to such successor Trustee all the trusts, powers, rights, obligations, duties, remedies, immunities and privileges of such predecessor hereunder; every predecessor Trustee shall deliver all securities and moneys held by it as Trustee hereunder to its successor. Should any instrument in writing from the City be required by any predecessor or successor Trustee for more fully and certainly vesting in such successor the trusts, powers, rights, obligations, duties, remedies, immunities and privileges hereby vested in the predecessor, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the City.

Section 1010. Right of Trustee to Pay Taxes and Other Charges. If any tax, assessment or governmental or other charge upon, or insurance premium with respect to, any part of the Project 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) denying or restricting the right of banking corporations or associations to transact business as trustee in such jurisdiction. It is recognized that in case of litigation under this Indenture or the Lease, and in particular in case of the enforcement of either this Indenture or the Lease upon the occurrence of an Event of Default or if the Trustee deems that by reason of any present or future law of any jurisdiction it cannot exercise any of the powers, rights or remedies herein granted to the Trustee, or take any other action which may be desirable or necessary in connection therewith, it may be necessary or desirable that the Trustee appoint an additional individual or institution as a co-trustee or separate trustee, and the Trustee is hereby authorized to appoint such co-trustee or separate trustee.

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

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

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

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

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

ARTICLE XI

SUPPLEMENTAL INDENTURES

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

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

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

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

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

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

Section 1102. Supplemental Indentures Requiring Consent of Owners.

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

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

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

Section 1104. Opinion of Counsel. In executing, or accepting the additional trusts created by, any Supplemental Indenture permitted by this Article or the modification thereby of the trusts created by this Indenture, the Trustee and the City shall receive, and, shall be fully protected in relying upon, an opinion of counsel addressed and delivered to the Trustee and the City stating that the execution of such Supplemental Indenture is permitted by and in compliance with this Indenture and will, upon the execution and delivery thereof, be a valid and binding obligation of the City. The Trustee may, but shall not be obligated to, enter into any such Supplemental Indenture which affects the Trustee's rights, duties or immunities under this Indenture or otherwise.

ARTICLE XII

SUPPLEMENTAL LEASES

Section 1201. Supplemental Leases Not Requiring Consent of Owners. The City and the Trustee shall, without the consent of or notice to the Owners, consent to the execution of any Supplemental Lease or Supplemental Leases by the City and the Company as may be required (a) by the provisions of the Lease and this Indenture, (b) for the purpose of curing any ambiguity or formal defect or omission in the Lease, (c) so as to more precisely identify the Project 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 (provided the Trustee is entitled to receive and may conclusively rely upon an opinion of counsel in exercising such judgment).

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

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

ARTICLE XIII

SATISFACTION AND DISCHARGE OF INDENTURE

Section 1301. Satisfaction and Discharge of this Indenture.

(a) When the principal of and interest on all the Bonds have been paid in accordance with their terms or provision has been made for such payment, as provided in **Section 1302** hereof, and provision also made for paying all other sums payable hereunder and under the Lease and the Performance Agreement, including the reasonable fees and expenses of the Trustee, the City and Paying Agent to the date of retirement of the Bonds, then the right, title and interest of the Trustee in respect

hereof shall thereupon cease, determine and be void. Thereupon, the Trustee shall cancel, discharge and release this Indenture and shall upon the written request of the City or the Company execute, acknowledge and deliver to the City such instruments of satisfaction and discharge or release as shall be required to evidence such release and the satisfaction and discharge of this Indenture, and shall assign and deliver to the City (subject to the City's obligations under **Section 11.2** of the Lease) any property at the time subject to this Indenture which may then be in its possession, except amounts in the Bond Fund required to be paid to the Company under **Section 602** hereof and except funds or securities in which such funds are invested held by the Trustee for the payment of the principal of and interest on the Bonds.

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

Section 1302. Bonds Deemed to be Paid.

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

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

(c) Notwithstanding any provision of any other section of this Indenture which may be contrary to the provisions of this Section, all moneys or Government Securities set aside and held in trust pursuant to the provisions of this Section for the payment of Bonds shall be applied to and used solely for the payment of the particular Bonds, with respect to which such moneys and Government Securities have been so set aside in trust.

ARTICLE XIV

MISCELLANEOUS PROVISIONS

Section 1401. Consents and Other Instruments by Owners.

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

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

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

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

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

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

(a) To the City:

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

(b) To the Trustee:

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

(c) To the Company:

Heartland Pet Food Manufacturing, LLC, a Delaware limited liability company
_____
_____
Attn: _____

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

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

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

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

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

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

Section 1408. Electronic Notice to Trustee. The Trustee agrees to accept and act upon instructions or directions pursuant to this Indenture sent in writing or by electronic notice, provided, however, that such instructions or directions shall be signed by an Authorized Company Representative. If the Company elects to give the instructions by electronic notice, the Trustee may deem such instructions controlling. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. Pursuant to the Lease, the Company agrees to assume all risks arising out of the use of such electronic notice to submit instructions and directions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions, and the risk or interception and misuse by third parties.

[remainder of this page intentionally left blank]

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

CITY OF JOPLIN, MISSOURI

By: _____
Name: Douglas Lawson
Title: Mayor

[SEAL]

ATTEST:

By: _____
Name: Holly Nagy
Title: City Clerk

Approved as to form:

_____
City Attorney

UMB BANK, N.A.,
as Trustee

By _____
Name:
Title:

[SEAL]

ATTEST:

By _____
Name:
Title:

EXHIBIT A

PROJECT SITE

The Heartland Pet Food Manufacturing facility located at 8101 East 32nd Street in Joplin, Missouri.

EXHIBIT B

PROJECT EQUIPMENT

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

All items of machinery, equipment and parts or other personal property installed at the Project Site as part of the installation of additional manufacturing and packaging lines to increase output of pet food and treats at the Project Site; provided that no personal property located at the Project Site prior to December 31, 2023 shall be included in the Project Equipment.

EXHIBIT C

FORM OF BONDS

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

No. 1

Not to Exceed $9,000,000

UNITED STATES OF AMERICA
STATE OF MISSOURI

CITY OF JOPLIN, MISSOURI
TAXABLE INDUSTRIAL DEVELOPMENT REVENUE BOND
(PROJECT TITAN - 32ND STREET LOCATION)
SERIES 2024

Interest Rate	Maturity Date	Dated Date
8.00%	December 1, 2029	_____ ___, 2024

OWNER: **HEARTLAND PET FOOD MANUFACTURING, LLC**

MAXIMUM PRINCIPAL AMOUNT: **NINE MILLION DOLLARS**

THE CITY OF JOPLIN, MISSOURI, a constitutional charter city and municipal corporation duly organized and existing under the laws of the State of Missouri (the "City"), for value received, promises to pay, but solely from the source hereinafter referred to, to the Owner named above, or registered assigns thereof, on the Maturity Date shown above, the principal amount shown above, or such lesser amount as may be outstanding hereunder as reflected on **Schedule I** hereto held by the Trustee as provided in the hereinafter referred to Indenture. The City agrees to pay such principal amount to the Owner in any coin or currency of the United States of America which on the date of payment thereof is legal tender for the payment of public and private debts (or by book entry as provided in the Indenture and Lease), and in like manner to pay to the Owner hereof, either by check or draft mailed to the Owner at a stated address as it appears on the bond registration books of the City kept by the Trustee under the within mentioned Indenture or, in certain situations authorized in the Indenture, by internal bank transfer (or by book entry as provided in the Indenture and Lease), or by wire transfer to an account in a commercial bank or savings institution located in the continental United States. Interest on the Cumulative Outstanding Principal Amount (as hereinafter defined) at the per annum Interest Rate stated above, payable in arrears on each December 1, commencing on December 1, 2024, and continuing thereafter until the earlier of the date on which said Cumulative Outstanding Principal Amount is paid in full or the Maturity Date. Interest on each advancement of the principal amount of this Bond shall accrue from the date that such advancement is made, computed on the basis of a year of 360 days consisting of 12 months of 30 days each.

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

THIS BOND is one of a duly authorized series of Bonds of the City designated "City of Joplin, Missouri, Taxable Industrial Development Revenue Bonds (Project Titan - 32nd Street Location), Series 2024," in the maximum aggregate principal amount of $9,000,000 (the "Bonds"), to be issued for the purpose of acquiring and installing equipment (the "Project Equipment") at the existing Heartland Pet Food Manufacturing facility located at 8101 East 32nd Street in Joplin, Missouri. The City will lease the Project Equipment to a private sector company (the "Company"), under the terms of a Lease Agreement dated as of May 1, 2024 (said Lease Agreement, as amended and supplemented from time to time in accordance with the provisions thereof, being herein called the "Lease"), between the City and the Company, all pursuant to the authority of and in full compliance with the provisions, restrictions and limitations of the Constitution, the statutes of the State of Missouri, including particularly the Act, the charter of the City and pursuant to proceedings duly had by the Council of the City.

THE BONDS are issued under and are equally and ratably secured and entitled to the protection given by a Trust Indenture dated as of May 1, 2024 (said Trust Indenture, as amended and supplemented from time to time in accordance with the provisions thereof, being herein called the "Indenture"), between the City and UMB Bank, N.A., as trustee (the "Trustee"). *Capitalized terms not defined herein shall have the meanings set forth in the Indenture.*

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

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

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 are 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 fund created by the City and designated the "City of Joplin, Missouri, Bond Fund -- Project Titan - 32nd Street Location".

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

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

THE BONDS are issuable in the form of one fully-registered Bond in the maximum principal amount of $9,000,000.

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

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

[remainder of page intentionally left blank]

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

CERTIFICATE OF AUTHENTICATION

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

Registration Date: _____

UMB Bank, N.A.,
as Trustee

By _____
Authorized Signatory

CITY OF JOPLIN, MISSOURI

By: _____
Mayor

ATTEST: (Seal)

_____
City Clerk

SCHEDULE I

TABLE OF CUMULATIVE OUTSTANDING PRINCIPAL AMOUNT

CITY OF JOPLIN, MISSOURI
TAXABLE INDUSTRIAL DEVELOPMENT REVENUE BOND
(PROJECT TITAN - 32ND STREET LOCATION)
SERIES 2024

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: _____.

_____

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

Place signature medallion below:

EXHIBIT D

FORM OF REPRESENTATION LETTER

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

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

Re: $9,000,000 Maximum Principal Amount of Taxable Industrial Development Revenue Bonds (Project Titan - 32nd Street Location), Series 2024 of the City of Joplin, Missouri

Ladies and Gentlemen:

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

1. The Purchaser fully understands that (a) the Bonds have been issued under and pursuant to a Trust Indenture dated as of May 1, 2024 (the "Indenture"), between the City of Joplin, Missouri (the "City") and UMB Bank, N.A., as trustee (the "Trustee"), and (b) the Bonds are payable solely out of certain rents, revenues and receipts to be derived from the leasing or sale of the Project Equipment (as defined in the Indenture) to a private sector company (the "Company"), under a Lease Agreement dated as of May 1, 2024 (the "Lease"), between the City and the Company, with certain of such rents, revenues and receipts being pledged and assigned by the City to the Trustee under the Indenture to secure the payment of the principal of and interest on the Bonds.

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

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

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

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

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

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

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

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

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

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

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

Dated: _____, 20___

[PURCHASER OF BONDS]

By:_____
Name: _____
Title: _____

CITY OF JOPLIN, MISSOURI,
As Lessor,

AND

HEARTLAND PET FOOD MANUFACTURING, LLC,
As Lessee

LEASE AGREEMENT

Dated as of May 1, 2024

Relating to:

$9,000,000
(Aggregate Maximum Principal Amount)
City of Joplin, Missouri
Taxable Industrial Development Revenue Bonds
(Project Titan - 32nd Street Location)
Series 2024

Certain rights of the City of Joplin, Missouri (the "City"), in this Lease Agreement have been pledged and assigned to UMB Bank, N.A., Kansas City, Missouri, as Trustee under the Trust Indenture dated as of May 1, 2024, between the City and the Trustee.

LEASE AGREEMENT

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LEASE AGREEMENT

THIS LEASE AGREEMENT, dated as of May 1, 2024 (the "Lease"), is between the **CITY OF JOPLIN, MISSOURI**, a constitutional charter city and municipal corporation duly organized and existing under the laws of the State of Missouri, as lessor (the "City"), and **HEARTLAND PET FOOD MANUFACTURING, LLC**, a Delaware limited liability company, as lessee, and its successors or assigns, as permitted hereunder (the "Company");

RECITALS:

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

2. Pursuant to the Act, the City Council passed an ordinance (the "Ordinance") on May 20, 2024, authorizing the City to issue its Taxable Industrial Development Revenue Bonds (Project Titan - 32nd Street Location), Series 2024, in the maximum principal amount of $9,000,000 (the "Bonds"), for the purpose of acquiring and installing certain equipment (the "Project Equipment," as more fully described on **Exhibit B** hereto) at the existing Heartland Pet Food Manufacturing facility located at 8101 East 32nd Street in Joplin, Missouri (the "Project Site") as part of the installation of additional manufacturing and packaging lines to increase output of pet food and treats at the Project Site.

3. Pursuant to the Ordinance, the City is authorized to enter into a Trust Indenture of even date herewith (the "Indenture") with UMB Bank, N.A., Kansas City, Missouri, as Trustee (the "Trustee"), for the purpose of issuing and securing the Bonds, as therein provided, and to enter into this Lease with the Company under which the City will acquire and install the Project Equipment, and 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. In consideration of the terms and conditions of this Lease, the Ordinance, issuance of the Bonds and certain other agreements, the City and the Company have concurrently herewith entered into a Performance Agreement of even date herewith (the "Performance Agreement"), pursuant to which the Company has agreed to make certain payments in lieu of taxes under certain circumstances.

