

AGENDA
Special Session of the City Council
Of the City of Saint Charles, Missouri
City Hall, Council Chambers
200 North Second Street, Saint Charles, Missouri
Tuesday, October 14, 2025
5:30 p.m.

All persons who desire to provide public comment must complete a Speaker's Card in its entirety and present it to the City Clerk prior to the 5:30 p.m. start of the Special Session of the City Council to be eligible to speak.

TO: COUNCILMEMBERS:

Bill Otto, Ward 1

Mark Hollander, Ward 2

Vince Ratchford, Ward 3

Mary West, Ward 4

Denise Mitchell, Ward 5

Justin Foust, Ward 6

Brian Gould, Ward 7

Michael Galba, Ward 8

Bart Haberstroh, Ward 9

Steve Hollander, Ward 10

You are hereby notified that a Special Session of the City Council of the City of Saint Charles, Missouri has been called by Mayor Daniel J. Borgmeyer be held on Tuesday, October 14, 2025, at City Hall, Council Chambers, 200 North Second Street, Saint Charles, Missouri.

The Special Session is called for the following reasons:

1. ROLL CALL

2. INVOCATION AND PLEDGE OF ALLEGIANCE

3. PUBLIC COMMENTS - 3 Minute Limit Per Person

The Public Comment portion of the meeting is an opportunity for the City Council to listen to comments from the public. It is not a question and answer session and the Mayor and City Council will not respond to comments or answer questions during this period. The Mayor or the City Council may refer any matter brought up to the Director of Administration or City Clerk if action is needed. A buzzer or notification will sound when three minutes have elapsed. All persons who desire to provide Public Comment shall complete a Speaker's Card in its entirety and present it to the City Clerk prior to the scheduled start of the City Council Meeting.

4. BILLS FOR FINAL PASSAGE

BILL 14012

AN ORDINANCE AMENDING SECTIONS 640.001 AND 640.160 OF THE CODE OF ORDINANCES PERTAINING TO ITINERANT MERCHANTS AND PROMOTERS AND, SPECIFICALLY, TO ADD CERTAIN PROMOTER REQUIREMENTS AND TO MAKE CERTAIN TEXTUAL CHANGES TO THE PENALTY PROVISION RELATING TO VIOLATIONS OF CHAPTER 640 OF THE CODE OF ORDINANCES (*SPONSOR: MARK HOLLANDER*)

BILL 14013

AN ORDINANCE AUTHORIZING A STATE TRANSIT ASSISTANCE GRANT AGREEMENT BETWEEN THE MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION AND THE CITY OF ST. CHARLES, MISSOURI, FOR RECEIPT OF STATE TRANSPORTATION FUNDS IN THE AMOUNT OF \$36,871.21 DURING THE PERIOD OF JULY 1, 2025 THROUGH JUNE 30, 2026 *(SPONSOR: MICHAEL GALBA)*

BILL 14014

AN ORDINANCE AUTHORIZING AGREEMENTS BY AND BETWEEN ST. CHARLES COUNTY, MISSOURI, AND THE CITY OF ST. CHARLES; SPECIFICALLY, AN AGREEMENT FOR USE OF ST. CHARLES COUNTY TRANSPORTATION SALES TAX FUNDS FOR FINANCING A PORTION OF THE CONSTRUCTION OF NORTH MAIN STREET WITHIN THE CITY CENTRE COMPLEX DEVELOPMENT, AN AGREEMENT FOR THE TRANSFER OF CITY HALL TO THE COUNTY, AND A FIRST AMENDMENT TO THE AGREEMENT FOR USE OF COUNTY TRANSPORTATION SALES TAX FUNDS FOR CONSTRUCTION OF NEW ROADWAYS WITHIN THE RIVERPOINTE DEVELOPMENT *(SPONSORS: MICHAEL GALBA, MARK HOLLANDER, BILL OTTO, MARY WEST, JUSTIN FOUST, BRIAN GOULD, BART HABERSTROH, AND STEVE HOLLANDER)*

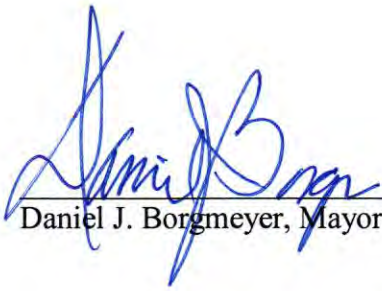
BILL 14015

AN ORDINANCE AUTHORIZING AN ENHANCED MOBILITY OF SENIORS AND INDIVIDUALS WITH DISABILITIES CAPITAL AND OPERATING ASSISTANCE GRANT AGREEMENT WITH THE MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION TO RECEIVE SECTION 5310 FEDERAL FUNDS IN AN AMOUNT NOT TO EXCEED EIGHTY PERCENT (80%) OF THE COSTS TO ACQUIRE THREE ACCESSIBLE REAR ENTRY MINIVANS *(SPONSOR: MICHAEL GALBA)*

BILL 14016 *(To be Tabled Until the October 21, 2025 Regular City Council Meeting)*

AN ORDINANCE AUTHORIZING THE CITY OF ST. CHARLES, MISSOURI, TO ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS (CLEMENT MANAGEMENT SERVICES, LLC PROJECT), SERIES 2025, FOR THE PURPOSE OF PROVIDING FUNDS TO PAY THE COSTS OF ACQUIRING, CONSTRUCTING AND IMPROVING AN INDUSTRIAL DEVELOPMENT PROJECT IN THE CITY; APPROVING A PLAN FOR THE PROJECT; AND AUTHORIZING THE CITY TO ENTER INTO CERTAIN AGREEMENTS AND TAKE CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH *(SPONSOR: JUSTIN FOUST)*

5. ADJOURNMENT



Daniel J. Borgmeyer, Mayor

Dated: 10-9-25

The City of St. Charles offers all interested citizens the opportunity to attend public meetings and comment on public matters. If you wish to attend this public meeting and require an accommodation due to a disability, please contact the Office of the City Clerk to coordinate an accommodation at least two (2) business days in advance of the scheduled meeting at 636-949-3282.

The City of St. Charles, Missouri, fully complies with Title VI of the Civil Rights Act of 1964 and related statutes and regulations in all programs and activities. For more information, or to obtain a Title VI Complaint Form, please call the City Clerk's Office at (636)949-3282 or visit City Hall located at 200 North Second Street, St. Charles, Missouri, 63301.

Posted: Thursday, October 9, 2025 – 5:00 P.M.

RCA FORM (OFFICE USE ONLY)

Bill # 14012

MEETING/DATE: 10/7/2025

Regular Special Work Session

ATTACHMENT: YES NO

Report Resolution Ordinance

Request for Council Action

Ward(s): 2

Sponsor(s): Mark Hollander

Description:

AN ORDINANCE AMENDING SECTIONS 640.001 AND 640.160 OF THE CODE OF ORDINANCES PERTAINING TO ITINERANT MERCHANTS AND PROMOTERS AND, SPECIFICALLY, TO ADD CERTAIN PROMOTER REQUIREMENTS AND TO MAKE CERTAIN TEXTUAL CHANGES TO THE PENALTY PROVISION RELATING TO VIOLATIONS OF CHAPTER 640 OF THE CODE OF ORDINANCES.

Contract Extension/Renewal: Yes No

Information Paper Attached: Yes No

Staff Recommendation: Approve Disapprove

Board/Committee/Commission Recommendation: Approve Disapprove

Summary:

The changes to this Ordinance would add some requirements in relation to abiding by other City Ordinances and certain penalties for non-compliance. Finance is requesting to change the 5 day merchant listing requirement to 15 days to vet the merchants for other City payment non-compliance.

Budget Impact: (revenue generated, estimated cost, CIP item, etc.)

Fiscal Impact: N/A

Account #: _____

Project #: _____

RCA prepared by: jao Dept. Dir. jao Finance Dir. jao Dir. of Admin. g

Sponsor: Mark Hollander

AN ORDINANCE AMENDING SECTIONS 640.001 AND 640.160 OF THE CODE OF ORDINANCES PERTAINING TO ITINERANT MERCHANTS AND PROMOTERS AND, SPECIFICALLY, TO ADD CERTAIN PROMOTER REQUIREMENTS AND TO MAKE CERTAIN TEXTUAL CHANGES TO THE PENALTY PROVISION RELATING TO VIOLATIONS OF CHAPTER 640 OF THE CODE OF ORDINANCES.

Now, Therefore, Be It Ordained by the Council of the City of Saint Charles, Missouri, as Follows:

SECTION 1. Section 640.001 of the Code of Ordinances of the City of St. Charles, Missouri is hereby amended to read as follows:

Section 640.001. Itinerant Merchants And Promoters.

- A. Definition. For the purpose of this Section, an "itinerant merchant" is defined as any person, firm or corporation, whether as owner, agent, consignee or employee, whether a resident of the City or not, who engages in a temporary business of selling and delivering goods, wares and merchandise within the City and who, in furtherance of that purpose, hires, leases, uses or occupies any building, structure, motor vehicle, tent, public room, hotel room, lodging house, apartment, shop, lot or any other place within the City for the exhibition and sale of such goods, wares and merchandise.
- B. Regular Itinerant Merchant License. Except as otherwise provided in this Section, every itinerant merchant shall pay a license fee in the amount stated in Section 150.030. The license shall be valid for three (3) consecutive calendar weeks. An itinerant merchant shall not be issued more than three (3) licenses in any calendar year.
- C. Promoter-Related Itinerant Merchant License. No itinerant merchant's license shall be required of any itinerant merchant participating in an event for which a promoter's license has been issued.
- D. Promoters And Duties Of Promoters.
 - 1. For purposes of this Section, a "promoter" is the ~~The~~ person responsible for the development, coordination, advertising and implementation of a group event involving itinerant merchants. The promoter shall obtain a promoter's license and pay a license fee based upon the number of itinerant merchants and the rates set forth

Underlined text is inserted. ~~Struck through~~ text is deleted.

in Section 150.030. The license shall be valid for any combination of seven (7) days within one (1) year from the date of issuance and which shall be valid only for a single location which shall be specified in the license.

2. Organizations exempted from license fees under Section 605.120 are exempt from this promoter's license fee, but shall obtain and display the license when functioning as a promoter.
 3. Promoters shall provide to the Director of Finance a list of all persons who are directly involved in any aspect of putting on the group event including, without limitation, persons working at the venue and/or involved in advertising the event. There shall be a rebuttable presumption the promoter is responsible for these activities. This list shall be provided to the Director of Finance fifteen (15) days prior to the first day of the event and updates to the list of persons, if any, shall be made up to the first day of the event.
 - ~~4.3.~~ Promoters shall provide to the Director of Finance a list of itinerant merchants participating in the event, including sales tax numbers. In the event that an itinerant merchant does not have a sales tax number, then the promoter shall certify that the promoter has given the itinerant merchant a State concession report form and the promoter shall provide the City with the name and address of that itinerant merchant. This information shall be provided to the Director of Finance fifteen (15) ~~five (5)~~ days prior to the first day of the event, along with any other appropriate information.
 5. The promoter shall be responsible for distributing the necessary sales tax (Section 605.470) and tourism tax (Section 620.020) information and forms to any participating itinerant merchant.
- E. Licenses issued under this Section are not transferable.
- F. Itinerant merchants and promoters shall not be relieved from complying with the provisions of this Section merely by reason of associating temporarily with any person possessing a business license or by conducting the transient business in connection with, as a part of or in the name of any person possessing a business license.
- G. Open-Air Produce Market And Food Vendor Itinerant Merchant. Every itinerant merchant operating an open-air produce market or operating as a food vendor shall pay a license fee in the amount stated in Section **150.030**. The license shall be valid for one (1) year.

Underlined text is inserted. ~~Struck through~~ text is deleted.

- H. Additional reasonable conditions may be imposed upon the issuance of a license as deemed necessary to protect the public health, safety, and welfare. Permission to operate a temporary business or event may be refused if the applicant is unable to comply with the requirements of this Section and all other applicable laws and regulations.
- I. Every promoter and itinerant merchant must comply with the pertinent provisions of the building code, zoning regulations, and sign regulations, and with all other applicable City, state, and federal laws.
- J. Revocation of License. Licenses under this Section may be revoked by the Director of Finance for any of the following reasons:
1. Fraud, misrepresentation or false statement contained in the application for license;
 2. Fraud, misrepresentation or false statement made in the course of carrying on the licensed activity;
 3. Any violation of this Section and all other applicable laws and regulations; or
 4. Conducting the temporary business or event in an unlawful manner or in a manner that constitutes a breach of the peace or a menace to the health, safety, or general welfare of the public.
- K. If a license under this Section has been revoked, or a citation for any conduct related to the licensed activity is pending, the licensee may not submit a new application for six (6) months from the date of the revocation or the final disposition of the charge in the municipal court, whichever is later. If a licensee's license under this Section is revoked a second or subsequent time, or another citation for conduct related to the licensed activity is issued, such person may not submit a new application for one (1) year from the date of the revocation or final disposition of the charge.

SECTION 2. Section 640.160 of the Code of Ordinances of the City of St. Charles, Missouri is hereby amended to read as follows:

Section 640.160. Penalty.

- A. Any person who violates any provision of this Chapter for which no other penalty is set forth shall be subject to the penalty set forth in Section 100.150 of this Code of Ordinances.
- B. Any person found guilty of violating the terms of Article II, Garage Sales, Sections 640.010 ~~et seq.~~, through 640.070, shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) for each offense.

Underlined text is inserted. ~~Struck through~~ text is deleted.

C. Any person found guilty of violating the terms of Article III, Solicitors, Door-To-Door Residential Sales, Sections 640.080 through 640.130, shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for each offense and shall be prohibited from obtaining a permit for a period of two (2) years from the date of being found guilty.

D. Any person found guilty of violating the terms of Article IV, Off-Premises Canvassing, Sections 640.140 through 640.152, shall be fined not less than twenty-five (\$25.00) nor more than one hundred dollars (\$100.00) for each offense.

SECTION 3. It is the intention of the City Council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of the City of St. Charles, Missouri, and the sections of this ordinance may be renumbered to accomplish such intention.

SECTION 4. This ordinance shall be in full force and effect from and after the date of its passage and approval.

Date Passed

Michael Galba, Presiding Officer

Date Approved by Mayor

Daniel J. Borgmeyer, Mayor

Approved as to Legal Form:

Attest:

Holly Magdziarz 9/19/25

Holly Magdziarz, City Attorney Date

Kimberly Hudson, City Clerk



RCA FORM (OFFICE USE ONLY)

Bill # 14013

MEETING/DATE: 10/7/2025

Regular Special Work Session

ATTACHMENT: YES NO

Report Resolution Ordinance

Request for Council Action

Ward(s): ALL

Sponsor(s): MICHAEL GALBA

Description:

AN ORDINANCE AUTHORIZING AN AGREEMENT BETWEEN THE MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION AND THE CITY OF ST. CHARLES FOR RECEIPT OF STATE TRANSPORTATION FUNDS IN THE AMOUNT OF \$36,871.21

Contract Extension/Renewal: Yes No

Information Paper Attached: Yes No

Staff Recommendation: Approve Disapprove

Board/Committee/Commission Recommendation: Approve Disapprove

Summary:

EACH YEAR THE MISSOURI HIGHWAY AND TRANSPORTATION COMMISSION AWARDS GRANTS FOR THE OPERATION OF PUBLIC TRANSPORTATION, WHICH HELPS OFFSET THE COST OF OPERATING THE ST. CHARLES TRANSIT SYSTEM. THE ATTACHED AGREEMENT TITLED MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION PUBLIC TRANSIT OPERATING ASSISTANCE GRANT AGREEMENT IS FOR THE PERIOD OF JULY 1, 2025 THROUGH JUNE 30, 2025 IN THE AMOUNT OF \$36,871.21

Budget Impact: (revenue generated, estimated cost, CIP item, etc.)

Fiscal Impact: \$ 36,871.21 N/A 2025-26 REVENUE

Account #: 204-000-000-432302

Project #: N/A

Signed by: Larry Perny Finance Dir. DocuSigned by: Jennifer O'Connor Dir. of Admin. DocuSigned by: Lawrence S. Dobrosky, Jr

RCA prepared by: MZG

Dept. Dir.

C2B12E8A759A480...

C5FB3E8A40BE40D...

3E05A81A58094AA...

Bill No. 14013

Ordinance No. _____

Sponsor: Michael Galba

AN ORDINANCE AUTHORIZING A STATE TRANSIT ASSISTANCE GRANT AGREEMENT BETWEEN THE MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION AND THE CITY OF ST. CHARLES, MISSOURI, FOR RECEIPT OF STATE TRANSPORTATION FUNDS IN THE AMOUNT OF \$36,871.21 DURING THE PERIOD OF JULY 1, 2025 THROUGH JUNE 30, 2026.

Be It Ordained by the Council of the City of St. Charles, Missouri, as Follows:

SECTION 1. A State Transit Assistance Grant Agreement between the Missouri Highways and Transportation Commission and the City of St. Charles, Missouri, for receipt of State Transportation Funds in the amount of \$36,871.21 during the period of July 1, 2025 through June 30, 2026 is approved. The Agreement shall be substantially the same in form and content as attached hereto and identified as Exhibit 1. The Mayor is authorized to execute the Agreement and perform all acts necessary to carry out the intent of this ordinance.

SECTION 2. This Ordinance shall be in full force and effect from and after the date of its passage and approval.

Date Passed

Michael Galba, Presiding Officer

Date Approved by Mayor

Daniel J. Borgmeyer, Mayor

Approved as to Legal Form:

Attest:

Holly Magdziaz 9/23/2025
Holly Magdziaz, City Attorney Date

Kimberly Hudson, City Clerk



CCO Form: MO79
Approved: 06/96 (RMH)
Revised: 12/24 (MWH)
Modified:

**MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION
STATE TRANSIT ASSISTANCE GRANT AGREEMENT**

THIS AGREEMENT is entered into between the Missouri Highways and Transportation Commission (hereinafter, "Commission") and City of St. Charles (hereinafter, "Grantee").

WITNESSETH:

WHEREAS, the purpose of this Agreement is to provide financial assistance to the Grantee as appropriated from the State Fund and to set forth the conditions upon which the assistance will be provided;

NOW, THEREFORE, in consideration of the mutual covenants, promises, and representations in this Agreement, the parties agree as follows:

(1) SCOPE OF WORK: The Grantee shall provide general public transportation in accordance with the "Missouri State Transit Assistance Application" which is attached and made a part of this Agreement as Attachment A.

(2) AMOUNT OF GRANT: The Commission awards the Grantee the sum of Thirty six thousand eight hundred seventy one dollars and twenty one cents (\$36,871.21) during the period from July 1, 2025, to June 30, 2026.

(3) PERFORMANCE OF AGREEMENT: The Grantee shall immediately notify the Commission in writing of any condition or event which may significantly affect its ability to perform the required activities in accordance with the provisions of this Agreement.

(4) RETENTION AND AUDIT OF RECORDS:

(A) The Grantee shall maintain all records relating to this Agreement, including but not limited to invoices, payrolls, etc. These records must be available at all reasonable times at no charge to the Commission and/or its representatives during the period of this Agreement and any extension thereof, and for three (3) years after the date of final payment made under this Agreement.

(B) The Grantee shall submit to the Commission such data, reports, documents, and other information relating to the Grantee's activities as the Commission may require at any time.

(C) At any time during or after the grant period provided in this Agreement,

the Commission may inspect, copy, and audit all records possessed by or available to the Grantee, which may be pertinent to this Agreement. If the Commission notifies the Grantee of its specific intention to inspect, copy or audit any of these records, then the Grantee shall retain all of the records pertinent to this Agreement until the Commission notifies the Grantee that it has completed its inspection, copying, or audit.

(5) THIRD PARTY CONTRACTS:

(A) Prior to execution by either party, the Grantee shall submit to the Commission for review, comment and approval all contracts for services included in the Public Transportation Budget and Service Statement to be provided to the Grantee by a third party.

(B) The Commission shall not be liable to contractors or subcontractors of the Grantee or any other person not a party to this Agreement in connection with the performance of the project.

(6) PAYMENTS:

(A) Limitations on Commission Contribution: Funds made available to the Commission and the Grantee are subject to appropriations made by the General Assembly. In the event state funds available to the Commission are reduced so that the Commission is incapable of completely satisfying its obligations to all the Grantees for the current state fiscal year, the Commission may recompute and reduce this grant. When added to federal operating assistance funds available and applied to the same operating period, the maximum Commission payment on any monthly or quarterly request shall not cause the total of state and federal operating assistance to exceed the amount of operating assistance for which the Grantee would have qualified in federal funds had additional federal funds been available.

(B) Progress Payments: Progress payments, based upon actual allowable costs, for not less than one (1) month and for no more than three (3) months may be made upon receipt of an itemized invoice from the Grantee in an appropriate format approved by the Commission. The itemized invoice shall be reviewed by the Commission prior to payment and must include a certification that costs have been incurred in the performance of the Agreement and a record of the actual costs. Any costs deemed ineligible for reimbursement by the Commission in accordance with the terms of this Agreement shall be deducted from the itemized invoice before payment is made. Any rejected or unaccepted costs shall be borne by the Grantee.

(C) Availability of Funds: The Commission's duty to pay the Grantee as provided in this Agreement is subject to the availability of funds appropriated by the Missouri General Assembly to and from the State Transportation Fund and any subsequent directives mandated by the Governor regarding the withholding of appropriations.

(7) ASSIGNMENT: The Grantee shall not assign, transfer, or delegate any interest in this Agreement, or its performance of any work required by this Agreement, without the prior written consent of the Commission.

(8) INDEMNIFICATION: To the extent allowed or imposed by law, the Grantee shall defend, indemnify, and hold harmless the Commission, including its members and the Missouri Department of Transportation ("MoDOT" or "Department") employees, from any claim or liability whether based on a claim for damages to real or personal property or to a person for any matter relating to or arising out of the Grantee's wrongful or negligent performance of its obligations under this Agreement.

(9) INSURANCE:

(A) The Grantee is required or will require any contractor procured by the Grantee to work under this Agreement:

1. To obtain a no cost permit from the Commission's district engineer prior to working on the Commission's right-of-way, which shall be signed by an authorized contractor representative (a permit from the Commission's district engineer will not be required for work outside of the Commission's right-of-way); and

2. To carry commercial general liability insurance and commercial automobile liability insurance from a company authorized to issue insurance in Missouri, and to name the Commission, and the MoDOT and its employees, as additional insureds in amounts sufficient to cover the sovereign immunity limits for Missouri public entities (\$600,000 per claimant and \$4,000,000 per occurrence) as calculated by the Missouri Department of Insurance, Financial Institutions and Professional Registration, and published annually in the Missouri Register pursuant to section 537.610 RSMo.

(B) In no event shall the language of this Agreement constitute or be construed as a waiver or limitation for either party's rights or defenses with regard to each party's applicable sovereign, governmental, or official immunities and protections as provided by federal and state constitution or law.

(10) RIGHT OF COMMISSION TO TERMINATE AGREEMENT: Upon written notice to the Grantee, the Commission may suspend or terminate all or part of the financial assistance provided for in this Agreement when the Grantee is, or has been, in violation of any of the terms of this Agreement.

(11) COMMISSION'S REPRESENTATIVE: The Commission's chief engineer is designated as the Commission's representative for the purpose of administering the provisions of this Agreement. The Commission's representative may designate by written notice other persons having the authority to act on behalf of the Commission in furtherance of the performance of this Agreement.

(12) NONDISCRIMINATION CLAUSE: The Grantee shall comply with all state and federal statutes applicable to the Grantee relating to nondiscrimination, including, but not limited to, Chapter 213, RSMo; Title VI and Title VII of the Civil Rights Act of 1964, as amended (42 USC §2000d and §2000e, *et seq.*); and with every applicable provision of the "Americans with Disabilities Act" (42 USC §12101, *et seq.*).

(13) APPLICABLE LAWS AND REGULATIONS: This Agreement shall be construed according to the laws of the State of Missouri. Each party shall comply with all applicable federal, state, and local laws, regulations, and ordinances. Additionally, each party shall adhere to all accepted industry standards, processes, and procedures relevant to the performance of their obligations under this Agreement. A violation of this paragraph constitutes a material breach of the Agreement.

(14) VENUE: It is agreed by the parties that any action at law, suit in equity, or other judicial proceeding to enforce or construe this Agreement, or respecting its alleged breach, shall be instituted only in the Circuit Court of Cole County, Missouri.

(15) NONSOLICITATION: The Grantee warrants that it has not employed or retained any company or person, other than a bona fide employee working for the Grantee, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the Commission shall have the right to annul this Agreement without liability, or in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gifts, or contingent fee.

(16) AMENDMENTS: Any change in this Agreement, whether by modification or supplementation, must be accomplished by a formal contract amendment or supplemental agreement signed and approved by the duly authorized representatives of the Grantee and the Commission.

(17) DISPUTES: Any disputes that arise under this Agreement shall be decided by the Commission or its representative.

(18) LACK OF WAIVER: In no event shall payment of grant funds to the Grantee by the Commission constitute or be construed as a waiver by the Commission of any breach of covenants, or any default which may exist on the part of the Grantee, and the making of any such payment by the Commission while any such breach or default shall exist shall in no way impair or prejudice any right or remedy available to the Commission with respect to such breach or default.

(19) NOTICES: Any notice or other communication required or permitted to be given hereunder shall be in writing and shall be deemed given three (3) days after delivery by United States mail, regular mail postage prepaid, or upon receipt by personal or facsimile delivery, addressed as follows:

- (A) To the Grantee:
City of St. Charles
200 North 2nd Street
St. Charles, MO 63301
Facsimile No.:636-949-3365

- (B) To the Commission:
Missouri Department of Transportation
105 Capitol Ave
Jefferson City, Mo 65102
Facsimile No.:573-751-6555

or to such other place as the parties may designate in accordance with this Agreement. To be valid, facsimile delivery shall be followed by delivery of the original document, or a clear and legible copy thereof, within three (3) business days of the date of facsimile transmission of that document.

[The remainder of this page left intentionally blank]

IN WITNESS WHEREOF, the parties have entered into this Agreement on the last date written below.

Executed by the Grantee this _____(date).

CITY OF ST. CHARLES

By _____

Title _____

Attest:

By _____

Title _____

Approved as to Form:

By Holly Magdjan
Counsel

Ordinance No. _____
(if applicable)



**SIGN
HERE**



Application
Missouri State Transit Assistance Program
FY2026
July 1, 2025 through June 30, 2026
For Public Transportation Only

DUE April 1, 2025

Applicant Agency Name:
 Street and Mailing Address:
 City, State (Missouri), Zip+4 Code

City of St. Charles
 200 North Second street
 St. Charles, MO 63301

Agency Contact Person - Name
 Contact Person: e-mail Address
 Contact Person: Work Phone
 Contact Person: Fax Number

Mark French
 mark.french@stcharlescitymo.gov
 636-949-3363
 636-949-3365

Eligibility Criteria: (Check All That Apply):

(If operating both urbanized and rural transit service, submit separate applications)

<input checked="" type="checkbox"/>	A City
<input type="checkbox"/>	A City Transit Authority
<input type="checkbox"/>	A City Utilities Board
<input type="checkbox"/>	An Interstate Transit Authority (as defined in 94.600 RSMo)
<input type="checkbox"/>	An Intrastate Transportation Authority
<input type="checkbox"/>	A recipient / direct recipient of FTA Sec. 5307 urbanized formula funds
<input type="checkbox"/>	A sub-recipient of FTA Section 5311 non-urbanized formula funds

Total transportation operating costs for **Public Transportation Services**. If your agency applies for **MEHTAP funding do not include** information for Seniors or Individuals with Disabilities.

Calendar Year	<u>2022</u>	<u>2023</u>	<u>2024</u>
Transit Operating Costs for Public Transportation Service.	157,814	164,527	151,290
Annual Passenger Ridership in Missouri (unlinked Trips for calendar years)	8,477	10,394	17,127
Annual Vehicle Miles Operated;	53,840	57,665	56,096
Cost per Mile (divide total cost by miles)	2.93	2.85	2.70
Cost per Passenger (divide total cost by ridership)	18.62	15.83	8.83
Amount of Annual Local Effort or Tax Support for Transit	152,345	157,599	144,915

Continue on Page 2

Description of local financial effort or local tax support for applicant's public transit service:

Support for the local Ride STC system comes from the sale of local proceeds of gasoline sales tax. Ride STC is heavily subsidized (over 90 percent) by local sales taxes. While it is, and remains to be a financial burden on the City of St. Charles, it still remains a commitment on the part of the city council to provide public transportation to its residents, especially the disabled and elderly residents.

Agency's Missouri Transit Service Area Population: Urbanized: Rural:

Description of Calendar Year 2024 Public Transit Service in Missouri

Days of Transit Operation:
Weekday Hours of Operation:
Saturday Hours of Operation:
Sunday Hours of Operation:

Applicant Agency Authorized Signature: 	Date: 
---	---

Please submit authorizing resolution or city ordinance.

Submit completed and signed application to: motransit@modot.mo.gov

Subject Line: " STA and Enter Your Agency's Name"

For Technical Assistance: angelia.otto@modot.mo.gov

Form located at: <https://www.modot.org/transit-applications-and-reporting>

(Version Dec. 2024)

RCA FORM (OFFICE USE ONLY)

Bill # 14014

MEETING/DATE: 10/7/2025

Regular Special Work Session

ATTACHMENT: YES NO

Report Resolution Ordinance

Request for Council Action

Ward(s): 1,3

Sponsor(s): Galba, M Hollander, West, Haberstroh, Foust, Gould, S Hollander, Otto

Description:

Authorization to enter into a County Road Board agreement for North Main Street Extension, an Intergovernmental Agreement between St. Charles City and St. Charles County for St. Charles City Hall transfer to St. Charles County, and a First Amendment to the Agreement by and between St. Charles County, and the City of St. Charles for construction of new roadways within the Riverpointe Development.

Contract Extension/Renewal: Yes No

Information Paper Attached: Yes No

Staff Recommendation: Approve Disapprove

Board/Committee/Commission Recommendation: Approve Disapprove

Summary:

The City and County have negotiated a multifaceted exchange agreement that provides the County with the room to expand the downtown justice center, in exchange the City will receive funding (\$4.6M) for the the completion of North Main Street adjacent to the new City Hall and will also provide the City the ability to utilize \$7M in Road Board funds to complete necessary roadway infrastructure within the Riverpointe development.

The exchange agreement also preserves the public's use of the City Hall parking garage for as long as the County owns the building supporting the downtown business area.

Approval of this agreement will result in a more efficient justice system, increased economic development within the City, and necessary infrastructure to support the new City Centre Complex (C3).

Staff recommends approval of the County Road Board agreement for North Main Street Extension, the Intergovernmental Agreement to transfer City Hall to St. Charles County, and the first amendment to the County Road Board agreement for new roadways within the Riverpointe development.

Budget Impact: (revenue generated, estimated cost, CIP item, etc.)

Fiscal Impact: \$ 4,647,092.00 N/A

Account #: 412-502-502-873199

Project #: 23ENGST3

RCA prepared by: BWT Dept. Dir. (u) Finance Dir. qao Dir. of Admin. (u)

Sponsors: Michael Galba, Mark Hollander, Bill Otto, Mary West, Justin Foust, Brian Gould, Bart Haberstroh, Steve Hollander

AN ORDINANCE AUTHORIZING AGREEMENTS BY AND BETWEEN ST. CHARLES COUNTY, MISSOURI, AND THE CITY OF ST. CHARLES; SPECIFICALLY, AN AGREEMENT FOR USE OF ST. CHARLES COUNTY TRANSPORTATION SALES TAX FUNDS FOR FINANCING A PORTION OF THE CONSTRUCTION OF NORTH MAIN STREET WITHIN THE CITY CENTRE COMPLEX DEVELOPMENT, AN AGREEMENT FOR THE TRANSFER OF CITY HALL TO THE COUNTY, AND A FIRST AMENDMENT TO THE AGREEMENT FOR USE OF COUNTY TRANSPORTATION SALES TAX FUNDS FOR CONSTRUCTION OF NEW ROADWAYS WITHIN THE RIVERPOINTE DEVELOPMENT.