5. 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 receipt and sufficiency of which are hereby acknowledged, the City and the Company do hereby represent, covenant and agree as follows:

ARTICLE I

DEFINITIONS

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

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

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

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

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

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

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

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

"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 this 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 with respect to which that term is used remaining after payment of all expenses (including reasonable attorneys' fees, trustee's fees and any extraordinary expenses of the City and the Trustee) incurred in the collection of such gross proceeds.

"Permitted Encumbrances" means, as of any particular time (a) liens for ad valorem taxes, special assessments and other governmental charges not then delinquent, or which are being contested in good faith in accordance with the Lease, (b) the Indenture, the Lease and the Performance Agreement, (c) liens or security interests granted pursuant to any Leasehold Security Agreement or any Financing Documents, all as now existing or hereafter granted pursuant to the Financing Documents, including any subsequent or additional security instruments relating to any future financings or refinancings, and (d) any sublease or license agreement between the Company and a third party allowing the use by such party of portions of the Project Equipment permitted under the terms of **Section 10.4** of this Lease.

"Project Equipment" means the personal property to be acquired and installed at the Project Site pursuant to **Article IV** of this Lease and paid for in whole or in part from the proceeds of Bonds, as described in **Exhibit B** attached hereto.

"Project Site" means the location described in **Exhibit A** attached hereto and by this reference made a part hereof.

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

Section 1.2. Rules of Interpretation.

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

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

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

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

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

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

ARTICLE II

REPRESENTATIONS

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

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

(b) The City agrees to cause the Project Equipment to be acquired and installed on the Project Site. The City agrees 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 as provided for herein, all for the purpose of furthering the public purposes of the Act;

(c) The acquisition and installation of the Project Equipment and the leasing of the Project Equipment by the City to the Company will further the public purposes of the Act;

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

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

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

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

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

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

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

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

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

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

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

ARTICLE III

GRANTING PROVISIONS

Section 3.1. Granting of Leasehold Estate. The City hereby exclusively rents, leases and lets the Project 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, and subject to sooner termination pursuant to the provisions of this Lease, shall have a term commencing as of the date of this Lease and terminating on **December 1, 2029**.

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** hereof following the occurrence and continuance of an Event of Default, as defined in **Section 12.1** hereof, the Company shall have sole and exclusive possession of the Project 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 exclusive 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 use commercially reasonable efforts to comply in all material respects with all statutes, laws, ordinances, orders, judgments, decrees, regulations, directions and requirements of all federal, state, local and other governments or governmental authorities, now or hereafter applicable to the Project Equipment, as to the manner of use or the condition of the Project Equipment. In the event of demonstrated noncompliance with such statutes, laws, ordinances, orders, judgments, decrees, regulations, directions and requirements the Company will take all reasonable steps to comply with such statutes, laws, ordinances, orders, judgments, decrees, regulations, directions and requirements, subject to the rights of the Company to contest the same. The Company shall also comply with the mandatory requirements, rules and regulations of all insurers under the policies carried under the provisions of **Article VII** hereof. The Company shall pay all actual and reasonable costs, expenses, claims, fines, penalties and damages that may in any manner arise out of, or be imposed as a result of, the failure of the Company to comply with the provisions of this Section. Notwithstanding any provision contained in this Section, however, the Company may, at its own cost and expense, contest or review by legal or other appropriate procedures the validity or legality of any such governmental statute, law, ordinance, order, judgment, decree, regulation, direction or requirement, or any such requirement, rule or regulation of an insurer, and during such contest or review the Company may refrain from complying therewith.

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

ARTICLE IV

ACQUISITION 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, upon request of the Company, it will issue, sell and cause to be delivered the Bonds to the purchaser thereof in accordance with the provisions of the Indenture and the Bond Purchase Agreement. The proceeds of the sale of the Bonds, when received, shall be paid over to the Trustee for the account of the City. The Trustee shall promptly deposit such proceeds, when received, as provided in the Indenture, to be used and applied as hereinafter provided in this Lease and in the Indenture. Alternatively, the Trustee may, (pursuant to **Section 208** of the Indenture) 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. Acquisition and Installation of the Project Equipment. The City and the Company agree that the Company, as the agent of the City, shall acquire and install the Project Equipment as follows:

(a) [Reserved.]

(b) [Reserved.]

(c) The Company will purchase and install the Project Equipment at the Project Site. The Company shall transfer title to the Project Equipment to the City from time to time by bills of sale or other instruments of transfer. On or before March 1 of each year or such other date required by law for reporting personal property declarations, the Company shall furnish to the City, Jasper County and the Trustee a list of items (based on the Company's internal record keeping) comprising the Project Equipment as of January 1 of such year. ***No item of personal property shall appear on the list of Project Equipment after December 31, 2029.*** The improper inclusion or exclusion of any Project Equipment pursuant to such list may be rectified by the Company within 30 days after notice of such improper inclusion or exclusion. The improper inclusion or exclusion of an item on or from such list shall not affect the items comprising the Project Equipment for the purpose of this Lease or title thereto as intended by the parties hereto. The Company shall provide such information to the City, Jasper County and the Trustee as may be requested in order to ensure that such list corresponds to the list of Project Equipment maintained by the Trustee pursuant to **Section 10.8**. Each bill of sale or other instrument of transfer and each personal property declaration form shall be of sufficient specificity so as to enable Jasper County's officials (including representatives of the Assessor's office) to determine which personal property as reported on the annual personal property declaration constitutes Project Equipment (and therefore is owned by the City) and which personal property does not constitute Project Equipment (and therefore is owned by the Company). The City and the Company agree that, pursuant to **Section 4.8**, property purchased in whole or in part by the Company with its own funds, and not Bond proceeds, shall not constitute part of the Project Equipment and shall remain the property of the Company and therefore subject to taxation. ***On December 31, 2029, title to all personal property comprising the Project Equipment shall be, and hereby is, conveyed to the Company, without further act of the City or the Company.***

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

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

Section 4.4. Payment for Project Costs. The City hereby authorizes and directs the Trustee to make disbursements from the Project Fund, upon receipt by the Trustee of certificates in substantially the form attached hereto as **Exhibit C**, signed by an Authorized Company Representative. 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 shall constitute unto the Trustee an irrevocable determination that all conditions precedent to the payments requested have been completed. The Trustee shall retain copies of all requisition certificates for the same period of record retention described in **Section 703** of the Indenture.

Section 4.5. Establishment of Completion Date. The Completion Date shall be evidenced to the Trustee by a certificate signed by the Authorized Company Representative stating (a) the acquisition and installation of the Project Equipment has been substantially completed, (b) that all costs and expenses incurred in the acquisition 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, and (c) amounts to be retained by Trustee with respect to item (b) above. Notwithstanding the foregoing, such certificate shall state that it is given without prejudice to any rights against third parties which exist at the date of such certificate or which may subsequently come into being. The Company and the City agree to cooperate in causing such certificate to be furnished to the Trustee.

Section 4.6. Surplus or Deficiency in Project Fund.

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

(b) If the Project Fund shall be insufficient to pay fully all Project Costs and to complete the acquisition and installation of the Project Equipment free of liens and encumbrances other than Permitted Encumbrances, the Company shall pay, in cash, the full amount of any such deficiency by making payments thereof directly to the contractors and to the suppliers of materials and services as the same shall become due (subject to the rights of the Company to contest any claims or liens of any such contractors or material used in accordance with applicable laws) and the Company shall save the City and the Trustee whole and harmless from any obligation to pay such deficiency.

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

Section 4.8. Non-Project Improvements, Machinery and Equipment Property of the Company. Any improvements or items of machinery or equipment which do not constitute part of the Project 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** hereof and therefore are subject to taxation, to the extent otherwise provided by law.

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

ARTICLE V

RENT PROVISIONS

Section 5.1. Basic Rent. The Company covenants and agrees to pay to the Trustee in same day funds for the account of the City during this Lease Term, on or before 11:00 a.m., Trustee's local time, on or before each December 1 (each a "Payment Date"), commencing December 1, 2024 and continuing until the principal of and interest on the Bonds shall have been fully paid, 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 of the Bonds and the interest thereon on such Payment Date, shall be equal to the amount payable on such Payment Date as interest on the Bonds (except as offset pursuant to the right of the Company described herein). On **December 1, 2029** (or such earlier date as the Company may elect to redeem the Bonds), the Company shall also pay an amount equal to all principal then due on the Bonds in connection with such maturity or redemption (subject to the right of the Company to surrender the Bonds in lieu of such payment). All payments of Basic Rent provided for in this Section shall be paid directly to the Trustee and shall be deposited in accordance with the provisions of the Indenture into the Bond Fund and shall be used and applied by the Trustee in the manner and for the purposes set forth in this Lease and the Indenture. In furtherance of the foregoing, and notwithstanding any other provision in this Lease, the Indenture, the Bond Purchase Agreement or the Performance Agreement to the contrary, and provided that the Company is the sole holder of the Bonds, the Company may set-off the then-current Basic Rent payment against the City's obligation to the Company as Bondholder under the Indenture in lieu of delivery of the Basic Rent on any Payment Date, without providing notice of such set-off to the Trustee. The Trustee may conclusively rely on the absence of any notice from the Company to the contrary as evidence that such set-off has occurred. On the final Payment Date, the Company will (a) if the Trustee holds the Bonds, notify the Trustee of the Bonds not previously paid that are to be cancelled or (b) if an entity other than the Trustee holds the Bonds, deliver or cause to be delivered to the Trustee for cancellation Bonds not previously paid. The Company shall receive a credit against the Basic Rent payable by the Company in an amount equal to the principal amount of the Bonds so tendered for cancellation plus accrued interest thereon.

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

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

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

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

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

Section 5.3. Obligations of Company Absolute and Unconditional.

(a) The obligations of the Company under this Lease to make payments of Basic Rent and Additional Rent on or before the date the same become due, and to perform all of its other obligations, covenants and agreements hereunder shall be absolute and unconditional, without notice or demand, and without abatement, deduction, set-off, counterclaim, recoupment or defense or any right of termination or cancellation arising from any circumstance whatsoever, whether now existing or hereafter arising, and irrespective of whether the acquisition and installation of the Project Equipment has been started or completed, or whether the City's title thereto or to any part thereof is defective or nonexistent, and notwithstanding any damage to, loss, theft or destruction of, the Project 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, the eviction or constructive eviction of the Company, any change in the tax or other laws of the United States of America, the State of Missouri or any political subdivision thereof, any change in the City's legal organization or status, or any default of the City hereunder, and regardless of the invalidity of any action of the City; provided, however, that nothing in this **Section 5.3(a)** or **Section 5.3(b)** is intended or shall be deemed to affect or impair in anyway the rights of the Company to tender Bonds for redemption in satisfaction of Basic Rent as provided in **Section 5.1** and **Section 5.4** hereof, nor the right of the Company to terminate this Lease and repurchase the Project Equipment as provided in **Article XI** hereof, nor the right of the offset as provided in **Section 5.1** hereof.

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

possession, occupancy and use hereunder, and in such event the City hereby agrees to cooperate fully with the Company and to take all action necessary to effect the substitution of the Company for the City in any such action or proceeding if the Company shall so request.

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

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

ARTICLE VI

MAINTENANCE, TAXES AND UTILITIES

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

Section 6.2. Taxes, Assessments and Other Governmental Charges.

(a) Subject to subsection (b) of this Section, the Company shall promptly pay and discharge, as the same become due, all taxes and assessments, general and special, and other governmental charges of any kind whatsoever that may be lawfully taxed, charged, levied, assessed or imposed upon or against or be payable for or in respect of the Project 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 may, in its own name or in the City's name, contest the validity or amount of any tax, assessment or other governmental charge which the Company is required to bear, pay and discharge pursuant to the terms of this Article by appropriate legal proceedings instituted 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 and the Trustee written

notice of its intention to do so, (2) the Company diligently prosecutes any such contest, at all times effectively stays or prevents any official or judicial sale therefor, under execution or otherwise, and (3) the Company promptly pays any final judgment enforcing the tax, assessment or other governmental charge so contested and thereafter promptly procures record release or satisfaction thereof. The City agrees to cooperate fully with the Company in connection with any and all administrative or judicial proceedings related to any tax, assessment or other governmental charge. The Company shall save and hold harmless the City and the Trustee from any costs and expenses the City and the Trustee may incur related to any of the above.

(c) Nothing in this Lease shall be construed to require the Company to make duplicate tax payments. The Company shall receive a credit against the payments to be made by the Company under the Performance Agreement to the extent of any ad valorem taxes imposed and paid by the Company with respect to the Project 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 and the Project Equipment shall be paid for by the Company and shall be contracted for by the Company in the Company's own name (or the name(s) of its affiliates), and the Company shall, at its sole cost and expense, procure any and all permits, licenses or authorizations necessary in connection therewith.

Section 6.4. Property Tax Exemption. The City and the Company expect that while the Project Equipment is owned by the City and is subject to this Lease, the Project Equipment will be exempt from all ad valorem personal property taxes by reason of such ownership, and the City agrees that it will (at the expense of the Company) cooperate with the Company to defend such exemption against all parties. The City and the Company further acknowledge and agree that the City's obligations hereunder are contingent upon the Company making the payments due under and otherwise complying with the terms of the Performance Agreement during the term of this Lease. The terms and conditions of the Performance Agreement are incorporated herein as if fully set forth herein. The exemption described in this Section does not apply to the Project Site, any real property improvements thereon, or any personal property that is not part of the Project Equipment.

ARTICLE VII

INSURANCE

Section 7.1. Title Commitment or Report. [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 provisions). The insurance required pursuant to this Section shall be maintained with a generally recognized responsible insurance company or companies authorized to do business in the State of Missouri or generally recognized international insurers or reinsurers as may be selected by the Company. The Company shall deliver certificates of insurance for such policies to the City and the Trustee before the initial acquisition of the Project Equipment and promptly after renewal of each insurance policy. All such policies of insurance pursuant to this Section, and all renewals thereof,

shall name the City and the Trustee as additional insureds, as their respective interests may appear, shall name the Trustee as loss payee and shall contain a provision that such insurance may not be canceled by the issuer thereof without at least 10 days' advance written notice to the City, the Company and the Trustee, to the extent such a provision can be obtained and is available from the insurer.

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

Section 7.3. Commercial General Liability Insurance.

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

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

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

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

ARTICLE VIII

ALTERATION OF THE PROJECT EQUIPMENT

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

Section 8.2. Removal and Replacement of Project Equipment.

(a) The Company may, if no uncured Event of Default (as defined in **Section 12.1** hereof) exists and is continuing, remove from the Project Site and sell, exchange, replace or otherwise dispose of, without responsibility or accountability to the City or the Trustee with respect thereto, any items of machinery and equipment, or parts thereof, which constitute a part of the Project Equipment and which have become inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary or which, in the sound discretion of the Company, are otherwise no longer useful to the Company in its operations. Before any such removal of any items of equipment or machinery with a then-market value of greater than $2,000,000 in the aggregate within any one calendar year, the Company shall deliver to the City and the Trustee a certificate signed by an Authorized Company Representative containing a complete description of any machinery or equipment that the Company proposes to remove. Upon request by the Company, the City will execute and deliver a bill of sale that transfers full and complete title to the Company of the Project Equipment removed. Notwithstanding anything contained herein to the contrary, title to any item of the Project 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. Any Project Equipment removed from the Project Site shall no longer be entitled to the tax exemption afforded by virtue of the City's ownership thereof.

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

Section 8.3. Permits and Authorizations. The Company shall not do or permit others under its control to do any work on the Project Site related to any repair, rebuilding, restoration, replacement, modification or addition to the Project 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 material compliance with all applicable material building and zoning laws and governmental regulations and requirements, and in accordance with the requirements,

rules and regulations of all insurers under the policies required to be carried under the provisions of **Article VII** hereof.

Section 8.4. Mechanics' Liens.

(a) The Company will not directly or indirectly create, incur, assume or suffer to exist any lien on or with respect to the Project 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 to the Company or anyone claiming by, through or under the Company upon credit, and that no mechanics' or other similar lien for any such labor, services or materials shall attach to or affect the reversionary or other estate of the City in and to the Project Equipment or any part thereof.

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

ARTICLE IX

DAMAGE, DESTRUCTION AND CONDEMNATION

Section 9.1. Damage or Destruction.

(a) If the Project Equipment is damaged or destroyed by fire or any other casualty, whether or not covered by insurance, the Company, as promptly as is reasonably practicable, shall either (i) make the determination described in subsection (f) below, or (ii) repair, restore or replace the same so that upon completion of such repairs, restoration or replacement the Project Equipment is of a value not less than the value thereof immediately before the occurrence of such damage or destruction.

If the Company elects to repair, restore or replace the Project Equipment, for all purposes of this Lease, any reference to the words "Project Equipment" shall be deemed to also include any such new machinery and equipment.

Unless the Company makes the determination described in subsection (f) below, the Net Proceeds of casualty insurance required by **Article VII** hereof received with respect to such damage or loss to the

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

(b) If any of the insurance monies paid by the insurance company as hereinabove provided remain after the completion of such repairs, restoration 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 mortgagee 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. Unless the Company makes the determination described in subsection (f) below, if the Net Proceeds are insufficient to pay the entire cost of such repairs, restoration 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 Equipment causing (in the Company's opinion) damage of more than $1,000,000.

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

(g) The Company shall not, by reason of its inability to use all or any part of the Project Equipment during any period in which the Project Equipment is damaged or destroyed or is being repaired, restored or replaced, 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. Condemnation.

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

(b) If the Company determines that such substitution is practicable and desirable, the Company shall proceed promptly with and complete with reasonable dispatch the acquisition and installation of such substitute equipment, so as to place the Project Equipment in substantially the same condition as existed before the exercise of the said power of eminent domain. In such case, any Net Proceeds received from any award or awards with respect to the Project Equipment or any part thereof made in such condemnation or eminent domain proceedings, or of the sale proceeds, shall be applied in the same manner as provided in **Section 9.1** hereof (with respect to the receipt of casualty insurance proceeds).

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

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

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

Section 9.3. Bondowner Approval. Notwithstanding anything to the contrary contained in this **Article IX**, the proceeds of any insurance received subsequent to a casualty or of any condemnation proceedings (or threats thereof) shall before the application thereof by the City or the Trustee be applied

as directed by the Owners of 100% of the principal amount of Bonds Outstanding, subject and subordinate to (a) the rights of the City and the Trustee to be paid all their expenses (including reasonable attorneys' fees, trustee's fees and any extraordinary expenses of the City and the Trustee) incurred in the collection of such gross proceeds and (b) the rights of the City to any amounts then due and payable under the Performance Agreement.

ARTICLE X

SPECIAL COVENANTS

Section 10.1. No Warranty of Condition or Suitability by the City; Exculpation and Indemnification. The City makes no warranty, either express or implied, as to the condition of the Project 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. City's 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 may, at reasonable times during normal business hours and, except in the event of emergencies, upon not less than two Business Day's prior notice, subject to the Company's usual business propriety, safety, confidentiality and security requirements, enter upon the Project Site (a) to examine and inspect the Project 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 purchase, installation or maintenance of the Project Equipment, and (d) upon the occurrence and continuance of an Event of Default, to enforce the remedies provided in in **Section 12.2** hereof.

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

(a) Subject to **Sections 10.4(c)** and **(d)**, if no Event of Default under this Lease has happened and is continuing beyond any applicable grace period, the Company may at any time or times (i) grant subleases (as permitted in **Section 13.1(c)** hereof), licenses and other rights or privileges that are for the direct use of the Project Equipment, or part thereof, by the grantee, (ii) release or terminate existing subleases, licenses and other rights or privileges, all with or without consideration and upon such terms and conditions as the Company shall determine, or (iii) incur Permitted Encumbrances. The Company may take such actions and may execute any applicable documents in the Company's own name. No separate signature of or authorization from the City shall be required for the execution and delivery of any

such document, although the City agrees to execute and deliver such confirming documents as are described below, under the procedures described below, if the Company chooses to make such a request. All third parties entering into agreements with the Company or receiving delivery of or the benefit of such agreements or documents shall be entitled to rely upon the same as having been executed and delivered by the City, unless such third party has actual or constructive notice, expressly in writing, that the agency herein granted by the City to the Company has been terminated by the City because of an uncured Event of Default hereunder. The City agrees that it will execute and deliver and will cause and direct the Trustee to execute and deliver any instrument necessary or appropriate to confirm and grant, release or terminate any such sublease, license or other right or privilege or any such agreement or other arrangement, upon receipt by the City and the Trustee of: (i) a copy of the instrument of grant, release or termination or of the agreement or other arrangement, (ii) a written application signed by an Authorized Company Representative requesting such instrument, and (iii) a certificate executed by an Authorized Company Representative stating that such grant or release is not detrimental to the proper conduct of the business of the Company, will not impair the effective use or interfere with the efficient and economical operation of the Project Equipment, will not materially adversely affect the security intended to be given by or under the Indenture and will be a Permitted Encumbrance or release of a Permitted Encumbrance. If no Event of Default has happened and is continuing beyond any applicable grace period, any payments or other consideration received by the Company for any such grant or with respect to or under any such agreement or other arrangement shall be and remain the property of the Company; but, subject to **Sections 10.4(c)** and **(d)**, upon (i) termination of this Lease for any reason other than the redemption of the Bonds and/or the purchase of the Project 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 grant security interests in the leasehold estate created by this Lease, with prior notice to but without the consent of the City, provided and upon condition that a duplicate original or certified copy or photostatic copy of each such security agreement, and the note or other obligation secured thereby, is delivered to the City within thirty (30) days after the execution thereof. The sale of the Company's leasehold estate at a foreclosure sale or trustee's sale under the Leasehold Security Agreement or any assignment in lieu thereof shall not require the consent of the City, if (i) written notice of the proposed sale or assignment is provided to the City at least fifteen (15) days prior thereto, and (ii) before such sale or assignment, all payments then owing to the City under the Performance Agreement are paid.

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

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

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

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

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

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

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

(6) the Financing Parties (and their designees, nominees, assignees or transferees) shall have the right to enter, possess and use the Project 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 and this Lease may not be modified, amended, canceled or surrendered by agreement between the City and the Company, without prior written consent of such Financing Party.

(e) In connection with the execution of one or more Financing Documents, upon the request of the Company, the City agrees to execute such documents as shall be reasonably requested by a Financing Party and which are usual and customary in connection with the closing of the financing or refinancing pursuant to the Financing Documents, provided that the same shall not impose any additional liability or obligations on the City with respect to payments, notices or otherwise or change any terms of

this Lease. The Company agrees to reimburse the City for any and all costs and expenses incurred by the City pursuant to this Section, including reasonable attorneys' fees and expenses, in complying with such request, up to a maximum of $10,000 with respect to any one request.

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 (collectively, the "Indemnified Parties") 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 the Performance Agreement, this Lease, the Bond Purchase Agreement or the Indenture (including any violation by the Company of, or failure by the Company to comply with, any federal or state securities laws in connection with the Bonds) and from the conduct or management of, or from any work or thing done in or on the Project Equipment and the Project Site during the Lease Term, and against and from all claims, demands, costs, liabilities, damages or expenses, including reasonable attorneys' fees, arising during the Lease Term from (a) any condition of the Project Equipment or the Project Site, (b) any breach or default on the part of the Company in the performance of any of its obligations under the Performance Agreement, this Lease or any related document, (c) any contract entered into in connection with the acquisition and 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) any liability of an Indemnified Party resulting from a failure to comply with Section 107.170 of the Revised Statues of Missouri, as amended, with respect to the Project Equipment or the Project Site, (f) unless the Company has been released from liability pursuant to **Section 13.1**, 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, and (g) any claim relating to the presence on, escape or removal from the Project Equipment or the Project Site during the term of the Lease of any hazardous substance or other material regulated by any applicable Environmental Law, or compliance with any applicable Environmental Law, whether such claim arises before, during or after the term of this Lease, including claims relating to personal injury or damage to property; provided, however, the indemnification contained in this **Section 10.5** shall not extend to (i) the City if such claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, are the result of work being performed at the Project Equipment or the Project Site by employees of the City or the result of negligence or willful misconduct by the City (except in the case of failure to comply with Section 107.170), or (ii) the Trustee if such claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, are the result of the negligence or willful misconduct of the Trustee or (iii) the City for any claim relating to the failure of such party to perform its obligations under this Lease or the Indenture. 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 or the satisfaction and discharge of the Indenture.

In case any action shall be brought against one or more of the Indemnified Parties based upon the foregoing indemnification and in respect of which indemnity may be sought against the Company, the Indemnified Parties shall promptly notify the Company in writing and the Company shall promptly assume the defense thereof, including the employment of counsel satisfactory to the Indemnified Parties, the payment of all reasonable expenses and the right to negotiate and consent to settlement. If the Company shall have wrongfully failed to assume the defense of such action, the reasonable fees and expenses of counsel retained by the Indemnified Party shall be paid by the Company. If any of the Indemnified Parties is advised by counsel retained by the Company to defend such action that there may be legal defenses available to it which are adverse to or in conflict with those available to the Company or any other Indemnified Party, and that the defense of such Indemnified Party should be handled by separate counsel, the Company shall not have the right to assume the defense of such Indemnified Party, but shall be responsible for the reasonable fees and expenses of counsel retained by such Indemnified

Party in assuming its own defense. Any one or more of the Indemnified Parties shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but except as otherwise set forth in this Section, the fees and expenses of such counsel shall be at the expense of such Indemnified Party or Indemnified Parties unless employment of such counsel has been specifically authorized by the Company. The Company shall not be liable for any settlement of any such action effected without its consent by any of the Indemnified Parties, but if settled with the consent of the Company or if there be a final judgment for the plaintiff in any such action against the Company or any of the Indemnified Parties, with or without the consent of the Company, the provided that the Company was given prompt written notice and the ability to assume the defense thereof as required by this paragraph, the Company agrees to indemnify and hold harmless the Indemnified Parties to the extent provided herein.

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

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

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

ARTICLE XI

OPTION AND OBLIGATION TO PURCHASE THE PROJECT EQUIPMENT

Section 11.1. Option to Purchase the Project Equipment .

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

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

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

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

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

(5) the sum of $10.00.

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

(b) *Purchase of a Portion of the Project Equipment.* The Company shall have, and is hereby granted, the option to purchase a portion of the Project Equipment at any time, upon payment in full of a portion of the Bonds then outstanding or provision for their payment having been made pursuant to **Article XIII** of the Indenture, in the amount described in this subsection. To exercise such option the Company shall give written notice to the City and to the Trustee, and shall specify therein the date of

closing such purchase, which date shall be not less than 15 nor more than 90 days from the date such notice is mailed, and in case of a redemption of Bonds in accordance with the provisions of the Indenture, the Company shall make arrangements satisfactory to the Trustee for the giving of the required notice of redemption. The purchase price payable by the Company in the event of its exercise of the option granted in this subsection shall be the sum of the following:

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

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

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

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

(5) the sum of $10.00.