WHEREAS, the City has applied for and the County has agreed to provide funds from the County's one-half-cent transportation sales tax for improvements to the North Main Street Extension in the amount of up to \$4,647,092.00; and

WHEREAS, The City has already received approvals from the County for the North Main Street Extension conceptual plans and preliminary plans, and updated final plans were submitted to the County for review and approval on September 30, 2025; and

WHEREAS, the City and County have agreed to amend the terms of the agreement for funds from the County's one-half-cent transportation sales tax for improvements to roadways and transportation infrastructure within the Riverpointe Development in the amount of up to \$7,000,000.00, by providing that the funds may be spent throughout all phases of the Riverpointe Development, eliminating requirements for job creation, and extending the length of time to complete the project; and

WHEREAS, the City has agreed to transfer the current City Hall and attached parking garage at 200 N. Second Street to the County, which the County intends to use for expanded office space for a variety of County services, and such transfer is subject to a lease back to the City until the new City Hall in the City Centre Complex is complete; and

WHEREAS, the County has agreed to continue to provide parking to the public in the parking garage consistent with current operations for a period of at least ten years; and

WHEREAS, these agreements are authorized by Section 70.220 of the Revised Statutes of Missouri, as amended, and are in the public interest.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ST. CHARLES, AS FOLLOWS:

- SECTION 1. An Agreement By and Between St. Charles County, Missouri and the City of St. Charles for Use of St. Charles County Transportation Sales Tax Funds for Financing a Portion of the Construction of North Main Street Within the City Centre Complex Development (American Car and Foundry Property), is approved, including exhibits A, D, and E attached hereto, and which shall be substantially the same in form and content as attached hereto.
- SECTION 2. The Intergovernmental Agreement Between St. Charles City and County for St. Charles City Hall Transfer to St. Charles County, is approved, and which shall be substantially the same in form and content as attached hereto and identified as Exhibit B.
- SECTION 3. The First Amendment to the Agreement By and Between St. Charles County, Missouri and the City of St. Charles, Missouri for Use of St. Charles County Transportation Sales Tax Funds for Financing a Portion of the Construction of New Roadways Within the Riverpointe Development is approved, including its Exhibit 1, and which shall be substantially the same in form and content as attached hereto, and identified as Exhibit C.
- SECTION 4. Once the City has received approval from the County for the North Main Street Extension final plan, the Mayor is authorized to execute the approved Agreements, which shall be substantially the same in form and content as the Agreements attached hereto. The Mayor is further authorized to perform all acts necessary to carry out the intent of this ordinance and execute any other documents in furtherance of the purposes of this ordinance, including any other documents for extension, supplement, or renewal in a form that is approved by the City Attorney.
- SECTION 5. This Ordinance shall be in full force and effect from and after the date of its passage and approval.

Date Passed

Michael Galba, Presiding Officer



Date Approved by Mayor

Daniel J. Borgmeyer, Mayor

Approved as to Legal Form:

Attest:

Holly Magdziarz 10/03/25

Holly Magdziarz, City Attorney Date

Kimberly Hudson, City Clerk

CERTIFICATE OF DIRECTOR OF FINANCE

I certify that the expenditure contemplated by this document is within the purpose of the appropriation and the work program contemplated thereby, and that there is a sufficient unencumbered balance in the appropriation account and in the proper fund to pay the obligation.

Jennifer O'Connor 10-3-25

Jennifer O'Connor, Director of Finance Date

**AGREEMENT BY AND BETWEEN
ST. CHARLES COUNTY AND CITY OF ST. CHARLES FOR
USE OF ST. CHARLES COUNTY TRANSPORTATION SALES TAX FUNDS FOR
FINANCING A PORTION OF THE CONSTRUCTION OF NORTH MAIN STREET
WITHIN CITY CENTRE COMPLEX DEVELOPMENT (AMERICAN CAR AND
FOUNDRY PROPERTY)**

This Roadway Project Agreement is entered into by St. Charles County, Missouri, (hereinafter referred to as the “County”) and City of St. Charles, State of Missouri, (hereinafter referred to as the “Municipality”).

Whereas, the voters of the City of St. Charles approved an \$85 million no tax increase bond at the April 2, 2024, election for a City Centre Complex, which is planned to include a new city hall, senior center, historical society, recreation center, parking garage, food hall and/or farmer’s market, and to be a catalyst for redevelopment on the former American Car and Foundry property (hereinafter referred to as the “Development”).

Whereas, the Municipality has acquired buildings 92 and 93 and other related property needed for the City Centre Complex and the extension of North Main Street, but has not acquired buildings 90, 91, 91A, powerhouse or other buildings or property needed for redevelopment of the American Car and Foundry property beyond the City Centre Complex project (building numbers shown within Road Board Application, Exhibit A).

Whereas, the City is in negotiations with multiple developers that are interested in redevelopment of the American Car and Foundry property into a high intensity mixed-use development planned to include an entertainment venue, office buildings, restaurants, hotel, and residential units.

Whereas, once fully operational, the Development, which includes redevelopment of the former American Car and Foundry property, is expected to create new permanent jobs, without closing facilities or reducing employees at any other sites where the tenants currently have their business operations; and

Whereas, the Development will include transportation facilities which consist of an extension of North Main Street and construction of new bike and pedestrian facilities (collectively referred to as the “Roadway Project”); and

Whereas, the Municipality has acquired additional Federal Surface Transportation Funds from East–West Gateway Council of Governments and is hereby requesting funds from the County’s Road Board to finance a portion of the Roadway Project; and

Whereas, redevelopment of the former American Car and Foundry property as outlined in the application submitted to the Road Board is a vital part of the Municipality’s initiative to revive the historic Frenchtown and North Main Street neighborhoods, and it is the County’s understanding that its contribution to the Roadway Project is needed as part of a comprehensive plan to redevelop this area which includes the City Centre Complex, the American Car and Foundry property, and Frenchtown and North Main Street neighborhoods; and

Whereas, the parties acknowledge that they are approving this agreement and its exhibits as a coordinated effort to enhance the infrastructure and governmental services available within St. Charles County and the City of St. Charles.

Now therefore, in consideration of the mutual covenants herein contained, and other good and valuable consideration including the mutual recognition of the vital importance of construction of the Roadway Project for efficient traffic flow and for orderly development, the parties hereto agree as follows:

SECTION ONE
COUNTY’S AUTHORITY AND MAXIMUM PAYMENT

The County Executive has been authorized by Ordinance ____ - ____ to execute this Agreement with the Municipality for the use of St. Charles County Transportation Sales Tax funds, beginning in fiscal year 2025 and subject to appropriation as described in Section Seven of this Agreement, for road improvements included in the Roadway Project needed to support the Development within the Municipality in an amount not to exceed **\$4,647,092.00** (“County Economic Development Contribution Amount”).

SECTION TWO
SERVICES AND COUNTY FINANCIAL CONTRIBUTION

- A. The Municipality shall be responsible for the construction of the Roadway Project to include certain road improvements substantially similar to those described in the Municipality’s Road Board Application (Project No. RB24-000010) and attached hereto as **Exhibit A** (hereinafter, “Application”).
- B. The Roadway Project shall include: (1) preparation of design plans, (2) right-of-way acquisition as may be needed, (3) utility relocations as may be needed, (4) construction of bike and pedestrian facilities, and (5) roadway construction.
- C. The total cost of the Development is estimated as \$85,000,000, of which \$8,308,865 is the estimated cost of the Roadway Project. However, the municipality has secured \$2,500,000 in federal surface transportation funds; thus, reducing the local funds needed to **\$5,808,865**.
- D. The County will reimburse the Municipality for **80%** of actual costs incurred for construction of the Roadway Project up to the maximum amount equal to the County Economic Development Contribution Amount of **\$4,647,092.00**. The Municipality will be responsible for covering 100% of the following Roadway Project costs: (1) cost of any decorative enhancements added beyond the historic street lighting and walkways depicted in the City Centre Complex project depiction attached hereto as **Exhibit D**; ; (2) the remainder of actual costs above the County Economic Development Contribution Amount; and (3) all costs not otherwise funded/reimbursed by all other funding sources.

SECTION THREE
ROADWAY PROJECT PLANS SUBMISSION AND REVIEW

A. Conceptual Plans and Development Agreement. The Parties intend for the plan submission process created herein to foster cooperation and successful completion of the project. In addition to the requirements of this section, Municipality shall endeavor to inform the County of any significant updates to the project plan, and County shall endeavor to provide prompt feedback. Under no circumstances shall County unreasonably withhold any approval contemplated under this section.

1. Conceptual Plans Submittal. Prior to proceeding with any drafting of preliminary construction plans, the Municipality shall submit to the county Roads and Traffic Division for approval conceptual plans, consisting of the following documents:
 - a. Title Sheet;
 - b. Typical Sections;
 - c. Plan and Profiles (shall provide the existing and proposed right-of-way limits, grading limits and location of existing utilities); and
 - d. Cross Sections.
2. Review by the County: The county Roads and Traffic Manager will provide the Municipality with either written approval of these documents for the Municipality to proceed with preliminary design, or comments on these documents for the Municipality to address within 30 days of submission. The Municipality shall address all comments provided, refine the documents, and resubmit to the county's Roads and Traffic Manager for approval. County shall not unreasonably withhold approval. If the Municipality revises the Conceptual Plan but the revisions still do not satisfy the County, then County shall have the right to terminate this Agreement and shall have no obligations to pay under this Agreement, by issuing a written notice of termination pursuant to this Section to the Municipality.
3. Parties agree and recognize that the County approved the conceptual plans required under this section on April 21, 2025.

B. Preliminary Plans

1. Preliminary Plan Submittal: Prior to proceeding with right-of-way acquisition, the Municipality shall submit to the county Roads and Traffic division Preliminary Plans for approval. These Preliminary Plans, in addition to the sheets outlined above for the Conceptual Plan, shall include the following:
 - a. Storm Sewer Profiles and Culverts;
 - b. Traffic Control;
 - c. Erosion Control;
 - d. Pavement Marking and Signing;
 - e. Retaining Walls;
 - f. Driveway and subdivision street entrances; and
 - g. Construction Details.

2. Review by the County: The county Roads and Traffic Manager will provide the Municipality with either written approval or comments for the Municipality to address within 30 days of receipt from Municipality. The Municipality shall address all comments provided, refine the documents, and resubmit to the county's Roads and Traffic Manager for approval. If the Municipality revises the Preliminary Plan but the revisions still do not satisfy the County, then County shall have the right to terminate this Agreement and shall have no obligations to pay under this Agreement, by issuing a written notice of termination pursuant to this Section to the Municipality.
3. Parties agree and recognize that the County approved the preliminary plans required under this section on April 21, 2025.

C. Final Plans

1. Final Plan Submittal: Prior to proceeding with construction, the Municipality shall submit to the county Roads and Traffic division a Final Plan for approval. The Final Plan shall include a workday study for the construction phase of the Project.
2. Review by the County: The county Roads and Traffic Manager will provide the Municipality with either written approval, or comments for the Municipality to address. The Municipality shall address all comments provided, refine the documents, and resubmit to the county's Roads and Traffic Manager for approval. If the Municipality revises the Final Plan but the revisions still do not satisfy the County, then the County shall have the right to terminate this Agreement and shall have no obligations to pay under this Agreement, by issuing a written notice of termination pursuant to this Section to the Municipality.
3. Parties agree and recognize that the County approved the Final Plan required under this section on _____.

- D. Plan Submission Format: The Conceptual Plan, Preliminary Plan, and Final Plan described above shall be submitted as follows, unless instructed otherwise: an electronic copy (pdf format) should be e-mailed to RoadsandTraffic@sccmo.org or as otherwise instructed, as a single file that contains all the plan sheets.

SECTION FOUR
RIGHT-OF-WAY

The Municipality shall acquire right-of-way and other property interests needed for this Project in accordance with applicable law and the current Missouri Department of Transportation's Local Public Agency Land Acquisition Manual.

SECTION FIVE
STAFF TIME

The County shall not reimburse the Municipality for any staff time and the Municipality shall not

include or consider its costs for staff time in any required Municipality match.

SECTION SIX
TRANSPORTATION SALES TAX SIGN

The Municipality shall include in the construction contract specifications the requirement for the construction contractor to furnish and erect a sign of the size, lettering, and colors as depicted in **Exhibit E** to this Agreement at each end of the project construction limits in a visible location. This sign shall be erected at the beginning of construction and can be removed 30 calendar days after final construction contract completion.

SECTION SEVEN
TERM

This Agreement shall become effective upon execution by all parties hereto and shall continue through the end of the County's fiscal year in which the Agreement is executed. This Agreement is subject to appropriation by the County of funds sufficient to fulfill the terms of this Agreement.

This Agreement shall renew automatically for an indefinite number of one year terms, each beginning on the first and ending on the last day of the County's fiscal year, until the scope of services has been completed and all obligations by the Municipality under this Agreement have been met, unless the Agreement is terminated as provided for in this Agreement.

SECTION EIGHT
TERMINATION

A. Termination for Breach:

1. Events of Breach: In addition to the breach of the obligations specifically set forth in the Agreement, the following shall constitute breach of Agreement and reasons for the Agreement to terminate:
 - a. Municipality's Failure to Fund or Administer Construction of the Roadway Project: In the event the Municipality fails to provide the administration and/or matching funds agreed to by the Municipality under the terms and conditions of this Agreement, Municipality agrees to pay all costs incurred by the County pursuant to this Agreement up to the time of Municipality's failure to fund or administer, subject to Paragraph E of this Section.
 - b. Municipality's failure to start and complete the Roadway Project: In the event the Municipality fails to start and/or complete the Roadway Project outlined herein, Municipality shall pay damages to the County for failing to deliver the public services or improvements contemplated by this Agreement while encumbering public funds and preventing their allocation to other projects. The damages shall be ten percent (10%) of the not to exceed amount provided in Section One of this Agreement, subject to Paragraph E of this Section.
2. Remedies for Breach: In the event of a breach of this Agreement by either party hereto that is not remedied within thirty (30) days after delivery of written notice

of such breach, the aggrieved party may terminate this Agreement by written notice to the other, which shall be effective on the 5th day following delivery. In the event of the County's breach of any terms and conditions of this Agreement, except for reasons outlined in this Agreement, the County agrees to pay all documented reasonable costs undisputed by the County and incurred by Municipality for the Roadway Project up to the effective termination date. In the event of the Municipality's breach of any terms and conditions of this Agreement, the County shall be entitled to, and the Municipality shall refund all funds paid to the Municipality, and the County shall have no further obligation to the Municipality to pay any funds under this Agreement.

- B. Termination for County's Non-Appropriation: Should the County not appropriate the contemplated funds in its annual budget ordinance for any of the fiscal years to which this Agreement applies, this Agreement will terminate upon notice to the Municipality by the County that the appropriation was not included in the annual budget ordinance to the Municipality at the address set out in this Agreement. Upon such notice, the County's obligation to pay any further funds under this Agreement shall terminate immediately and no further funds shall be due and payable by the County to the Municipality for the Roadway Project except that the Municipality may deliver documentation to the County of its undisputed and reasonable costs incurred up to the effective termination date, which County shall pay from existing appropriations if available. In addition, if the County terminates this Agreement pursuant to this Section, the Municipality shall be entitled to liquidated damages equal to the amount of any contracts entered into or costs incurred for the Roadway Project prior to the notice of non-appropriation, up to the County Economic Development Contribution Amount, less any amounts already reimbursed pursuant to this Agreement.
- C. Return of Records upon Agreement Termination: On expiration or termination of this Agreement for any cause, each party shall without additional cost to the other, provide all reasonable assistance and devote its best efforts to returning to each party, or its designee, in an orderly and expeditious manner, all data, records, and documents belonging to that party.
- D. Section Three Terminations: Nothing in Section 8 shall impact or apply to terminations referenced in Section Three of this Agreement.
- E. Force Majeure: No party shall be held in breach or liable, including for any requirement to pay costs or damages under §§8.A.1.a-b of this Agreement, for any delay in or failure to perform any obligation under the Agreement if, and only to the extent that, such delay or failure is caused by: an act of God, acts of terror or manmade disasters, riots, unusually severe weather, fire, flood, epidemic, quarantine, strike, labor dispute, freight embargo, the unreasonable withholding of permits or plan approvals by the other party, or any similar event outside of the reasonable control of the non-performing party, but only to the extent that such event was not the result of, or was not aggravated by, the acts or omissions of the non-performing party.

SECTION NINE
CONDITIONS PRECEDENT TO PAYMENT

In addition to the County and the Municipality complying with all the terms and conditions of the Agreement, the County's payment obligations pursuant to this Agreement the Parties hereto additionally agree to the following conditions precedent:

- A. Prior to any Payment being made by the County, the Municipality shall provide the County proof of the following:
1. The Road Project is designated and dedicated as a public road to be accepted, owned and maintained by the Municipality upon its completion.
 2. The Municipality shall transfer ownership of the property commonly known as St. Charles City Hall and the St. Charles City Municipal Parking Garage, located at 200 North Second Street, St. Charles, Missouri to the County in consideration of the promises and covenants contained herein for the public interest and the general welfare of the citizens of the St. Charles County and executed all necessary deeds, documents, and any other instruments necessary to legally effectuate same including the attached Intergovernmental Agreement Between St. Charles City And County For St. Charles City Hall Transfer To St. Charles County marked as **EXHIBIT B** by January 31, 2026.

SECTION TEN
REMUNERATION

- A. Reimbursement by the County pursuant to Section Two shall be submitted to the County's Manager of Roads and Traffic on a quarterly basis for review and approval. Each reimbursement request shall include a cover letter, reimbursement summary, copy of invoices, and proof of payment. Payments shall not exceed actual expenses incurred by Municipality or that approved by the County's Manager of Roads and Traffic.
- B. No payments will be made under this Road Project Agreement until and unless the conditions precedent identified in Section Nine are met.

SECTION ELEVEN
PROJECT SCHEDULE

Timely completion is an essential element of this Agreement, and every effort shall be made to meet the project schedule provided in this Agreement. The County and Municipality will review the project schedule on a regular basis to ensure the work outlined herein will be completed by **December 31, 2027**.

SECTION ELEVEN
ADVANCED INDUSTRIAL MANUFACTURING ZONE (AIM ZONE) REPORTING
OBLIGATIONS IN THE DEVELOPMENT AGREEMENT

The Advanced Industrial Manufacturing Zones Act, Section 68.075, RSMo. ("AIM Zone Act" or

Act), authorizes the St. Charles County Port Authority (“Port Authority”) to establish Advanced Industrial Manufacturing Zones (each an “AIM Zone”) within the corporate boundaries of St. Charles County, Missouri. This Project Site has been identified to be located within a possible future AIM Zone, established pursuant to the AIM Zone Act and Resolution, therefore the Municipality shall include in the Development Agreement the requirement that all Companies locating in the Project area must fully cooperate with the Port Authority and the County acting on behalf of the Port Authority in obtaining and providing the information regarding jobs at the Riverpoint Development needed to certify the new jobs to the Missouri Department of Economic Development (“DED”) and determine the AIM Zone Revenues. The Municipality shall comply with all requirements of the Act and Municipality shall include the following requirements in its Development Agreement(s):

- A. Require each of its tenants/subtenants at the Project Site to complete an AIM Zone – New Jobs Verification or similar required form and spreadsheet required by the Missouri Department of Economic Development and submit the same to Municipality no later than January 31 of each calendar year.
- B. Require each of its tenants/subtenants to complete and submit Form MO-941 and Form MO-AIM to DOR by the 20th date of each calendar month in which the respective tenant/subtenant is required to report income taxes withheld.
- C. Require each of its tenants/subtenants to provide Municipality a complete copy of every Form MO-AIM submitted by the respective tenants/subtenant to DOR within five (5) business days of each such submittal.
- D. Require each of its tenants/subtenants to provide Municipality such other and additional information as required by DED and/or DOR for the purposes of determining the AIM Zone Revenues and complying with any other requirements of the Act.

All forms and documents related to the AIM Zone reporting requirements received by the Municipality shall be forwarded to the Port Authority with copies sent to the County within 5 days of receipt.

SECTION TWELVE
NOTICE

Any notice required or permitted to be given hereunder shall be deemed properly given if mailed by first-class mail to the address set out for each party or to an alternative address provided in writing to the other Party:

- A. To the County:
Attn: County Roads and Traffic Manager
201 North Second Street, Suite 560
St. Charles, MO 63301
- B. To the Municipality:
Attn: Director of Administration
200 North Second Street
St. Charles, Missouri 63301

SECTION THIRTEEN
SUPERVISION AND THE RELATIONSHIP OF THE PARTIES

In the performance of the work herein contemplated, the Municipality is an independent contractor with the authority to control and direct the performance of the details of the work. The County is interested in approval, design, and results obtained. The Municipality agrees to comply with all federal, state and municipal laws, rules and regulations pertaining to the Project that are now or may in the future become applicable to Municipality.

The parties hereto agree that the Municipality is not an employee of County and is not entitled to the benefits provided by County or its employees, including, but not limited to, group insurance and pension plan. The Municipality is an independent entity.

SECTION FOURTEEN
INDEMNIFICATION

To the extent permissible by law, Municipality shall indemnify and hold County harmless from any and all liability, loss or damage County may suffer as a result of claims, demands, costs or judgments against it arising out of Municipality's performance of this Agreement.

To the extent permissible by law, County shall indemnify and hold Municipality harmless from any and all liability, loss or damage Municipality may suffer as a result of claims, demands, costs or judgments against it arising out of County's performance of this Agreement.

It is understood and agreed that the obligation of County to perform under the terms of this Agreement is expressly conditioned upon the existence of the Transportation Sales Tax also known as the Road and Bridge Capital Improvements Sales Tax passed by the electorate on November 5, 1985, and reaffirmed by the voters on April 5, 1994, August 3, 2004, August 7, 2012, and April 5, 2022.

SECTION FIFTEEN
MISCELLANEOUS

- A. Severability: If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby, and all other parts of this Agreement shall nevertheless be in full force and effect.
- B. Section Headings and Subheadings: The section headings and subheadings contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.
- C. Waiver: The County's failure to act with respect to a breach by the Municipality does not waive its right to act with respect to subsequent or similar breaches. The failure of the County to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.
- D. Entire Agreement: This Agreement and its incorporated exhibits and attachments

constitutes the entire agreement between the County and the Municipality with respect to the subject matter of this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the County and the municipality with respect to this Agreement.

- E. Riverpointe Amendment: As a condition of this Agreement, the parties agree to execute the proposed “First Amendment To The Agreement By And Between St. Charles County, Missouri And The City Of St. Charles, Missouri for Use Of St. Charles County Transportation Sales Tax Funds For Financing A Portion Of The Construction Of New Roadways Within The Riverpointe Development”, attached hereto as **EXHIBIT C**, at the time of execution of this Agreement or within 90 days thereafter upon approval by the parties’ respective governing body.

SECTION SIXTEEN
AUDIT

The Municipality’s records that shall include, but not be limited to, accounting records (hard copy, as well as computer readable data), written policies and procedures, subcontractor files, indirect cost records, correspondence, instructions, drawings, receipts, vouchers, memoranda, and any other data relating to this Agreement shall be open to inspection and subject to audit and/or reproduction by the County Auditor, or a duly authorized representative from the County, at the County’s expense. The Municipality shall preserve all such records for a period of three years, unless permission to destroy them is granted by the County, or for such longer period as may be required by law, after the final payment. The Municipality shall require all subcontractors under this Agreement to comply with the provisions of this article by including the requirements listed above in written contracts with the subcontractors.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date last written below.

**CITY OF SAINT CHARLES,
MISSOURI**

ST. CHARLES COUNTY, MISSOURI

Daniel J. Borgmeyer, Mayor Date

Steve Ehlmann, County Executive Date

Attest:

Attest:

City Clerk

County Registrar

CERTIFICATE OF DIRECTOR OF FINANCE

I certify that there is a balance otherwise unencumbered to the credit of the appropriation to which this contract is chargeable, and a cash balance otherwise unencumbered in the treasury to the credit of the fund from which payment is to be made, each sufficient to meet this obligation.

Michael Sommer, Director of Finance Date

North Main Street Extension

Sponsor St. Charles

Project No. RB24-000010

Project Type New Road

TOTAL FUNDING

Total	County	Sponsor	Federal	Other
\$8,308,865.00	\$2,460,000.00	\$3,348,865.00	\$2,500,000.00	\$0.00

Project Description

Proposed roadway improvements:

The city has acquired \$2.5M in federal funds and the city plans to develop the new City Centre Complex in this location. The purpose of the North Main Street Extension Pedestrian Accessibility Project is to connect historic downtown St. Charles to Frenchtown through the redevelopment of the American Car and Foundry (ACF) site that lies between the two, providing sidewalks for pedestrian travel and streets for vehicular traffic, hence encouraging business at the ACF site, North Main Street, and Frenchtown. This redevelopment project aligns with other initiatives to revive the historic Frenchtown and North Main Street neighborhoods, such as the Frenchtown Great Streets project, completed in cooperation with St. Charles County. This development is in addition to \$10.5M in grant funding for surrounding projects.

Proposed traffic flow improvements:

Currently, historical Main Street ends at the ACF property. ACF has a barbed wire fence restricting public entrance. There are no pedestrian paths through the property. The ACF property is of key historical importance but remains a largely vacant parcel dividing St. Charles' historic area. All traffic, pedestrian, bicycle and vehicular must reroute around ACF. Reestablishing the street grid, the Frenchtown Great Streets: North Main Street Extension Pedestrian Accessibility Project will run through an empty asphalt and concrete parking lot of the ACF property. The proposed project would provide sidewalks and streets on North Main Street, from Clark Street to Montgomery Street through the ACF property. Funding is requested for the design and construction of two-way streets with curbs and gutters, a 2'-wide paver/green space buffer, and 5'-wide sidewalks on both sides.

Proposed safety improvements:

The addition of sidewalks throughout the project will enhance safety for pedestrians. According to the FHWA, sidewalks can reduce accidents involving pedestrians by 65% to 89%. FHWA recommends pedestrians have direct and connected walking routes to desired destinations without gaps or abrupt changes. This project incorporates that recommendation and will have continuous sidewalks so that pedestrians will be able to travel throughout the area safely. A 2'-wide paver/green space buffer will provide additional safety.

Proposed bicycle/pedestrian improvements:

There will be a high-visibility crosswalk at North Main Street and Clark Street and mid-block crossings. Sidewalks, 5' wide will be constructed on both sides of the street throughout the project and a marked shared roadway for bicyclists. There will be bicycle and pedestrians connections to the Boschert Greenway and KATY trails. The KATY Trail is considered a side-path to Main Street and Second Street. The City will install several mid-block crossings through the development as well as higher visibility paver intersections. The proposed bicycle/pedestrian improvements will provide multi-modal access throughout the project area.

North Main Street Extension

Project Type: New Road

Project Information:

Project Limits: North Main Street from Clark Street to Montgomery Street

Project Length(miles): 0.6

Federal Functional Class: 3 - Major Collector

Anticipated useful life (yrs): 50

Estimated Completion Date: December 6, 2027

ADT: Existing	ADT: Construction Year	ADT: Future/Projected
0	2,000	2,349

Sponsor Contact Information:

Sponsoring Agency: Saint Charles

Contact Person: Daniel Mann

Job Title: Engineering Director

Phone Number: 636-949-3229

E-mail Address: daniel.mann@stcharlescitymo.gov

Financial:

Total Project	CRB Share	Sponsor Share	Federal	Other
\$8,308,865.00	\$2,460,000.00	\$3,348,865.00	\$2,500,000.00	\$0.00

Sponsoring agency requesting Road Board funds for Design, R/W & Construction

Anticipate additional funds request in subsequent years?

Provide estimated additional amount to be requested:

Project Schedule:

Anticipated Preliminary Plan Approval Date: February 3, 2025

Anticipated A-Date Approval Date: November 3, 2025

Anticipated PS&E Approval Date: August 3, 2026

Anticipated Construction Completion: December 6, 2027

North Main Street Extension

Project Type: New Road

Project Description:

Existing Conditions:

Historical Main Street ends at the American Car Foundry (ACF) property. ACF destroyed the block structure and has no pedestrian or bicycle paths through the property. The Frenchtown Great Streets: North Main Street Extension Pedestrian Accessibility Project will run through ACF's fenced in asphalt parking lot area. Most of the ACF property is vacant and currently unused. Opening up the ACF property to pedestrian traffic would reestablish the street grid and spur an increase in neighborhood activity, traffic volume, number of visitors to Frenchtown and North Main Street.

Proposed roadway improvements:

The city has acquired \$2.5M in federal funds and the city plans to develop the new City Centre Complex in this location. The purpose of the North Main Street Extension Pedestrian Accessibility Project is to connect historic downtown St. Charles to Frenchtown through the redevelopment of the American Car and Foundry (ACF) site that lies between the two, providing sidewalks for pedestrian travel and streets for vehicular traffic, hence encouraging business at the ACF site, North Main Street, and Frenchtown. This redevelopment project aligns with other initiatives to revive the historic Frenchtown and North Main Street neighborhoods, such as the Frenchtown Great Streets project, completed in cooperation with St. Charles County. This development is in addition to \$10.5M in grant funding for surrounding projects.

Proposed traffic flow improvements:

Currently, historical Main Street ends at the ACF property. ACF has a barbed wire fence restricting public entrance. There are no pedestrian paths through the property. The ACF property is of key historical importance but remains a largely vacant parcel dividing St. Charles' historic area. All traffic, pedestrian, bicycle and vehicular must reroute around ACF. Reestablishing the street grid, the Frenchtown Great Streets: North Main Street Extension Pedestrian Accessibility Project will run through an empty asphalt and concrete parking lot of the ACF property. The proposed project would provide sidewalks and streets on North Main Street, from Clark Street to Montgomery Street through the ACF property. Funding is requested for the design and construction of two-way streets with curbs and gutters, a 2'-wide paver/green space buffer, and 5'-wide sidewalks on both sides.

Proposed safety improvements:

The addition of sidewalks throughout the project will enhance safety for pedestrians. According to the FHWA, sidewalks can reduce accidents involving pedestrians by 65% to 89%.

North Main Street Extension

Project Type: New Road

FHWA recommends pedestrians have direct and connected walking routes to desired destinations without gaps or abrupt changes. This project incorporates that recommendation and will have continuous sidewalks so that pedestrians will be able to travel throughout the area safely. A 2'-wide paver/green space buffer will provide additional safety.

Proposed bicycle/pedestrian improvements:

There will be a high-visibility crosswalk at North Main Street and Clark Street and mid-block crossings. Sidewalks, 5' wide will be constructed on both sides of the street throughout the project and a marked shared roadway for bicyclists. There will be bicycle and pedestrian connections to the Boschert Greenway and KATY trails. The KATY Trail is considered a side-path to Main Street and Second Street. The City will install several mid-block crossings through the development as well as higher visibility paver intersections. The proposed bicycle/pedestrian improvements will provide multi-modal access throughout the project area.

Utility Impacts:

The City is coordinating with all utility companies throughout design and construction. Utilities will be located with the topographic survey prior to the preliminary design to verify utility conflicts. Water and sewer lines are anticipated to need reconstruction.

New Road Details:

Design Speed (mph): 25

Posted Speed Limit (mph): 25

Proposed typical section approved by Roads & Traffic? Yes

Proposed road on County/City thoroughfare plan? No

If not, please explain: The project is not a part of the thoroughfare plan. It has more of a city scale versus a county scale project.

Bicycle/Pedestrian Details:

What type of facility does this project provide for? Both Bicycle and Pedestrian

Briefly discuss how the proposed bicycle and/or pedestrian improvement will assist in the County's overall vision to develop a low-stress bicycle/pedestrian network:

Currently, historical Main Street ends at the ACF property. ACF has a barbed wire fence restricting public entrance. There are no pedestrian paths through the property. The ACF property is of key historical importance but remains a largely vacant parcel dividing St. Charles' historic area. All traffic, pedestrian, bicycle and vehicular must reroute around ACF.

North Main Street Extension

Project Type: New Road

Reestablishing the street grid, the Frenchtown Great Streets: North Main Street Extension Project will run through an empty asphalt and concrete parking lot of the ACF property. The proposed project would provide sidewalks and streets on North Main Street, from Clark Street to Montgomery Street through the ACF property. Funding is requested for the design and construction of two-way streets with curbs and gutters, a 2'-wide paver/green space buffer, and 5'-wide sidewalks on both sides. This project connects to the KATY Trail and Boschert Greenway. The KATY Trail will serve as a sidepath to the new development.