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

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

Section 11.2. Conveyance of the Project Equipment . At the closing of the purchase of the entire or all remaining portions 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 from the Trustee 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; and

(b) Documents, including without limitation a bill of sale as to the Project Equipment, conveying to the Company legal title to the Project Equipment, as it then exists, subject to the following: (i) those liens and encumbrances, if any, to which title to the Project Equipment was subject when conveyed to the City; (ii) those liens and encumbrances created by the Company or to the creation or suffering of which the Company consented; (iii) those liens and encumbrances resulting from the failure of the Company to perform or observe any of the agreements on its part contained in this Lease; (iv) Permitted Encumbrances other than the Indenture, this Lease and the Performance Agreement; and (v) if the Project 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 or the Indenture, provided that such default will not result in nonfulfillment of any condition to the exercise of any such option (including the payment of all amounts specified in **Section 11.1** hereof) and further provided that all options herein granted shall terminate upon the termination of this Lease.

Section 11.4. Obligation to Purchase the Project Equipment .

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

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

ARTICLE XII

DEFAULTS AND REMEDIES

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

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

(b) Default in the due observance or performance of any other covenant, agreement, obligation or provision of this Lease on the Company's part to be observed or performed, and

such default shall continue for 60 days after the City or the Trustee has given the Company written notice specifying such default (or such longer period as is reasonably required to cure such default; provided that (1) the Company has commenced such cure within said 60-day period, and (2) the Company diligently prosecutes such cure to completion); or

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

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

Section 12.2. Remedies on Default. If any Event of Default referred to in **Section 12.1** hereof has occurred and continues beyond the period provided to cure, then the City may at the City's election (subject, however, to any restrictions against acceleration of the maturity of the Bonds or termination of this Lease in the Indenture), then or at any time thereafter, and while such default continues, take any one or more of the following actions:

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

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

the Performance Agreement, the City shall convey the Project Equipment to the Company in accordance with **Section 11.2** hereof.

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

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

Section 12.5. Rights and Remedies Cumulative. The rights and remedies reserved by the City and the Company hereunder are in addition to those otherwise provided by law and shall be construed as cumulative and continuing rights. No one of them shall be exhausted by the exercise thereof on one or more occasions. The City and the Company shall each be entitled to specific performance and injunctive or other equitable relief for any breach or threatened breach of any of the provisions of this Lease, notwithstanding the availability of an adequate remedy at law, and each party hereby waives the right to raise such defense in any proceeding in equity. Notwithstanding anything in this **Section 12.5** or elsewhere in this Lease to the contrary, however, the Company's option to purchase the property as provided in **Article XI** above shall not be terminated upon an Event of Default unless and until this Lease is terminated to the extent permitted pursuant to **Section 12.2(b)** above.

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

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

City unless the City has already given the required notice. In addition, the Trustee shall have available to it all of the remedies prescribed by the Indenture.

ARTICLE XIII

ASSIGNMENT AND SUBLEASE

Section 13.1. Assignment; Sublease.

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

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

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

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

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

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

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

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

Section 13.2. Assignment of Revenues by City. The City shall assign and pledge any rents, revenues and receipts receivable under this Lease and all interest in the Project Equipment, to the Trustee

pursuant to the Indenture as security for payment of the principal of, interest and premium, if any, on the Bonds and the Company hereby consents to such pledge and assignment.

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

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

ARTICLE XIV

AMENDMENTS, CHANGES AND MODIFICATIONS

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

ARTICLE XV

MISCELLANEOUS PROVISIONS

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

Section 15.2. City Shall Not Unreasonably Withhold Consents and Approvals. Wherever in this Lease it is provided that the City shall, may or must give its approval or consent, or execute supplemental agreements or schedules, the City shall not unreasonably, arbitrarily or unnecessarily withhold, delay or refuse to give such approvals or consents or refuse to execute or delay in executing such supplemental agreements or schedules; provided, however, that nothing in this Lease shall be interpreted to affect the City's rights to approve or deny any additional project or matter unrelated to the Project 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. This Lease may be executed in several counterparts, each of which shall be deemed to be an original and all of which shall constitute but one and the same instrument.

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

Section 15.10 Complete Agreement. THE COMPANY AND THE CITY UNDERSTAND THAT ORAL OR UNEXECUTED AGREEMENTS OR COMMITMENTS TO LOAN MONEY, EXTEND CREDIT OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT INCLUDING PROMISES TO EXTEND OR RENEW SUCH DEBT ARE NOT ENFORCEABLE. TO PROTECT THE COMPANY AND THE CITY FROM MISUNDERSTANDING OR DISAPPOINTMENT, ANY AGREEMENTS THE COMPANY AND THE CITY REACH COVERING SUCH MATTERS ARE CONTAINED IN THIS LEASE AND THE PERFORMANCE AGREEMENT, WHICH ARE THE COMPLETE AND EXCLUSIVE STATEMENTS OF THE AGREEMENT BETWEEN THE COMPANY AND THE CITY, EXCEPT AS THE COMPANY AND THE CITY MAY LATER AGREE IN WRITING TO MODIFY THIS LEASE OR THE PERFORMANCE AGREEMENT.

[remainder of page intentionally left blank]

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

CITY OF JOPLIN, MISSOURI

By: _____
Name: Douglas Lawson
Title: Mayor

[SEAL]

ATTEST:

By: _____
Name: Holly Nagy
Title: City Clerk

Approved as to form:

_____
City Attorney

HEARTLAND PET FOOD MANUFACTURING, LLC,
a Delaware limited liability company

By: _____
Name:
Title:

EXHIBIT A

PROJECT SITE

The Heartland Pet Food Manufacturing facility located at 8101 East 32nd Street in Joplin, Missouri.

EXHIBIT B

PROJECT EQUIPMENT

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

All items of machinery, equipment and parts or other personal property installed at the Project Site as part of the installation of additional manufacturing and packaging lines to increase output of pet food and treats at the Project Site; provided that no personal property located at the Project Site prior to December 31, 2023 shall be included in the Project Equipment.

EXHIBIT C

FORM OF REQUISITION CERTIFICATE

Requisition No. _____
Date: _____

REQUISITION CERTIFICATE

TO: UMB BANK, N.A., AS TRUSTEE UNDER A TRUST INDENTURE DATED AS OF MAY 1, 2024, BETWEEN CITY OF JOPLIN, MISSOURI, AND THE TRUSTEE, AND THE LEASE AGREEMENT DATED AS OF MAY 1, 2024, BETWEEN CITY OF JOPLIN, MISSOURI AND HEARTLAND PET FOOD MANUFACTURING, LLC, A DELAWARE LIMITED LIABILITY COMPANY.

The undersigned Authorized Company Representative hereby states and certifies that:

1. The total set forth on **Schedule 1** hereto is requested to pay for Project Costs (as defined in the Indenture) of the Project Equipment.

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

3. Each of the items for which payment is requested are or were desirable and appropriate in connection with the purchase 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.

4. As of this date, except for the amounts referred to above, to the best of my knowledge there are no outstanding disputed statements for which payment is requested for labor, wages, materials, supplies or services in connection with the purchase 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.

5. 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 May 1, 2024, 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.

6. The Authorized Company Representative (i) certifies they have reviewed any wire instructions set forth in this written disbursement direction to confirm such wire instructions are accurate, and (ii) agrees they will not seek recourse from the Trustee as a result of losses incurred by it for making the disbursement in accordance with this disbursement direction.

HEARTLAND PET FOOD MANUFACTURING, LLC

By: _____
Authorized Company Representative

SCHEDULE 1 TO REQUISITION CERTIFICATE

PROJECT COSTS

Payee and Address	Description	Amount

APPENDIX I

PERFORMANCE AGREEMENT

$9,000,000
(AGGREGATE MAXIMUM PRINCIPAL AMOUNT)
CITY OF JOPLIN, MISSOURI
TAXABLE INDUSTRIAL DEVELOPMENT REVENUE BONDS
(PROJECT TITAN - 32ND STREET LOCATION)
SERIES 2024

DATED AS OF MAY 1, 2024

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, Heartland Pet Food Manufacturing, LLC, a Delaware limited liability company (the "Purchaser"), offers to purchase from the City of Joplin, Missouri (the "City"), the above-referenced series of Taxable Industrial Development Revenue Bonds (the "Bonds"), to be issued by the City, under and pursuant to Ordinance No. _____ passed by the governing body of the City on May 20, 2024 (the "Ordinance") and a Trust Indenture dated as of May 1, 2024 (the "Indenture"), by and between the City and UMB Bank, N.A., Kansas City, Missouri, as trustee (the "Trustee"). Capitalized terms not otherwise defined herein shall have the meanings set forth in **Section 101** of the Indenture.

SECTION 1. REPRESENTATIONS AND AGREEMENTS

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

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

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

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

(b) The Purchaser represents as follows:

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

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

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

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

SECTION 2. PURCHASE, SALE AND DELIVERY OF THE BONDS

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

The Bonds shall be sold to the Purchaser by the City on the Closing Date (hereinafter defined) upon payment of an amount equal to the Closing Price (hereinafter defined) for the Bonds, which amount shall be applied as provided in the Indenture and shall thereafter on the Closing Date immediately be applied to the payment of Project Costs as provided in the Lease. From time to time after the Closing Date as additional Project Costs are incurred, the Purchaser may make additional payments with respect to the Bonds ("Additional Payments") to the Trustee, which Additional Payments shall constitute the purchase price for corresponding additional principal amounts of the Bonds, and shall be applied to the payment of Project Costs or as otherwise provided in the Indenture, and the outstanding principal amount of the Bonds shall increase by each such Additional Payment; provided that the sum of the Closing Price and all such Additional Payments for the Bonds shall not, in the aggregate, exceed $9,000,000.

As used herein, the term "Closing Date" shall mean May 31, 2024, or such other date as shall be mutually agreed upon by the City and the Purchaser; the term "Closing Price" shall mean, with respect to the Bonds, that certain amount specified in writing by the Purchaser and agreed to by the City in the Certificate as to Closing Price.

The Bonds shall be issued under and secured as provided in the Ordinance, the Indenture and the Lease authorized thereby and the Bonds shall have the maturity, interest rate and shall be subject to redemption as set forth therein. The delivery of the Bonds shall be made in definitive form as a fully registered bond in the maximum aggregate principal denomination of $9,000,000; provided, that the principal amount of the Bonds outstanding at any time shall be that amount recorded in the official bond registration records of the Trustee and further provided that interest shall be payable on the Bonds only on the outstanding principal amount of the Bonds, as more fully provided in the Indenture.

SECTION 3. CONDITIONS TO THE PURCHASER'S OBLIGATIONS

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

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

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

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

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

SECTION 4. THE PURCHASER'S RIGHT TO CANCEL

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

SECTION 5. CONDITIONS OF OBLIGATIONS

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

SECTION 6. REPRESENTATIONS AND AGREEMENTS TO SURVIVE DELIVERY

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

SECTION 7. PAYMENT OF EXPENSES

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

SECTION 8. NOTICE

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

SECTION 9. APPLICABLE LAW; ASSIGNABILITY

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

SECTION 10. EXECUTION OF COUNTERPARTS

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

[remainder of page intentionally left blank]

Executed as of the date first written above

Very truly yours,

HEARTLAND PET FOOD MANUFACTURING, LLC,
a Delaware limited liability company,
as Purchaser

By: _____
Name:
Title:

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

HEARTLAND PET FOOD MANUFACTURING, LLC,
a Delaware limited liability company,
as Company

By: _____
Name:
Title:

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

CITY OF JOPLIN, MISSOURI

By: _____
Name: Doug Lawson
Title: Mayor

[SEAL]

ATTEST:

By: _____
Name: Holly Nagy
Title: City Clerk

Approved as to form:

_____
City Attorney

PERFORMANCE AGREEMENT

Dated as of May 1, 2024

BETWEEN

THE CITY OF JOPLIN, MISSOURI

AND

HEARTLAND PET FOOD MANUFACTURING, LLC

PERFORMANCE AGREEMENT

THIS PERFORMANCE AGREEMENT, dated as of May 1, 2024, as from time to time amended and supplemented in accordance with the provisions hereof (this "Agreement"), between the **CITY OF JOPLIN, MISSOURI**, a constitutional charter city organized and existing under the laws of the State of Missouri (the "City"), and **HEARTLAND PET FOOD MANUFACTURING, LLC**, a Delaware limited liability company (the "Company").

RECITALS:

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

2. Pursuant to the Act, the City Council passed an ordinance (the "Ordinance") on May 20, 2024, authorizing the City to issue its Taxable Industrial Development Revenue Bonds (Project Titan - 32nd Street Location), Series 2024, in the maximum principal amount of $9,000,000 (the "Bonds"), for the purpose of acquiring and installing certain equipment (the "Project Equipment") at the existing Heartland Pet Food Manufacturing facility located at 8101 East 32nd Street in Joplin, Missouri (the "Project Site") as part of the installation of additional manufacturing and packaging lines to increase output of pet food and treats at the Project Site;

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

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

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

ARTICLE I

DEFINITIONS

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

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

"Agreement" means this Performance Agreement dated as of May 1, 2024, between the City and the Company, as from time to time amended and supplemented in accordance with the provisions hereof.

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

"Base Wage" means an amount not less than 90% of the county average wage for Jasper County, Missouri, published by the Missouri Department of Economic Development through its Missouri Economic Research and information Center (MERIC) (or its successor) calculated as follows: for the year of determination, the sum of: (a) base wages paid, plus (b) incentive and bonuses awarded to those persons which are engaged in the Jobs hereunder, divided by the average number of Jobs maintained at the Project Site for such year.

"CBA" means the Cost Benefit Analysis attached to the Plan for an Industrial Development Project for Manufacturing Facilities (Project Titan) dated April 2, 2024 and approved by the City in connection with the Project Equipment.

"Chamber" means the Joplin Area Chamber of Commerce.

"County" means Jasper County, Missouri.

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

"Exemption" has the meaning given in **Section 3.1** hereof.

"Indenture" means the Trust Indenture executed by the City in connection with the issuance of the Bonds.

"Job" means a full-time equivalent employment position of the Company of not less than 35 hours per week at the Project Site (provided that part time positions can be aggregated to equal a full time equivalent position, i.e. two 0.5 full-time equivalent employment positions equals one Job), which includes employee benefits offered by the Company to similarly situated employees (which shall include the Company paying at least 50% of such employee's health insurance premiums) and all such Jobs, when averaged together, pay an average wage equivalent (when aggregated to a full time basis) equal to or greater than the current Base Wage. Positions filled by workers who are not directly employed by the Company or its affiliates do not qualify as "Jobs" for purposes of this definition. Accordingly, Jobs may be full time or part time. Jobs may pay more or less than Base Wage, provided all Jobs, when averaged together, equal or exceed the Base Wage.

"Lease Agreement" means the Lease Agreement between the City and the Company dated as of the date hereof.

"PILOT Payments" means the payments in lieu of taxes provided for in **Section 3.2** hereof and shown on **Exhibit B** hereto.

"Project Costs" means all costs of acquiring and installing the Project Equipment.

"Project Equipment" has the meaning given in the Lease Agreement.

"Project Site" means the Heartland Pet Food Manufacturing facility located at 8101 East 32nd Street in Joplin, Missouri.

"Property Taxes" has the meaning given in **Section 3.1** hereof.

"Required Number of Jobs" means 270 Jobs.

"Taxes Otherwise Due" means, for any given calendar year, the ad valorem property taxes that would otherwise have been due in such year on the Project Equipment if the Project Equipment were not exempt by virtue of the Exemption, as calculated by applying the ad valorem tax rates assessed by all local governments or taxing districts for such calendar year to the assessed valuation that would have been attributable to the Project Equipment for such calendar year if the City did not hold title to such property.

"Test Date" means September 30 of each year, beginning on September 30, 2025, and ending on September 30, 2029.

"Trustee" means UMB Bank, N.A., as trustee under the Indenture.

ARTICLE II

ISSUANCE OF BONDS

Section 2.1. Issuance of the Bonds. As described herein, the City will issue the Bonds under the Act for the purpose of paying Project Costs. In connection with the issuance of the Bonds and the payment of Project Costs from the proceeds of the Bonds, the City will acquire title to the Project Equipment as acquired and installed.

ARTICLE III

PROPERTY TAX EXEMPTION; PILOT PAYMENTS

Section 3.1. Property Tax Exemption. So long as the City owns the Project Equipment, the Project Equipment will be exempt from all ad valorem taxes assessed by all state and local governments and taxing districts (collectively "Property Taxes") on personal property (the "Exemption").

Section 3.2. Payments in Lieu of Taxes. The City and the Company covenant and agree that the Project Equipment purchased with the proceeds of the Bonds is exempt from Property Taxes by

reason of the City's ownership thereof. The Company will annually pay to the City (or to the County if so directed by the City) payments in-lieu-of tax (the "PILOT Payments") with respect to the Project Equipment for each year that any portion of the Project Equipment is owned by the City in the amounts for each year as set out on **Exhibit B** hereto (except as adjusted as described in **Section 3.3** herein).

Each PILOT Payment shall be due on December 1st of each year. In the event the PILOT Payments are not paid by December 31st of any particular year, such PILOT Payments shall bear interest commencing such December 31st at the rate of 5% per annum until paid. Each PILOT Payment shall be paid to the City at the address set forth in **Section 1403** of the Indenture.

Section 3.3. Additional PILOT Payments; Adjustments to PILOT Payments.

(a) In the event the Company fails to spend at least $7,200,000 (approximately 80% of anticipated Project Costs) on the Project Equipment on or before September 30, 2025 (as certified to the Trustee and the City through requisition certificates submitted to the Trustee in accordance with the Lease Agreement), the Company shall make Additional PILOT Payments in an amount equal to the Investment Deficiency Percentage (calculated as shown below) multiplied by the amount of the difference between the PILOT Payments and the Taxes Otherwise Due during the year in which the failure occurs and any subsequent year in which such failure persists as of September 30 of such year and during which the Exemption applies by virtue of City ownership. The Investment Deficiency Percentage shall be calculated, beginning at zero percent (0%) for compliance, in accordance with the following formula, with the result expressed as a percentage:

Investment Deficiency Percentage = (1 – (certified Project Costs / $7,200,000)) x 100.

(b) In the event the Company fails to maintain the Required Number of Jobs at the Project Site on the Test Date for any two consecutive Test Dates, measured by determining the highest actual number of Jobs during the 90-day period ending on such Test Dates, the Company shall make an Additional PILOT Payment for the year in which the second of such Test Dates falls in an amount equal to the Jobs Deficiency Percentage for such year (calculated as shown below) multiplied by the amount of the difference between the PILOT Payments and the Taxes Otherwise Due. The Jobs Deficiency Percentage shall be calculated, beginning at zero percent (0%) for compliance, in accordance with the following formula, with the result expressed as a percentage:

Jobs Deficiency Percentage = (1 – (a / b)) x 100, where

a = Highest number of Jobs during the 90 day period ending on Test Date, and
b = Required Number of Jobs for the Test Date.

Notwithstanding the foregoing, upon recommendation of the Chamber and certification by the Company that unforeseeable business conditions have caused the Company to employ fewer Jobs than projected at the time this Agreement was executed, the City Council may by ordinance waive the Additional PILOT Payments, or any portion thereof, otherwise required by this subsection.

(c) Each Additional PILOT Payment shall be due on December 1 of the year in which the failure giving rise to the Additional PILOT Payment occurs (and on December 1 of each subsequent year in which such failure persists as of September 30 of such year). In no event shall the sum of the Additional PILOT Payments payable under this Section, together with the PILOT Payments pursuant to **Section 3.2** hereof, for any given tax year exceed 100% of the Taxes Otherwise Due. Additional PILOT

Payments shall not apply retrospectively to any years prior to the year in which a failure occurs and shall not accrue prospectively for future years based on current or past failures.

(d) In the event that any Additional PILOT Payment becomes due under this Agreement, the assessed valuation for purposes of calculating the Taxes Otherwise Due shall be determined by reference to the following amount:

the amount shown as the "Estimated Assessed Value of 32nd Street Equipment" for the applicable year on page 10 of the CBA;

provided that, the Company, by providing notice to the City of such request by November 15th of the year for which the applicable Additional PILOT Payment would be due, may request that the Assessor of Jasper County, Missouri provide an estimated assessed value of the Project Equipment in lieu of the calculation shown above, provided further that (i) the Company agrees to pay to the Assessor the actual costs (including employee time) incurred by the Assessor in determining the estimated assessed valuation, and (ii) if the Assessor is unable to make such determination on or prior to December 15th of such year, the assessed valuation for purposes of determining the Taxes Otherwise Due for such year shall be calculated as shown above.

Section 3.4. Obligation to Effect Tax Abatement. The City shall take all actions, subject only to limitations imposed by applicable law, to obtain and/or maintain in effect the Exemption, including any timely filing required with any governmental authorities ("Abatement Obligations"); provided that the City shall not be liable for any failure of any other governmental taxing authority to recognize the exemption provided herein. Notwithstanding the forgoing, the City shall only be required to instigate litigation to effect the Exemption if the Company agrees in writing that the Company shall be responsible for the costs of such actions actually incurred by the City. In the event that the Exemption is not recognized by any taxing authority, the amount paid to the City for PILOT Payments and Additional PILOT Payments shall be reduced by the amount of Property Taxes actually paid, if any, and the amount paid in PILOT Payments and Additional PILOT Payments shall be applied by the City, to the extent necessary, to the payment of such Property Taxes.

The City covenants that it will not act or fail to act in a manner that may cause or induce the Exemption to not be recognized. The City covenants that it will not act or fail to act in a manner that may cause or induce any levy or assessment of Property Taxes on the Project Equipment. In the event such a levy or assessment of Property Taxes should occur, the City shall, at the Company's request and at the Company's expense, cooperate with the Company in all reasonable ways to prevent and/or remove any levy or assessment of Property Taxes against the Project Equipment. Nothing herein shall prevent the Company from paying any such levy or assessment of Property Taxes under protest.

Section 3.5. Other Property Taxes in Connection with the Project Equipment; Credits. The Exemption provided by the City's ownership of the Project Equipment shall 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 any taxing jurisdiction against any interest in the Project Equipment during the period the City owns the Project Equipment (including, without limitation, any ad valorem taxes levied against the Company's rights in the Lease Agreement), the amount of Property Tax payments related to such levy or levies that are paid by Company and received by the City, the County, or any other Missouri taxing jurisdiction shall be credited against and reduce on a dollar for dollar basis the amount payable by the Company to the City for PILOT Payments and Additional PILOT Payments pursuant to this Agreement. The Company shall be responsible for any taxes related to any interest in the improvements or equipment on the Project Site which the Company owns in its own name or possession of which is granted to the Company other than pursuant to the Lease Agreement. There shall be no reduction in PILOT Payments

or Additional PILOT Payments for any sales taxes imposed by any governmental authority, including the Missouri Department of Revenue, in connection with the Company's acquisition of the Project Equipment.

Section 3.6. Annual Jobs Report. On or before November 15th after each Test Date, the Company shall provide to the City and the Chamber a completed Annual Jobs Report, in the form attached hereto as **Exhibit A**. A failure to provide any Annual Jobs Report in a timely fashion may result in an Event of Default as described in **Section 6.1(d)**.

Section 3.7. No Abatement on Special Assessments, Licenses or Fees. The City and the Company hereby agree that the Exemption described in this Agreement shall not apply to special assessments except to the extent that such are Property Taxes or are levied in lieu of Property Taxes ("Special Assessments") and shall not serve to reduce or eliminate any other licenses or fees owing to the City or any other taxing jurisdiction with respect to the Project Equipment so long as such special assessments, licenses or fees are not applied in a manner that discriminates against the Company on the basis of the tax abatement incentives received by the Company by virtue of the Exemption. The Company hereby agrees to make payments with respect to all Special Assessments, licenses and fees which would otherwise be due with respect to the Project Equipment if the Project Equipment were not owned by the City. Notwithstanding the foregoing, nothing herein shall waive the Company's right to any notice required under law or limit the ability of the Company from protesting any Special Assessments, licenses or fees.

Section 3.8. Company's Right to Protest Taxes. No provision of this Agreement shall be construed to limit or in any way restrict the availability of any provision of Missouri law which confers upon the Company the appeal, protest or otherwise contest any property tax valuation, assessment or classification of the Project Equipment. In addition, the parties agree that the Company may, in its own name or in the City's name, contest the validity or amount of any tax, assessment, valuation, or classification related to the Project Equipment. The City agrees, at the Company's expense, to cooperate fully with the Company in connection with any and all administrative or judicial proceedings related to any such tax, assessment, valuation, classification or other governmental charge relating to the Project Equipment.

Section 3.9 Additional Personal Property. The Company may acquire additional personal property on its own accord and such personal property need not be financed with the proceeds of the Bonds or become part of the Project Equipment and shall not be subject to the terms of this Agreement; provided, however, any such personal property shall be subject to ad valorem taxes.

ARTICLE IV

COVENANTS, REPRESENTATIONS AND AGREEMENTS

Section 4.1. Inspection. The City may conduct such periodic inspections of the Project Site and Project Equipment as may be generally provided in the City's code. In addition, the Company agrees that the City and its duly authorized agents may at reasonable times (during business hours but without disruption to the business), subject to at least two (2) business days' advance written notice and in observance of the Company's usual business proprietary, safety and security requirements, to enter upon the Project Site to examine and inspect the Project Equipment and the records of the Company that demonstrate compliance with this Agreement.

Section 4.2. Representations and Warranties.

(a) The Company represents that as of the date of this Agreement and during the term of this Agreement, or such shorter period as may be expressly provided for below:

(1) The Company is a limited liability company duly formed and existing under the laws of the State of Delaware, has power and authority to own its properties (and interests therein) and carry on its business as now being conducted, and is duly qualified to do such business in the State of Missouri;

(2) The Company has the right, power and authority to enter into, execute, deliver and perform its duties and obligations under this Agreement;

(3) The execution, delivery and performance by the Company of this Agreement has been duly authorized by all necessary action, and does not violate the articles of organization or operating agreement of the Company, as the same may be amended and supplemented, or to the Company's knowledge, any applicable provision of law, nor to the Company's knowledge does it constitute a breach of or default under or require any consent under any agreement, instrument or document to which the Company is now a party or by which the Company is now or may become bound;

(4) To the Company's knowledge, there are no actions or proceedings by or before any court, governmental commission, board, bureau or any other administrative agency pending, threatened or affecting the Company that would impair its ability to enter into or perform its material obligations under this Agreement;

(5) To the Company's knowledge, the Company has obtained (or prior to the applicable time required will obtain) and will maintain all government permits, certificates and consents (including without limitation appropriate environmental approvals) necessary to conduct its business and to complete acquisition and installation of the Project Equipment; and

(6) To the Company's knowledge, the Project Equipment is and will be in material compliance with all applicable federal, state and local laws, statutes, ordinances, rules, regulations, executive orders and codes pertaining to or affecting the Project Equipment, including environmental laws, subject to all applicable rights of the Company to contest the same.

(b) The City represents that as of the date of this Agreement and during the term of this Agreement, or such shorter period as may be expressly provided for below:

(1) The City is a constitutional charter city duly organized and validly existing under the laws of the State of Missouri;

(2) The execution, delivery and performance by the City of this Agreement has been duly authorized by all necessary City actions;

(3) The City has the right, power and authority to enter into, execute, deliver and perform its duties and obligations under this Agreement; and

(4) To the best of the City's knowledge, there are no actions or proceedings by or before any court, governmental commission, board, bureau or any other administrative agency

pending, threatened or affecting the City that would impair its ability to enter into or perform its obligations under this Agreement.