Proposed project identified in the adopted SCC Gateway Bike Plan? Yes

Please Explain:

Per the SCC GBP, what is the recommended facility type? Sidepath

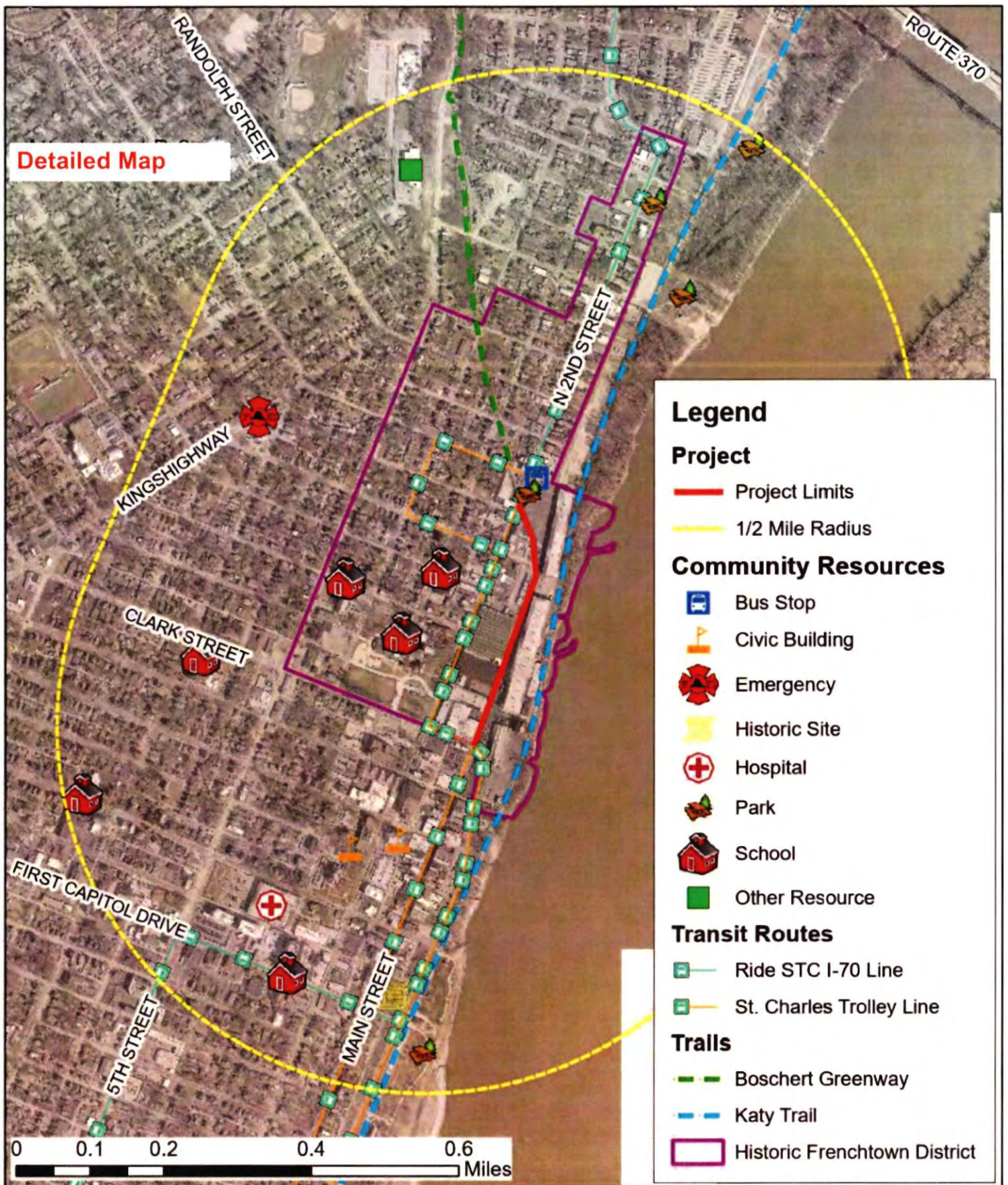
Does the proposed project follow the recommended facility type? Yes

Please explain why the proposed project does not match the recommended facility type.

Safety Details:

Proposed typical section approved by Roads & Traffic? Yes

Any crashes within the proposed project limits in the last 3 years? No



North Main Street Extension Pedestrian
 Accessibility Project Community
 Resources Map



ST. CHARLES COUNTY ROAD BOARD
 2025 - 2027 TIP FINANCIAL WORKSHEET
 North Main Street Extension

FUNDING FOR IMPROVEMENTS					
	County	Sponsor	Federal	Other	Total
Design	\$300,000.00	\$608,865.00	\$0.00	\$0.00	\$908,865.00
Utility Relocations	\$160,000.00	\$1,040,000.00	\$0.00	\$0.00	\$1,200,000.00
Right-of-Way	\$0.00	\$1,200,000.00	\$0.00	\$0.00	\$1,200,000.00
Construction	\$2,000,000.00	\$500,000.00	\$2,500,000.00	\$0.00	\$5,000,000.00
TOTAL	\$2,460,000.00	\$3,348,865.00	\$2,500,000.00	\$0.00	\$8,308,865.00
PERCENT (%)	29.61%	40.30%	30.09%	0.00%	100.00%
FINANCIAL PLAN					
Design	County	Sponsor	Federal	Other	Total
2025	\$300,000.00	\$608,865.00			\$908,865.00
2026					\$0.00
2027					\$0.00
Utility Relocations	County	Sponsor	Federal	Other	Total
2025					\$0.00
2026	\$160,000.00	\$1,040,000.00			\$1,200,000.00
2027					\$0.00
Right-of-Way	County	Sponsor	Federal	Other	Total
2025					\$0.00
2026	\$0.00	\$1,200,000.00			\$1,200,000.00
2027					\$0.00
Construction	County	Sponsor	Federal	Other	Total
2025					\$0.00
2026	\$2,000,000.00	\$500,000.00	\$2,500,000.00		\$5,000,000.00
2027					\$0.00

Estimate of Project Costs

Project Sponsor:	City of St. Charles, Missouri
Project Title:	North Main Street Extension Project
Date:	3/6/2024

Specific Roadway Items				
Item	Quantity	Unit	Unit Price	Amount
Mobilization	1	LS	\$150,000.00	\$150,000.00
Removal of Improvements	1	LS	\$125,000.00	\$125,000.00
Mass Grading	1	LS	\$50,000.00	\$50,000.00
Type 5 Aggregate Base (5" thick)	9,218	SY	\$15.00	\$138,270.00
Type C Asphalt Surface, 2"	1,000	TON	\$100.00	\$100,000.00
Type X Asphalt Base Base, 8.5"	3,900	TON	\$100.00	\$390,000.00
Driveway Concrete (7" non-reinforced)	500	SY	\$80.00	\$40,000.00
Brick Pavers	2,450	SY	\$150.00	\$367,500.00
SUBTOTAL				\$1,360,770.00

Specific Pedestrian Items and Bicycle Items				
Item	Quantity	Unit	Unit Price	Amount
Mobilization	1	EA	\$150,000.00	\$150,000.00
Removal of Improvements	1	EA	\$125,000.00	\$125,000.00
Mass Grading	1	EA	\$100,000.00	\$100,000.00
Removal of Unsuitable Material	316	CY	\$58.00	\$18,328.00
Concrete Sidewalk (4" thick)	3,162	SY	\$65.00	\$205,530.00
Vertical Curb & Gutter	6,000	LF	\$50.00	\$300,000.00
Storm Sewer Pipe	3,000	LF	\$250.00	\$750,000.00
Curb Inlet	26	EA	\$5,000.00	\$130,000.00
Adjust Manhole to Grade	10	EA	\$2,000.00	\$20,000.00
Relocate Fire Hydrant	4	EA	\$10,000.00	\$40,000.00
Traffic Control	1	LS	\$50,000.00	\$50,000.00
Signage & Pavement Markings	1	LS	\$75,000.00	\$75,000.00
Precast Concrete Manhole	2	EA	\$4,000.00	\$8,000.00
Street & Pedestrian Lights	19	EA	\$12,000.00	\$228,000.00
Rain Gardens and Plantings	1	LS	\$150,000.00	\$150,000.00
Construction Surveying & Staking	1	LS	\$20,000.00	\$20,000.00
Type 5 Aggregate Base (4" thick)	3,479	SY	\$15.00	\$52,185.00
ADA Ramp	22	EA	\$6,000.00	\$132,000.00
SUBTOTAL				\$2,554,043.00

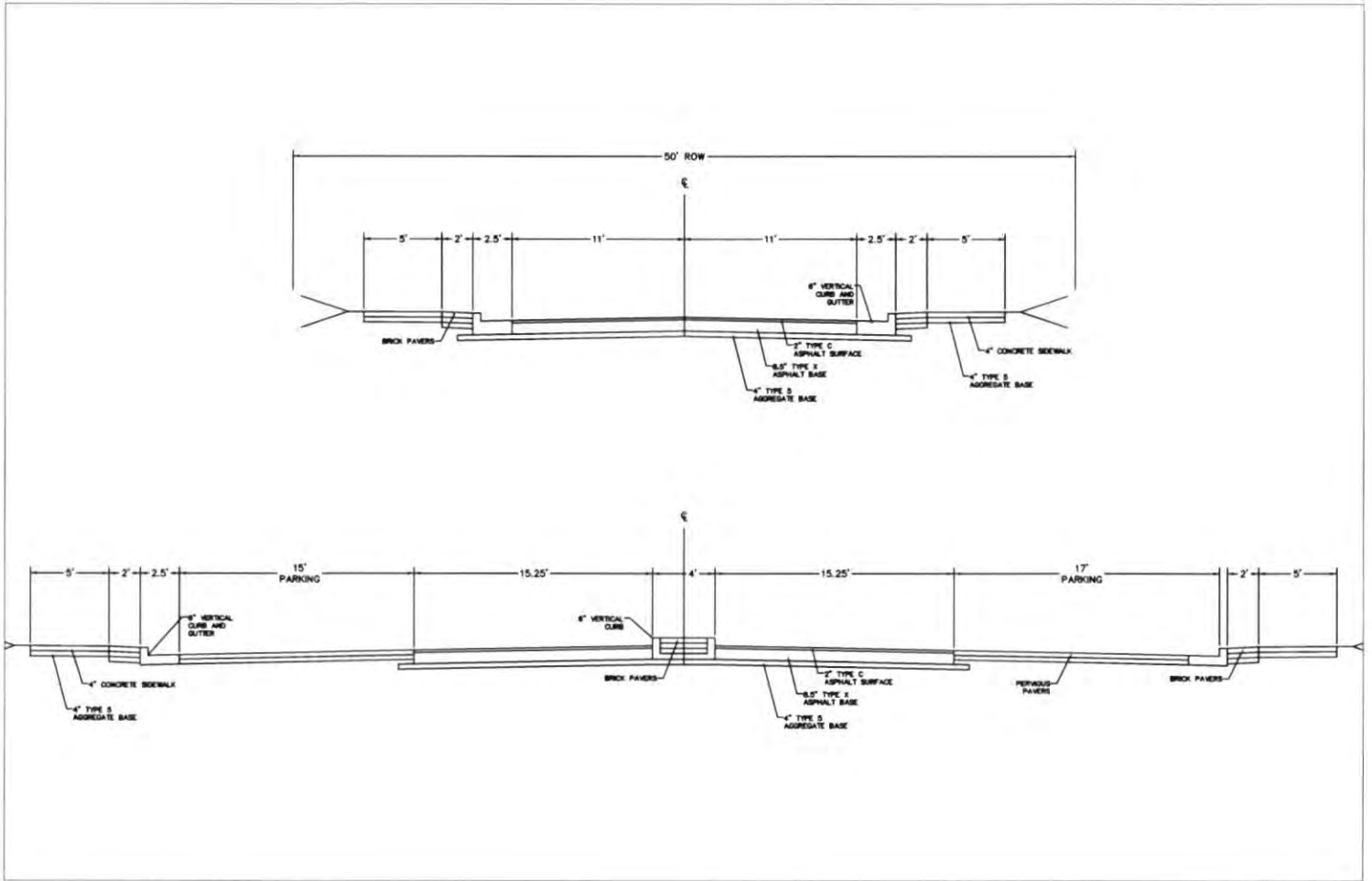
Miscellaneous Other Items				
Item	Quantity	Unit	Unit Price	Amount
Erosion Control & SWPPP	1	LS	\$10,000.00	\$10,000.00
SUBTOTAL				\$10,000.00

Construction Cost Total	\$3,924,813.00
Contingency (15%)	\$585,000.00
Inflation (4% over 2 years)	\$315,187.00
Preliminary Engineering	\$908,865.00
Right-of-Way	\$1,200,000.00
Utility Relocation	\$200,000.00
City Water	\$500,000.00
City Sewer	\$500,000.00
Construction Testing	\$175,000.00
Cost Total	\$8,308,865.00
EW Gateway TAP Funds	-2,500,000
Project Total *	\$5,808,865.00

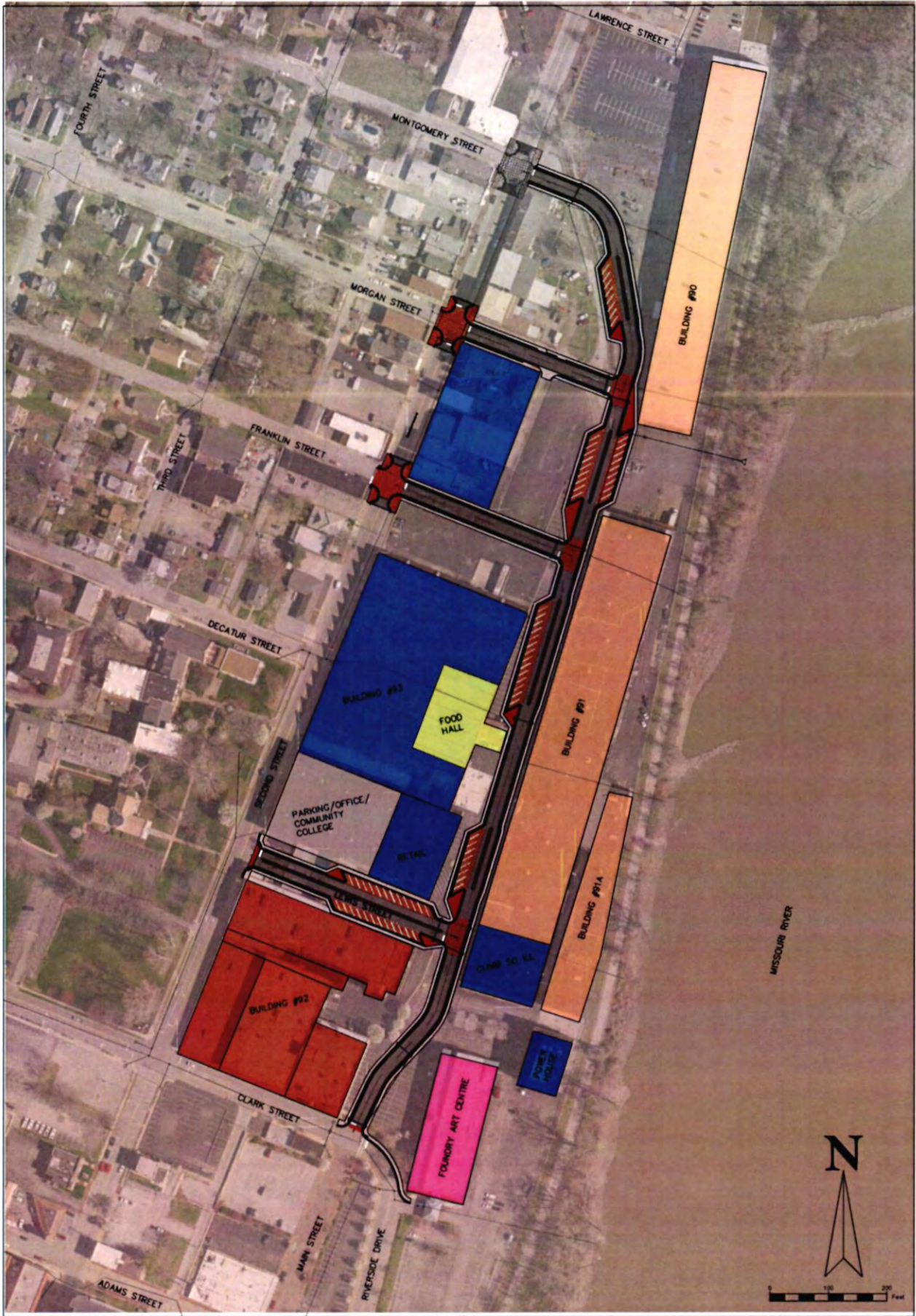
* The project total cost should match the total cost reported in the project application.

Add lines as needed.





PROPOSED TYPICAL SECTIONS FOR N. MAIN STREET EXTENSION



North Main Street Extension Concept Plan

Exhibit B

INTERGOVERNMENTAL AGREEMENT BETWEEN ST. CHARLES CITY AND COUNTY FOR ST. CHARLES CITY HALL TRANSFER TO ST. CHARLES COUNTY

This Intergovernmental Agreement (“Agreement”) is made and entered into as of the date last signed below, by and between the City of St. Charles, Missouri, a constitutional Charter City of the State of Missouri (“City”), and St. Charles County, Missouri, a constitutional Charter County of the State of Missouri (“County”); each may referred to as a “Party” or collectively as “Parties.”

WHEREAS, the City owns the City Hall building and the adjacent City Hall Parking Garage located at 200 N. Second Street, St. Charles, MO 63301, and

WHEREAS, the County desires to acquire the City Hall building for use as an annex to the Courthouse and the City Hall Parking Garage for public use and to maintain the use of the parking garage to benefit both the County’s governmental operations and the access to parking in the St. Charles City downtown community as set forth more fully in this agreement, and

WHEREAS, the City desires to lease back a portion of the City Hall building for its continued use during construction of its new city hall at the site of the former American Car Foundry (“ACF”) property, and

WHEREAS, both Parties are authorized to enter into this Agreement pursuant to the Missouri Revised Statutes, including but not limited to Sections 70.210 to 70.320, which govern intergovernmental agreements.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the Parties agree as follows:

Article I. Transfer of Property

Section 1.01 Transfer of City Hall and Parking Garage

The City hereby agrees to convey to the County all rights, title, and interest in and to the City Hall building and the City Hall Parking Garage, located at 200 N. Second Street, free and clear of all liens and encumbrances in exchange for the County’s agreement to invest in the rehabilitation and renovation of 200 North Second Street to serve as an annex to the Courthouse at 300 North Second Street, which rehabilitation and renovation is expected to be between sixteen and twenty million dollars and will involve both the interior and exterior of the building, including new windows, bringing all fire safety to standards, office space renovation, etc. and to maintain the parking garage as set forth in Section 1.02. City and County understand that the purpose of rehabilitating and renovating the building to create the Courthouse annex to house the prosecutor, public defender, public administrator and facilities will allow the County to renovate the Courthouse to add additional courtrooms and extend the life of the Courthouse in the City of St. Charles. Parties agree that the property is conveyed “as-is” and City retains no liability for the conditions of the premises except as required by state or federal environmental laws. This transfer will occur on or before January 31, 2026, subject to the lease of the building to the City as set forth in Article II herein and subject to Section 9.A.2 of the Agreement By And Between St. Charles County And City Of St. Charles For Use Of St. Charles County Transportation Sales Tax Funds For Financing A Portion Of The Construction Of North Main Street Within City Centre Complex Development (American Car And Foundry Property).



Section 1.02 Public Access to Parking Garage

The County agrees to maintain the City Hall Parking Garage as open to the public with designated free parking hours and spaces to be determined by the County, ensuring continued access for public use similar to the free parking hours previously provided by the City for a period of 10 years, or for as long as the Parking Garage is open and in use by the County, whichever period is longer. The operation and availability of the Parking Garage shall be subject to the public safety considerations of the County or for County's construction needs. The County shall maintain reserved spots in the parking garage for the City subject to the later written agreement of the parties, not to exceed ten (10) spaces.

Article II. Leaseback to City

Section 2.01 Lease of City Hall Space; available extensions

The County agrees to lease back to the City the current City Hall building and Parking Garage located at 200 N. Second Street, St. Charles, MO 63301. The lease shall commence on the date this Agreement is executed and shall remain in effect until June 30, 2027, unless earlier terminated under the provisions of this Agreement. However, if the City provides written notice to the County of its intent to extend the lease on or before December 1, 2026, the City may, at its option and at no additional cost, extend the lease until December 31, 2027, under the same terms and conditions. If the City does not provide such notice by December 1, 2026, but provides written notice to the County on or before April 1, 2027, the City may, at its option and at no additional cost, extend the lease until August 31, 2027, under the same terms and conditions. City shall also have the right, at its option, to terminate the lease early subject to the terms of this section by giving notice to County in writing of their intent to vacate and the date that the lease shall terminate.

Section 2.02 Effect of Termination

Upon termination or expiration of the lease, the City shall vacate the premises on or before the expiration date, unless the Lease is further renewed or extended by mutual written agreement of the parties. Upon vacating the premises, City shall remove all furniture and other tangible personal property from the premises.

Section 2.03 Lease Payment

The City shall pay the County a nominal rent of one dollar (\$1.00) per year for the leased space for a total of two dollars (\$2.00) for the lease term laid out herein. City shall make this payment no later than December 31 for the following year or City may pay in advance in one lump sum. If the City remains in the premises beyond the expiration of this Lease, the rent for any such overstay period shall be due at the prevailing fair market rate for similar properties in the region on a month-to-month basis, as determined by the County. The City agrees to pay such rent promptly upon demand.

Section 2.04 Use of Leased Space

The City shall use the leased space for municipal purposes and the revenues from operation of the garage and any lease in effect during the leaseback term shall continue to be collected by and due to the City during the lease term. Any lease or similar assignation entered into after the execution of this agreement must contain language terminating said lease or similar assignation no later than the termination of City's lease of the building and parking garage.

Section 2.05 Modifications to Leased Space

Any improvements installed or provided by the City in City Hall during the term of the lease shall be

submitted to County in writing and are subject to approval by County, whose consent shall not be unreasonably withheld. Fixtures shall remain following termination or expiration of this Agreement.

Section 2.06 Access to Leased Space

At all times during the lease, County shall have access to the premises. County’s access shall not require prior notice to City. Such access may include additionally any necessary access to facilitate future rehabilitation or construction at the site, including but not limited to engineers, architects, planners, consultants, and any other staff or contractors so designated by County. County’s access under this section shall not unreasonably interfere with City’s operations at the leased premises. Notwithstanding any language herein to the contrary, the County shall give City reasonable notice of its intent to access any spaces in the leased areas containing confidential information and City may condition such access on escort by city personnel.

Section 2.07 Additional Lease Terms

At all times during the lease, City shall be responsible for routine maintenance and repairs, payment of utilities used to operate the premises. City shall be responsible to secure and pay for any desired janitorial services at the premises. City shall be responsible to County for any damages City causes to the premises beyond normal wear and tear.

Article III. Notices

Section 3.01 Any notices required by this Agreement shall be provided as provided below, and which address either Party may amend from time to time upon written notice to the other Party:

- A. To the County:
St. Charles County
Attn: Director of Administration
100 N. Third St.
St. Charles, MO 63301

- B. To the Municipality:
City of St. Charles
Attn: Director of Administration
200 North Second Street
St. Charles, Missouri 63301

Any notice required or permitted to be given hereunder shall be deemed properly given if mailed by first-class mail to the address set out for each Party, or via provided e-mail address.

Article IV. Termination

Section 4.01 This Agreement is effective beginning on the date last signed below through December 31, 2035.

Section 4.02 In the event no funds are appropriated for this Agreement for a fiscal year, either Party has the right in any given fiscal year to terminate this contract without penalties of any sort.

Section 4.03 In the event that County does not appropriate at least \$11,647,092.00 for the Agreement By And Between St. Charles County And City Of St. Charles For Use Of St. Charles County

Transportation Sales Tax Funds For Financing A Portion Of The Construction Of North Main Street Within City Centre Complex Development (American Car And Foundry Property) and the Agreement by and Between St. Charles County, Missouri and the City of St. Charles, Missouri for Use of St. Charles County Transportation Sales Tax Funds for Financing a Portion of the Construction of New Roadways Within the Riverpointe Development, as amended, as part of the 2026 County Budget, Municipality may terminate this Contract without penalties of any sort.

Article V. General Provisions

Section 5.01 Compliance with Laws

Both Parties shall comply with all applicable federal, state, and local laws, regulations, and ordinances in the performance of this Agreement.

Section 5.02 Amendments

This Agreement may be amended only by a written instrument executed by both Parties.

Section 5.03 Governing Law and Venue

This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Missouri. Venue for purposes of the filing of any action regarding the enforcement or interpretation of this Agreement and any rights and duties hereunder shall be a court of competent jurisdiction in St. Charles County, Missouri.

Section 5.04 Severability

If any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions shall continue in full force and effect.

Section 5.05 Headings

The section headings in this Agreement are for convenience and reference only and shall not be construed or held in any way to explain, modify or add to the interpretation or meaning of the provisions of this Agreement.

Section 5.06 Interpretation

The Parties acknowledge that this Agreement in its final form is the result of the combined efforts of the Parties and that, should any provision of this Agreement be found to be ambiguous in any way, such ambiguity shall not be resolved by construing this Agreement in favor of or against either Party, but rather by construing the terms in accordance with their generally accepted meaning.

Section 5.07 No Third-Party Beneficiaries

The rights, interests, duties and obligations defined within this Agreement are intended for the specific Parties hereto as identified in the preamble of this Agreement. Notwithstanding anything stated to the contrary in this Agreement, it is not intended that any rights or interests in this Agreement benefit or flow to the interest of any third parties.

Section 5.08 Entire Agreement

This Agreement constitutes the entire agreement between the Parties and supersedes all prior negotiations, representations, or agreements, either written or oral.

Section 5.09 Waiver

Either Party's failure to act with respect to a breach by the other Party does not waive its right to act with

respect to subsequent or similar breaches. The failure of either Party to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

Section 5.10 Authorization

Both Parties warrant that they are authorized by their governing body to enter into this Agreement. The County Executive has been authorized by County Ordinance _____ to execute this Agreement and all necessary documents with the City, and the Mayor has been authorized by City Ordinance _____ to execute this Agreement and all necessary documents with the County.

Article VI. Indemnification and Insurance

Section 6.01 To the extent permitted by law, the City shall indemnify, protect and hold harmless the County from and against the loss, claims, damage and/or expense arising out of any demand, suit or judgment for damages to property or injury to or death of persons, including the officers, agents and employees of either Party herein, which may arise out of or be caused in whole or in part by the fault, failure, or negligence of the City, its agents, servants or employees in performing its obligations under this Agreement.

Section 6.02 To the extent permitted by law, the County shall indemnify, protect and hold harmless the City from and against the loss, claims, damage and/or expense arising out of any demand, suit or judgment for damages to property or injury to or death of persons, including the officers, agents and employees of either Party herein, which may arise out of or be caused in whole or in part by the fault, failure, or negligence of the County, its agents, servants or employees in performing its obligations under this Agreement.

Section 6.03 Minimum Limits of Insurance

Each Party shall maintain a commercial general liability insurance policy for coverage of the injuries and damages for which it, as a political subdivision, is legally obligated under Missouri law to pay, with limits not less than the sovereign immunity limits as set forth in Section 537.610 of the Revised Statutes of Missouri, as amended, except for those claims governed by the provisions of the Missouri workers' compensation law, which policy shall provide workers' compensation for the statutory limits in accordance with Chapter 287, RSMo., as amended. The insurance policy(ies) shall be maintained in full force and effect at all times during the term of this Agreement.

Section 6.04 Waiver of Immunity

Notwithstanding anything herein to the contrary, no provision, term, or condition in this Agreement shall constitute, or be construed as, a waiver of the defenses of sovereign immunity, official immunity, or governmental immunity, by whatever name, as set forth in Section 537.600 RSMo. et. seq., for any monetary amount whatsoever, or of any other defenses, howsoever named, that are, or in the future may become, available to the Parties by statute or common law.

Section 6.05 This Article VI shall survive expiration or termination of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date last written below.

**CITY OF SAINT CHARLES,
MISSOURI**

ST. CHARLES COUNTY, MISSOURI

Daniel J. Borgmeyer, Mayor Date

Steve Ehlmann, County Executive Date

Attest:

Attest:

City Clerk

County Registrar

CERTIFICATE OF DIRECTOR OF FINANCE

I certify that there is a balance otherwise unencumbered to the credit of the appropriation to which this contract is chargeable, and a cash balance otherwise unencumbered in the treasury to the credit of the fund from which payment is to be made, each sufficient to meet this obligation.

Michael Sommer, Director of Finance Date

EXHIBIT C

**FIRST AMENDMENT TO THE AGREEMENT BY AND BETWEEN ST. CHARLES COUNTY, MISSOURI AND
THE CITY OF ST. CHARLES, MISSOURI**

FOR

**USE OF ST. CHARLES COUNTY TRANSPORTATION SALES TAX FUNDS FOR FINANCING A PORTION
OF THE CONSTRUCTION OF NEW ROADWAYS WITHIN THE RIVERPOINTE DEVELOPMENT**

St. Charles County, Missouri (County) and St. Charles City, Missouri (Municipality) hereby enter into this First Amendment to the above-referenced Agreement effective as of the last date signed below.

WHEREAS, on or about January 25, 2021, the parties executed an agreement for use of St. Charles County Transportation Sales Tax Funds for financing a portion of the construction of new roadways within the Riverpointe Development; and

WHEREAS, following execution of said Agreement, the parties are desirous of amending the Agreement consistent with the terms and changes set forth below.

NOW, THEREFORE, the parties do hereby amend the Agreement as follows:

1. The language of Section 3(D) entitled Traffic Study is hereby deleted however City agrees to provide traffic impact study information to the County Roads and Traffic Office as they finalize the development of each area of the Riverpointe Development for the purposes of traffic light timing.
2. All references to the date December 31, 2024, in Section 10 shall hereby be struck and in their place the date December 31, 2035, shall be inserted in place.
3. Section Two, Paragraph A is hereby amended as follows (new language bold and underlined):

A. The Municipality shall be responsible for the construction of the Roadway Project to include certain road improvements substantially similar to those described in the Municipality's Road Board Economic Development Application dated February 10, 2020 and attached hereto as **Exhibit A** (hereinafter, "Application"). **The Roadway Project includes the area, features, and improvements indicated on Exhibit 1 labeled thereon as Phase 1, Phase 2, and Phase 3, attached hereto and incorporated herein, and these improvements are representative of but not a complete accounting of the public transportation infrastructure eligible for St. Charles Transportation Sales Tax Funds as part of this Roadway Project.**

4. Section Three, Paragraphs A.2, B.2, and C.2 shall each be amended to add the following language at the end of each paragraph (new language bold and underlined):

The County shall not unreasonably withhold approval of the plans.

5. Section Eight, Paragraph B is hereby amended as follows (new language bold and underlined):

B. Termination for County's Failure to appropriate: Should the County fail to appropriate any funds in its annual budget ordinance for any of the fiscal years to which this Agreement applies, this Agreement will terminate upon notice to the Municipality by the County that the appropriation was not voted in the annual budget ordinance, which notice shall be sent, first-class mail, to the Municipality at the address stated in Section Fifteen of this Agreement. Upon such notice to the Municipality, the County's obligation to pay any further funds pursuant to this Agreement shall terminate immediately and no further funds shall be due and payable by the County to the Municipality for the Roadway Project. **except that the Municipality may deliver documentation to the County of its undisputed and reasonable costs incurred up to the effective termination date, which County shall pay from existing appropriations if available. In addition, if the**

County terminates this Agreement pursuant to this Section, the Municipality shall be entitled to liquidated damages equal to the amount of any contracts entered into or costs incurred for the Roadway Project prior to the notice of non-appropriation, up to the County Economic Development Contribution Amount, less any amounts already reimbursed pursuant to this Agreement.

6. The language of Section 13 is hereby deleted in its entirety as the parties wish to eliminate the job creation requirement, and in its place the Agreement shall read (the deleted areas are shown in brackets, new language bold and underlined):

Section Thirteen

PERMISSIBLE FINANCING STRUCTURES

[JOB CREATION REQUIREMENT, CLAWBACK, AND SECURITY FOR COUNTY'S CONTRIBUTION]

[A. The new jobs to be created by the Development, as represented by the Municipality, are a material part of the consideration for this Agreement. The Municipality hereby agrees that the Development must create at least 140 full-time (or full-time equivalent) jobs meeting the criteria specified in the subsection C below within the Development by December 31, 2026.]

[B. The Municipality shall, on or before December 31, 2026, provide a jobs creation report in a form issued by the Missouri Department of Economic Development, an example of which is attached hereto as **Exhibit C**, demonstrating the extent of its compliance with the job creation requirements of this Section Thirteen. If, after receiving said report, the County determines that any refund is due under the provisions of this Section Thirteen, the County shall submit an invoice to the Municipality for the sum due. The Municipality shall have ninety (90) days in which to pay the sum specified in said invoice.]

[C. The required criteria for the jobs to be created are as follows:]

[1. A job must be new to St. Charles County, not moved from an existing business in St. Charles County to the Development with the exception of jobs due to expansion (net new jobs to the county);]

[2. A job must pay above the average county wage as determined by the Missouri Department of Economic Development or as can be readily determined by referral to sources published by said Department; and]

[3. The job must be a position in one of the following business sectors: (i) information technology, (ii) financial and insurance (back office, not a broker or consumer services) and (iii) professional, scientific, healthcare or technical services.]

[4. "New jobs" are defined as full-time (average 35 or more hours/ week each year and for whom the company offers/pays 50% of health insurance) employees of the company located at the Development, based on the increase from the "base employment."]

[Any job not satisfying the above criteria shall not count toward the required number of jobs.]

[D. The Municipality agrees that if the Development does not result in the creation of at least 140 full-time (or full-time equivalent) jobs meeting the criteria specified in subsection (C) above within the Development by December 31, 2026, then the Municipality shall be liable to refund to the County the sum of \$50,000 multiplied by the difference between 140 and the number of such jobs actually created. For purposes of illustration only, if the Development results in the creation of 100 full-time (or full-time equivalent) jobs meeting said criteria within the Development by December 31, 2026, then the Municipality shall be liable to refund to the County the sum of \$2,000,000, up to and not to exceed the amount of funds paid by the County.]

[E. Municipality shall establish and issue an Irrevocable Standby Letter of Credit for the benefit of the County in the amount of the County's Economic Development Contribution Amount, and in form and substance approved by the County in its sole discretion. Such Letter of Credit shall guarantee that if the Development does not generate the 140 jobs pursuant to this Section Thirteen and the Municipality does not pay the County back all the amounts due calculated as provided in subsection D above within the time frame specified by the County, then the County shall draw down all such amounts due from the Letter of Credit up to the County's Economic Development Contribution Amount.]

[F. Any time during the term of this Agreement and prior to the job creation goal having been met, the Municipality shall disclose to the County whether it has initiated any scheme under Missouri Statutes that would divert sales tax revenues from any other jurisdiction of political subdivision to pay for the Development. In the event that the Municipality pursues such funding sources, the County reserves the right to (1) do nothing, (2) request a partial refund of funds already paid and extinguish all obligations to pay any further funds towards the Roadway Project; or (3) terminate the Agreement, request a refund of all funds already paid, and extinguish all obligations to pay any further funds towards the Roadway Project.

G. Notwithstanding any other provision of this Section Thirteen, the Municipality's liability to County imposed by this Section Thirteen shall not exceed the total amount of funds actually provided by the County to the Municipality pursuant to this Agreement.]

1. The Municipality shall not utilize local tax increment financing, which would divert sales tax revenues from any other jurisdiction of political subdivision, to pay for the Development. In the event that the Municipality pursues such funding sources, the County reserves the right to (1) do nothing, (2) request a partial refund of funds already paid and extinguish all obligations to pay any further funds towards the Roadway Project; or (3) terminate the Agreement, request a refund of all funds already paid, and extinguish all obligations to pay any further funds towards the Roadway Project. This section does not prohibit the municipality's use of financing mechanisms available under law that do not divert sales tax revenues from other jurisdictions. Such financing options are explicitly permissible and may include but are not limited to the creation of Community Improvement District, Neighborhood Improvement District, or Transportation Development District or financing options available to the Municipality pursuant to Chapter 100 of the Revised Statutes of Missouri.

7. All other terms and conditions of the original Agreement shall remain in full force and effect.

RIVERPOINTE LIMITS





FRENCHTOWN GREAT STREETS



Realistic Rendering



SAINT CHARLES
MISSOURI



STATION 2



EXHIBIT

D

This Road Project Paid In Part
Through Your
St. Charles County
1/2 Cent Transportation Sales Tax



*For more information, please visit
www.sccmo.org*

Sign Size: Width = 48" Length = 36" Lettering: Upper = 4" Lower = 2.5" *White Lettering on Blue Background*

RCA FORM (OFFICE USE ONLY)

Bill # 14015

MEETING/DATE: 10/7/2025

Regular Special Work Session

ATTACHMENT: YES NO

Report Resolution Ordinance

Request for Council Action

Ward(s): ALL

Sponsor(s): Michael Galba

Description:

An ordinance authorizing the City of St. Charles to enter into an agreement with the Missouri Highways and Transportation Commission to receive Section 5310 federal funds towards the acquisition of three (3) accessible rear-entry minivans.

Contract Extension/Renewal: Yes No

Information Paper Attached: Yes No

Staff Recommendation: Approve Disapprove

Board/Committee/Commission Recommendation: Approve Disapprove

Summary:

The City has been awarded federal Section 5310 Enhanced Mobility of Seniors and Individuals with Disabilities Capital and Operating Assistance grant funding to acquire three (3) accessible rear-entry minivans. Attached is the Missouri Highways and Transportation Commission Agreement for funding the acquisition of the minivans.

Federal funding is administered through MoDOT, and will reimburse the City for 80% of actual costs to purchase the minivans, up to a maximum amount of \$170,059.00. The City's 20% matching share (of \$42,515,00) has been budgeted as project 20PWSST008. The total cost of the minivans is estimated at \$212,574.00.

Budget Impact: (revenue generated, estimated cost, CIP item, etc.)

Fiscal Impact: \$ 42,515.00 N/A

Account #: 410-500-501-874102

Project #: 20PWSST008

RCA prepared by: MZG Dept. Dir. [Signature] Finance Dir. [Signature] Dir. of Admin. [Signature]

Bill No. 14015

Ordinance No. _____

Sponsor: Michael Galba

AN ORDINANCE AUTHORIZING AN ENHANCED MOBILITY OF SENIORS AND INDIVIDUALS WITH DISABILITIES CAPITAL AND OPERATING ASSISTANCE GRANT AGREEMENT WITH THE MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION TO RECEIVE SECTION 5310 FEDERAL FUNDS IN AN AMOUNT NOT TO EXCEED EIGHTY PERCENT (80%) OF THE COSTS TO ACQUIRE THREE ACCESSIBLE REAR ENTRY MINIVANS.

Be It Ordained by the Council of the City of St. Charles, Missouri, as Follows:

SECTION 1. An Enhanced Mobility of Seniors and Individuals With Disabilities Capital and Operating Assistance Grant Agreement with the Missouri Highways and Transportation Commission (the "Agreement") to receive Section 5310 federal funds for the purpose of acquiring three (3) accessible rear entry minivans, is approved. The Agreement shall be substantially the same in form and content as attached hereto and identified as Exhibit 1. The Mayor is authorized to execute the Agreement and perform all acts necessary to carry out the intent of this ordinance.

SECTION 2. This Ordinance shall be in full force and effect from and after the date of its passage and approval.

Date Passed

Michael Galba, Presiding Officer

Date Approved by Mayor

Daniel J. Borgmeyer, Mayor

Approved as to Legal Form:

Attest:

Holly Magdziarz
Holly Magdziarz, City Attorney

10/3/2025
Date

Kimberly Hudson, City Clerk



CERTIFICATE OF DIRECTOR OF FINANCE

I certify that the expenditure contemplated by this document is within the purpose of the appropriation and the work program contemplated thereby, and that there is a sufficient unencumbered balance in the appropriation account and in the proper fund to pay the obligation.

Jennifer O'Connor 10-2-25
Jennifer O'Connor, Director of Finance Date



CCO Form: MO85
Approved: 12/08 (AMB)
Revised: 08/25 (MWH)
Modified:

Project No. MO

CFDA Number: CFDA #20.513
CFDA Title: Enhanced Mobility of Seniors and Individuals with Disabilities
– Mobility Management, Purchase of Service, Fixed Route
Service Access Projects and/or Alternative in Transit that
Enhance Mobility
Federal Agency: Federal Transit Administration, Department of Transportation

**MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION
5310 - ENHANCED MOBILITY OF SENIORS AND INDIVIDUALS WITH
DISABILITIES CAPITAL AND OPERATING ASSISTANCE GRANT AGREEMENT**

THIS GRANT AGREEMENT is entered into by the Missouri Highways and Transportation Commission (hereinafter, "Commission") and the City of St. Charles (hereinafter, "Grantee").

WITNESSETH:

WHEREAS, the Grantee has applied to the Commission for a grant of federal funds made available to the Commission under Title 49 United States Code (USC) 5310 (hereinafter, "5310" or "Section 5310"), to defray a portion of the costs of enhanced mobility of seniors and individuals with disabilities with transportation, carried out by the Grantee; and

WHEREAS, the Commission has awarded federal funds available pursuant to Section 5310 to the Grantee with the understanding that such funds will be used for projects pursuant to this Agreement for the purposes specified in the Grantee's application for Section 5310 assistance, attached hereto as Appendix A and incorporated herein by reference.

NOW, THEREFORE, in consideration of these mutual covenants, promises, and representations the parties agree as follows:

(1) PURPOSE AND SOURCE OF FUNDS: The purpose of this Agreement is to assist the Grantee in financing the project's expenses that are eligible for federal financial assistance.

(A) Net Operating Cost: Net operating cost is the total cost of operation less revenues received from the service provided. Such net operating cost is estimated to be the amount determined from the Grantee's projected operating budget as specified in Appendix A.

The Commission will make a grant from available federal funds in the amount not to exceed fifty percent (50%) of the net operating cost in a manner consistent with the requirements of the United States Department of Transportation (hereinafter, "USDOT") as contained in Section 5310 and in the Federal Transit Administration (hereinafter, "FTA") Circular 9070.1H, dated November 1, 2024.

(B) Capital Other Costs: Such capital costs are estimated to be the amount appearing in the Grantee's estimated capital project budget, as specified in Appendix A.

The Commission will make a grant from available federal funds in the amount not to exceed eighty percent (80%) of the capital costs in a manner consistent with the administrative rules of the USDOT as contained in Section 5310 and in the FTA Circular 9070.1H, dated November 1, 2024.

(C) Capital Vehicle Costs: Such capital costs are estimated to be the amount appearing in the Grantee's estimated capital project budget, as specified in Appendix A.

The Commission will make a grant from available federal funds in the amount not to exceed eighty percent (80%) of the capital costs in a manner consistent with the administrative rules of the USDOT as contained in Section 5310 and in the FTA Circular 9070.1H, dated November 1, 2024.

The Grantee shall provide funds from sources other than federal USDOT funds. The Grantee shall provide funds from sources other than: 1. unauthorized restricted federal funds; 2. receipts from the use of the project facilities and equipment; or 3. revenues of the transportation system in which such facilities and equipment are used in an amount sufficient, together with the grant pursuant to this Agreement, to pay the actual operating cost.

(2) SCOPE OF WORK AND BUDGET: The Grantee will undertake and complete the project specified in the approved project application and the approved budget as specified in Appendix A.

(3) USE OF PROJECT FACILITIES AND EQUIPMENT: The following conditions are applicable to project facilities and equipment financed under this Agreement:

(A) The project facilities and equipment shall be used to provide transportation service to seniors and individuals with disabilities within the Grantee's transportation service area, substantially as described in the project description of the Application (Appendix A). The Grantee agrees to observe the property management standards as set forth 2 CFR Part 200, as now or hereafter amended in order to protect the interest of the USDOT. Exceptions to the requirements of this paragraph must be specifically approved by the Commission.

(B) If during the period, any project facilities/equipment are not used in transportation service to assist disabled individuals, whether by planned withdrawal or casualty loss, the Grantee shall immediately notify the Commission and shall remit to the Commission a proportional amount of the fair market value, if any, of the property, which shall be determined on the basis of the ratio of the grant made by the Commission to the actual cost of the project. Fair market value shall be deemed to be the value of the property as determined by competent appraisal at the time of such withdrawal from use or misuse, or the net proceeds from public sale, whichever is approved by the Commission.

(C) In the event of loss due to casualty or fire, the damages paid by the insurance carrier or payable from the self-insured reserve account shall be considered fair market value. In no event is salvage value to be considered fair market value.

(D) The Grantee shall keep satisfactory records with regard to the use of the property and submit to the Commission upon request such information as is required in order to assure compliance with this paragraph and shall immediately notify the Commission in all cases in which project facilities/equipment are used in a manner substantially different from that described in the project description.

(E) The Grantee shall maintain in amount and form satisfactory to the Commission such insurance as will be adequate to protect project facilities/equipment throughout the period of required use.

(F) At the beginning of each calendar year, the Grantee shall also submit to the Commission a certification that the project facilities/equipment are still being used in accordance with the terms of paragraph (3) of this Agreement and that no part of the local contribution to this cost of the project has been refunded or reduced, except as authorized above.

(4) PROJECT TIME PERIOD:

(A) Project Time Period for Net Operating Cost: N/A

(B) Project Time Period for Capital Other Cost: N/A

(C) Project Time Period for Capital Vehicle Cost: The project period shall be from the date upon which this Agreement is executed until the equipment purchased under this Agreement is disposed of in accordance with Appendix B attached hereto and incorporated herein by reference.

(5) DISPUTES: Any disputes that arise under this Agreement shall be decided by the Commission or its representative.

(6) AUDIT REQUIREMENTS: If the Grantee expends one million dollars (\$1,000,000) or more in a year in federal financial assistance, it is required to have an independent annual audit conducted in accordance with 2 CFR Part 200. A copy of the audit report shall be submitted to the Missouri Department of Transportation ("MoDOT" or "Department") within the earlier of thirty (30) days after receipt of the auditor's report or nine (9) months after the end of the audit period. Subject to the requirements of 2 CFR Part 200, if the Grantee expends less than one million dollars (\$1,000,000) in a year, the Grantee may be exempt from auditing requirements for that year, but records must be available for review or audit by applicable state and federal authorities.

(7) AUDITS, INSPECTION, AND RETENTION OF RECORDS: The Commission and the USDOT, or any of their representatives, shall have full access to and the right to examine, during normal business hours and as often as the Commission or the USDOT deems necessary at no charge to the Commission and/or its designees or representatives, all of the Grantee's records with respect to all matters covered by this Agreement. Such representatives shall be permitted to audit under the guidelines of 2 CFR part 200, examine and make excerpts or transcripts from such records and other matters covered by this Agreement. Such rights shall last for three (3) years beyond the longer of the following periods: (A) the period during which any property acquired with funds provided pursuant to this Agreement is used for purposes for which the federal financial assistance is extended, or for another purpose involving the provisions of similar services or benefits; or (B) the period during which the Grantee retains ownership or possession of such property; or (C) the end of the project time period specified in the PROJECT TIME PERIOD paragraph. All documents, accounting records and other material pertaining to costs incurred in connection with the project shall be retained by the Grantee for three (3) years from the date of final payment to facilitate any audits or inspections.

(8) PROPERTY MANAGEMENT STANDARDS: The Grantee's services rendered, and reimbursable expenses incurred shall be those allowable under 2 CFR part 200.

(9) REPORTS: The Grantee shall advise the Commission regarding the progress of the projects at such times and in such a manner as the Commission may require, including, but not limited to, meetings and interim reports.

(10) INDEMNIFICATION: To the extent allowed or imposed by law, the Grantee shall defend, indemnify, and hold harmless the Commission, including its members and department employees, from any claim or liability whether based on a claim for damages to real or personal property or to a person for any matter relating to or arising out of the Grantee's performance of its obligations under this agreement.

(11) INSURANCE: The Grantee is required to carry commercial general liability insurance and commercial automobile insurance from a company authorized to issue insurance in Missouri, and to name the Commission, MoDOT, and its employees, as additional named insureds in amounts sufficient to cover the sovereign immunity limits for Missouri public entities (\$600,000 per claimant and \$400,000 per occurrence) as calculated by the Missouri Department of Insurance, Financial Institutions and Professional Registration, and published annually in the Missouri Register pursuant to section 537.610 RSMo

(12) NONDISCRIMINATION ASSURANCE: With regard to work under this Agreement, the Grantee agrees as follows:

(A) Civil Rights Statutes: The Grantee shall comply with all state and federal statutes relating to nondiscrimination, including but not limited to Title VI and Title VII of the Civil Rights Act of 1964, as amended (42 USC 2000d and 2000e, *et seq.*), as well as any applicable titles of the Americans with Disabilities Act (ADA) (42 USC 12101, *et seq.*). In addition, if the Grantee is providing services or operating programs on behalf of the MoDOT or the Commission, it shall comply with all applicable provisions of Title II of the ADA.

(B) Administrative Rules: The Grantee shall comply with the administrative rules of the USDOT relative to nondiscrimination in federally assisted programs of the USDOT (49 CFR Subtitle A, Part 21), which are herein incorporated by reference and made part of this Agreement.

(C) Nondiscrimination: The Grantee shall not discriminate on grounds of the race, color, religion, creed, sex, disability, national origin, age, or ancestry of any individual in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Grantee shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR 21.5, including employment practices.

(D) Solicitations for Subcontracts, Including Procurements of Material and Equipment: These assurances concerning nondiscrimination also apply to subcontractors and suppliers of the Grantee. These apply to all solicitations either by competitive bidding or negotiation made by the Grantee for work to be performed under a subcontract, including procurement of materials or equipment. Each potential subcontractor or supplier shall be notified by the Grantee of the requirements of this Agreement relative to nondiscrimination on grounds of the race, color, religion, creed, sex, disability, national origin, age, or ancestry of any individual.

(E) Information and Reports: The Grantee shall provide all information and reports required by this Agreement, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Commission or the USDOT to be necessary to ascertain compliance with other contracts, orders, and instructions. Where any information required of the Grantee is in the exclusive possession of another who fails or refuses to furnish this information, the Grantee shall so certify to the Commission or the USDOT as appropriate and shall set forth what efforts it has made to obtain the information.

(F) Sanctions for Noncompliance: In the event the Grantee fails to comply with the nondiscrimination provisions of this Agreement, the Commission shall impose such contract sanctions as the Commission or the USDOT may determine to be appropriate, including but not limited to:

1. Withholding of payments under this Agreement until the Grantee complies; and/or
2. Cancellation, termination, or suspension of this Agreement, in whole or in part, or both.

(G) Incorporation of Provisions: The Grantee shall include the provisions of this NONDISCRIMINATION ASSURANCE paragraph of this Agreement in every subcontract, including procurements of materials and leases of equipment, unless exempted by the statutes, executive order, administrative rules, or instructions issued by the Commission or the USDOT. The Grantee will take such action with respect to any subcontract or procurement as the Commission or the USDOT may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that in the event the Grantee becomes involved or is threatened with litigation with a subcontractor or supplier as a result of such direction, the Grantee may request the United States to enter into such litigation to protect the interests of the United States.

(13) SECTION 504 ASSURANCES AND THE ADA OF 1990: The Grantee shall comply with all the requirements imposed by the USDOT regulations implementing the Rehabilitation Act of 1973, as amended, and the ADA of 1990 (and any subsequent amendments thereto) set forth in 49 CFR Subtitle A, Parts 27, 37, and 38, as well as all applicable regulations and directives issued pursuant thereto by other federal departments or agencies.

(14) DISADVANTAGED BUSINESS ENTERPRISE (DBE): The Grantee agrees to either prepare and submit for Commission approval a DBE plan as defined in 49 CFR Subtitle A, Part 26, or to participate in the Commission's DBE plan. The Grantee shall also comply with the reporting requirements in 49 CFR Subtitle A, Part 26.

(15) INTEREST OF MEMBERS OF OR DELEGATES TO CONGRESS: No member of or delegate to the Congress of the United States shall be admitted to any share or part of this contract or to any benefit arising therefrom.

(16) REIMBURSEMENT:

(A) Net Operating Cost: N/A

(B) Capital Other Costs: N/A

(C) Capital Vehicle Costs: The Commission, using funds made available to it from the grant made to it by the USDOT, shall reimburse the Grantee for eighty percent (80%) of the capital cost described in subparagraph (C) of the PURPOSE AND SOURCE OF FUNDS paragraph of this Agreement, provided, however, in no event shall the total amount reimbursed by the Commission for net capital cost exceed the maximum federal share of **one hundred seventy thousand, and fifty nine dollars (\$170,059)**.

(17) REIMBURSEMENT CONDITIONS: Reimbursement by the Commission is subject to the following conditions

(A) Funds made available to the Commission and Grantee are subject to appropriations made by the General Assembly. The maximum Commission payment on any monthly or quarterly request and in the aggregate, when added to federal operating and/or capital assistance funds available and applied to the same operating and/or capital period, shall not cause the total of state and federal operating and/or capital assistance to exceed the amount of operating and/or capital assistance for which Grantee would have qualified in federal funds had additional federal funds been available.

(B) Financial summaries submitted to the Commission must include a certification that costs have been incurred in the performance of the contract and a record of the actual costs.

(C) Reimbursement will be made by the Commission on an incremental basis. Reimbursement is subject to approval by the Commission. All requisition forms shall be in an appropriate format approved by the Commission.

(D) Requisitions requesting reimbursement for operating expenses shall be in accordance with the approved project operating budget (Appendix A).

(E) Requisitions requesting reimbursement for capital expenses shall be in accordance with the approved estimated capital project budget (Appendix A).

(F) The Grantee shall not be reimbursed for any expenses incurred prior to or after the project period. Post-audit activities will be conducted by the Commission.

(G) The Grantee shall provide the Commission with a final invoice indicating the detailed costs, revenues, and actual operating loss, when applicable, to the Section 5310 grant. Upon receipt of the final invoice, an audit will be performed by the Commission pursuant to the AUDITS, INSPECTION, AND RETENTION OF RECORDS paragraph.

(18) AMENDMENTS: Any change in this Agreement, whether by modification or supplementation, must be accomplished by a formal contract amendment signed and approved by the duly authorized representative of the Grantee and the Commission.

(19) SUBCONTRACTS: None of the project activities described in Appendix A shall be subcontracted without the prior written consent of the Commission. All subcontracts shall be subject to the terms and conditions of this Agreement. The Grantee, however, shall remain responsible for the proper completion of the project notwithstanding any subcontract.

(20) TERMINATION: This Agreement may be terminated upon any of the following conditions:

(A) If, for any cause, the Grantee shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or if the Grantee shall violate any of the covenants, agreements, or stipulations contained herein, the Commission shall have the right to terminate this Agreement if such default or violation is not corrected within twenty (20) days after written notice is sent to the Grantee describing such default or violation.

(B) The Commission may terminate this Agreement without recourse in the event that, for any reason, federal funds are not appropriated, allotted, or available to the Commission for the purpose of meeting the Commission's obligation hereunder. The Commission will provide written notice of such termination to the Grantee at least five (5) days prior to the effective date of termination.

(C) Either party may terminate this Agreement at any time by giving written notice to the other party of such termination and specifying the effective date of termination. Such written notice must be mailed at least forty-five (45) days in advance of such termination date.

(21) SOURCE OF COMMISSION FUNDS: The obligation of the Commission for financial assistance in the project is contingent upon this Agreement being approved by the FTA and the USDOT, and upon federal funds being allocated to, and approved, for the project.

(22) LACK OF WAIVER: In no event shall payment of grant funds to the Grantee by the Commission constitute or be construed as a waiver by the Commission of any breach of covenants, or any default which may exist on the part of the Grantee and the making of any such payment by the Commission while any such breach or default shall exist shall in no way impair or prejudice any right or remedy available to the Commission with the respect to such breach or default.

(23) SECURITY: The Grantee agrees that upon purchase with funds provided under this Agreement of any equipment for which a title certificate may be obtained or is required under the laws of Missouri that the Grantee will execute such documents as may be necessary to protect and secure a lien upon such equipment in favor of the Commission, if so requested by the Commission. Any and all fees required to be paid to secure and maintain said lien shall be paid by the Grantee.

(24) COMMISSION REPRESENTATIVE: The Commission's chief engineer is designated as the Commission's representative for the purpose of administering the provisions of this Agreement. The Commission's representative may designate by written notice other persons having the authority to act on behalf of the Commission in furtherance of the performance of this Agreement.

(25) ASSIGNMENT: The Grantee shall not assign, transfer, or delegate any interest in this Agreement without the prior written consent of the Commission.

(26) APPLICABLE LAWS AND REGULATIONS: This Agreement shall be construed according to the laws of the State of Missouri. Each party shall comply with all applicable federal, state, and local laws, regulations, and ordinances. Additionally, each party shall adhere to all accepted industry standards, processes, and procedures relevant to the performance of their obligations under this Agreement. A violation of this paragraph constitutes a material breach of the Agreement.

(27) VENUE: It is agreed by the parties that any action at law, suit in equity, or other judicial proceeding to enforce or construe this Agreement, or regarding its alleged breach, shall be instituted only in the Circuit Court of Cole County, Missouri.

(28) NONSOLICITATION: The Grantee warrants that it has not employed or retained any company or person, other than a bona fide employee working for the Grantee, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the Commission shall have the right to annul this Agreement without liability, or in its discretion, to deduct from this Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

(29) CONFIDENTIALITY: The Grantee shall not disclose to third parties confidential factual matter provided by the Commission except as may be required by statute, ordinance, or order of court, or as authorized by the Commission. The Grantee shall notify the Commission immediately of any request for such information.

(30) PRIVACY ACT:

(A) The Grantee agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 USC 552a, as amended. Among other things, the Grantee agrees to obtain the express consent of the USDOT before the Grantee or its employees operate a system of records on behalf of the USDOT. The Grantee understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the Agreement.

(B) The Grantee also agrees to include these requirements in each of its contracts to administer any system of records on behalf of the USDOT financed in whole or in part with Federal assistance provided by FTA.

(31) STATE AND LOCAL LAW DISCLAIMER: The use of many of the suggested clauses are not governed by Federal law but are significantly affected by state law. The language of the suggested clauses may need to be modified depending on state law, and before the suggested clauses are used in the Grantee's procurement documents, the Grantee should consult with their local attorney.

(32) DRUG-FREE WORKPLACE: The Grantee agrees to maintain a drug-free workplace for all employees and to have an anti-drug policy and awareness program in accordance with the Drug-Free Workplace Act of 1988 (41 USC 701 *et seq.*), as amended, and 49 CFR Part 32.

(33) FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT OF 2006 (FFATA): The Grantee shall comply with all reporting requirements of FFATA, as amended. This Agreement is subject to the award terms within 2 CFR Part 170.

(34) FEDERAL CLAUSES: The Grantee and its subcontractors shall comply with the FTA's third party contracting clauses as specified in Appendix C of this agreement.

(35) EMPLOYMENT OF UNAUTHORIZED ALIENS: Pursuant to section 285.530 RSMo, Grantee has enrolled in a federal work authorization program and agrees to abide by the provisions contained in the Memorandum of Understanding the Grantee entered into with the United States Department of Homeland Security (Appendix D, attached hereto and incorporated herein by this reference).

[Remainder of this page left intentionally blank]

Certificate Of Completion

Envelope Id: A631630A-BEB6-4E80-A5CC-0437D1A53F91

Status: Completed

Subject: Complete with Docusign: 5310 RCA PACKET.pdf

Source Envelope:

Document Pages: 11

Signatures: 3

Certificate Pages: 2

Initials: 0

AutoNav: Enabled

Envelopeld Stamping: Enabled

Time Zone: (UTC-06:00) Central Time (US & Canada)

Envelope Originator:

Maura Zackavec

200 N Second St

Saint Charles, MO, MO 63301

maura.zackavec@stcharlescitymo.gov

IP Address: 35.130.51.195

Record Tracking

Status: Original

9/29/2025 3:23:31 PM

Holder: Maura Zackavec

maura.zackavec@stcharlescitymo.gov

Location: DocuSign

Signer Events

Larry Perney

lawrence.perney@stcharlescitymo.gov

Asst. CA

SHI OBO City of St Charles

Security Level: Email, Account Authentication (None)

Signature

Signed by:

C2912E6A799A480

Signature Adoption: Pre-selected Style

Using IP Address: 35.130.51.195

Timestamp

Sent: 9/29/2025 3:25:02 PM

Viewed: 9/29/2025 3:29:16 PM

Signed: 9/29/2025 3:29:59 PM

Electronic Record and Signature Disclosure:

Not Offered via Docusign

Jennifer O'Connor

jennifer.oconnor@stcharlescitymo.gov

Director of Finance

City of Saint Charles, MO

Security Level: Email, Account Authentication (None)

DocuSigned by:

C5F7B3E6A406E400

Signature Adoption: Pre-selected Style

Using IP Address: 35.130.51.195

Sent: 9/29/2025 3:30:00 PM

Viewed: 9/29/2025 4:02:03 PM

Signed: 9/29/2025 4:02:36 PM

Electronic Record and Signature Disclosure:

Not Offered via Docusign

Lawrence S. Dobrosky, Jr.

lawrence.dobrosky@stcharlescitymo.gov

Director of Administration

City of Saint Charles, MO

Security Level: Email, Account Authentication (None)

DocuSigned by:

3E06A81A58064AA

Signature Adoption: Pre-selected Style

Using IP Address: 35.130.51.195

Sent: 9/29/2025 4:02:38 PM

Viewed: 9/29/2025 4:09:55 PM

Signed: 9/29/2025 4:10:09 PM

Electronic Record and Signature Disclosure:

Not Offered via Docusign

In Person Signer Events

Signature

Timestamp

Editor Delivery Events

Status

Timestamp

Agent Delivery Events

Status

Timestamp

Intermediary Delivery Events

Status

Timestamp

Certified Delivery Events

Status

Timestamp

Carbon Copy Events

Status

Timestamp

Witness Events	Signature	Timestamp
-----------------------	------------------	------------------

Notary Events	Signature	Timestamp
----------------------	------------------	------------------

Envelope Summary Events	Status	Timestamps
--------------------------------	---------------	-------------------

Envelope Sent	Hashed/Encrypted	9/29/2025 3:25:02 PM
Envelope Updated	Security Checked	9/30/2025 6:50:41 AM
Certified Delivered	Security Checked	9/29/2025 4:09:55 PM
Signing Complete	Security Checked	9/29/2025 4:10:09 PM
Completed	Security Checked	9/30/2025 6:50:41 AM

Payment Events	Status	Timestamps
-----------------------	---------------	-------------------

Project: Section 5310 – EWGW

Agency: City of St Charles

UEI: H1D7QGADSJG8

Grant(s): MO 2025-012 CMAC or other
available funding.