Section 4.3. Survival of Covenants. All obligations of the Company to make payments or indemnify the City contained herein, to the extent that the same accrue or arise during the term of this Agreement, shall survive termination of this Agreement for any reason.

Section 4.4. [Reserved.]

Section 4.5. City Administrative Costs. The Company shall reimburse the City for costs of administering the plan, including costs associated with this Agreement, in an amount equal to $5,000 per year. Such amount will be due to the City on December 1 of each year.

ARTICLE V

SALE AND ASSIGNMENT

The benefits granted by the City to the Company pursuant to this Agreement shall belong solely to the Company, and such benefits shall not be transferred, assigned, pledged or in any other manner hypothecated, except as provided in **Section 13.1** of the Lease Agreement.

ARTICLE VI

DEFAULT AND REMEDIES

Section 6.1. Events of Default. If any one or more of the following events occurs and is continuing, it is hereby defined as and declared to be and to constitute an Event of Default hereunder:

(a) The Company fails to make any PILOT Payment or Additional PILOT Payment required to be paid hereunder, and such failure continues for 10 business days following written notice to the Company from the City of such failure;

(b) The Company fails to perform any of its material obligations hereunder for a period of 30 days (or such longer period as the City may agree in writing) following written notice to the Company from the City of such failure, or if such failure is not subject to cure within such 30 days after such notice, the Company fails to initiate action to cure the default within such 30 days after such notice and fails to pursue such action diligently;

(c) Either (1) any representation of the Company contained herein proves to be materially false or erroneous and is not corrected or brought into compliance within 30 days (except for situations described in subsection 6.1(c)(2), below), or such longer period as the City may agree in writing, after the City has given written notice to the Company specifying the false or erroneous representation and requiring it to be remedied, or (2) if such matter is not subject to cure within such 30 days after such notice, the Company fails to initiate action to cure the default within such 30 days after such notice and fails to pursue such action diligently; or

(d) The Company both (i) fails to provide any Annual Jobs Report on or before November 15th of the applicable year, *and* (ii) after notice of such failure is provided to the Company by the City or the Chamber, fails to provide such Annual Jobs Report within 10 business days of the postmarked date of such notice.

Section 6.2. Remedies on Default. Any Event of Default referred to in **Section 6.1** hereof shall also constitute an Event of Default under the Lease Agreement, affording the City the remedies specified therein.

Section 6.3. Interest on Late Payments. Any amounts due hereunder which are not paid when due shall bear interest at the interest rate of 5% per annum from the date 30 days after such payment was first due.

Section 6.4. Enforcement. In addition to the remedies specified in **Section 6.2**, upon the occurrence of an Event of Default, the City or any taxing jurisdictions that would benefit from the PILOT Payments and Additional PILOT Payments provided for in this Agreement may bring an action for specific performance to enforce such payments. In the event of litigation pertaining to the enforcement of this Agreement, the losing party shall pay all costs of litigation, including reasonable attorneys' fees.

ARTICLE VII

TERM OF AGREEMENT

Section 7.1. Term of Agreement. This Agreement shall become effective upon execution by the parties hereto and shall terminate upon the earliest to occur of the following:

(a) the payment in full of the Bonds (or any bonds issued to refund the Bonds) and the payment of all amounts due under this Agreement;

(b) the occurrence and continuance of an Event of Default (beyond any applicable cure period) and the subsequent termination of this Agreement pursuant to the provisions of the Lease Agreement and this Agreement;

(c) the expiration of the Lease Term set forth in **Section 3.2** of the Lease Agreement; or

(d) the exercise by the Company of its option to purchase all of the Project Equipment.

Section 7.2. Payments in Last Year. The foregoing provisions of **Section 7.1** shall not relieve the Company of its obligation to make any PILOT Payment or Additional PILOT Payment owing during the year in which the Bonds are paid, to the extent the Company receives the tax abatement contemplated for that year and such PILOT Payment or Additional PILOT Payment is due under this Agreement.

ARTICLE VIII

MISCELLANEOUS PROVISIONS

Section 8.1. Mutual Assistance. The City and the Company agree to take such actions as may be necessary or appropriate to carry out the terms, provisions and intent of this Agreement and to aid and assist each other in carrying out said terms, provisions and intent.

Section 8.2. Notices. All notices, certificates or other communications required or desired to be given hereunder shall be given in the manner specified in the Lease Agreement.

Section 8.3. Severability; Effect of Invalidity. If for any reason any provision of this Agreement shall be determined to be invalid or unenforceable, such invalid or unenforceable term will be deemed severed from this Agreement and the validity and enforceability of the other provisions hereof shall not be affected thereby (except in the event that the Exemption is determined to be invalid or unenforceable, then the provisions requiring any PILOT Payments or Additional PILOT Payments shall also be deemed invalid and unenforceable). If this Agreement, or any portion hereof, or any agreements related hereto, are determined to be invalid, the City may not recover or recapture any taxes subject to abatement as provided herein or benefits accruing to the Company prior to such determination if the Company has paid the PILOT Payments and Additional PILOT Payments due under this Agreement prior to such date.

Section 8.4. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Missouri.

Section 8.5. Execution in Counterparts. This Agreement may be executed simultaneously in several counterparts, each of which shall be deemed to be an original and all of which shall constitute but one and the same instrument.

Section 8.6. Waiver. The City and the Company acknowledge and agree that the amounts payable hereunder shall constitute payments due the City under the Lease Agreement executed in connection with the Bonds. The Company shall not be entitled to any extension of payment of such amounts as a result of a filing by or against the Company or any affiliate in any bankruptcy court.

Section 8.7. Entire Agreement. This Agreement, together with the Lease Agreement, the Indenture and any other documents entered into of even date herewith in connection with the issuance of the Bonds, constitute the entire agreement of the parties with respect to the subject matter hereof and supersede all prior agreements, representations, negotiations and understandings, both written and oral, between the City and the Company with respect to the subject matter hereof.

Section 8.8. Electronic Storage. The parties agree that the transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

Section 8.9. Employee Verification. The Company will comply with and satisfy the requirements of Section 285.530.2, RSMo. with respect to the Project Equipment, which requires (1) any business entity receiving tax abatement to, by sworn affidavit and provision of documentation, annually affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the Project Equipment, and (2) every such business entity to annually sign an affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the Project Equipment. The Company shall provide such affidavits and documentation to the City on or before December 1 of each year during the term of this Agreement, beginning December 1, 2024.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in their respective corporate names by their duly authorized officers, all as of the date first above written.

CITY OF JOPLIN, MISSOURI

By: _____
Name: Douglas Lawson
Title: Mayor

[SEAL]

ATTEST:

By: _____
Name: Holly Nagy
Title: City Clerk

Approved as to form:

_____
City Attorney

HEARTLAND PET FOOD MANUFACTURING, LLC,
a Delaware limited liability company

By: _____
Name:
Title:

EXHIBIT A

ANNUAL JOBS REPORT –HEARTLAND PET FOOD MANUFACTURING, LLC 2024 PROJECT

To be filed with the City and the Chamber on or before November 15 of each year during the term of the Lease Agreement, starting on November 15, 2025:

Business Name **HEARTLAND PET FOOD MANUFACTURING, LLC**	MO. Tax I.D. Number
County, State, Zip Code	Federal Employer I.D. Number (FEIN)
Highest number of Jobs during the 90 day period ending on Test Date:_____	"Test Date" (during the Reporting Period)
PILOT Payment Due Per Section 3.3 (if applicable)	Report Due

The undersigned, duly authorized representative of HEARTLAND PET FOOD MANUFACTURING, LLC hereby states and certifies that the information set forth in this report is true and correct.

Authorized Signature	Date
Contact Name	Phone Number

Please send form to:

President of Joplin Area Chamber of Commerce
320 East 4th Street
Joplin, Missouri 64801

and

Director of Planning, Development and Neighborhood Services
602 S. Main Street
Joplin, MO 64801

EXHIBIT B

SCHEDULE OF PILOT PAYMENTS

No scheduled PILOT payments are due with respect to the Project Equipment. Additional PILOT Payments may be due if required under **Section 3.3** of the Agreement.

EXHIBIT A

PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT

NOTICE TO TAXING JURISDICTIONS ON ATTACHED LIST

Re: Notice of Public Hearing – Industrial Development Project

On behalf of the City of Joplin, Missouri (the "City"), please find enclosed a copy of the proposed Plan for an Industrial Development Project (the "Plan"), which also contains a Cost Benefit Analysis on the affected taxing jurisdictions.

The City anticipates considering the first reading of an ordinance to approve the Plan following a public hearing on the Plan at a meeting on May 6, 2024 at 6:00 PM at City Hall located at 602 S. Main St., Joplin, MO 64801.

The City invites all affected taxing districts to attend the public hearing and to make oral comments on the proposed Plan to the City or to provide written comments to the City on the Plan prior to the hearing. All comments of the taxing districts will be fairly and duly considered by the City.

A copy of the Plan and Cost Benefit Analysis for the proposed project is enclosed and also will be on file in the office of the City Clerk and will be available for public inspection during normal business hours.

Any questions should be directed to Troy Bolander, Director of Planning, Development & Neighborhood Services, at 417-624-0820.

Dated: April 2, 2024

CITY OF JOPLIN, MISSOURI
602 S. Main St.
Joplin, MO 64801

TAX ENTITY MAILING LIST

Jasper County, Missouri Presiding Commissioner Jasper County Courthouse 302 South Main Street, Room 101 Carthage, MO 64836	**Jasper County Assessor** Jasper County Courthouse 302 S. Main, Room 201B Carthage, MO 64836
Jasper County Collector Jasper County Courthouse 302 S. Main-Room 107 Carthage, MO 64836	**Jasper County Mental Health Fund Board** Attn: Director 1105 E. 32nd St., Suite 1 Joplin, MO 64804
City of Joplin, Missouri City Clerk 602 S. Main St. Joplin, MO 64801	**Jasper County Sheltered Facilities Board** Attn: Director 1727 W 26th St. Joplin, MO 64804
Joplin Schools Board of Education Attn: Superintendent 825 Pearl Ave Joplin, MO 64801	**Joplin Special Road District** 1016 Picher Joplin, MO 64801
Missouri Department of Revenue **Taxation Division** 301 West High Street Jefferson City, MO 65101	**Missouri Department of Revenue** **County Tax Section** **Blind Pension Fund** 301 West High Street Jefferson City, MO 65101
Missouri Department of Revenue **County Tax Section** **Merchants/Manufacturers** **Replacement Tax Fund** 301 West High Street Jefferson City, MO 65101	

EXHIBIT A

PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT

BEFORE THE

CITY COUNCIL

OF THE

CITY OF JOPLIN, MISSOURI

PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT FOR MANUFACTURING FACILITIES (PROJECT TITAN)

April 2, 2024

PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT
FOR MANUFACTURING FACILITIES

TO: THE CITY COUNCIL OF THE CITY OF JOPLIN, MISSOURI

A plan for an industrial development project as described herein has been proposed to the City of Joplin, Missouri (the "City"), for approval, to be carried out pursuant to Article VI, Section 27(b) of the Missouri Constitution, as amended, Sections 100.010 to 100.200, inclusive, of the Missouri Revised Statutes, as amended, and in support of said application the following is submitted:

1. **Description of the Project**. The "Project" consists of (1) constructing an expansion of the existing General Mills facility located at 3007 Stephens Boulevard (also known as 3007 East 32nd Street) in Joplin, Missouri (the "Stephens Boulevard Site") consisting of the addition of approximately 33,328 square feet to such facility (the "Project Improvements"); (2) purchasing and installing equipment at the Stephens Boulevard Site as part of the installation of an additional manufacturing line to increase frozen dough output (the "Stephens Boulevard Equipment"); and (3) purchasing and installing equipment at the existing Heartland Pet Food Manufacturing facility located at 8101 East 32nd Street in Joplin, Missouri (the "32nd Street Site") as part of the installation of additional manufacturing and packaging lines to increase output of pet food and treats (the "32nd Street Equipment"). The Project will involve the City taking ownership of approximately 20.32 acres of land, together with existing buildings thereon, comprising the Stephens Boulevard Site. The 32nd Street Site is already in City ownership pursuant to an existing plan for industrial development, which will not be affected by this Plan.

2. **Estimate of the Cost of the Project.** The total cost of the Project is estimated to be $77,300,000 (including the acquisition cost of the existing Stephens Boulevard Site and the costs of the Project Improvements, the Stephens Boulevard Equipment and the 32nd Street Equipment).

3. **Source of Funds to be Expended for the Project.** The source of funds to be expended for the Project will be the proceeds of $77,300,000 estimated aggregate principal amount of taxable industrial revenue bonds in one or more series (collectively, the "Bonds"), to be issued by the City for the Project and to pay costs of issuing the Bonds.

4. **Statement of the Terms Upon Which the Project is to be Leased and Otherwise Disposed of by the City.** The City will take title to the Stephens Boulevard Site. The components of the Project will be leased by the City (with an option to purchase the City's interest in such components of the Project) to one or more companies (the "Companies"). The lease payments collectively will equal the principal and interest on the Bonds plus certain payments in lieu of taxes, as applicable. The Bonds will be payable solely from the revenues derived by the City from the leases to the Companies or other disposition of the Project and the Bonds will not be an indebtedness or general obligation, debt or liability of the City.

5. **Bond Purchase Arrangements.** The Bonds will be offered at a public sale in accordance with the City's charter. It is anticipated that the Companies or an affiliate or a related entity will place a bid to purchase the Bonds in the estimated aggregate principal amount of $77,300,000.

6. **Affected School District, Community College District, County, City and Emergency Services District.** The Joplin R-VIII School District of Jasper County, Missouri; the City; and Jasper County, Missouri, will be affected by the Project as well as the other taxing jurisdictions shown on the

attached Cost Benefit Analysis. There is no community college district affected by the Project. No ambulance district board operating under chapter 190 or fire protection district board operating under chapter 321 is affected by the Project.