FTA Grant Award Date: April 16, 2025

Project(s): Rolling Stock

3-ADA Minivans- Model CCC

Total Project Cost: \$212,574.00 (80/20)

Federal Share: \$170,059.00

Local Share: \$42,515.00

No: R&D

No: Indirect Cost

Application

Appendix A

Federal Transit Administration 49 U.S.C Section 5310
Enhanced Mobility of Seniors and Individuals with Disabilities

Legal Name of Organization	City of St. Charles, MO
	(As shown on the incorporation or charter documents)

List all other DBA names	
Project	Vehicle Award – Capital
Wide Body Cutaway II – no options	

Street Address	200 North Second St.
----------------	----------------------

Mailing Address	200 North Second St.
-----------------	----------------------

City	St. Charles	State	MO	Zip	63301-2994	County	St. Charles
------	-------------	-------	----	-----	------------	--------	-------------

Congressional District	KK 03	RPC/MPO Plan:	5	Plan Expiration	2028
------------------------	-------	---------------	---	-----------------	------

Executive Director		Phone	
--------------------	--	-------	--

Grant Contact Person		Phone	
----------------------	--	-------	--

Email		Fax	
-------	--	-----	--

Federal Employer Identification Number (FEIN)	
Unique Entity Identification # (UEI) – sam.gov	H1D7QGADSJG8
Nonprofit Corporation Number (issued by the MO Secretary of State)	
Does applicant agency have a Title VI / Non-Discrimination Plan?	Date: 02/07/2023
If yes, Title VI/Nondiscrimination Plan approval date (mm/dd/yy):	YES
Our governing body (board of director, city council, etc.) is made up predominantly of minority and/or low-income individuals.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Potential riders/clients of our transportation service will be predominantly minority and/or low-income individuals.	X Yes No

DocuSigned by:
Daniel J. Borgmeyer
8038AFB1A1BD439...

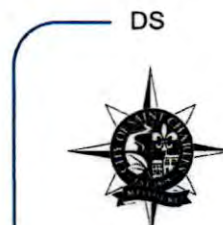
8/7/2025

Signature of Authorized Individual

Date

DocuSigned by:
Kimberly Hudson
70E399BA7AAF426...

8/8/2025



Please indicate the vehicle (X) and number of vehicles being requested along with options. Please see the attached Bid Awards for pricing and options.

ACCESSIBLE MINIVAN REAR ENTRY

Floor Plan: CCC X DDD _____

Of Vehicles 3 Base Price \$ 70,858 Total Cost \$ 212,574

FEDERAL TRANSIT ADMINISTRATION CERTIFICATION AND ASSURANCES

(Signature page alternative to signing individual certifications and assurances)

Name of Applicant: City of St. Charles

The Applicant certifies they have read and will comply with the applicable provisions of Categories 01-20.

Category	Description	5310	(initial)
01	Required Certifications and Assurances for Each Applicant.	X	^{DS} DJB
02	Public Transportation Agency Safety Plans	n/a	
03	Tax Liability and Felony Convictions	X	^{DS} DJB
04	Private Sector Protection	X	^{DS} DJB
05	Transit Asset Management Plan	X	^{DS} DJB
06	Rolling Stock Buy America Reviews and Bus Testing	n/a	
07	Urbanized Area Formula Grants Program	n/a	
08	Formula Grants for Rural Areas	n/a	
09	Fixed Guideway Capital Investment Grants and the Expedited Project Delivery for Capital Investment Grants Pilot Program	n/a	
10	Grants for Buses and Bus Facilities and Low or No Emission Vehicle Deployment Grant Programs.	m/a	
11	Enhanced Mobility of Seniors and Individuals with Disabilities Programs.	X	^{DS} DJB
12	State of Good Repair Grants	n/a	
13	Infrastructure Finance Programs	n/a	
14	Alcohol and Controlled Substance Testing	X	^{DS} DJB
15	Rail Safety Training and Oversight	n/a	
16	Demand Responsive Service	X	^{DS} DJB
17	Interest and Financing Cost	X	^{DS} DJB
18	Cybersecurity Certification for Rail Rolling Stock and Operations	X	^{DS} DJB
19	Public Transportation on Indian Reservations Formula and Discretionary Program (Tribal Transit Programs)	n/a	
20	Emergency Relief Program	X	^{DS} DJB

Federal Transit Administration (FTA) Certifications and Assurances

(Signature page alternative to signing individual certifications and assurances)

AFFIRMATION OF APPLICANT

Name of the Applicant: City of Saint Charles

Name and Relationship of the Authorized Representative: Daniel J. Borgmeyer, Mayor

BY SIGNING BELOW on behalf of the Applicant, I declare that it has duly authorized me to make these Certifications and Assurances and bind its compliance. Thus, it agrees to comply with all federal laws, regulations, and requirements, follow applicable federal guidance, and comply with the Certifications and Assurances as indicated on the foregoing page applicable to each application its Authorized Representative makes to the Federal Transit Administration (FTA) in federal fiscal year, irrespective of whether the individual that acted on his or her Applicant's behalf continues to represent it.

Certifications and Assurances the Applicant selects on the other side of this document should apply to each Award for which it now seeks or may later seek federal assistance to be awarded by FTA during the federal fiscal year.

The Applicant affirms the truthfulness and accuracy of the Certifications and Assurances it has selected in the statements submitted with this document and any other submission made to FTA, and acknowledges that the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 *et seq.*, and implementing U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR part 31, apply to any certification, assurance or submission made to FTA. The criminal provisions of 18 U.S.C. § 1001 apply to any certification, assurance, or submission made in connection with a federal public transportation program authorized by 49 U.S.C. chapter 53 or any other statute.

In signing this document, I declare under penalties of perjury that the foregoing Certifications and Assurances, and any other statements made by me on behalf of the Applicant are true and accurate.

Signature: *Daniel J. Borgmeyer* Date 8/19/2025
Authorized Representative of Applicant

Printed Name: Daniel J. Borgmeyer

AFFIRMATION OF APPLICANT'S ATTORNEY

For (Name of Applicant): City of Saint Charles

As the undersigned Attorney for the above-named Applicant, I hereby affirm to the Applicant that it has authority under state, local, or tribal government law, as applicable, to make and comply with the Certifications and Assurances as indicated on the foregoing pages. I further affirm that, in my opinion, the Certifications and Assurances have been legally made and constitute legal and binding obligations on it.

I further affirm that, to the best of my knowledge, there is no legislation or litigation pending or imminent that might adversely affect the validity of these Certifications and Assurances, or of the performance of its FTA assisted Award.

Signature: *Holly Magdziarz* Date: 8/15/2025
Attorney for Applicant

Printed Name: Holly E. Magdziarz

Each Applicant for federal assistance to be awarded by FTA and each FTA Recipient with an active Capital or Formula Project or Award must provide an Affirmation of Applicant's Attorney pertaining to the Applicant's legal capacity. The Applicant may enter its electronic signature in lieu of the Attorney's signature within FTA's electronic award and management system, provided the Applicant has on file and uploaded to FTA's electronic award and management system this hard-copy Affirmation, signed by the attorney and dated this federal fiscal year.

DS



DocuSigned by:
Kimberly Hudson Kimberly Hudson
70E399BA7AA426...

MoDOT Transit Equipment / Vehicle Dispositions Guidelines

Due to the Federal Transit Administration's (FTA), updates to 2CFR Part 200 and 49 U.S.C. 5334(h)(4)(B) effective October 1, 2024, the disposition requirements for rolling stock, equipment and aggregate supplies have changed. (See *Division of Proceeds* below).

Minimum Useful Life

Vehicles will be eligible to be considered for replacement or disposal when the **minimum** useful life has been met. MoDOT staff will review all disposition requests on a case-by-case basis.

Equipment (Rolling Stock) Minimum Requirements for Dispositions/Replacements

Vehicles will be eligible to be considered for replacement or disposal when the following **minimum** useful life has been met:

Rolling Stock/Vehicles Use and Dispositions (all programs)	Useful Life
Vans - straight, modified, sedans, lowered floor and other vehicles-minivans	4 years or 100,000 miles
25' - 35' Light duty transit buses, cutaways (bodies on chassis)	5 years or 150,000 miles
30' Medium duty transit bus	7 years or 200,000 miles
30' Heavy duty transit bus	10 years or 350,000 miles
35' - 40' Heavy duty bus and transit buses	12 years or 500,000 miles
Ferry Boats	25 years

Recipients are required to submit a written request for disposal of a vehicle(s) or equipment they wish to dispose. The recipient must receive written authorization from MoDOT before disposing of federally funded equipment, including vehicles. The recipient has 90 days to process and close the disposition request from the date of the approved authorization.

Disposition Procedures:

A recipient may dispose of a vehicle in either of two ways:

1. A vehicle may be sold outright to a third party through a variety of approved processes. These include advertised sealed bids, auto auction or the average of three competitive appraisals.
2. A recipient may choose to purchase the federal interest in a vehicle(s), the buyback option. In this case, the implicit price will be the average fair market value (FMV) of the vehicle as specified in the most recent National Automobile Dealers Association (NADA) the Official Used Car Guide, JD Powers or the Bus Blue Book Guide, approved by MoDOT.

Divisions of proceeds are as follows:

1. If a vehicle is sold outright to a third party (advertised bids, auto auction, etc.), and is sold for \$10,000 (gross sale) or less, the recipient may retain the full proceeds from the disposition, documentation from the sale of the vehicle must be submitted to MoDOT for clarification of the sale price within 15 days of the sale.

MoDOT Transit Equipment / Vehicle Dispositions Guidelines

2. If the sale (gross amount) is greater than \$10,000, the recipient may retain \$5,000 plus the local share (normally 20%). The balance must be paid to MoDOT – Transit within 15 days after the sale of the vehicle.
3. If a recipient chooses the buyback option, depending on the Fair Market Value (FMV), the division of proceeds will be determined in #1 or #2 above.
4. Insurance proceeds: The federal interest due to MoDOT is based on the Actual Cash Value (ACV) with funds exceeding \$10,000 will need to be submitted to MoDOT.

Recipient **must submit** documentation for **all sales** to determine the federal interest due (if any) to MoDOT and to close the file.

Expected Life Cycle

When a vehicle reaches the Transit Asset Management (TAM) useful life benchmark, MoDOT Transit may determine the FMV. If the FMV is \$10,000 or less, the title and lien release may be mailed to the recipient. The recipient may dispose of the vehicle and keep the sale proceeds or continue to use the vehicle within the program until no longer needed. Once the federally funded vehicle has been removed from the active inventory, the vehicle is no longer considered a federally funded vehicle through MoDOT and will **no-longer** be considered as a replacement vehicle through a grant application.

Dispositions (all programs)	TAM Plan-Benchmark Useful Life
Vans - straight, modified, sedans, lowered floor and other vehicles-minivans	8 years
25' - 35' Light duty transit buses, cutaways (bodies on chassis)	10 years
30' Medium duty transit bus	14 years
30' Heavy duty transit bus	20 years
35' - 40' Heavy duty bus and transit buses	25 years
Ferry Boats	42 years

Equipment (non vehicle)

Useful service life for equipment (non-vehicle) is **five** years on non-related computer equipment and **three** years on computer related equipment. Service life begins when equipment is received. Recipients are required to submit a written request to remove the federal interest once the useful life has been met on (non-vehicle) equipment. If the equipment is sold, the recipient must submit documentation to determine if funds are due to MoDOT.

INCORPORATION OF FTA TERMS

The following provisions include, in part, certain Standard Terms and Conditions required by FTA, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by FTA, as set forth in the FTA Master Agreement, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The subrecipient shall not perform any act, fail to perform any act, or refuse to comply with any of MoDOT's requests which would cause MoDOT to be in violation of the FTA terms and conditions.

NO GOVERNMENT OBLIGATION TO THIRD PARTIES

MoDOT and subrecipient acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to MoDOT, subrecipient, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying Contract.

The subrecipient agrees to include the above clause in each contract financed in whole or in part with Federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the contractor who will be subject to its provisions.

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

The subrecipient acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project.

Upon execution of the underlying contract, the subrecipient certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which the work is being performed. In addition to other penalties that may be applicable, the subrecipient further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 to the extent the Federal Government deems appropriate.

The subrecipient acknowledges that 49 U.S.C. § 5323(l)(1) authorizes the Federal Government to impose the penalties under 18 U.S.C. § 1001 if the subrecipient provides a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation in connection with a federal public transportation program under 49 U.S.C. chapter 53 or any other applicable federal law.

NOTICE TO FTA AND U.S. DOT INSPECTOR GENERAL

If a current or prospective legal matter that may affect the Federal Government emerges, the subrecipient must promptly notify MoDOT.

The subrecipient must also promptly notify MoDOT, if it has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from MoDOT. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729, et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bid rigging, misappropriation or embezzlement, bribery, gratuity, or similar misconduct involving federal assistance. The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.

This responsibility occurs whether the Project is subject to this Agreement or another agreement funded by the federal government, or an agreement involving a principal, officer, employee, agent, or subcontractor of the Contractor.

Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the subrecipient. In this paragraph, "promptly" means to refer information without delay and without change.

The subrecipient must include an equivalent provision in its subcontracts at every tier, for any agreement that is a "covered transaction" according to 2 C.F.R. §§ 180.220 and 1200.220.

ACCESS TO RECORDS AND REPORTS

The following access to records requirements apply to this Contract:

Record Retention. The subrecipient will retain and will require its contractors at all tiers to retain, complete and readily accessible records related in whole or in part to this contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third-party agreements of any type, and supporting materials related to those records.

Retention Period. The subrecipient agrees to comply with the record retention requirements in accordance with 2 C.F.R section 200.333. Subrecipient shall maintain all books, records, accounts, and reports required under this contract for a period of not less than 3 years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case, records shall be maintained until the disposition of all such litigation, appeals, claims, or exceptions related thereto. The expiration or termination of this contract does not alter the record retention or access requirements of this Section.

Access to Records. The subrecipient agrees to provide sufficient access to FTA, MoDOT, and its contractors to inspect and audit records and information related to performance of this contract as reasonably may be required.

Access to the Sites of Performance. Subrecipient agrees to permit FTA, MoDOT, and its contractors access to the sites of performance under this contract as reasonably may be required.

Closeout. The expiration or termination of this contract does not alter the record retention or access requirements of this federal clause.

FEDERAL CHANGES

Subrecipient shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the FTA Master Agreement, as they may be amended or promulgated from time to time during the term of this contract. Subrecipient's failure to so comply shall constitute a material breach of this contract.

CIVIL RIGHTS REQUIREMENTS

Under this Contract, the subrecipient shall at all times comply with the following requirements and shall include these requirements in each contract entered into as part hereof.

1. *Nondiscrimination in Federal Public Transportation Programs.* 49 U.S.C. § 5332, covering projects, programs, and activities financed under 49 U.S.C. Chapter 53, prohibits discrimination on the basis of race, color, religion, national origin, sex (including sexual orientation), disability, or age, and prohibits discrimination in employment or business opportunity.
2. *Prohibit discrimination against employment.* Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and Executive Order No. 11246, "Equal Employment Opportunity," September 24, 1965, as amended, prohibit discrimination in employment on the basis of race, color, religion, sex, or national origin.
3. *Nondiscrimination on the Basis of Sex.* Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq. and implementing Federal regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," and 49 C.F.R. part 25 prohibit discrimination on the basis of sex.
4. *Nondiscrimination on the Basis of Age.* The "Age Discrimination Act of 1975," as amended, 42 U.S.C. § 6101 et seq., and Department of Health and Human Services implementing regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, prohibit discrimination by participants in federally assisted programs against individuals on the basis of age. The Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621 et seq., and Equal Employment Opportunity Commission (EEOC) implementing regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, also prohibit employment discrimination against individuals age 40

and over on the basis of age.

5. *Federal Protections for Individuals with Disabilities.* The Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C. § 12101 et seq., prohibits discrimination against qualified individuals with disabilities in programs, activities, and services, and imposes specific requirements on public and private entities. Third party contractors must comply with their responsibilities under Titles I, II, III, IV, and V of the ADA in employment, public services, public accommodations, telecommunications, and other provisions, many of which are subject to regulations issued by other Federal agencies.

EQUAL EMPLOYMENT OPPORTUNITY

The following equal employment opportunity requirements apply to this contract:

Nondiscrimination. In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. section 2000e et seq., and federal transit laws at 49 U.S.C. § 5332, the subrecipient agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. section 2000e note, as further amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. section 2000e note. The subrecipient agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, sex, and sexual orientation. Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the subrecipient agrees to comply with any implementing requirements FTA may issue.

Age. In accordance with the Age Discrimination in Employment Act, 29 U.S.C. sections 621-634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. section 6101 et seq., U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90 and Federal transit law at 49 U.S.C. section 5332, the subrecipient agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the subrecipient agrees to comply with any implementing requirements FTA may issue.

Disabilities. In accordance with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. section 4151 et seq., and Federal transit law at 49 U.S.C. section 5332, the subrecipient agrees that it will not discriminate against individuals on the basis of disability. In addition, the subrecipient agrees to comply with the requirements of U.S. Equal Employment Opportunity commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. part 1630, and any implementing requirements FTA may issue. The subrecipient will also ensure that accessible facilities (including vehicles and buildings) and services are made

available to individuals with disabilities in accordance with the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. section 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. section 4151 et seq., and any applicable implementing regulations.

The subrecipient agrees to include the requirements of this article in each subcontract under this contract, modified only to identify the subcontractor that will be subject to the provisions.

ENERGY CONSERVATION REQUIREMENTS

The subrecipient agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act, as amended, 42 U.S.C. § 6321 et seq., and perform an energy assessment for any building constructed, reconstructed, or modified with federal assistance required under FTA regulations, "Requirements for Energy Assessments," 49 C.F.R. part 622, subpart C.

PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO

Prohibition on certain telecommunications and video surveillance services or equipment. (a) MoDOT and its subrecipients are prohibited from expending FTA funds to: (1) Procure or obtain; (2) Extend or renew a contract to procure or obtain; or (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment means any of the following:

1. Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);
2. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
3. Telecommunications or video surveillance services provided by such entities or using such equipment.
4. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

DISADVANTAGED BUSINESS ENTERPRISE (DBE), PROMPT PAYMENT, RETURN OF RETAINAGE PAYMENTS

The subrecipient shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The subrecipient shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the subrecipient to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as MoDOT deems appropriate, which may include, but is not limited to: Withholding monthly progress payments, assessing sanctions, liquidated damages; and/or disqualifying the subrecipient from future funding opportunities. Each third party contract the subrecipient signs with a contractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

Prompt Payment. The subrecipient agrees to ensure that each prime contractor agrees to pay each subcontractor under its contract for satisfactory performance of its subcontract no later than fifteen (15) days from the receipt of each payment the Contractor receives.

Return Retainage Payments. The subrecipient agrees further to ensure that the prime contractor returns retainage payments to each subcontractor within thirty (30) days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval. This clause applies to both DBE and non-DBE subcontracts. The subrecipient must ensure that the prime contractor promptly notifies it, whenever a DBE subcontractor performing work related to the prime contract is terminated or fails to complete its work and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The subrecipient must ensure that a prime contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the subrecipient.

Finally, for contracts with defined DBE contract goals, the subrecipient must include in each prime contract a provision stating that the contractor shall utilize the specific DBEs listed unless the prime contractor obtains the subrecipient's written consent; and that, unless the subrecipient's consent is provided, the prime contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE. 49 C.F.R. § 26.53(f) (1).

It is the policy of MoDOT and the United States Department of Transportation ("DOT") that Disadvantaged Business Enterprises ("DBE's"), as defined herein and in the Federal regulations published at 49 C.F.R. part 26, shall have an equal opportunity to participate in DOT-assisted contracts.

SEAT BELT USE AND DISTRACTED DRIVING

The subrecipient agrees to implement Executive Order No. 13043, "Increasing Seat Belt Use in the United States," April 16, 1997, 23 U.S.C. § 402 note, (62 Fed. Reg. 19217), by adopting and promoting on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles.

The subrecipient agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle the Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with this Project, or when performing any work for or on behalf of the Project.

The subrecipient agrees to conduct workplace safety initiatives in a manner commensurate with its size, such as establishing new rules and programs to prohibit text messaging while driving, re-evaluating the existing programs to prohibit text messaging while driving, and providing education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

The subrecipient agrees to include the preceding in its contracts at each tier, and encourage its contractors to comply with these provisions.

SPECIAL NOTIFICATION REQUIREMENTS FOR STATES

To the extent required under federal law, the State, as the Recipient, agrees to provide the following information about federal assistance awarded for its State Program, Project, or related activities:

1. The Identification of FTA as the federal agency providing the federal assistance for a State Program or Project,
2. The Catalog of Federal Domestic Assistance Number of the program from which the federal assistance for a State Program or Project is authorized, and
3. The amount of federal assistance FTA has provided for a State Program or Project.

The State will provide the information required under this provision in the following documents:

1. Applications for federal assistance,
2. Requests for proposals, or solicitations,
3. Forms,
4. Notifications,
5. Press Releases, and
6. Other publications.

FLY AMERICA REQUIREMENTS

The subrecipient agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The subrecipient shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately

explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The subrecipient agrees to include the requirements of this section in all contracts that may involve international air transportation.

CARGO PREFERENCE REQUIREMENTS

The subrecipient agrees: to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels; to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to MoDOT; and to include these requirements in all contracts issued pursuant to this contract when the contract may involve the transport of equipment, material, or commodities by ocean vessel.

PRIVACY ACT AND FREEDOM OF INFORMATION ACT

The subrecipient agrees that the Freedom of Information Act (FOIA), 5 U.S.C. § 552, as amended, applies to most information submitted to FTA and U.S. DOT, whether electronically or in typewritten hard copy.

Records. The subrecipient agrees that all applications and materials it submits to MoDOT that are related to its Award have or will become federal agency records, and are or will be subject to FOIA and to public release through individual FOIA requests, unless FTA determines that a valid exemption under FOIA or another statute applies. The subrecipient understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract. The subrecipient also agrees to include these requirements in each contract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

SOLID WASTE AND RECYCLED PRODUCTS

The subrecipient agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247. A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements include procuring only items designated in guidelines that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management

services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

TERMINATION

Termination for Convenience: MoDOT may terminate this contract, in whole or in part, at any time by written notice to the subrecipient when it is in its best interest. The subrecipient shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The subrecipient shall promptly submit its termination claim to MoDOT to be paid. If the subrecipient has any property in its possession belonging to MoDOT, the subrecipient will account for the same, and dispose of it in the manner MoDOT directs.

Termination for Default: MoDOT may, by written notice of default to the subrecipient, terminate the whole or any part of this contract if the subrecipient fails to make delivery of the supplies or to perform the services within the time specified herein or any extension thereof, or if the subrecipient fails to perform any provision of the contract, in accordance with its terms, and in either of these two circumstances does not cure such failure within a period of ten (10) days (or such longer period as MoDOT may authorize in writing) after receipt of notice from MoDOT specifying such failure. If the contract is terminated in whole or in part for default, MoDOT may procure, upon such terms and in such manner as MoDOT may deem appropriate, supplies or services similar to those so terminated. The subrecipient shall be liable to MoDOT for any excess costs for such similar supplies or services and shall continue the performance of this contract to the extent not terminated under the provisions of this clause.

1. Upon termination of the contract, MoDOT shall pay only such costs that result from obligations which were properly incurred by the subrecipient or their contractor before the effective date of termination; and
2. Such costs as would be allowable if the contract were not terminated or expired normally at the end of the contract. Except with respect to defaults of contractors, the subrecipient shall not be liable for any excess costs if the failure to perform the contract arises out of causes beyond the control and without the fault or negligence of the subrecipient. If the failure to perform is caused by the default of a contractor, and if such default arises out of causes beyond the control of both the subrecipient and contractor, and without the fault or negligence of either of them, the subrecipient shall not be liable for any excess costs for failure to perform, unless the supplies or services to be furnished by the contractor were obtainable from other sources in sufficient time to permit the subrecipient to meet the required delivery schedule. Payment for completed supplies delivered to and accepted by MoDOT shall be at the contract price. MoDOT may withhold cash payments from amounts otherwise due the subrecipient to pay for goods and services deemed by MoDOT to be necessary to protect MoDOT against loss due to default by subrecipient or because of any lien or claim of lien.

MoDOT shall be entitled to take other remedies that may be legally available. If, after notice of termination of subrecipient's work pursuant to this contract, it is determined for any reason that

the subrecipient was not in default, or that its default was excusable, or that MoDOT is not entitled to the remedies against subrecipient provided herein, then the subrecipient's remedies against MoDOT shall be the same as and limited to those afforded to the subrecipient set out in the section entitled "Disputes". In the event MoDOT elects to waive its remedies for any breach by the subrecipient of any covenant, term or condition of this contract, such waiver shall not preclude MoDOT from pursuing all available remedies for any succeeding breach of that or any other term, covenant, or condition of this contract.

Opportunity to Cure: MoDOT in its sole discretion may, in the case of a termination for breach or default, allow the subrecipient 10 days in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions. If the subrecipient fails to remedy to MoDOT's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by the subrecipient of written notice from MoDOT setting forth the nature of said breach or default, MoDOT shall have the right to terminate the Contract without any further obligation to subrecipient. Any such termination for default shall not in any way operate to preclude MoDOT from also pursuing all available remedies against the subrecipient and its sureties for said breach or default. If it is later determined by MoDOT that the subrecipient had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the subrecipient, MoDOT, after setting up a new delivery of performance schedule, may allow the subrecipient to continue work, or treat the termination as a termination for convenience.

TRAFFICKING IN PERSONS

As required with Section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended, 22 USC § 7104(g) and OMB regulatory guidance, "Award Term for Trafficking in Persons," 2 CFR Part 175, per US OMB's direction.

The subrecipient agrees that it and its employees that participate in this award, may not:

Engage in severe forms of trafficking in persons during the period of time that MoDOT's Award is in effect, Procure a commercial sex act during the period of time that MoDOT's Award is in effect, or use forced labor in the performance of MoDOT's award or any subagreements thereunder.

The subrecipient must notify MoDOT and FTA immediately of any information it receives from any source alleging a violation of the prohibitions listed in Section 4(f)(4) of the FTA Master Agreement.

FEDERAL TAX LIABILITY AND RECENT FELONY CONVICTIONS

1. As required with Section 4 (g) of the FTA Master Agreement, the subrecipient by signing and submitting this agreement certifies as follows: Does not have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and

2. Was not convicted of a felony criminal violation under any Federal law within the preceding 24 months.
3. If a prospective Third-Party Participant cannot so certify, the subrecipient agrees to refer the matter to MoDOT and not to enter into any Third-Party Agreement with the Third Party Participant without MoDOT's written approval.

The subrecipient will also include this flow-down requirement to all contractors at all lower tiers.

ENVIRONMENTAL JUSTICE

In accordance with FTA Master Agreement, the subrecipient agrees to promote environmental justice by following:

1. Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," February 11, 1994, 42 U.S.C. § 4321 note, (59 Fed. Reg. 7629, 3 C.F.R. 1994 Comp., p. 859) as well as facilitating compliance with that Executive Order;
2. U.S. DOT Order 5610.2(a), "Department of Transportation Updated Environmental Justice Order," 77 Fed. Reg. 27534, May 10, 2012; and
3. The most recent edition of FTA Circular 4703.1, "Environmental Justice Policy Guidance for Federal Transit Administration Recipients," August 15, 2012, to the extent consistent with applicable federal laws, regulations, requirements, and guidance.

GOVERNMENT-WIDE DEBARMENT AND SUSPENSION

The subrecipient shall comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount. As such, the subrecipient verifies that its principals, affiliates, and contractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:

1. Excluded or disqualified from participating in a covered transaction;
2. Have been convicted within the preceding three years of any of the offenses listed in § 180.800(a) or had a civil judgment rendered against them for one of those offenses within that time period;
3. Are presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses listed in § 180.800(a); or

4. Have had one or more public transactions (Federal, State, or local) terminated within the preceding three years for cause or default.

For each third party contract expected to equal or exceed \$25,000, the subrecipient agrees to verify that the bidder is not excluded or disqualified by:

- Checking System for Award Management (SAM) Exclusions (at SAM.gov); or
- Collecting a certification; or
- Adding a clause or condition to the covered transaction

LOBBYING

Subrecipients who apply for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." The subrecipient and each of its contractors certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. A Certificate of Compliance will be required as part of the contract, if applicable. The subrecipient, its contractors, and each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to MoDOT.

CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

The subrecipient agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act and the Federal Water Pollution Control Act. The subrecipient agrees to report each violation to MoDOT and understands and agrees that MoDOT will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. The subrecipient also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

BUY AMERICA REQUIREMENTS

The subrecipient agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver.

DOMESTIC PREFERENCE

Under this Contract the subrecipient or contractor shall, to the greatest extent practicable and consistent with law, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards, contracts, and purchase orders under Federal awards.

RESOLUTION OF DISPUTES, BREACHES, OR OTHER LITIGATION

Disputes arising in the performance of this contract which are not resolved by agreement of the parties shall be decided in writing by MoDOT's authorized representative. This decision shall be final and conclusive unless within ten days from the date of receipt of its copy, the subrecipient mails or otherwise furnishes a written appeal to MoDOT's authorized representative. In connection with such appeal, the subrecipient shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of MoDOT's authorized representative shall be binding upon the subrecipient and subrecipient shall abide by the decision. FTA has a vested interest in the settlement of any violation of Federal law including the False Claims Act, 31 U.S.C. § 3729.

Performance During Dispute. Unless otherwise directed by MoDOT, subrecipient shall continue performance under this contract while matters in dispute are being resolved.

Claims for Damages. Should either party to the contract suffer injury or damage to person or property because of any act or omission of the party or of any of its employees, agents or others for whose acts it is legally liable, a claim for damages therefore shall be made in writing to such other party within ten days after the first observance of such injury or damage.

Remedies. Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between MoDOT and the subrecipient arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the residing State.

Rights and Remedies. Duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by MoDOT or the subrecipient shall constitute a waiver of any right or duty afforded any of them under the contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

DAVIS BACON ACT AND COPELAND ANTI-KICKBACK ACT

In accordance with the statute, the subrecipient and its contractors must pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, the subrecipient and its contractors must pay wages not less than once a week. The subrecipient and contractors must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The subrecipient must report all suspected or reported violations to MoDOT.

Compliance with the Copeland-Anti-Kickback Act

- (1) The subrecipient shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this

contract. The Act provides that each subrecipient or contractor must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of a public work, to give up any part of the compensation to which he or she is otherwise entitled. The subrecipient must report all suspected or reported violations to MoDOT.

- (2) Subcontracts. The subrecipient and their contractor shall insert in any subcontracts the clause above and such other clauses as the FTA may by appropriate instructions require, and also a clause requiring the contractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
- (3) Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a subrecipient and contractor as provided in 29 C.F.R. § 5.12.

VETERANS HIRING PREFERENCE

As provided in 49 U.S.C. § 5325(k), to the extent practicable, the subrecipient agrees and assures that each of its contractors: (1) Will give a hiring preference to veterans, as defined in 5 U.S.C. § 2108, who have the skills and abilities required to perform construction work required under a third-party contract in connection with a Capital Project supported with federal assistance appropriated or made available for 49 U.S.C. chapter 53; and (2) Will not require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

BONDING

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold (\$250,000), MoDOT may accept the bonding policy and requirements of the subrecipient provided that MoDOT has made a determination that the Federal interest is adequately protected.

Activities not Involving Construction. For each project or related activities implementing the underlying Agreements not involving construction, the subrecipient will not impose excessive bonding and will follow FTA guidance.

Construction. As provided in federal regulations and modified by FTA guidance, for each Project or related activities implementing the Underlying Agreement that involve construction, the subrecipient will ensure each contractor provides bid guarantee bonds, contract performance bonds, and payment bonds with the minimum requirements applied as follows:

A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

SEISMIC SAFETY REQUIREMENTS

The subrecipient agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR Part 41 and will certify to compliance to the extent required by the regulation. The subrecipient also agrees to ensure that all work performed under this contract including work performed by a contractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project

CONTRACT WORK HOURS AND SAFETY STANDARDS

This requirement applies to all FTA grant and cooperative agreement programs where applicable (see 40 U.S.C. § 3701), all contracts awarded by the subrecipient in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations at 29 C.F.R. Part 5.(See 2 C.F.R. Part 200, Appendix II). Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

The regulation at 29 C.F.R. § 5.5(b) provides the required contract clause concerning compliance with the Contract Work Hours and Safety Standards Act: Compliance with the Contract Work Hours and Safety Standards Act.

- (1) *Overtime requirements.* No subrecipient or contractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- (2) *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation of the clause set forth in paragraph (1) of this section, the subrecipient and any contractor

responsible therefor shall be liable for the unpaid wages. In addition, such subrecipient and contractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

- (3) *Withholding for unpaid wages and liquidated damages.* MoDOT shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the subrecipient or its contractor under any such contract or any other Federal contract of the subrecipient or with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the subrecipient or the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of the subrecipient or its contractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
- (4) *Subcontracts.* The subrecipient or its contractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.”

NON CONSTRUCTION EMPLOYEE PROTECTION

The subrecipient will comply, with the following Federal laws and regulations providing Wage and Hour protections for non-construction employees according to FTA Master Agreement, Section 24(b):

Section 102 of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. § 3702, and other relevant parts of that Act, 40 U.S.C. 3701 *et seq.*, and

U.S. DOL regulations, “Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contract Work Hours and Safety Standards Act),” 29 C.F.R. Part 5.

ADA ACCESS NONDISCRIMINATION ON THE BASIS OF DISABILITY

The subrecipient agrees to comply with the requirements of 49 U.S.C. § 5301 (d), which states the Federal policy that the elderly and persons with disabilities have the same right as other persons to use mass transportation service and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement that policy. The subrecipient

also agrees to comply with all applicable provisions of §504 of the Rehabilitation Act of 1973, as amended, with 29 U.S.C. §794, which prohibits discrimination on the basis of disability; with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §12101 *et seq.*, which requires that accessible facilities and services be made available to individuals with disabilities; and with the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §4151 *et seq.*, which requires that buildings and public accommodations be accessible to individuals with disabilities. In addition, the subrecipient agrees to comply with applicable Federal regulations and directives and any subsequent amendments thereto, except to the extent the Federal Government determines otherwise, in writing, as follows:

1. U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 CFR Part 37;
2. U.S. DOT regulations, "Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 CFR Part 27;
3. Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 CFR Part 1192 and 49 CFR Part 38;
4. U.S. DOT regulations, "Transportation for Individuals with Disabilities: Passenger Vessels," 49 CFR Part 39;
5. U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 CFR Part 35;
6. U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 CFR Part 36;
7. U.S. EEOC, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 CFR Part 1630;
8. U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities," 47 CFR Part 64, subpart F;
9. U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. Part 1194;
10. FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. Part 609; and
11. FTA Circular 4710.1, "Americans with Disabilities Act: Guidance," and
12. Federal civil rights and nondiscrimination directives implementing the foregoing regulations.

TRANSIT EMPLOYEE PROTECTIVE ARRANGEMENTS

The subrecipient agrees to comply with the following employee protective arrangements of 49 U.S.C. § 5333(b):

1. *U.S. DOL Certification.* Under this Contract or any Amendments thereto that involve public transportation operations that are supported with federal assistance, a certification issued by U.S. DOL is a condition of the Contract.
2. *Special Warranty.* When the Contract involves public transportation operations and is supported with federal assistance appropriated or made available for 49 U.S.C. § 5311, U.S. DOL will provide a Special Warranty for its Award, including its Award of federal assistance under the Tribal Transit Program. The U.S. DOL Special Warranty is a condition of the Contract.
 - a. *Special Arrangements.* The conditions of 49 U.S.C. § 5333(b) do not apply to Contractors providing public transportation operations pursuant to 49 U.S.C. § 5310. FTA reserves the right to make case-by-case determinations of the applicability of 49 U.S.C. § 5333(b) for all transfers of funding authorized under title 23, United States Code (flex funds), and make other exceptions as it deems appropriate, and, in those instances, any special arrangements required by FTA will be incorporated herein as required.

CHARTER SERVICE

The subrecipient agrees to comply with 49 U.S.C. 5323(d), 5323(r), and 49 C.F.R. part 604, which provides that MoDOT and subrecipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except as permitted under:

1. Federal transit laws, specifically 49 U.S.C. § 5323(d);
2. FTA regulations, "Charter Service," 49 C.F.R. part 604;
3. Any other federal Charter Service regulations; or
4. Federal guidance, except as FTA determines otherwise in writing.

The subrecipient agrees that if it engages in a pattern of violations of FTA's Charter Service regulations, FTA may require corrective measures or impose remedies on it. These corrective measures and remedies may include:

1. Barring it or any contractor operating public transportation under its Award that has provided prohibited charter service from receiving federal assistance from FTA;
2. Withholding an amount of federal assistance as provided by Appendix D to part 604 of FTA's Charter Service regulations; or

3. Any other appropriate remedy that may apply.

The subrecipient should also include the substance of this clause in each subcontract that may involve operating public transit services.

SCHOOL BUS

The subrecipient agrees to comply with 49 U.S.C. 5323(f), and 49 C.F.R. part 604, and not engage in school bus operations using federally funded equipment or facilities in competition with private operators of school buses, except as permitted under:

1. Federal transit laws, specifically 49 U.S.C. § 5323(f);
2. FTA regulations, "School Bus Operations," 49 C.F.R. part 605;
3. Any other Federal School Bus regulations; or
4. Federal guidance, except as FTA determines otherwise in writing.

If subrecipient violates this School Bus requirements, FTA may:

1. Bar the subrecipient from receiving Federal assistance for public transportation; or
2. Require the subrecipient to take such remedial measures as FTA considers appropriate. When operating exclusive school bus service under an allowable exemption, the subrecipient may not use federally funded equipment, vehicles, or facilities. The subrecipient should include the substance of this clause in each contract or purchase under this contract that may operate public transportation services.

DRUG AND ALCOHOL TESTING PROGRAM

The subrecipient agrees to establish and implement a drug and alcohol testing program that complies with 49 C.F.R. part 655, produce any documentation necessary to establish its compliance with part 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency, or Agency, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 C.F.R. part 655 and review the testing process. The subrecipient agrees further to certify annually its compliance with part 655 and to submit the Management Information System (MIS) reports to MoDOT.

PATENT RIGHTS AND RIGHTS IN DATA

Intellectual Property Rights apply, if this contract is funded through a Federal award with FTA for experimental, developmental, or research work purposes. As such, certain Patent Rights and Data Rights apply to all subject data first produced in the performance of this contract. The subrecipient shall grant MoDOT intellectual property access and licenses deemed necessary for the work performed under this contract and in accordance with the requirements of 37 C.F.R. part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations

issued by FTA or U.S. DOT. The terms of an intellectual property agreement and software license rights will be finalized prior to execution of this contract and shall, at a minimum, include the following restrictions: Except for its own internal use, the subrecipient may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the subrecipient authorize others to do so, without the written consent of FTA, until such time as FTA may have either released or approved the release of such data to the public. This restriction on publication, however, does not apply to any contract with an academic institution. For purposes of this Contract, the term "subject data" means recorded information whether or not copyrighted, and that is delivered or specified to be delivered as required by the Contract. Examples of "subject data" include, but are not limited to computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information, but do not include financial reports, cost analyses, or other similar information used for performance or administration of the Contract.

1. The Federal Government reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use for "Federal Government Purposes," any subject data or copyright described below. For "Federal Government Purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.
 - a. Any subject data developed under the Contract, whether or not a copyright has been obtained, and
 - b. Any rights of copyright purchased by the subrecipient using Federal assistance in whole or in part by the FTA.
2. Unless FTA determines otherwise, the subrecipient performing experimental, developmental, or research work required as part of this Contract agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed during the Contract, or a copy of the subject data first produced under the Contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of this Contract, is not completed for any reason whatsoever, all data developed under the Contract shall become subject data as defined herein and shall be delivered as the Federal Government may direct.
3. Unless prohibited by state law, upon request by the Federal Government, the subrecipient agrees to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the subrecipient of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. The subrecipient shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.

4. Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.
5. Data developed by the subrecipient and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying Contract is exempt from the requirements herein, provided that the subrecipient identifies those data in writing at the time of delivery of the Contract work.
6. The subrecipient agrees to include these requirements in each contract for experimental, developmental, or research work financed in whole or in part with Federal assistance.

CONFORMANCE WITH ITS NATIONAL ARCHITECTURE

National Intelligent Transportation Systems Architecture and Standards. To the extent applicable, the subrecipient agrees to conform to the National Intelligent Transportation Systems (ITS) Architecture and Standards as required by section 5206(e) of TEA-21, 23 U.S.C. §section 502 note, and to comply with FTA Notice, "FTA National ITS Architecture Policy on Transit Projects" 66 Fed. Reg. 1455 et seq., January 8, 2001, and other Federal requirements that may be issued.

WORKER ELIGIBILITY VERIFICATION AFFIDAVIT

My name is Daniel J. Borgmeyer, and I am of sound mind, capable of making this affidavit, and personally certify the facts herein stated, as required by Section 285.530, RSMo, to enter into any contract agreement with the state to perform any job, task, employment, labor, personal services, or any other activity for which compensation is provided, expected, or due, including but not limited to all activities conducted by business entities:

I am the Mayor for City of Saint Charles, MO, and I am duly authorized,
Title business name

directed, and/or empowered to act officially and properly on behalf of this business entity.

I hereby affirm and warrant that the aforementioned business entity is enrolled in a federal work authorization program operated by the United States Department of Homeland Security, and the aforementioned business entity shall participate in said program to verify information (employment eligibility) of newly hired employees working in connection to work under the within state contract agreement with the Missouri Highways and Transportation Commission (MHTC). I have attached documentation to this affidavit to evidence enrollment/participation by the aforementioned business entity in a federal work authorization program, as required by Section 285.530, RSMo.

In addition, I hereby affirm and warrant that the aforementioned business entity does not and shall not knowingly employ, in connection to work under the within state contract agreement with MHTC, any alien who does not have the legal right or authorization under federal law to work in the United States, as defined in 8 U.S.C. § 1324a(h)(3).


I am aware and recognize that, unless certain contract and affidavit conditions are satisfied pursuant to Section 285.530, RSMo, the aforementioned business entity may be held liable under Sections 285.525 through 285.550, RSMo, for subcontractors that knowingly employ or continue to employ any unauthorized alien to work within the state of Missouri.

I acknowledge that I am signing this affidavit as a free act and deed of the aforementioned business entity and not under duress.

DS

Authorized Signature Daniel J. Borgmeyer Date 8/7/2025
DocuSigned by: 8D36AFB1A1BD439...

Attest Kimberly Hudson Date 8/8/2025
DocuSigned by: 70E399BA7AAF426...



[Documentation of enrollment/participation in a federal work authorization program is attached. Acceptable enrollment and participation documentation consists of the following two pages of the E-Verify Memorandum of Understanding: (1) A valid, completed copy of the first page identifying the business entity; and (2) A valid copy of the signature page completed and signed by the business entity, the Social Security Administration, and the Department of Homeland Security – Verification Division.]

RCA FORM (OFFICE USE ONLY)

Bill # 14016

MEETING/DATE: 10/7/2025

Regular Special Work Session

ATTACHMENT: YES NO

Report Resolution Ordinance

Request for Council Action

Ward(s): 6

Sponsor(s): Justin Foust

Description:

An ordinance authorizing the City of St. Charles to issue its Taxable Industrial Revenue Bonds (Clement Management Services, LLC Project), Series 2025, for the purpose of providing funds to pay the costs of acquiring, constructing and improving an Industrial Development Project in the City; approving a plan for the Project; and authorizing the City to enter into certain agreements and take certain other actions in connection with the issuance of the bonds.

Contract Extension/Renewal: Yes No

Information Paper Attached: Yes No

Staff Recommendation:

Approve

Disapprove

Board/Committee/Commission Recommendation:

Approve

Disapprove

Summary:

This ordinance authorizes the City to issue Taxable Industrial Revenue Bonds (Clement Management Services, LLC Project) Series 2025 (the "Bonds") pursuant to Chapter 100, RSMo; and such Bonds will provide funds for the purpose of acquiring approximately 3.45 acres of land at 3707 Veterans Memorial Parkway in the City and constructing thereon an approximately 63,360 square foot automobile service center. Pursuant to Chapter 100 financing, the City will take ownership of the "Project" financed, and lease the same to the Company, with an option to purchase. The Bond payment obligations of the City will be payable from the lease payments. No tax revenues will be used to repay the Bonds.

The Plan for an Industrial Development Project and Cost/Benefit Analysis (Ordinance Exhibit A) associated with the issuance of the Bonds provides that the City intends to extend real property tax abatement to the Company, capped at \$250,000, during a nine year period expected to begin January 1, 2026 (the "Abatement Initiation Date") and end on December 31, 2035, or as otherwise provided in the Plan. The Plan also provides for the Company to make payments in lieu of taxes (PILOTs) and, in circumstances related to sales & FTE targets, other payments.

Budget Impact: (revenue generated, estimated cost, CIP item, etc.)

Fiscal Impact: N/A

Account #: _____

Project #: Clement Management Services, LLC Project

RCA prepared by: Legal Dept. Dir. Hamm Finance Dir. [Signature] Dir. of Admin. 9

Sponsor: Justin Foust

AN ORDINANCE AUTHORIZING THE CITY OF ST. CHARLES, MISSOURI, TO ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS (CLEMENT MANAGEMENT SERVICES, LLC PROJECT), SERIES 2025, FOR THE PURPOSE OF PROVIDING FUNDS TO PAY THE COSTS OF ACQUIRING, CONSTRUCTING AND IMPROVING AN INDUSTRIAL DEVELOPMENT PROJECT IN THE CITY; APPROVING A PLAN FOR THE PROJECT; AND AUTHORIZING THE CITY TO ENTER INTO CERTAIN AGREEMENTS AND TAKE CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH.

WHEREAS, the City of St. Charles, Missouri, a constitutional home rule charter city and political subdivision of the State of Missouri (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 (collectively, the “Act”) and the City Charter to purchase, construct, extend and improve certain projects (as defined in the Act), 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, office industry, warehousing and industrial development purposes upon such terms and conditions as the City deems advisable; and

WHEREAS, Clement Management Services, LLC, a Missouri limited liability company (the “Company”), has requested that the City issue its Taxable Industrial Revenue Bonds (Clement Management Services, LLC Project), Series 2025, in the maximum principal amount of \$13,600,000 (the “Bonds”), for the purpose of acquiring approximately 3.45 acres of real property located at 3707 Veterans Memorial Parkway in the City (as legally described in the hereinafter-defined Lease, together with all improvements now or hereafter located thereon, the “Project Site”) and constructing thereon an approximately 63,360 square foot automobile service center (the “Project Improvements” and, together with the Project Site, the “Project”); and

WHEREAS, the Act requires the City to prepare a plan in connection with any industrial development project undertaken pursuant to the Act; and

WHEREAS, a Plan for an Industrial Development Project and Cost-Benefit Analysis (the “Plan”) has been prepared and is set forth as **Exhibit A**; and

WHEREAS, notice of the City’s consideration of the Plan has been given in the manner required by the Act, and the City Council has fairly and duly considered all comments submitted to the City Council regarding the proposed Plan; and

WHEREAS, the City Council hereby finds and determines that it is desirable for the improvement of the economic welfare and development of the City and within the public purposes of the Act that the City: (1) approve the Plan pursuant to the Act; (2) issue the Bonds for the purpose of acquiring the Project Site and constructing the Project Improvements; and (3) enter into certain agreements and documents with the Company relating to the Bonds; and

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ST. CHARLES, MISSOURI, AS FOLLOWS:

Section 1. Approval of the Plan. The City Council hereby approves the Plan.

Section 2. Authorization for the Project. The City is hereby authorized to provide for the purchase and construction of the Project in the manner and as more particularly described in the Indenture and the Lease hereinafter authorized.

Section 3. Authorization of the Bonds. The City is hereby authorized to issue and sell the Bonds as described in the recitals hereto for the purpose of providing funds to pay the costs of the Project. The Bonds shall be issued and secured pursuant to the Indenture and shall have such terms, provisions, covenants and agreements as are set forth in the Indenture.

Section 4. Limitation on Liability. The Bonds and the interest thereon shall be limited obligations of the City, payable solely out of certain payments, revenues and receipts derived by the City from the Lease. Such payments, revenues and receipts shall be pledged and assigned to the bond trustee named in the Indenture (the "Trustee"), as security for the payment of the Bonds as provided in the Indenture. The Bonds and the interest thereon shall not constitute general obligations of the City, the State of Missouri (the "State") or any other political subdivision thereof, and neither the City nor the State shall be liable thereon. The Bonds shall not constitute an indebtedness within the meaning of any constitutional, statutory or charter debt limitation or restriction and are not payable in any manner by taxation.

Section 5. Authorization of Documents. The City is hereby authorized to enter into the following documents (collectively, the "City Documents"), in substantially the forms presented to and approved by the City Council and attached to this Ordinance, 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:

(1) Trust Indenture (the "Indenture") between the City and the Trustee, in substantially the form of **Exhibit B**, attached hereto and incorporated herein by reference, pursuant to which the Bonds will be issued and the City will pledge the Project and assign certain of the payments, revenues and receipts received pursuant to the Lease to the Trustee for the benefit and security of the owners of the Bonds upon the terms and conditions set forth in the Indenture.

(2) Lease Agreement (the "Lease") between the City and the Company, in substantially the form of **Exhibit C**, attached hereto and incorporated herein by reference, pursuant to which the City will lease the Project to the Company pursuant to the terms and conditions in the Lease, in consideration of rental payments by the Company that will be sufficient to pay the principal of and interest on the Bonds.

(3) Bond Purchase Agreement between the City and the Company, in substantially the form of **Exhibit D**, attached hereto and incorporated herein by reference, pursuant to which the Company will purchase the Bonds.

(4) Performance Agreement (the "Performance Agreement") between the City and the Company, in substantially the form of **Exhibit E**, attached hereto and incorporated herein by reference, pursuant to which the Company will make certain payments in lieu of taxes.

(5) Special Warranty Deed from the Company, as grantor, to the City, as grantee, in substantially the form of **Exhibit F**, attached hereto and incorporated herein by reference, pursuant to which the Company will transfer to the City fee title to the Project.

Section 6. Execution of Documents. The Mayor is hereby authorized to execute the Bonds and to deliver the Bonds to the Trustee for authentication, for and on behalf of and as the act and deed of the City, in the manner provided in the Indenture. The Mayor is hereby authorized 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 is hereby authorized to attest to and affix the seal of the City to the Bonds, 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 City shall, and the officials, agents and employees of the City are hereby authorized 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, including but not limited to agreements with emergency service districts. The Mayor or the Director of Administration is hereby authorized, through the term of the Lease, to execute all documents on behalf of the City (including documents pertaining to the transfer of property or the financing or refinancing of any portion of the Project by the Company) as may be required to carry out and comply with the intent of this Ordinance and the City Documents. The Mayor or the Director of Administration is further authorized, on behalf of the City, to grant such consents, estoppels and waivers relating to the Bonds or the City Documents as may be requested during the term thereof; provided, such consents, estoppels and/or waivers shall not increase the principal amount of the Bonds, increase the term of the Lease or the tax exemption provided for therein, waive an event of default or materially change the nature of the transaction unless otherwise approved by the City Council. The City Clerk is authorized to attest to and affix the seal of the City to any document authorized by this Section.

Section 8. Savings. Except as expressly set forth herein, nothing contained in this Ordinance shall in any manner be deemed or construed to alter, modify, supersede, supplant or otherwise nullify any other ordinance of the City or the requirements thereof whether or not relating to or in manner connected with the subject matter hereof.

Section 9. Acknowledgement of Pledge. The City hereby acknowledges that the Bonds may be pledged to one or more lenders, their successors and assigns as security for financing to be provided to the Company by such lenders. The City is authorized to execute an acknowledgement of such pledge in form and substance acceptable to the lenders and the City Attorney. The City's attorneys are authorized and directed to request the Trustee to execute an acknowledgement of such pledge in form and substance acceptable to the lenders and to note the lenders as owners of the Bonds on the bond register.

Section 10. Severability. If any term, condition or provision of this Ordinance is, to any extent, held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective and each and every remaining provision hereof shall be valid and shall be enforced to the fullest extent permitted by law, it being the intent of the City Council that it would have enacted this Ordinance without the invalid or unenforceable provision. If as a result of a subsequent change in applicable law, the provision which had been held invalid is no longer invalid, said provision shall thereupon return to full force and effect without further action by the City and shall thereafter be binding.

Section 11. Effective Date. This Ordinance shall be in full force and effect from and after its passage and approval.

BILL NO. 14016

DATE PASSED: _____, 2025.

DATE APPROVED BY MAYOR: _____, 2025.

Michael Galba, Presiding Officer

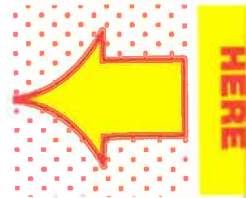
Daniel J. Borgmeyer, Mayor

(SEAL)

ATTEST:

By: _____
Kimberly Hudson, City Clerk

Approved as to Form:



Holly Magdziarz 10/3/2025
Holly Magdziarz, City Attorney Date

EXHIBIT A

PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT AND COST-BENEFIT ANALYSIS

(On file in the office of the City Clerk)

CITY OF ST. CHARLES, MISSOURI

**PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT
AND
COST/BENEFIT ANALYSIS
(Revised)**

FOR

CLEMENT MANAGEMENT SERVICES, LLC

TABLE OF CONTENTS

	<u>Page</u>
I. PURPOSE OF THIS PLAN.....	1
II. Description of Chapter 100 Financings.....	1
General.....	1
Issuance and Sale of Bonds	1
Property Tax Abatement.....	2
Sales and Use Tax Exemption	2
III. DESCRIPTION OF THE PARTIES.....	2
Clement Management Services, LLC.....	2
City of St. Charles, Missouri	2
IV. REQUIREMENTS OF THE ACT	3
Description of the Project	3
Estimate of the Costs of the Project.....	3
Sources of Funds to be Expended for the Project.....	3
Statement of the Terms Upon Which the Project is to be Leased or Otherwise Disposed of by the City	3
Affected School District, Community College District, Emergency Service Providers, County and City.....	3
Current Assessed Valuation.....	3
Payments in Lieu of Taxes	4
Sales and Use Tax Exemption	5
Cost/Benefit Analysis and Discussion of Exhibits	5
V. ASSUMPTIONS AND BASIS OF PLAN.....	6

ATTACHMENT A - SUMMARY OF KEY ASSUMPTIONS

EXHIBIT 1 - SUMMARY OF COST/BENEFIT ANALYSIS

EXHIBIT 2 - PROJECTED REAL PROPERTY TAX REVENUES ON EXISTING PROPERTY

EXHIBIT 3 - PROJECTED REAL PROPERTY TAX REVENUES ON PROJECT (NO ABATEMENT)

EXHIBIT 4 - PROJECTED REAL PROPERTY PAYMENTS IN LIEU OF TAXES ON PROJECT

* * *

CITY OF ST. CHARLES, MISSOURI

PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT
AND
COST/BENEFIT ANALYSIS
(CLEMENT MANAGEMENT SERVICES, LLC)

I. PURPOSE OF THIS PLAN

The City of St. Charles, Missouri (the “City”), intends to issue taxable industrial revenue bonds in a principal amount of not to exceed \$13,600,000 (the “Bonds”) to finance the costs of an industrial development project (as further described herein, the “Project”) for Clement Management Services, LLC, a Missouri limited liability company (the “Company”). The Bonds will be issued pursuant to the provisions of Sections 100.010 to 100.200 of the Revised Statutes of Missouri (“Chapter 100”) and Article VI, Section 27(b) of the Missouri Constitution (together with Chapter 100, the “Act”). The Bonds will initially be owned by the Company and cannot be transferred, other than to the Company’s lenders and affiliates, without the City’s prior approval.

Gilmore & Bell, P.C. has prepared this Plan for an Industrial Development Project and Cost/Benefit Analysis (this “Plan”) to satisfy requirements of the Act and to analyze the potential costs and benefits, including the related tax impact on all affected taxing jurisdictions (except those taxing jurisdictions that would only receive tax revenues from the commercial surtax), of using industrial revenue bonds to finance the Project and to facilitate abatement of ad valorem taxes on the bond-financed property.

As further described below, the Project consists of constructing an approximately 63,650 square foot automobile service center (the “Project improvements”) on approximately 3.45 acres of land located at 3707 Veterans Memorial Parkway in the City (the “Project Site” and together with the Project Improvements, the “Project”).

II. DESCRIPTION OF CHAPTER 100 FINANCINGS

General. Chapter 100 authorizes cities, counties, towns and villages to issue industrial development revenue bonds to finance the purchase, construction, extension and improvement of warehouses, distribution facilities, research and development facilities, office industries, agricultural processing industries, service facilities that provide interstate commerce and industrial plants, including the real estate either within or without the limits of such municipalities, buildings, fixtures and machinery. In addition, Article VI, Section 27(b) of the Missouri Constitution authorizes cities, counties, towns and villages to issue revenue bonds for the purpose of paying all or part of the cost of purchasing, constructing, extending or improving any facility for manufacturing, commercial, warehousing and industrial development purposes, including the real estate, buildings, fixtures and machinery.

Issuance and Sale of Bonds. Revenue bonds issued pursuant to the Act do not require voter approval and are payable solely from revenues received from a lease or other disposition of the project. The municipality issues its bonds, and in exchange, the benefited company promises to make payments that are sufficient to pay the principal of and interest on the bonds as they become due. Thus, the municipality merely acts as a conduit for the financing.

Concurrently with the closing of the bonds, the company will convey to the municipality title to the site on which the industrial development project will be located. (The municipality must be the legal owner of the property while the bonds are outstanding for the property to be eligible for tax abatement, as

further described below.) The municipality will immediately lease the project site and the improvements thereon back to the benefited company pursuant to a lease agreement. The lease agreement will require the company, acting on behalf of the municipality, to use the bond proceeds to purchase and construct the project.

Under the lease agreement, the company typically: (1) unconditionally agrees to make payments sufficient to pay the principal of and interest on the bonds as they become due; (2) agrees, at its own expense, to maintain the project, to pay all taxes and assessments with respect to the project and to maintain adequate insurance; (3) may, at its own expense, make certain additions, modifications or improvements to the project; (4) may assign its interests under the lease agreement or sublease the project while remaining responsible for payments under the lease agreement; (5) covenants to maintain its corporate existence during the term of the bond issue; and (6) agrees to indemnify the municipality for any liability the municipality might incur as a result of its participation in the transaction.

Property Tax Abatement. Under Article X, Section 6 of the Missouri Constitution and Section 137.100 of the Revised Statutes of Missouri, all property of any political subdivision is exempt from taxation. In a typical Chapter 100 transaction, the municipality holds fee title to the project and leases the project to the benefited company. Although the Missouri Supreme Court has held that the leasehold interest is taxable, it is taxable only to the extent that the economic value of the lease is less than the actual market value of the lease. See *Iron County v. State Tax Commission*, 437 S.W.2d 665 (Mo. 1968)(*en banc*) and *St. Louis County v. State Tax Commission*, 406 S.W.2d 644 (Mo. 1966)(*en banc*). If the rental payments under the lease agreement equal the actual debt service payments on the bonds, the leasehold interest should have no “bonus value” and the bond-financed property should be exempt from ad valorem taxation while the bonds are outstanding.

If the municipality and the company determine that partial tax abatement is desirable, the company may agree to make payments in lieu of taxes (“PILOTs”). The amount of PILOTs is negotiable. The PILOTs are payable by December 31 of each year and are distributed to the municipality and to each political subdivision within the boundaries of the project in the same manner and in the same proportion as property taxes would otherwise be distributed under Missouri law.

Sales and Use Tax Exemption. In addition to property tax abatement, qualified building materials can be exempt from sales and use tax if approved by the municipality. The sales and use tax exemption is evidenced by a project exemption certificate issued by the municipality.

III. DESCRIPTION OF THE PARTIES

Clement Management Services, LLC. The Company is a Missouri limited liability company that is affiliated with Clement Auto Group, LLC, which sells new and used vehicles through four full-service new car dealerships and two pre-owned dealerships. Clement Auto Group also operates an automotive detailing service and collision center. More information about Clement Auto Group is available at <https://clementautogroup.com/>.

City of St. Charles, Missouri. The City is a home-rule charter city and political subdivision of the State of Missouri (the “State”). The City is authorized and empowered pursuant to the provisions of the Act to purchase, construct, extend and improve 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, warehousing and industrial development purposes upon such terms and conditions as the City deems advisable.

IV. REQUIREMENTS OF THE ACT

A. Description of the Project. The Project consists of constructing an approximately 63,650 square foot automobile service center (the “Project improvements”) on approximately 3.45 acres of land located at 3707 Veterans Memorial Parkway in the City (the “Project Site”), which was recently annexed into the City. The Company estimates completion of the Project Improvements in January 2026.

B. Estimate of the Costs of the Project. The Project is expected to cost approximately \$13,600,000.

C. Sources of Funds to be Expended for the Project. The sources of funds to be expended for the Project will be the proceeds of the Bonds in the maximum principal amount of \$13,600,000 and other available funds of the Company. The Bonds will be payable solely from the revenues derived by the City from the lease or other disposition of the Project (as further described below). The Bonds will not be an indebtedness or general obligation, debt or liability of the City or the State. No tax revenues will be used to repay the Bonds.

D. Statement of the Terms Upon Which the Project is to be Leased or Otherwise Disposed of by the City. Simultaneously with the issuance of the Bonds, the Company will convey to the City fee title to the Project. The City will lease the Project, as it may at any time exist, to the Company for lease payments equal to the principal of and interest on the Bonds, plus certain PILOTs. Under the terms of the lease, the Company will have the option to purchase the Project at any time for nominal consideration, including at the termination of the lease. Unless terminated sooner pursuant to the terms thereof, the lease (and abatement) will terminate on December 31 of the 9th year following the year in which the below-defined Abatement Initiation Date occurs; provided, the lease of the entire Project will terminate (and the tax abatement will end) on December 31 of the year in which the value of the partial property tax abatement totals \$250,000. Based on the assumptions in the Cost/Benefit Analysis, the Lease is expected to terminate (and the tax abatement is expected to end) on December 31, 2028.

The “Abatement Initiation Date” will be January 1 of the year immediately following the year in which the Project Improvements are completed, unless the Company notifies the City in writing by July 1 of the year in which the Project Improvements are completed that the Abatement Initiation Date should be January 1 of such year. The Project Improvements are expected to be completed in the first quarter of 2026; accordingly, the Abatement Initiation Date is expected to be January 1, 2026. As noted above, the Lease is expected to terminate on December 31, 2028.

E. Affected School District, Community College District, Emergency Service Providers, County and City. The Project is located within the boundaries of the School District of the City of St. Charles, Missouri; St. Charles Community College; St. Charles County, Missouri (the “County”); the City; St. Charles County Dispatch & Alarm; and the St. Charles County Ambulance District. The Cost/Benefit Analysis attached hereto identifies all other taxing entities affected by the Project (other than those taxing entities solely affected by the Project with respect to receipt of tax revenues from the commercial surcharge tax).

F. Current Assessed Valuation. The most recent equalized assessed valuation of the real property included in the Project is \$154,636. The Company estimates the total equalized assessed valuation of the real property included in the Project after development will be approximately \$3,400,000. The St. Charles County Assessor will make the final determination of the assessed value.

G. Payments in Lieu of Taxes. If this Plan is approved by the City, the City intends to issue the Bonds, take possession of the Project and extend tax abatement to the Company. During the tax abatement period, the Company will make the following PILOTs:

(1) in each year before the Abatement Initiation Date occurs, the Company will make a PILOT equal to 100% of the real property taxes that would otherwise be due to all of the affected taxing jurisdictions, including the Ambulance District, with respect to the Project, but for the City’s ownership thereof (for example, if the Abatement Initiation Date is January 1, 2026, the Company will make a PILOT equal to 100% of the real property taxes for the year ending December 31, 2025); and

(2) in the year in which the Abatement Initiation Date occurs and in each of the nine years thereafter, the Company will make a PILOT equal to (A) 100% of the real property taxes that would be due to the Ambulance District and (B) 50% of the real property taxes, including the commercial surcharge taxes, that would be due to all other affected taxing jurisdictions; provided, the Lease will terminate, and the tax abatement will end, when the cumulative value of the abatement totals \$250,000.

If the Company fails to reach the following sales tax benchmarks, the Company must pay to the City, by July 1 of the next calendar year, an additional PILOT payment equal to 100% of the property taxes abated in the prior calendar year:

Year 1	Year 2	Year 3	Year 4	Year 5
\$ 2,000,000	\$2,831,000	\$3,470,000	\$3,575,000	\$3,700,000

Year 6	Year 7	Year 8	Year 9	Year 10
\$3,811,000	\$3,944,000	\$4,062,000	\$4,205,000	\$4,431,000

Furthermore, if the Company sells any portion of the Project before December 31, 2035, the Company must pay to the City, within 30 days after such sale, an additional PILOT payment equal to 100% of the property taxes abated in all prior years (net of any previously paid PILOT payments).