7. **Equalized Assessed Valuation.** The most recent equalized assessed valuation of the real property comprising the Stephens Boulevard Site is $1,646,860 for 2023. The most recent equalized assessed valuation of the personal property to be included in the Project (the Stephens Boulevard Equipment and the 32nd Street Equipment) is $-0-. The total equalized assessed valuation of the real property and improvements included in the Project after construction is estimated at $2,069,540. The total equalized assessed valuation of the personal property to be included in the Project in the anticipated first year of full implementation (2026) is estimated at $13,750,095.

8. **Cost/Benefit Analysis.** Attached hereto as **Exhibit A** is the Cost Benefit Analysis for the affected taxing jurisdictions, which assumes a total period of 12 years of tax abatement from the first year in which real property improvements will be completed and subject to taxation, at a rate of 100% abatement. The Stephens Boulevard Equipment and the 32nd Street Equipment will each be subject to 100% abatement for a period of 5 years.

9. **Payments in Lieu of Taxes.** The Company will agree to make payments in lieu of taxes during each year in which title to the Project is held by the City. The amounts shown below represent the value of such payments in lieu of taxes. The payments in lieu of taxes represent the value of taxes that would have been due on the existing Stephens Boulevard Site (which is not subject to abatement pursuant to this Plan).

	Year	Payment in Lieu of Taxes
Construction	2024	$92,791
Abatement Year 1	2025	95,574
Abatement Year 2	2026	95,574
Abatement Year 3	2027	98,442
Abatement Year 4	2028	98,442
Abatement Year 5	2029	101,395
Abatement Year 6	2030	101,395
Abatement Year 7	2031	104,437
Abatement Year 8	2032	104,437
Abatement Year 9	2033	107,570
Abatement Year 10	2034	107,570
Abatement Year 11	2035	110,797
Abatement Year 12	2036	110,797

10. **Sales and Use Tax Exemption on Construction Materials.** Qualified building materials purchased for the construction of the Project Improvements are expected to be exempt from sales and use tax pursuant to the provisions of Section 144.062 of the Revised Statutes of Missouri and the underlying bond documents upon delivery of a project exemption certificate by the City to the Company. The anticipated cost of this exemption to taxing jurisdictions levying a sales or use tax is shown below:

Jurisdiction	*Sales/Use Tax Rate*	*Estimated Sales/Use Tax Revenues Subject to Exemption*
State of Missouri	4.225%	$357,013
City of Joplin	3.125	264,063
Jasper County	1.375	116,188
Total	8.725%	$737,263

* * *

EXHIBIT A

COST/BENEFIT ANALYSIS

The accompanying spreadsheet shows the detailed cost/benefit amounts of the proposed Project. It assumes a fixed schedule of payments in lieu of taxes for real property taxes relating to the Stephens Boulevard Site for the duration of the abatement period for the real property. No payments in lieu of tax will be made with respect to the improvements or personal property included in the Project.

The personal property is assumed to be depreciated as shown in the accompanying spreadsheet. The depreciated value of personal property is based on depreciation schedules designated by Section 137.122 of the Revised Statutes of Missouri for such property.

The 2023 ad valorem tax levy rates were utilized for all taxing jurisdictions. Amounts shown as payments in lieu of taxes attributable to any particular taxing jurisdiction are subject to change based on the then-current levy rates of all relevant taxing jurisdictions.

City of Joplin, Missouri
(Project Titan)

COST BENEFIT ANALYSIS
PLAN FOR INDUSTRIAL DEVELOPMENT PROJECT

GILMORE BELL

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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: 2024

- Real property appraised value

Existing Site	2023	$	5,146,438
Improvements	2025		1,166,480

- Personal property investments

		Recovery Period	
		5-Year	7-Year
32nd Street Equipment	2024	$ 750,000	$ 4,250,000
32nd Street Equipment	2025	600,000	3,400,000
Stephens Boulevard Equipment	2024	7,500,000	42,500,000

- Biennial growth rate of appraised value of real property: 3.0%

- Assessed value as a percentage of appraised value (real): 32.0%

- Assessed value as a percentage of appraised value (personal): 33.33%

- Terms of abatement:

Real property	Existing Site	Improvements
2024 *- 2036	0%	100%

Personal property	
Years 1-5	100%

- Personal Property is depreciated using the following 5- 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%

* 2024 abatement for partial construction; 12 year abatement period starts with 2025

Summary

Taxing Jurisdiction	Tax Rate	Projected Tax Revenues on Existing Site without Project Improvements	Projected Tax Revenues for Real and Personal Property Without Abatement	Projected PILOT Amounts	Value of Abatement
State Blind Pension	0.0300	$ 7,077	$ 24,875	$ 7,077	$ 17,798
Jasper County	0.1114	26,281	92,369	26,281	66,089
Sheltered Workshop	0.0845	19,935	70,065	19,935	50,130
Mental Health	0.0845	19,935	70,065	19,935	50,130
R-VIII School District	3.6600	863,436	3,034,757	863,436	2,171,321
Joplin Road District	0.2235	52,726	185,319	52,726	132,593
City of Joplin	0.4205	99,201	120,291	99,201	21,091
Surtax	1.0200	240,630	291,789	240,630	51,159
	5.6344	$ 1,329,220	$ 3,889,531	$ 1,329,220	$ 2,560,311

Taxes on Stephens Boulevard Site without Project Improvements

Estimated Assessed Value of Existing Site		$1,646,860	$1,696,266	$1,696,266	$1,747,154	$1,747,154	$1,799,569	$1,799,569
Taxing Jurisdiction	Tax Rate per $100	2024	2025	2026	2027	2028	2029	2030
State Blind Pension	0.0300	$ 494	$ 509	$ 509	$ 524	$ 524	$ 540	$ 540
Jasper County	0.1114	1,835	1,890	1,890	1,946	1,946	2,005	2,005
Sheltered Workshop	0.0845	1,392	1,433	1,433	1,476	1,476	1,521	1,521
Mental Health	0.0845	1,392	1,433	1,433	1,476	1,476	1,521	1,521
R-VIII School District	3.6600	60,275	62,083	62,083	63,946	63,946	65,864	65,864
Joplin Road District	0.2235	3,681	3,791	3,791	3,905	3,905	4,022	4,022
City of Joplin	0.4205	6,925	7,133	7,133	7,347	7,347	7,567	7,567
Surtax	1.0200	16,798	17,302	17,302	17,821	17,821	18,356	18,356
	5.6344	$ 92,791	$ 95,574	$ 95,574	$ 98,442	$ 98,442	$ 101,395	$ 101,395

Estimated Assessed Value of Existing Site		$1,853,556	$1,853,556	$1,909,162	$1,909,162	$1,966,437	$1,966,437	
Taxing Jurisdiction	Tax Rate per $100	2031	2032	2033	2034	2035	2036	Total
State Blind Pension	0.0300	$ 556	$ 556	$ 573	$ 573	$ 590	$ 590	$ 7,077
Jasper County	0.1114	2,065	2,065	2,127	2,127	2,191	2,191	26,281
Sheltered Workshop	0.0845	1,566	1,566	1,613	1,613	1,662	1,662	19,935
Mental Health	0.0845	1,566	1,566	1,613	1,613	1,662	1,662	19,935
R-VIII School District	3.6600	67,840	67,840	69,875	69,875	71,972	71,972	863,436
Joplin Road District	0.2235	4,143	4,143	4,267	4,267	4,395	4,395	52,726
City of Joplin	0.4205	7,794	7,794	8,028	8,028	8,269	8,269	99,201
Surtax	1.0200	18,906	18,906	19,473	19,473	20,058	20,058	240,630
	5.6344	$ 104,437	$ 104,437	$ 107,570	$ 107,570	$ 110,797	$ 110,797	$1,329,220

Projected Taxes without Abatement
(Stephens Boulevard Site and Project Improvements)

Estimated Assessed Value of Existing Site		$1,646,860	$1,696,266	$1,696,266	$1,747,154	$1,747,154	$1,799,569	$1,799,569
Estimated Assessed Value of Project Improvements		$ 186,637	$ 373,274	$ 373,274	$ 384,472	$ 384,472	$ 396,006	$ 396,006
Taxing Jurisdiction	Tax Rate per $100	2024	2025	2026	2027	2028	2029	2030
State Blind Pension	0.0300	$ 550	$ 621	$ 621	$ 639	$ 639	$ 659	$ 659
Jasper County	0.1114	2,043	2,305	2,305	2,375	2,375	2,446	2,446
Sheltered Workshop	0.0845	1,549	1,749	1,749	1,801	1,801	1,855	1,855
Mental Health	0.0845	1,549	1,749	1,749	1,801	1,801	1,855	1,855
R-VIII School District	3.6600	67,106	75,745	75,745	78,018	78,018	80,358	80,358
Joplin Road District	0.2235	4,098	4,625	4,625	4,764	4,764	4,907	4,907
City of Joplin	0.4205	7,710	8,702	8,702	8,963	8,963	9,232	9,232
Surtax	1.0200	18,702	21,109	21,109	21,743	21,743	22,395	22,395
	5.6344	$ 103,307	$ 116,606	$ 116,606	$ 120,104	$ 120,104	$ 123,707	$ 123,707

Estimated Assessed Value of Existing Site		$1,853,556	$1,853,556	$1,909,162	$1,909,162	$1,966,437	$1,966,437	
Estimated Assessed Value of Project Improvements		$ 407,886	$ 407,886	$ 420,123	$ 420,123	$ 432,726	$ 432,726	
Taxing Jurisdiction	Tax Rate per $100	2031	2032	2033	2034	2035	2036	Total
State Blind Pension	0.0300	$ 678	$ 678	$ 699	$ 699	$ 720	$ 720	$ 8,582
Jasper County	0.1114	2,519	2,519	2,595	2,595	2,673	2,673	31,868
Sheltered Workshop	0.0845	1,911	1,911	1,968	1,968	2,027	2,027	24,173
Mental Health	0.0845	1,911	1,911	1,968	1,968	2,027	2,027	24,173
R-VIII School District	3.6600	82,769	82,769	85,252	85,252	87,809	87,809	1,047,007
Joplin Road District	0.2235	5,054	5,054	5,206	5,206	5,362	5,362	63,936
City of Joplin	0.4205	9,509	9,509	9,795	9,795	10,088	10,088	120,291
Surtax	1.0200	23,067	23,067	23,759	23,759	24,471	24,471	291,789
	5.6344	$ 127,419	$ 127,419	$ 131,241	$ 131,241	$ 135,178	$ 135,178	$1,611,819

Projected PILOTS
(Stephens Boulevard Site and Project Improvements)

Estimated Assessed Value of Existing Site		$1,646,860	$1,696,266	$1,696,266	$1,747,154	$1,747,154	$1,799,569	$1,799,569
PILOT Percentage		100%	100%	100%	100%	100%	100%	100%
Estimated Assessed Value of Project Improvements		$ 186,637	$ 373,274	$ 373,274	$ 384,472	$ 384,472	$ 396,006	$ 396,006
PILOT Percentage		0%	0%	0%	0%	0%	0%	0%
Taxing Jurisdiction	Tax Rate per $100	2024	2025	2026	2027	2028	2029	2030
State Blind Pension	0.0300	$ 494	$ 509	$ 509	$ 524	$ 524	$ 540	$ 540
Jasper County	0.1114	1,835	1,890	1,890	1,946	1,946	2,005	2,005
Sheltered Workshop	0.0845	1,392	1,433	1,433	1,476	1,476	1,521	1,521
Mental Health	0.0845	1,392	1,433	1,433	1,476	1,476	1,521	1,521
R-VIII School District	3.6600	60,275	62,083	62,083	63,946	63,946	65,864	65,864
Joplin Road District	0.2235	3,681	3,791	3,791	3,905	3,905	4,022	4,022
City of Joplin	0.4205	6,925	7,133	7,133	7,347	7,347	7,567	7,567
Surtax	1.0200	16,798	17,302	17,302	17,821	17,821	18,356	18,356
	5.6344	$ 92,791	$ 95,574	$ 95,574	$ 98,442	$ 98,442	$ 101,395	$ 101,395

Estimated Assessed Value of Existing Site		$1,853,556	$1,853,556	$1,909,162	$1,909,162	$1,966,437	$1,966,437	
PILOT Percentage		100%	100%	100%	100%	100%	100%	
Estimated Assessed Value of Project Improvements		$ 407,886	$ 407,886	$ 420,123	$ 420,123	$ 432,726	$ 432,726	
PILOT Percentage		0%	0%	0%	0%	0%	0%	
Taxing Jurisdiction	Tax Rate per $100	2031	2032	2033	2034	2035	2036	Total
State Blind Pension	0.0300	$ 556	$ 556	$ 573	$ 573	$ 590	$ 590	$ 7,077
Jasper County	0.1114	2,065	2,065	2,127	2,127	2,191	2,191	26,281
Sheltered Workshop	0.0845	1,566	1,566	1,613	1,613	1,662	1,662	19,935
Mental Health	0.0845	1,566	1,566	1,613	1,613	1,662	1,662	19,935
R-VIII School District	3.6600	67,840	67,840	69,875	69,875	71,972	71,972	863,436
Joplin Road District	0.2235	4,143	4,143	4,267	4,267	4,395	4,395	52,726
City of Joplin	0.4205	7,794	7,794	8,028	8,028	8,269	8,269	99,201
Surtax	1.0200	18,906	18,906	19,473	19,473	20,058	20,058	240,630
	5.6344	$ 104,437	$ 104,437	$ 107,570	$ 107,570	$ 110,797	$ 110,797	$1,329,220

Projected Abatement
(Stephens Boulevard Site and Project Improvements)