If the Lease has been terminated because the value of the abatement has reached \$250,000, the Company must pay the City a “Contractual Payment” of \$25,000 by July 1 of the next calendar year for every year following the termination of the Lease, up to Year 10, that the Company fails to reach the sales tax benchmarks described above (for example, if Year 10 above is 2035, the Lease has been previously terminated because the abatement has reached \$250,000 and the sales tax benchmark for such year is not met, the \$25,000 Contractual Payment will be due by July 1, 2036).

Pursuant to Section 100.050 of the Act, certain emergency service districts may elect to be reimbursed up to 100% of the taxes they would have otherwise received, but for the tax abatement. The Ambulance District and Dispatch & Alarm are emergency service districts that could elect to be reimbursed up to 100% of the taxes they would have otherwise received. This Plan assumes that (1) the Ambulance District will elect to be reimbursed up to 100% of the taxes that would otherwise be due to the Ambulance District in each year, but for the City’s ownership of the Project and (2) Dispatch & Alarm will elect to be treated in the same manner as the non-emergency taxing jurisdictions (i.e., a reimbursement rate equal to 50% of the taxes they would have otherwise received). If Dispatch & Alarm elects a different reimbursement rate, the PILOTs to be made by the Company will differ from those shown in the Cost/Benefit Analysis attached hereto. The Company must make PILOTs required to satisfy the obligations to any applicable emergency service districts as required by the Act.

Except as described above with respect to the applicable emergency service districts, all PILOTs (except those taxing jurisdictions that would only receive tax revenues from the commercial surtax), less applicable collection fees, will be disbursed to the taxing jurisdictions in the same proportion as their respective, then-current ad valorem tax levies.

H. Sales and Use Tax Exemption. 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.

I. Cost/Benefit Analysis and Discussion of Exhibits. In compliance with Section 100.050.2(3) of the Act, this Plan has been prepared to show the costs and benefits to the City and to the other taxing jurisdictions affected by the tax abatement of the Project. The projections in the Cost/Benefit Analysis attached hereto are estimates based on numerous assumptions set forth in **Attachment A**. Therefore, the actual revenues generated from the Project may be significantly different from those shown in the Cost/Benefit Analysis. The following is a summary of the exhibits attached to this Plan that show the direct tax impact the Project is expected to have on the affected taxing jurisdictions (except those taxing jurisdictions that would only receive tax revenues from the commercial surtax) and key ancillary benefits expected to be derived from the Project. This Plan does not attempt to quantify the overall economic impact of the Project.

Summary of Property Tax Abatement. **Exhibit 1** provides a summary for each affected taxing district of (1) the total estimated tax revenues that would be generated on the Project Site if the Project Improvements were not built, (2) the total estimated tax revenues that would be generated on the Project if the Project did not receive tax abatement, (3) the total estimated value of the PILOTs to be made by the Company for the proposed abatement period and (4) the total estimated value of the abatement to the Company. Please note that the actual value of the Project may differ from the estimated value assumed in this Plan and may impact the value of the PILOTs made by the Company.

Real Property Tax Revenues. **Exhibit 2** provides the projected real property tax revenues that would be generated on the Project Site if the Project Improvements were not built. **Exhibit 3** provides the projected real property tax revenues that would be generated on the Project if the Project did not receive tax abatement. **Exhibit 4** provides the projected value of the PILOTs to be made by the Company based on the estimated assessed value of the Project after completion.

Refer to **Attachment A** for the assumptions related to the determination of the assessed values and the tax formulas.

Sales and Use Tax Exemption. The City will grant a sales and use tax exemption on the qualified building materials necessary to construct the Project Improvements. For purposes of determining the impact of the sales and use tax exemption on the qualified building materials on the affected taxing jurisdictions granted by the City, it was assumed that:

- \$3,400,000 (or 25%) of the total costs of the Project will be allocated to construction material costs;
- the applicable sales tax rate is 7.950%, of which 4.225% is allocated to the State, 1.725% is allocated to the County and 2.000% is allocated to the City;

- the applicable use tax rate is 7.950%, of which 4.225% is allocated to the State, 1.725% is allocated to the County and 2.000% is allocated to the City;
- 75% of the qualified construction materials will be subject to sales taxes imposed by the State, the County and the City; and
- 25% of the qualified construction materials will be subject to use taxes imposed by the State, the County and the City.

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

Based on the assumptions set forth above, the net fiscal impact of the sales and use tax exemption on the qualified building materials granted by the City is approximately \$270,300.00, allocated as follows:

	<u>Sales Tax</u>	<u>Use Tax</u>	<u>Total</u>
State	\$ 107,737.50	\$ 35,912.50	\$ 143,650.00
County	43,987.50	14,662.50	58,650.00
City	<u>51,000.00</u>	<u>17,000.00</u>	<u>68,000.00</u>
Total	\$ 202,725.00	\$ 67,575.00	\$ 270,300.00

Ancillary Project Benefits. The Project will result in construction jobs and will provide collateral benefits for local suppliers during the construction period. The Project will also create new full-time and part-time employment opportunities. All additional workers will be contributing to the local economy, and as a result, the City may see an increase in businesses that support the Project's employees and operations. The Project will generate real and personal property taxes. None of these ancillary impacts were measured for purposes of this Plan.

V. ASSUMPTIONS AND BASIS OF PLAN

This Plan includes assumptions that impact the amount of the abatement proposed for the Project. See **Attachment A** for a summary of these assumptions.

In addition to the foregoing, to complete this Plan, Gilmore & Bell, P.C. has generally reviewed and relied upon information furnished by, and has participated in conferences with, representatives of the City and its counsel, representatives of the Company, and other persons as the firm has deemed appropriate. Gilmore & Bell, P.C. does not assume any responsibility for the accuracy, completeness or fairness of any of the information provided by other parties and has not independently verified the accuracy, completeness or fairness of such information.

* * *

ATTACHMENT A

SUMMARY OF KEY ASSUMPTIONS

1. The Company will invest \$13,600,000 to acquire the Project Site and to construct the Project Improvements.
2. The acquisition and construction of the Project will be complete by January 2026.
3. The Project will be owned by the City and leased to the Company with an option to purchase. As long as the Project is owned by the City, it will be exempt from ad valorem property taxes.
4. The Project will be excluded from the calculation of ad valorem real property tax beginning in 2026 and ending on December 31 of the year in which the cumulative value of the partial property tax abatement totals \$250,000.
5. The Company will make PILOTs to the Ambulance District in an amount equal to the taxes that would otherwise be due to the Ambulance District in each year, but for the City's ownership of the Project.
6. Real property taxes are calculated using the following formula:
$$(\text{Assessed Value} * \text{Tax Rate}) / 100$$
7. The Project will be assessed as commercial property.
8. The total equalized assessed valuation of the real property included in the Project after construction of the Project Improvements will be \$3,400,000.
9. The Project will be assessed in the first full year after construction is complete. The Project will be reassessed every odd-numbered year thereafter. An estimated growth rate of 3% has been assumed for each reassessment.
10. The tax rates used in this Plan reflect the rates in effect for the 2024 tax year. The tax rates were held constant through the 2035 tax year.

* * *

The Cost/Benefit Analysis has been prepared on the basis of factual information and assumptions provided to Gilmore & Bell, P.C. by, or on behalf of, the City and the Company. This information is provided in conjunction with our legal representation of the City, as its bond counsel, for this transaction. It is not intended as financial advice or a financial recommendation to the City, the Company or any other taxing jurisdiction that may be affected by the Project. Gilmore & Bell, P.C. is not a financial advisor or a "municipal advisor" as defined in the Securities Exchange Act of 1934.

EXHIBIT 1 - SUMMARY OF COST/BENEFIT ANALYSIS

Taxing Jurisdiction	Commercial Tax Rate	Projected Real Property Tax Revenues on Existing Property	Projected Real Property Tax Revenues on Project (No Abatement)	Projected Real Property PILOTs on Project	Projected Tax Abatement on Project*
State of Missouri	0.0300	\$ 530	\$ 10,993	\$ 5,497	\$ 5,497
County Road and Bridge	0.1743	3,082	63,870	31,935	31,935
County Dev. Disability	0.1108	1,959	40,601	20,301	20,301
County Dispatch	0.0335	592	12,276	6,138	6,138
Library	0.1728	3,055	63,320	31,660	31,660
St. Charles Community College	0.1676	2,963	61,415	30,707	30,707
Ambulance	0.3273	5,787	119,935	119,935	-
City of St. Charles	0.7718	13,646	282,816	141,408	141,408
St. Charles School District Debt	4.5679	80,765	1,673,846	836,923	836,923
Commercial Surtax	0.5300	9,371	194,211	97,106	97,106
	6.8860	\$ 121,751	\$ 2,523,282	\$ 1,321,608	\$ 1,201,674

*Lease (and abatement) will terminate on the earlier of (1) December 31 of the year in which the value of the partial real property tax abatement total \$250,000 or (2) December 31, 2035.

EXHIBIT 2 - PROJECTED REAL PROPERTY TAX REVENUES ON EXISTING PROPERTY

Estimated Assessed Value of Existing Property		\$ 164,053	\$ 168,975	\$ 168,975	\$ 174,044	\$ 174,044	\$ 179,265	\$ 179,265	\$ 184,643	\$ 184,643	\$ 190,183	
Taxing Jurisdiction	Tax Rate per \$100	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	Total
State of Missouri	0.0300	\$ 49	\$ 51	\$ 51	\$ 52	\$ 52	\$ 54	\$ 54	\$ 55	\$ 55	\$ 57	\$ 530
County Road and Bridge	0.1743	286	295	295	303	303	312	312	322	322	331	3,082
County Dev. Disability	0.1108	182	187	187	193	193	199	199	205	205	211	1,959
County Dispatch	0.0335	55	57	57	58	58	60	60	62	62	64	592
Library	0.1728	283	292	292	301	301	310	310	319	319	329	3,055
St. Charles Community College	0.1676	275	283	283	292	292	300	300	309	309	319	2,963
Ambulance	0.3273	537	553	553	570	570	587	587	604	604	622	5,787
City of St. Charles	0.7718	1,266	1,304	1,304	1,343	1,343	1,384	1,384	1,425	1,425	1,468	13,646
St. Charles School District Debt	4.5679	7,494	7,719	7,719	7,950	7,950	8,189	8,189	8,434	8,434	8,687	80,765
Commercial Surtax	0.5300	869	896	896	922	922	950	950	979	979	1,008	9,371
	6.8860	\$ 11,297	\$ 11,636	\$ 11,636	\$ 11,985	\$ 11,985	\$ 12,344	\$ 12,344	\$ 12,715	\$ 12,715	\$ 13,096	\$ 121,751

EXHIBIT 3 - PROJECTED REAL PROPERTY TAX REVENUES ON PROJECT (NO ABATEMENT)

Estimated Assessed Value of Project		\$ 3,400,000	\$ 3,502,000	\$ 3,502,000	\$ 3,607,060	\$ 3,607,060	\$ 3,715,272	\$ 3,715,272	\$ 3,826,730	\$ 3,826,730	\$ 3,941,532	
Taxing Jurisdiction	Tax Rate per \$100	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	Total
State of Missouri	0.0300	\$ 1,020	\$ 1,051	\$ 1,051	\$ 1,082	\$ 1,082	\$ 1,115	\$ 1,115	\$ 1,148	\$ 1,148	\$ 1,182	\$ 10,993
County Road and Bridge	0.1743	5,926	6,104	6,104	6,287	6,287	6,476	6,476	6,670	6,670	6,870	63,870
County Dev. Disability	0.1108	3,767	3,880	3,880	3,997	3,997	4,117	4,117	4,240	4,240	4,367	40,601
County Dispatch	0.0335	1,139	1,173	1,173	1,208	1,208	1,245	1,245	1,282	1,282	1,320	12,276
Library	0.1728	5,875	6,051	6,051	6,233	6,233	6,420	6,420	6,613	6,613	6,811	63,320
St. Charles Community College	0.1676	5,698	5,869	5,869	6,045	6,045	6,227	6,227	6,414	6,414	6,606	61,415
Ambulance	0.3273	11,128	11,462	11,462	11,806	11,806	12,160	12,160	12,525	12,525	12,901	119,935
City of St. Charles	0.7718	26,241	27,028	27,028	27,839	27,839	28,674	28,674	29,535	29,535	30,421	282,816
St. Charles School District Debt	4.5679	153,309	159,968	159,968	164,767	164,767	169,710	169,710	174,801	174,801	180,045	1,673,846
Commercial Surtax	0.5300	18,020	18,561	18,561	19,117	19,117	19,691	19,691	20,282	20,282	20,890	194,211
	6.8860	\$ 234,124	\$ 241,148	\$ 241,148	\$ 248,382	\$ 248,382	\$ 255,834	\$ 255,834	\$ 263,509	\$ 263,509	\$ 271,414	\$ 2,523,282

EXHIBIT 4 - PROJECTED REAL PROPERTY PAYMENTS IN LIEU OF TAXES ON PROJECT

Estimated Assessed Value of Project	\$ 3,400,000	\$ 3,502,000	\$ 3,502,000	\$ 3,607,060	\$ 3,607,060	\$ 3,715,272	\$ 3,715,272	\$ 3,826,730	\$ 3,826,730	\$ 3,941,532		
PILOT Payment to all entities except Ambulance District	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%		
PILOT Payment to Ambulance District	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%		
Taxing Jurisdiction	Tax Rate per \$100	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	Total
State of Missouri	0.0300	\$ 510	\$ 525	\$ 525	\$ 541	\$ 541	\$ 557	\$ 557	\$ 574	\$ 574	\$ 591	\$ 5,497
County Road and Bridge	0.1743	2,963	3,052	3,052	3,144	3,144	3,238	3,238	3,335	3,335	3,435	31,935
County Dev. Disability	0.1108	1,884	1,940	1,940	1,998	1,998	2,058	2,058	2,120	2,120	2,184	20,301
County Dispatch	0.0335	570	587	587	604	604	622	622	641	641	660	6,138
Library	0.1728	2,938	3,026	3,026	3,117	3,117	3,210	3,210	3,306	3,306	3,405	31,660
St. Charles Community College	0.1676	2,849	2,935	2,935	3,023	3,023	3,113	3,113	3,207	3,207	3,303	30,707
Ambulance	0.3273	11,128	11,462	11,462	11,806	11,806	12,160	12,160	12,525	12,525	12,901	119,935
City of St. Charles	0.7718	13,121	13,514	13,514	13,920	13,920	14,337	14,337	14,767	14,767	15,210	141,408
St. Charles School District Debt	4.5679	77,654	79,984	79,984	82,383	82,383	84,855	84,855	87,401	87,401	90,023	836,923
Commercial Surtax	0.5300	9,010	9,280	9,280	9,559	9,559	9,845	9,845	10,141	10,141	10,445	97,106
	6.8860	\$ 122,626	\$ 126,305	\$ 126,305	\$ 130,094	\$ 130,094	\$ 133,997	\$ 133,997	\$ 138,017	\$ 138,017	\$ 142,157	\$ 1,321,608

EXHIBIT B

TRUST INDENTURE

(On file in the office of the City Clerk)

CITY OF ST. CHARLES, MISSOURI,

AND

**UMB BANK, N.A.,
as Trustee**

TRUST INDENTURE

Dated as of October 1, 2025

Relating to:

**\$13,600,000
(Aggregate Maximum Principal Amount)
City of St. Charles, Missouri
Taxable Industrial Revenue Bonds
(Clement Management Services, LLC Project)
Series 2025**

EXHIBIT B

TRUST INDENTURE
TABLE OF CONTENTS

	<u>Page</u>
Parties	1
Recitals	1
Granting Clauses	1

ARTICLE I

DEFINITIONS

Section 101. Definitions of Words and Terms.....	3
Section 102. Rules of Interpretation.....	8
Section 103. Date of Indenture.....	9

ARTICLE II

THE BONDS

Section 201. Title and Amount of Bonds	9
Section 202. Nature of Obligation	9
Section 203. Denomination, Number and Dating of the Bonds.....	9
Section 204. Method and Place of Payment of Bonds	10
Section 205. Execution and Authentication of Bonds.....	10
Section 206. Registration, Transfer and Exchange of Bonds.....	11
Section 207. Persons Deemed Owners of Bonds	11
Section 208. Authorization of the Bonds	12
Section 209. Mutilated, Lost, Stolen or Destroyed Bonds	13
Section 210. Cancellation and Destruction of Bonds Upon Payment.....	14

ARTICLE III

REDEMPTION OF BONDS

Section 301. Redemption of Bonds.....	14
Section 302. Effect of Call for Redemption	15
Section 303. Notice of Redemption	15

ARTICLE IV

FORM OF BONDS

Section 401. Form Generally	15
-----------------------------------	----

ARTICLE V

CUSTODY AND APPLICATION OF BOND PROCEEDS

Section 501.	Creation of Funds.....	15
Section 502.	Deposits into the Project Fund	16
Section 503.	Disbursements from the Project Fund.....	16
Section 504.	Completion of the Project	16
Section 505.	Disposition Upon Acceleration	16

ARTICLE VI

REVENUES AND FUNDS

Section 601.	Deposits Into the Bond Fund.....	17
Section 602.	Application of Moneys in the Bond Fund.....	17
Section 603.	Payments Due on Days Other than Business Days	18
Section 604.	Nonpresentment of Bonds.....	18

ARTICLE VII

SECURITY FOR DEPOSITS AND INVESTMENT OF FUNDS

Section 701.	Moneys to be Held in Trust.....	18
Section 702.	Investment of Moneys in Project Fund and Bond Fund.....	18
Section 703.	Record Keeping.....	19

ARTICLE VIII

GENERAL COVENANTS AND PROVISIONS

Section 801.	Payment of Principal and Interest	19
Section 802.	Authority to Execute Indenture and Issue Bonds.....	19
Section 803.	Performance of Covenants	19
Section 804.	Instruments of Further Assurance	20
Section 805.	Recordings and Filings.....	20
Section 806.	Inspection of Project Books	20
Section 807.	Enforcement of Rights Under the Lease	20

ARTICLE IX

DEFAULT AND REMEDIES

Section 901.	Events of Default; Notice; Opportunity to Cure	20
Section 902.	Acceleration of Maturity in Event of Default	21
Section 903.	Surrender of Possession of Trust Estate; Rights and Duties of Trustee in Possession	21
Section 904.	Appointment of Receivers in Event of Default.....	22
Section 905.	Exercise of Remedies by the Trustee	22
Section 906.	Limitation on Exercise of Remedies by Owners.....	22
Section 907.	Right of Owners to Direct Proceedings.....	23
Section 908.	Application of Moneys in Event of Default.....	23

Section 909.	Remedies Cumulative	24
Section 910.	Waivers of Events of Default	25

ARTICLE X

THE TRUSTEE

Section 1001.	Acceptance of the Trusts	25
Section 1002.	Fees, Charges and Expenses of the Trustee.....	28
Section 1003.	Notice to Owners if Default Occurs	28
Section 1004.	Intervention by the Trustee.....	29
Section 1005.	Successor Trustee Upon Merger, Consolidation or Sale	29
Section 1006.	Resignation of Trustee.....	29
Section 1007.	Removal of Trustee	29
Section 1008.	Appointment of Successor Trustee.....	29
Section 1009.	Vesting of Trusts in Successor Trustee	30
Section 1010.	Right of Trustee to Pay Taxes and Other Charges.....	30
Section 1011.	Trust Estate May be Vested in Co-Trustee	30
Section 1012.	Accounting	31
Section 1013.	Performance of Duties Under the Lease	31

ARTICLE XI

SUPPLEMENTAL INDENTURES

Section 1101.	Supplemental Indentures Not Requiring Consent of Owners	31
Section 1102.	Supplemental Indentures Requiring Consent of Owners	32
Section 1103.	Company's Consent to Supplemental Indentures	32
Section 1104.	Opinion of Counsel	32

ARTICLE XII

SUPPLEMENTAL LEASES

Section 1201.	Supplemental Leases Not Requiring Consent of Owners	33
Section 1202.	Supplemental Leases Requiring Consent of Owners	33
Section 1203.	Opinion of Counsel	33

ARTICLE XIII

SATISFACTION AND DISCHARGE OF INDENTURE

Section 1301.	Satisfaction and Discharge of this Indenture.....	34
Section 1302.	Bonds Deemed to be Paid	34

ARTICLE XIV

MISCELLANEOUS PROVISIONS

Section 1401.	Consents and Other Instruments by Owners	35
Section 1402.	Limitation of Rights Under this Indenture	35

Section 1403. Rights of Lender.....35

Section 1404. Notices.....36

Section 1405. Severability37

Section 1406. Execution in Counterparts.....37

Section 1407. Governing Law.....37

Section 1408. Electronic Transaction and Digital Signature.....38

Section 1409. City Consents and Approvals38

Section 1410. Anti-Discrimination Against Israel Act.....38

Signature and Seals 39

- Exhibit A - Project Site
- Exhibit B – Form of Bonds
- Exhibit D - Form of Representation Letter

TRUST INDENTURE

THIS TRUST INDENTURE, dated as of October 1, 2025 (this “Indenture”), between the **CITY OF ST. CHARLES, MISSOURI**, a constitutional home rule charter city organized and existing under the laws of the State of Missouri (the “City”), and **UMB BANK, N.A.**, a national banking association duly organized and existing and authorized to accept and execute trusts of the character herein set forth under the laws of the United States of America, with a corporate trust office located in St. Louis, 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 (collectively, the “Act”) and the City Charter to purchase, construct, extend and improve certain projects (as defined in the Act), 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, office industry, warehousing and industrial development purposes upon such terms and conditions as the City deems advisable.

2. Pursuant to the Act, the City Council passed Ordinance No. _____ (the “Ordinance”) on October 21, 2025, approving a Plan for an Industrial Development Project relating to the construction of an approximately 63,650 square foot automobile service center (the “Project Improvements”) on approximately 3.45 acres of land located at 3707 Veterans Memorial Parkway in the City (the “Project Site,” as more fully described on **Exhibit A**, attached hereto and incorporated herein by reference).

3. Pursuant to the Act and the Ordinance, the City is authorized to (1) issue its Taxable Industrial Revenue Bonds (Clement Management Services, LLC Project), Series 2025, in the maximum principal amount of \$13,600,000 (the “Bonds”), for the purpose of acquiring the Project Site and constructing the Project Improvements (together, as they may at any time exist, the “Project”) and (2) enter into this Indenture with the Trustee for the purpose of issuing and securing the Bonds.

4. Pursuant to the Act and the Ordinance, the City is further authorized to lease the Project to the Company pursuant to a Lease Agreement dated as of October 1, 2025 (the “Lease”) between the City and the Company. Pursuant to the Lease, the City will, or will cause the Company to, acquire, construct and install 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 (as 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 (as 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 (as defined herein) under this Indenture from time to time according to their tenor and effect, and to secure the performance and observance by the City of all the covenants, agreements and conditions herein and in the Bonds contained, does hereby pledge and assign to the Trustee and its successors and assigns forever, the property described in paragraphs (a), (b) and (c) below (said property being herein referred to as the "Trust Estate"), to-wit:

(a) All right, title and interest 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, as defined herein), 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**), 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 any words and terms defined in the Lease (which definitions are hereby incorporated by reference) and any words and terms defined elsewhere in this Indenture, the following words and terms as used in this Indenture shall have the following meanings, unless some other meaning is plainly intended:

“Abatement Initiation Date” means January 1 of the calendar year following the calendar year in which the Project Improvements are completed, unless the Company notifies the City in writing by July 1 of the calendar year in which the Project Improvements are completed that the Abatement Initiation Date should be January 1 of such calendar year.

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

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

“Approved Investor” means (a) the Company, (b) an affiliate of the Company, (c) the Lender, (d) a “qualified institutional buyer” under Rule 144A promulgated under the Securities Act of 1933, (e) any general business corporation or enterprise with total assets in excess of \$100,000,000 or (f) any Person approved by the City Council.

“Authorized City Representative” means the Mayor, the Director of Administration 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 signature of such Person and signed on behalf of the City by its Mayor. Such certificate may designate an alternate or alternates, each of whom may 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 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 may 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 Revenue Bonds (Clement Management Services, LLC Project), Series 2025, in the maximum aggregate principal amount of \$13,600,000, issued, authenticated and delivered under and pursuant to this Indenture.

“Bond Fund” means the “City of St. Charles, Missouri, Series 2025 Bond Fund – Clement Management Services, LLC” created in **Section 501**.

“Bond Purchase Agreement” means the agreement by that name with respect to the Bonds by and between the City and the Purchaser.

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

“City” means the City of St. Charles, Missouri, a constitutional home rule charter city organized and existing under the laws of the State.

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

“Closing Price” means the amount specified in writing by the Purchaser and agreed to by the City as the amount required to pay for the initial issuance of the Bonds on the Closing Date, which amount shall be equal to any Project Costs paid by the Company from its own funds on or before the Closing Date, and, at the Company’s option, the costs of issuance of the Bonds if such costs are not paid for from Bond proceeds.

“Company” means Clement Management Services, LLC, a Missouri limited liability company, and its successors or assigns.

“Completion Date” means the date of execution of the certificate required by **Section 4.5** of the Lease and **Section 504** hereof, which shall be deemed executed and filed on December 31, 2026 if not actually executed and filed by December 31, 2026, except as otherwise provided in **Section 4.5** of the Lease.

“Cumulative Outstanding Principal Amount” means the aggregate principal amount of all Bonds Outstanding under the provisions of this Indenture, not to exceed \$13,600,000, as reflected in the records maintained by the Trustee as provided in the Bonds and this Indenture.

“Deed” means the Special Warranty Deed, pursuant to which the Company will convey title to the Project to the City, subject to the Fee Deed of Trust.

“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.

“Fee Deed of Trust” means the Deed of Trust dated December 30, 2024, executed by the Company for the benefit of the Lender, as amended by the First Amendment to Deed of Trust dated October ____, 2025, between the Company and the Lender, and as may be further amended in accordance with the provisions thereof.

“Financing Document” means any loan agreement, credit agreement, mortgage, participation agreement, lease agreement, sublease, ground lease, hedging agreement or other document executed by or on behalf of a Financing Party, including, without limitation, any loan agreement, credit agreement, mortgage or other document executed in connection with the loans made to the Company by the Lender.

“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 development, construction, ownership, lease, operation or maintenance of the Project or interests or rights in the Lease, or any part thereof, including any Lender and any trustee or agent acting on any such Person’s behalf.

“Full Insurable Value” means the reasonable replacement cost of the Project less physical depreciation and exclusive of land, excavations, footings, foundation and parking lots as determined at the expense of the Company from time to time.

“Government Securities” means (a) noncallable, nonredeemable direct obligations of the United States of America, and (b) obligations the timely payment of the principal of and interest on which is fully and 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**.

“Investment Securities” means any of the following securities:

- (a) Government Securities;
- (b) bonds, notes or other obligations of the State or any political subdivision of the State, which at the time of their purchase are rated in either of the two highest rating categories by a nationally recognized rating service;
- (c) obligations of Fannie Mae, the Government National Mortgage Association, the Federal Financing Bank, the Federal Intermediate Credit Corporation, Federal Banks for Cooperatives, Federal Land Banks, Federal Home Loan Banks, the Farmers Home Administration and the Federal Home Loan Mortgage Corporation;
- (d) repurchase agreements with any bank, bank holding company, savings and loan association, trust company, or other financial institution organized under the laws of the United States or any state, that are continuously and fully secured by any one or more of the securities described in clause (a), (b) or (c) above and that have a market value at all times at least equal to the principal amount of such repurchase agreements and are held in a custodial or trust account;
- (e) certificates of deposit, time deposits, demand deposits or U.S. dollar denominated deposit accounts, whether negotiable or nonnegotiable, issued by any bank or trust company organized under the laws of the United States or any state, provided that such certificates of deposit, time deposits, demand deposits or U.S. dollar denominated deposit accounts shall be either (1) continuously and fully insured by the Federal Deposit Insurance Corporation, or (2) continuously and fully collateralized by such securities as are described above in clauses (a) through (d), inclusive, which shall have a market value at all times at least equal to the principal amount of such certificates of deposit, time deposits, demand deposits or U.S. dollar denominated deposit accounts;
- (f) money market funds registered under the Investment Company Act of 1940, whose shares are registered under the Securities Act of 1933, and having a rating of AAAM-G, AAA-m, or AA-m if rated by S&P or a rating of Aaa, Aa1 or Aa2 if rated by Moody’s; or
- (g) any other investment approved in writing by an Authorized City Representative and the Owners of all of the Outstanding Bonds.

“Lease” means the Lease Agreement dated as of October 1, 2025 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**.

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

“Leasehold Mortgage” means any leasehold mortgage, leasehold deed of trust, assignment of rents and leases or other agreement relating to the Project permitted pursuant to the provisions of **Section 10.4** of the Lease, subject to the express, prior written consent of the Lender.

“Lender” means, initially, Midwest Regional Bank and its successors and assigns, and any lender providing construction or long-term financing for the Project, as certified to the City by the Company.

“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 remaining after payment of all expenses (including attorneys’ fees, the Trustee’s fees and any extraordinary expenses of the City and the Trustee) incurred in the collection of such gross proceeds.

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

- (a) Bonds subsequently canceled by the Trustee or delivered to the Trustee for cancellation;
- (b) Bonds deemed to be paid in accordance with the provisions of **Section 1302**; and
- (c) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered pursuant to this Indenture.

“Owner” means the registered owner of any Bond as recorded on the bond registration records maintained by the Trustee, and for any actions requiring the consent of an Owner hereunder, the Lender.

“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 the principal of 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 October 1, 2025 between the City and the Company.

“Permitted Encumbrances” means, as of any particular time, as the same may encumber the Project Site, (a) liens for ad valorem taxes, special assessments and other governmental charges not then delinquent, (b) this Indenture, the Lease and the Performance Agreement, (c) utility, access and other easements and rights-of-way, mineral rights, restrictions, exceptions and encumbrances that will not materially interfere with or impair the operations being conducted on the Project Site or easements granted to the City, (d) such minor defects, irregularities, encumbrances, easements, mechanics’ liens, rights-of-way and clouds on title as normally exist with respect to properties similar in character to the Project Site and as do not in the aggregate materially impair the property affected thereby for the purpose for which it was acquired or is held by the City, (e) liens, security interests or encumbrances granted pursuant to the Lease, any Leasehold Mortgage, the Fee Deed of Trust (as amended by the First Deed of Trust) and any Financing

Documents, (f) subleases of all or any portion of the Project by the Company to tenants in the Company's ordinary course of business and (g) such exceptions to title set forth in the ALTA Commitment for Title Insurance issued by Fidelity National Title Insurance Company, Commitment Number STL2406186 Revision 1.

"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.

"Plans and Specifications" means the plans and specifications prepared for and showing the Project, as amended by the Company from time to time before the Completion Date, the same being on file at the principal office of the Company, and which shall be available for reasonable inspection during normal business hours and upon not less than one Business Day's prior notice by the City, the Trustee and their duly appointed representatives.

"Project" means, collectively, the Project Site and the Project Improvements as they may at any time exist.

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

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

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

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

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

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

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

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

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

“Project Fund” means the “City of St. Charles, Missouri, Series 2025 Project Fund – Clement Management Services, LLC” created in **Section 501**.

“Project Improvements” means the buildings, structures, improvements and fixtures to be purchased, constructed, installed and otherwise improved on the Project Site pursuant to **Article IV** of the Lease and paid for in whole from the proceeds of Bonds, and all additions, alterations, modifications and improvements thereto made pursuant to the Lease.

“Project Site” means all of the real estate described in **Exhibit A**.

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

“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**.

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

“Transfer Date” means the date on which the Company transfers fee title to the Project to the City pursuant to **Section 4.5** of the Lease.

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

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

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

Section 102. Rules of Interpretation.

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

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

(d) All references in this Indenture to designated “Articles,” “Sections” and other subdivisions are, unless otherwise specified, to the designated Articles, Sections and other subdivisions of this Indenture 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 other subdivision.

(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.

(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.

Section 103. Date of Indenture. The dating of this Indenture as of October 1, 2025, is intended as and for the convenient identification of this Indenture only and is not intended to indicate that this Indenture was executed and delivered on said date, this Indenture being executed and delivered and becoming effective simultaneously with the initial issuance of the Bonds.

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 the “City of St. Charles, Missouri, Taxable Industrial Revenue Bonds (Clement Management Services, LLC Project), Series 2025.” The maximum total principal amount of Bonds that may be issued hereunder is hereby expressly limited to \$13,600,000.

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 none of the City, the State or any political subdivision thereof shall be liable thereon, and the Bonds shall not constitute an indebtedness within the meaning of any constitutional 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 B**, in the denomination of \$0.01 or any multiple thereof.

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

Section 204. Method and Place of Payment of Bonds.

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

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

(c) The Bonds and the original **Schedule I** thereto shall be held by the Trustee in trust, unless otherwise directed in writing by the 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 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 United States.

(e) If the Company or any Financing Party is the sole Owner of the Bonds, then the Company, as lessee under the Lease, may set-off its obligation to the City to pay Basic Rent under the Lease against the City's obligations to the Company, as the bondholder, to pay principal of and interest on the Bonds 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 and that pursuant to the set-off, the Company, as lessee under the Lease, is deemed to have paid its obligation to the City to pay Basic Rent under the Lease and the City is deemed to have paid its obligation to the Company, as bondholder, to pay principal of and interest on the Bonds under this Indenture. 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 of the Bonds so tendered for cancellation plus accrued interest thereon.

Section 205. Execution and Authentication of Bonds.

(a) The Bonds shall be executed on behalf of the City by the manual or facsimile signature of its Mayor and attested by the manual or facsimile signature of its 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 Bonds, 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 B**, 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 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 C**. The Trustee shall be fully protected in relying upon such representation letter and shall have no duty or obligation to confirm that any transferee that provides such representation letter is an Approved Investor. Upon any such transfer, the City shall execute and the Trustee shall authenticate and deliver in exchange for such Bonds 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 Bonds, 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 canceled 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** 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 \$13,600,000 for the purpose of providing funds to pay Project Costs, which Bonds shall be designated the “City of St. Charles, Missouri, Taxable Industrial Revenue Bonds (Clement Management Services, LLC Project), Series 2025.” The Bonds shall be dated as provided in **Section 203(b)**, shall become due on December 1 of the ninth calendar year following the calendar year in which the Abatement Initiation Date occurs (subject to prior redemption as provided in **Article III**) and shall bear interest as specified in **Section 208(f)**, payable on the dates specified in **Section 208(f)**.

(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 B** and delivered to the Trustee for authentication. Prior to or simultaneously with the authentication and delivery of the Bonds by the Trustee, there shall be filed with the Trustee the following:

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

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

(3) a representation letter from the Purchaser in substantially the form attached as **Exhibit C**;

(4) a request and authorization to the Trustee on behalf of the City, executed by an Authorized City Representative, to authenticate the Bonds and deliver the same to or at the written 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 name of the Purchaser and the amount of such purchase price; and

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

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

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

(2) the Company shall submit a requisition certificate in accordance with **Section 4.4** of the Lease, in an amount equal to the Closing Price, and the Trustee shall endorse the Bonds in

an amount equal to the Closing Price and then either hold the Bonds in trust or if so directed in writing deliver the Bonds to the Company (or another purchaser designated by the Company).

In either case, the Purchaser shall be deemed to have paid over to the Trustee, and the Trustee shall be deemed to have deposited into the Project Fund, an amount equal to the Closing Price. In authenticating Bonds, the Trustee makes no certification or representation that the Bonds have been validly issued or constitute legally binding obligations of the City.

(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. If the Purchaser does not pay to the Trustee the amount set forth in the requisition certificate, the Purchaser will be deemed to have advanced an amount equal to the amount set forth in the requisition certificate and the Trustee shall endorse the Bonds in an amount equal to the amount set forth in the requisition certificate. The Trustee shall be entitled to rely upon a written waiver of receipt and payment of such amount as long as the Company and the Purchaser are the same Person. The date of endorsement of each Principal Amount Advanced as set forth on **Schedule I** to the Bonds shall be the date of the City's approval of each requisition certificate. The Trustee shall keep a record of the total requisitions submitted to the Trustee for the Project and shall notify the City if the requisitions submitted exceed the maximum principal amount of the Bonds.

(f) The Bonds shall bear interest at the rate of 5.0% 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, 2025, and continuing thereafter until the Cumulative Outstanding Principal Amount is paid in full, but not later than the final maturity of the Bonds as set forth in **Section 208(a)**. Interest shall be calculated on the basis of a year of 360 days consisting of 12 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." If the Trustee is holding the Bonds, such advanced amounts shall be reflected on **Schedule I** to the Bonds. To the extent that advances are deemed to have been made pursuant to a requisition, the Trustee's records of such advances shall be based solely on the requisitions provided to it. 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 and **Schedule I** to the Bonds (if the Trustee is holding the Bonds) 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 B**. To the extent the Company, as lessee under the Lease, sets-off its obligation to the City against the City's obligations to the Company, as the bondholder, as permitted by **Section 204(e)** the Trustee shall not be required to confirm that such set-off has occurred. 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**, the Trustee, to the extent it has not already done so pursuant to this Section or **Section 1012**, 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, defend and hold 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 that have been paid or redeemed or that have otherwise been surrendered to the Trustee under this Indenture, either at or before maturity, shall be canceled by the Trustee immediately upon the payment or redemption of such Bonds and the surrender thereof to the Trustee.

(b) All Bonds canceled under any of the provisions of this Indenture shall be destroyed by the Trustee in accordance with applicable laws and regulations and the Trustee's policies and practices. 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 City, upon written instructions from 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, (A) 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 (B) 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, (1) in whole or in part, to the extent of amounts deposited in the Bond Fund pursuant to **Section 9.1(f)** or **9.2(c)** of the Lease, in the event of substantial damage to or destruction or condemnation of substantially all of the Project, or (2) in whole, if the Company purchases the Project pursuant to **Section 11.4** of the Lease. 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) At its option, the Company may deliver to the Trustee for cancellation any Bonds owned by the Company or any Financing Party 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)**, 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 there is one Owner) before the scheduled redemption date. The Trustee shall then deliver written notice to the Owners at least 30 days (five days if there is one Owner) before the scheduled redemption date by facsimile or other electronic communication 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 B**. 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 St. Charles, Missouri, Series 2025 Project Fund – Clement Management Services, LLC" (herein called the "Project Fund").

(b) "City of St. Charles, Missouri, Series 2025 Bond Fund – Clement Management Services, LLC" (herein called the "Bond Fund").

Section 502. Deposits into the Project Fund. The proceeds of the sale of the Bonds (whether actually paid or deemed paid under **Section 208(d)**), 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**, 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 and installing the Project shall pursuant to any written directions from the Person depositing such moneys also be deposited into the Project Fund.

Section 503. Disbursements from the Project Fund.

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

(b) If, pursuant to **Section 208(d)**, the Trustee is deemed to have deposited into the Project Fund the amount specified in 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 certificates. If the Trustee is holding the Bonds, such deemed disbursement will be deemed to have been made on the date the Trustee endorses the Bonds with respect to such additional amount.

(c) In paying any requisition under this Section, the Trustee may rely as to the completeness and accuracy of all statements in any requisition certificate if such requisition certificate is signed by an Authorized Company Representative without inquiry or investigation. The approval of each requisition certificate by an 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 purchase, construction and installation 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. Disposition Upon Acceleration. If the principal of the Bonds has become due and payable pursuant to **Section 902**, upon the date of payment by the Trustee of any moneys due as hereinafter provided in **Article IX**, any balance remaining in the Project Fund shall without further authorization be deposited in the Bond Fund by the Trustee, with advice to the City and to the Company of such action.

ARTICLE VI

REVENUES AND FUNDS

Section 601. Deposits into the Bond Fund.

(a) The Trustee shall deposit into the Bond Fund, as and when received, (1) all accrued interest on the Bonds, if any, paid by the Purchaser; (2) all Basic Rent payable by the Company to the City specified in **Section 5.1** of the Lease; (3) any Additional Rent payable by the Company specified in **Section 5.2** of the Lease; (4) any amount in the Project Fund to be transferred to the Bond Fund pursuant to **Section 504** or **Section 505**; (5) subject to the terms and conditions of the Fee Deed of Trust and the other Financing Documents executed in favor of the Lender, the balance of any Net Proceeds of condemnation awards or insurance received by the Trustee pursuant to **Article IX** of the Lease; (6) the amounts to be deposited in the Bond Fund pursuant to **Sections 9.1(f)** and **9.2(c)** of the Lease; (7) all interest and other income derived from investments of Bond Fund moneys as provided in **Section 702**; and (8) 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** of the Lease, moneys in the Bond Fund shall be expended solely for the payment of the principal of and the interest on the Bonds as the same matures and becomes 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 becomes due and payable and to make said funds so withdrawn available to the Paying Agent for the purpose of paying said principal and interest. To the extent the Company is the Owner of all the Bonds Outstanding, payment may be made via transaction entry on the trust records held by the Trustee.

(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 and until such redemption, the City covenants and agrees, upon request of the Company, to take and cause to be taken the necessary steps to redeem all such Bonds on the next succeeding redemption date for which the required redemption notice may be given or on such later redemption date as may be specified by the Company. The Trustee may use any moneys in the Bond Fund to redeem a part of the Bonds Outstanding in accordance with and to the extent permitted by **Article III** 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 funds, without liability for interest thereon, for the benefit of the Owner of such Bond who shall thereafter be restricted exclusively to such 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 at 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 may 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 Project Fund and Bond Fund. Moneys held in the Project Fund and the Bond Fund shall, pursuant to written direction of the Company, signed by an 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. If the Company fails to provide written directions concerning the investment of moneys held in the Project Fund and the Bond Fund, the Trustee is authorized and directed to invest in the 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 may conclusively rely upon

the Authorized Company Representative's written direction as to both the suitability and legality of the directed investment and such written direction shall be deemed to be a certification to the Trustee that such directed investments constitute Investment Securities. 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. The Trustee shall be provided ample time to clear any such fees that exceed 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)** 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** for at least six months after the payment of all of the 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; and 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 or cause to be performed at all times any and all covenants, undertakings, stipulations and provisions contained in this Indenture, in the Bonds and in all proceedings of its City Council 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, upon being first indemnified by the Company for the cost thereof. 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 and directs the Trustee upon written direction to file or cause to be kept and filed continuation statements with respect to such originally filed financing statements related to this Indenture and all supplements hereto and such other documents as it is notified in writing and may be required under the Uniform Commercial Code in order to fully preserve and protect the security of the Owners and the rights of the Trustee hereunder. The City will cooperate in causing this Indenture and all Supplemental Indentures, the Lease and all Supplemental Leases and all other security instruments to be recorded and filed in such manner and in such places as may be required by law in order to fully preserve and protect the security of the Owners and the rights of the Trustee hereunder. The Trustee shall file continuation statements with respect to each Uniform Commercial Code financing statement relating to the Trust Estate filed by the City at the time of the issuance of the Bonds; provided that a copy of the filed initial financing statement is timely delivered to the Trustee. In addition, unless the Trustee has been notified in writing by the City that any such initial filing or description of collateral was or has become defective, the Trustee shall be fully protected in (a) relying on such initial filing and description in filing any financing or continuation statement or modification thereto pursuant to this Section, and (b) filing any continuation statement in the same filing office as the initial filing was made. The Company shall be responsible for the customary fees charged by the Trustee for the preparation and filing of continuation statements and for the reasonable costs incurred by the Trustee in the preparation and filing of all continuation statements hereunder, including attorneys' fees and expenses. These fees shall be considered "extraordinary services" fees.

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. 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.

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 of 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 City, 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 or recognized overnight delivery service to the Company and the Lender, and the Company and the Lender 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 Company, the Lender or the City (as the case may be) within such period and diligently pursued until the default is corrected. Nothing herein shall constitute an obligation of the Lender to cure any defaults hereunder.

Section 902. Acceleration of Maturity in Event of Default.

(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 City or the Owners of not less than 25% in aggregate principal amount of Bonds then-Outstanding, shall, by notice in writing delivered to the City, the Lender 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, 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 as provided in **Section 11.1** 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 positions 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** 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 (which is and shall be and remain subject

to the Fee Deed of Trust), 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 (subject to the Fee Deed of Trust), 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 before 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**. 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 in writing to do so by (1) the City (in the case of an Event of Default pursuant to **Section 12.1(a)** (but only as it relates to Additional Rent), **(b)** (but only as it relates to Unassigned Rights), **(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 **Section 1001(l)**, 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**, be for the equal benefit of all the Owners of the Outstanding Bonds.

Section 906. Limitation on Exercise of Remedies by Owners. No Owner shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of this Indenture or for the execution of any trust hereunder or for the appointment of a receiver or any other remedy hereunder, unless (a) a default has occurred of which the Trustee has been notified as provided in **Section 1001(h)** or of which

by said subsection the Trustee is deemed to have notice, (b) such default has become an Event of Default, (c) the Owners of 25% in aggregate principal amount of Bonds then-Outstanding have made written request to the Trustee, have offered it reasonable opportunity either to proceed 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)**, 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 in 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)**.

(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 as it relates to Additional Rent), **(b)** (but only as it relates to Unassigned Rights), **(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 be applied first to the costs and expenses of the proceedings resulting in the collection of such moneys and to the fees, expenses, liabilities and advances incurred or made by the Trustee (including any attorneys' fees and expenses) or amounts to be paid pursuant to **Section 903** and second to any obligations outstanding under the Lease and the Performance Agreement. Any remaining moneys shall be deposited in the Bond Fund, and all moneys in the Bond Fund shall be applied as follows:

(1) Unless the principal of all the Bonds has become or has 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 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 has become due or has 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 Persons entitled thereto, without any discrimination or privilege.

(3) If the principal of all the Bonds has been declared due and payable, and if such declaration thereafter has been rescinded and annulled under the provisions of **Section 910**, then, subject to the provisions of subsection (2) of this Section, if the principal of all the Bonds later becomes due or is 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 date 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**.

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 the Bonds, but 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 (a) 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)** (but only as it relates to Additional Rent), **(b)** (but only as it relates to Unassigned Rights), **(c)** or **(d)** of the Lease, and (b) there shall not be waived without the consent of the Owners of all the Bonds Outstanding (1) 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 (2) any Event of Default in the payment when due of the interest on any such Bonds, unless before 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, have been paid or provided for. In case of any such waiver or rescission, or in case any proceedings taken by the Trustee on account of any such default 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, 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(I)** below, the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and shall use the same degree of care and skill in their exercise, as a prudent Person would exercise or use under the circumstances in the conduct of its own affairs.

(b) The Trustee undertakes to perform such duties as are specifically set forth in this Indenture, and in the absence of negligence or willful misconduct on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee. No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct. 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 for 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**.

(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 the 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 the 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 may rely upon a certificate signed by an 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 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 any such certificate or 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 this 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**, 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 Company 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 of 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 the taking of 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, the release of any property, or the taking of any other action by the Trustee.

(l) Notwithstanding anything in this 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 (including, without limitation, attorneys' fees 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, or 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 agrees to accept and act on instructions or directions pursuant to this Indenture or the Lease sent in the form of a manually signed document by the City or the Company, as the case may be, by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods, provided, however, that the City or the Company, respectively, shall provide to the Trustee an incumbency certificate listing designated persons with the authority to provide such instructions, which incumbency certificate shall be amended whenever a person is to be added or deleted from the listing. If the City or the Company, as applicable, elects to give the Trustee e-mail or facsimile instructions (or instructions by a similar electronic method) and the Trustee acts upon such instructions, the Trustee's understanding of such instructions shall be deemed

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. The City or the Company, as applicable, agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions and the risk of interception and misuse by third parties.

(o) 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.

(p) 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 has reasonable grounds for believing that repayment of such funds or indemnity satisfactory to it against such risk or liability is not assured to it.

(q) 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 or war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services.

Section 1002. Fees, Charges and Expenses of the Trustee. The Trustee shall be entitled to payment of and/or reimbursement for reasonable fees for its ordinary services rendered hereunder and all advances, agent and counsel fees and other ordinary expenses reasonably made or incurred by the Trustee in connection with such ordinary services. If it becomes necessary for the Trustee to perform extraordinary services, it shall be entitled to reasonable extra compensation therefor and to reimbursement for reasonable extraordinary expenses in connection therewith; provided that if such extraordinary services or extraordinary expenses are caused by the negligence 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 first 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 shall survive its resignation or removal hereunder or the satisfaction and discharge of this Indenture 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)** 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 (a) the last known Owners of all Bonds then-Outstanding as shown by the bond registration books required by **Section 206** to be kept at the corporate trust office of

the Trustee, (b) the Lender at the address specified in **Section 1404** hereof, and (c) the beneficiary of any Leasehold Mortgage at the address provided by the Company, in writing, to 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(I)**, 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, at the Company's expense, 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 any 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 has occurred and is continuing, delivered to the Trustee, the City and the Owners and signed by the Company. The Trustee's rights to indemnity and to any fees, charges or other amounts due and payable to it shall survive any 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 any 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 trusts 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, at the Company's expense, or any Owner may petition any court of competent jurisdiction for the appointment of a successor Trustee, until a successor has 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 and upon payment of its outstanding fees and expenses owed to the predecessor Trustee, 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, governmental or other 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 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 has been requested to do so by the Owners of at least 25% of the aggregate principal amount of Bonds then-Outstanding and has 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 or separate 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 in writing and, upon the written request of the City, the Company or any Owner (at such Owner's expense), 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 specifically 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 and shall be subject to the Fee Deed of Trust, 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 both of them;

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

- (d) To conform this 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** 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 (and shall be subject to the Fee Deed of Trust) 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**, the Lender at the address specified in **Section 1404** hereof, and the beneficiary of any Leasehold Mortgage at the address provided by the Company, in writing, to the Trustee. 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 has 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 each Financing Party of which the Trustee has received written notice 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**, 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**. 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** 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 City or the Company 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 execution 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 thereto.

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**, 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 the 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** 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** 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) has been made or caused to be made in accordance with the terms thereof, or (2) has 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 (A) moneys sufficient to make such payment or (B) Government Securities maturing as to principal and interest in such amounts and at such times as will ensure the availability of sufficient moneys to make such payment, or (3) has 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 has been given in accordance with **Article III** or irrevocable instructions 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:

(1) 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.

(2) 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**.

(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 of 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, the Financing Parties and the Owners, as herein provided.

Section 1403. Rights of Lender. The City and the Trustee agree that in addition to any other rights to assign the Bonds as set forth herein, the Company shall be entitled to collaterally assign its interest in the Bonds to the Lender for the purpose of securing the Company's obligations to the Lender in connection with the financing or refinancing of the Project. In the event of a collateral assignment made by the Company, the City and the Trustee agree, at the expense of the Company, to execute such consents, estoppels and other documents related thereto as the Lender shall reasonably request and in such form with such terms as the City and the Trustee deem appropriate; provided, the Trustee has received indemnification from the Lender and Company as provided in **Section 1001(I)**, and provided further the Trustee shall be

entitled to engage the advice of counsel, at the expense of the Company, in executing any such documents, shall have no obligation to execute any such document that affects the Trustee's rights, duties or immunities under this Indenture or otherwise, and any obligations of the Trustee under any such document must be in compliance with the regulatory requirements applicable to the Trustee.

Section 1404. 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, the Lender or the Owners if the same is duly (a) mailed by registered or certified mail, postage prepaid, (b) sent by overnight delivery which requires written acknowledgment of receipt by the addressee, or (c) transmitted electronically and receipt confirmed by telephone or electronic read receipt, addressed as follows:

(1) To the City:

City of St. Charles, Missouri
200 North Second Street
St. Charles, Missouri 63301
ATTN: Mayor
E-mail: dan.borgmeyer@stcharlescitemo.gov

with copies to:

City Attorney
200 North Second Street
St. Charles, Missouri 63301
ATTN: Holly Magdziarz, Esq.
E-mail: holly.magdziarz@stcharlescitemo.gov

and:

Director of Administration
200 North Second Street
St. Charles, Missouri 63301
ATTN: Larry Dobrosky
E-mail: lawrence.dobrosky@stcharlescitemo.gov

and:

Gilmore & Bell, P.C.
211 North Broadway, Suite 2000
St. Louis, Missouri 63102
ATTN: Mark D. Grimm, Esq.
Email: mgrimm@gilmorebell.com
(314) 444-4118

(2) To the Trustee:

UMB Bank, N.A.
2 South Broadway, Suite 600
St. Louis, Missouri 63102
ATTN: Corporate Trust Department
Email: kristina.tibbits@umb.com

(314) 612-8488

(3) To the Company:

Clement Management Services, LLC
190 Spring Drive
St. Charles, Missouri 63303
ATTN: Lee Swartz
E-mail: lee.swartz@clementautogroup.com
(636) 290-4392

(4) To the Lender:

Midwest Regional Bank
363 Festus Centre Drive
P.O. Box 1269
Festus, Missouri 63028
ATTN: [REDACTED]
E-mail:
[REDACTED] - [REDACTED]

(5) 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** 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 and the Lender. The City, the Company, the Lender 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 1405. Severability. If any provision of this Indenture is 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 whatsoever.

Section 1406. 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 1407. Governing Law. This Indenture shall be governed exclusively by and construed in accordance with the applicable laws of the State.

Section 1408. Electronic Transaction and Digital Signature. The parties agree that the transaction described herein may be conducted and related documents may be sent, received or 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.

The words “execute,” “execution,” “signed,” “signature,” and words of similar import used in or related to any document to be signed in connection with this Agreement, or any of the transactions contemplated hereby (including amendments, waivers, consents, and other modifications) shall be deemed to include electronic signatures and the keeping of records in electronic form, each of which shall be of the same legal effect, validity, or enforceability as a manually executed signature in ink or the use of a paper-based recordkeeping system, as applicable, to the fullest extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, and any other similar state laws based on the Uniform Electronic Transactions Act.

Section 1409. City Consents and Approvals. Pursuant to the Ordinance, the Mayor and the Director of Administration are authorized to execute all documents on behalf of the City (including documents pertaining to the transfer of property or the financing or refinancing of the Project by the Company, and such easements, licenses, rights-of-way, plats and similar documents as may be requested by the Company) as may be required to carry out and comply with the intent of the Ordinance, this Indenture and the Lease. The Mayor and the Director of Administration are also authorized, unless expressly prohibited herein, to grant on behalf of the City such consents, estoppels and waivers relating to the Bonds, this Indenture, the Lease or the Performance Agreement as may be requested during the term thereof; provided, such consents, estoppels and/or waivers shall not increase the principal amount of the Bonds, increase the term of the Lease or the tax exemption as provided for therein, waive an Event of Default or materially change the nature of the transaction unless otherwise approved by the City Council.

Section 1410. Anti-Discrimination Against Israel Act. Pursuant to Section 34.600 of the Revised Statutes of Missouri, the Trustee certifies it is not currently engaged in and shall not, for the duration of this Indenture, engage in a boycott of goods or services from (a) the State of Israel, (b) companies doing business in or with the State of Israel or authorized by, licensed by, or organized under the laws of the State of Israel, or (c) persons or entities doing business in the State of Israel.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the City of St. Charles, 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 its City Clerk, and to evidence its acceptance of the trusts hereby created, UMB Bank, N.A. has caused this Indenture to be signed in its name and behalf by a duly authorized officer, all as of the date first above written.

CITY OF ST. CHARLES, MISSOURI

[SEAL]

By: _____
Daniel J. Borgmeyer, Mayor

ATTEST:

Kimberly Hudson, City Clerk

UMB BANK, N.A., as Trustee

By: _____
Name: _____
Title: _____

EXHIBIT A

PROJECT SITE

A TRACT OF LAND BEING PART OF U.S. SURVEY 979 AND PART OF THE NORTHEAST QUARTER OF FRACTIONAL SECTION 34, TOWNSHIP 47 NORTH, RANGE 4 EAST, ST. CHARLES COUNTY, MISSOURI AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE EAST LINE OF ADJUSTED LOT 2 OF "RESUBDIVISION OF LOTS 2, 3, AND 4 OF 'ARCO BUSINESS PARK'", A SUBDIVISION ACCORDING TO THE INSTRUMENT RECORDED IN PLAT BOOK 45 PAGE 334 OF THE ST. CHARLES COUNTY RECORDS WITH THE NORTH LINE OF "OXFORD CROSSING", A SUBDIVISION ACCORDING TO THE INSTRUMENT RECORDED IN PLAT BOOK 30 PAGES 369-371 OF SAID RECORDS; THENCE NORTHWARDLY ALONG SAID EAST LINE OF ADJUSTED LOT 2 OF "RESUBDIVISION OF LOTS 2, 3, AND 4 OF 'ARCO BUSINESS PARK'" AND ALONG THE EAST RIGHT OF WAY LINE OF ARCO DRIVE (50 FEET WIDE), NORTH 03 DEGREES 31 MINUTES 13 SECONDS EAST 1031.97 FEET TO THE ACTUAL POINT OF BEGINNING OF THE DESCRIPTION HEREIN; THENCE CONTINUING ALONG SAID EAST RIGHT OF WAY LINE OF ARCO DRIVE (50 FEET WIDE), NORTH 03 DEGREES 31 MINUTES 13 SECONDS EAST 689.52 FEET TO THE SOUTH RIGHT OF WAY LINE OF MISSOURI INTERSTATE HIGHWAY 70, SAID POINT BEING 140.00 FEET PERPENDICULARLY DISTANT SOUTH OF MISSOURI INTERSTATE HIGHWAY 70 CENTERLINE STATION 1174+47.43; THENCE EASTWARDLY ALONG SAID SOUTH RIGHT OF WAY LINE OF MISSOURI INTERSTATE HIGHWAY 70, SOUTH 76 DEGREES 28 MINUTES 29 SECONDS EAST 228.62 FEET TO A POINT BEING 140.00 FEET PERPENDICULARLY DISTANT SOUTH OF MISSOURI INTERSTATE HIGHWAY 70 CENTERLINE STATION 1176+76.05; THENCE SOUTHWARDLY ALONG SAID SOUTH RIGHT OF WAY LINE OF MISSOURI INTERSTATE HIGHWAY 70, ALONG THE WEST LINE OF "TWIEHAUS PLACE", A SUBDIVISION ACCORDING TO THE INSTRUMENT RECORDED IN PLAT BOOK 5 PAGE 82 OF SAID RECORDS, ALONG THE WEST LINE OF "FLOANN SUBDIVISION", A SUBDIVISION ACCORDING TO THE INSTRUMENT RECORDED IN PLAT BOOK 5 PAGE 83 OF SAID RECORDS, AND ALONG THE WEST LINE OF PROPERTY CONVEYED TO MUTUAL ASSURANCE COMPANY PARTNERSHIP TRUST ACCORDING TO THE INSTRUMENT RECORDED IN DEED BOOK 2233 PAGE 1578 OF SAID RECORDS, SOUTH 03 DEGREES 31 MINUTES 28 SECONDS WEST 646.69 FEET TO A POINT; THENCE LEAVING SAID WEST LINE OF THE MUTUAL ASSURANCE COMPANY PARTNERSHIP TRUST PROPERTY, NORTH 87 DEGREES 16 MINUTES 19 SECONDS WEST 225.11 FEET TO THE POINT OF BEGINNING, ACCORDING TO A SURVEY BY BAX ENGINEERING COMPANY DURING APRIL, 2017.

TOGETHER WITH all buildings, structures, and other improvements, all fixtures, presently existing, or hereinafter erected or attached,

TOGETHER WITH all appurtenances, easements, rights, rents and profits,

SUBJECT TO the recorded plat thereof and all the easements, reservations and restrictions of record.

EXHIBIT B
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
\$13,600,000**

**UNITED STATES OF AMERICA
STATE OF MISSOURI

CITY OF ST. CHARLES, MISSOURI
TAXABLE INDUSTRIAL REVENUE BOND
(CLEMENT MANAGEMENT SERVICES, LLC PROJECT)
SERIES 2025**

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Dated Date</u>
5.0%	December 1, 2036 ¹	October __, 2025

OWNER: _____

MAXIMUM PRINCIPAL AMOUNT: **THIRTEEN MILLION SIX HUNDRED
THOUSAND DOLLARS**

The **CITY OF ST. CHARLES, MISSOURI**, a constitutional home rule charter city organized and existing under the laws of the State of Missouri (the "City"), for value received, promises to pay, but solely from the source hereinafter referred to, to the Owner named above, or registered assigns thereof, on the Maturity Date shown above, the principal amount shown above, or such lesser amount as may be outstanding hereunder as reflected on **Schedule I** hereto held by the Trustee as provided in the hereinafter referred to Indenture. The City agrees to pay such principal amount to the Owner in any coin or currency of the United States of America which on the date of payment thereof is legal tender for the payment of public and private debts, and in like manner to pay to the Owner hereof, either by check or draft mailed to the Owner at a stated address as it appears on the bond registration books of the City kept by the Trustee under the within mentioned Indenture or, in certain situations authorized in the Indenture, by internal bank transfer or by wire transfer to an account in a commercial bank or savings institution located in the 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, 2025, 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

¹ If the Abatement Initiation Date (as defined in the Indenture) is January 1, 2026, the Maturity Date shall automatically be adjusted to December 1, 2035.

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 the “City of St. Charles, Missouri, Taxable Industrial Revenue Bonds (Clement Management Services, LLC Project), Series 2025,” in the maximum aggregate principal amount of \$13,600,000 (the “Bonds”), issued for the purpose of acquiring approximately 3.45 acres of land located at 3707 Veterans Memorial Parkway in the City (the “Project Site”) and constructing an approximately 63,650 square foot automobile service center thereon (the “Project Improvements” and, together with the Project Site, the “Project”). The City will lease the Project to Clement Management Services, LLC, a Missouri limited liability company (the “Company”), under the terms of a Lease Agreement dated as of October 1, 2025 (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, and pursuant to proceedings duly had by the City Council.

THE BONDS are issued under and are equally and ratably secured and entitled to the protection given by a Trust Indenture dated as of October 1, 2025 (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., St. Louis, Missouri, 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 payment at any time before the stated maturity thereof, at the option of the City, upon written instructions from the Company, (1) in whole, if the Company exercises its option to purchase the Project and deposits an amount sufficient to effect such purchase pursuant to the Lease on the applicable redemption date, or (2) in part, if the Company prepays additional Basic Rent pursuant to the Lease; provided, however, if only a portion of the Bonds are to be redeemed, Bonds aggregating at least 10% of the maximum principal amount of Bonds authorized under the Indenture shall not be subject to redemption and payment before the stated maturity thereof. Any redemption of Bonds pursuant to this paragraph shall be at a redemption price equal to the par value thereof being redeemed, plus accrued interest thereon, without premium or penalty, to the redemption date.

THE BONDS are subject to mandatory redemption, (1) in whole or in part, to the extent of amounts deposited in the Bond Fund pursuant to **Section 9.1(f)** or **9.2(c)** of the Lease, in the event of substantial damage to or destruction or condemnation of substantially all of the Project, or (2) in whole, if the Company purchases the Project pursuant to **Section 11.4** of the Lease. 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 in the Indenture. 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, money in an amount equal to the redemption price shall have been deposited in the Bond Fund.

If the Bonds are to be called for optional redemption, the Company shall deliver written notice to the City and the Trustee that it has elected to redeem all or a portion of the Bonds at least 40 days (10 days if there is one Owner) before the scheduled redemption date. The Trustee shall then deliver written notice to the Owners at least 30 days (five days if there is one Owner) before the scheduled redemption date by facsimile or other electronic communication and by first-class mail stating the date upon which the Bonds will be redeemed and paid.

THE BONDS, including the 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 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 St. Charles, Missouri, Series 2025 Bond Fund – Clement Management Services, LLC”

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 designated office of the Trustee by the Owner hereof in person or by such Person’s duly authorized attorney, upon surrender of this Bond together with a written instrument of transfer reasonably satisfactory to the Trustee duly executed by the Owner or such Person’s duly authorized attorney, and thereupon