Estimated Assessed Value of Existing Site		$1,646,860	$1,696,266	$1,696,266	$1,747,154	$1,747,154	$1,799,569	$1,799,569
Abatement Percentage		0%	0%	0%	0%	0%	0%	0%
Estimated Assessed Value of Project Improvements		$ 186,637	$ 373,274	$ 373,274	$ 384,472	$ 384,472	$ 396,006	$ 396,006
Abatement Percentage		100%	100%	100%	100%	100%	100%	100%
Taxing Jurisdiction	Tax Rate per $100	2024	2025	2026	2027	2028	2029	2030
State Blind Pension	0.0300	$ 56	$ 112	$ 112	$ 115	$ 115	$ 119	$ 119
Jasper County	0.1114	208	416	416	428	428	441	441
Sheltered Workshop	0.0845	158	315	315	325	325	335	335
Mental Health	0.0845	158	315	315	325	325	335	335
R-VIII School District	3.6600	6,831	13,662	13,662	14,072	14,072	14,494	14,494
Joplin Road District	0.2235	417	834	834	859	859	885	885
City of Joplin	0.4205	785	1,570	1,570	1,617	1,617	1,665	1,665
Surtax	1.0200	1,904	3,807	3,807	3,922	3,922	4,039	4,039
	5.6344	$ 10,516	$ 21,032	$ 21,032	$ 21,663	$ 21,663	$ 22,313	$ 22,313

Estimated Assessed Value of Existing Site		$1,853,556	$1,853,556	$1,909,162	$1,909,162	$1,966,437	$1,966,437	
Abatement Percentage		0%	0%	0%	0%	0%	0%	
Estimated Assessed Value of Project Improvements		$ 407,886	$ 407,886	$ 420,123	$ 420,123	$ 432,726	$ 432,726	
Abatement Percentage		100%	100%	100%	100%	100%	100%	
Taxing Jurisdiction	Tax Rate per $100	2031	2032	2033	2034	2035	2036	Total
State Blind Pension	0.0300	$ 122	$ 122	$ 126	$ 126	$ 130	$ 130	$ 1,505
Jasper County	0.1114	454	454	468	468	482	482	5,587
Sheltered Workshop	0.0845	345	345	355	355	366	366	4,238
Mental Health	0.0845	345	345	355	355	366	366	4,238
R-VIII School District	3.6600	14,929	14,929	15,376	15,376	15,838	15,838	183,571
Joplin Road District	0.2235	912	912	939	939	967	967	11,210
City of Joplin	0.4205	1,715	1,715	1,767	1,767	1,820	1,820	21,091
Surtax	1.0200	4,160	4,160	4,285	4,285	4,414	4,414	51,159
	5.6344	$ 22,982	$ 22,982	$ 23,671	$ 23,671	$ 24,382	$ 24,382	$ 282,600

Projected Taxes without Abatement
(Stephens Boulevard Equipment)

Estimated Assessed Value of Stephens Boulevard Equipment		$14,772,939	$11,425,691	$8,850,448	$6,698,747	$4,588,791	
Taxing Jurisdiction	Tax Rate per $100	2025	2026	2027	2028	2029	Total
State Blind Pension	0.0300	$ 4,432	$ 3,428	$ 2,655	$ 2,010	$ 1,377	$ 13,901
Jasper County	0.1114	16,457	12,728	9,859	7,462	5,112	51,619
Sheltered Workshop	0.0845	12,483	9,655	7,479	5,660	3,878	39,154
Mental Health	0.0845	12,483	9,655	7,479	5,660	3,878	39,154
R-VIII School District	3.6600	540,690	418,180	323,926	245,174	167,950	1,695,920
Joplin Road District	0.2235	33,018	25,536	19,781	14,972	10,256	103,562
	4.1939	$ 619,562	$ 479,182	$ 371,179	$ 280,939	$ 192,449	$1,943,311

	Personal Property Assessed Value (5-Year Depreciation)					
		2025	2026	2027	2028	2029
2024	7,500,000	2,124,788	1,487,351	1,041,146	624,688	249,975

	Personal Property Assessed Value (7-Year Depreciation)					
		2025	2026	2027	2028	2029
2024	42,500,000	12,648,152	9,938,339	7,809,302	6,074,059	4,338,816

Projected PILOTS
(Stephens Boulevard Equipment)

Estimated Assessed Value of Stephens Boulevard Equipment Acquired in 2024		$14,772,939	$11,425,691	$8,850,448	$6,698,747	$4,588,791
PILOT Percentage		0.00%	0.00%	0.00%	0.00%	0.00%
Taxing Jurisdiction	Tax Rate per $100	2025	2026	2027	2028	2029	Total
State Blind Pension	0.0300	$ -	$ -	$ -	$ -	$ -	$ -
Jasper County	0.1114	-	-	-	-	-	-
Sheltered Workshop	0.0845	-	-	-	-	-	-
Mental Health	0.0845	-	-	-	-	-	-
R-VIII School District	3.6600	-	-	-	-	-	-
Joplin Road District	0.2235	-	-	-	-	-	-
	4.1939	$ -	$ -	$ -	$ -	$ -	$ -

Projected Abatement
(Stephens Boulevard Equipment)

Estimated Assessed Value of Stephens Boulevard Equipment Acquired in 2024		$14,772,939	$11,425,691	$8,850,448	$6,698,747	$4,588,791	
Abatement Percentage		100.00%	100.00%	100.00%	100.00%	100.00%	
Taxing Jurisdiction	Tax Rate per $100	2025	2026	2027	2028	2029	Total
State Blind Pension	0.0300	$ 4,432	$ 3,428	$ 2,655	$ 2,010	$ 1,377	$ 13,901
Jasper County	0.1114	16,457	12,728	9,859	7,462	5,112	51,619
Sheltered Workshop	0.0845	12,483	9,655	7,479	5,660	3,878	39,154
Mental Health	0.0845	12,483	9,655	7,479	5,660	3,878	39,154
R-VIII School District	3.6600	540,690	418,180	323,926	245,174	167,950	1,695,920
Joplin Road District	0.2235	33,018	25,536	19,781	14,972	10,256	103,562
	4.1939	$ 619,562	$ 479,182	$ 371,179	$ 280,939	$ 192,449	$1,943,311

Projected Taxes without Abatement
(32nd Street Equipment)

Estimated Assessed Value of 32nd Street Equipment		$ 1,477,294	$2,324,404	$1,799,100	$1,377,911	$ 994,779	
Taxing Jurisdiction	Tax Rate per $100	2025	2026	2027	2028	2029	Total
State Blind Pension	0.0300	$ 443	$ 697	$ 540	$ 413	$ 298	$ 2,392
Jasper County	0.1114	1,646	2,589	2,004	1,535	1,108	8,882
Sheltered Workshop	0.0845	1,248	1,964	1,520	1,164	841	6,738
Mental Health	0.0845	1,248	1,964	1,520	1,164	841	6,738
R-VIII School District	3.6600	54,069	85,073	65,847	50,432	36,409	291,830
Joplin Road District	0.2235	3,302	5,195	4,021	3,080	2,223	17,821
	4.1939	$ 61,956	$ 97,483	$ 75,452	$ 57,788	$ 41,720	$ 334,400

		Personal Property Assessed Value (5-Year Depreciation)				
		2025	2026	2027	2028	2029
2024	750,000	212,479	148,735	104,115	62,469	24,998
2025	600,000	-	169,983	118,988	83,292	49,975

		Personal Property Assessed Value (7-Year Depreciation)				
		2025	2026	2027	2028	2029
2024	4,250,000	1,264,815	993,834	780,930	607,406	433,882
2025	3,400,000	-	1,011,852	795,067	624,744	485,925

Projected PILOTS
(32nd Street Equipment)

Estimated Assessed Value of 32nd Street Equipment Acquired in 2024		$ 1,477,294	$1,142,569	$ 885,045	$ 669,875	$ 458,879
PILOT Percentage		0.00%	0.00%	0.00%	0.00%	0.00%
Estimated Assessed Value of 32nd Street Equipment Acquired in 2025		$ -	$1,181,835	$ 914,055	$ 708,036	$ 535,900
PILOT Percentage			0.00%	0.00%	0.00%	0.00%

Taxing Jurisdiction	Tax Rate per $100	2025	2026	2027	2028	2029	Total
State Blind Pension	0.0300	$ -	$ -	$ -	$ -	$ -	$ -
Jasper County	0.1114	-	-	-	-	-	-
Sheltered Workshop	0.0845	-	-	-	-	-	-
Mental Health	0.0845	-	-	-	-	-	-
R-VIII School District	3.6600	-	-	-	-	-	-
Joplin Road District	0.2235	-	-	-	-	-	-
	4.1939	$ -	$ -	$ -	$ -	$ -	$ -

Projected Abatement
(32nd Street Equipment)

Estimated Assessed Value of 32nd Street Equipment Acquired in 2024		$ 1,477,294	$1,142,569	$ 885,045	$ 669,875	$ 458,879
Abatement Percentage		100.00%	100.00%	100.00%	100.00%	100.00%
Estimated Assessed Value of 32nd Street Equipment Acquired in 2025		$ -	$1,181,835	$ 914,055	$ 708,036	$ 535,900
Abatement Percentage			100.00%	100.00%	100.00%	100.00%

Taxing Jurisdiction	Tax Rate per $100	2025	2026	2027	2028	2029	Total
State Blind Pension	0.0300	$ 443	$ 697	$ 540	$ 413	$ 298	$ 2,392
Jasper County	0.1114	1,646	2,589	2,004	1,535	1,108	8,882
Sheltered Workshop	0.0845	1,248	1,964	1,520	1,164	841	6,738
Mental Health	0.0845	1,248	1,964	1,520	1,164	841	6,738
R-VIII School District	3.6600	54,069	85,073	65,847	50,432	36,409	291,830
Joplin Road District	0.2235	3,302	5,195	4,021	3,080	2,223	17,821
	4.1939	$ 61,956	$ 97,483	$ 75,452	$ 57,788	$ 41,720	$ 334,400

COUNCIL BILL NO. 2024-001 **ORDINANCE NO. _____**

AN ORDINANCE approving a plan for an industrial development project; authorizing the City of Joplin, Missouri to issue its taxable industrial development revenue bonds in a principal amount not to exceed $77,300,000; and authorizing and approving certain documents and actions in connection therewith.

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, General Mills Operations, LLC, a Delaware limited liability company ("General Mills"), has proposed a project consisting of (1) constructing an expansion of the existing General Mills facility located at 3007 Stephens Boulevard, also known as 3007 East 32nd Street, in Joplin, Missouri (the "Stephens Boulevard Site") consisting of the addition of approximately 33,328 square feet to such facility (the "Project Improvements"); (2) purchasing and installing equipment at the Stephens Boulevard Site as part of the installation of an additional manufacturing line to increase frozen dough output (the "Stephens Boulevard Equipment"); and (3) purchasing and installing equipment at the existing Heartland Pet Food Manufacturing facility located at 8101 East 32nd Street in Joplin, Missouri (the "32nd Street Site") as part of the installation of additional manufacturing and packaging lines to increase output of pet food and treats (the "32nd Street Equipment," with the Stephens Boulevard Site, the Project Improvements, the Stephens Boulevard Equipment and the 32nd Street Equipment collectively being 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 April 2, 2024 to the taxing jurisdictions in accordance with Section 100.059.1 of the Act, and held a public hearing regarding the Plan on May 6, 2024, 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 in two series (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 April 10, 2024 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;

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI as follows:

Section 1. Promotion of Economic Development. The Council hereby finds and determines that the Project will promote the economic welfare and the development of the City, and the issuance of the Bonds by the City to pay the costs of the Project will be in furtherance of the public purposes set forth in the Act.

Section 2. Approval of Plan. The Council hereby approves the Plan attached hereto as Exhibit A in accordance with Section 100.050 of the Act.

Section 3. Authorization and Sale of the Bonds. The City is hereby authorized to issue and sell its Taxable Industrial Development Revenue Bonds (Project Titan), in two series in an aggregate principal amount not to exceed $77,300,000, 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 Indentures 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 Indentures upon the execution thereof, and the signatures of the officers of the City executing the Trust Indentures 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 sole bidder (together with its assignees and designees for purposes of entering into the City Documents described below, 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 Agreements, 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 for each series of Bonds dated as of the date set forth therein (the "Trust Indentures"), between the City and UMB Bank, N.A., as trustee (the "Trustee"), pursuant to which the Bonds shall be issued and the City shall pledge and assign the payments, revenues and receipts received pursuant to the Lease Agreements 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 Indentures;

(b) Lease Agreement for each series of Bonds dated as of the date set forth therein (the "Lease Agreements"), between the City and the Company, under which the City will provide funds for the improvement, expansion and equipping of the Project and lease the Project to the Company pursuant to the terms and conditions in the Lease Agreements, 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 for each series of Bonds dated as of the date set forth therein, between the City and the Company, pursuant to which the Company agrees to purchase the Bonds;

(d) Performance Agreement for each series of Bonds dated as of the date set forth therein, between the City and the Company, pursuant to which the City has granted the Company certain rights with respect to the abatement of ad valorem real property taxes on the Project in consideration for the Company's agreement to pay certain payments in lieu of taxes; and

Section 6. Execution of Documents. The Mayor of the City is hereby authorized and directed to execute the Bonds and to deliver the Bonds to the Trustee for authentication for and on behalf of and as the act and deed of the City in the manner provided in the Indentures. 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, and to execute such project financing documents, relating to the Bonds and the City Documents, 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, waiver and other documents shall not increase the principal amount of the Bonds, increase the term of the Lease or the tax abatement 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 on May 22, 2024.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI this _____ day of May, 2024, by a vote of _____.

_____
Keenan T. Cortez, Sr., Mayor

[SEAL]

ATTEST:

_____
Holly Nagy, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

EXHIBIT A

PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT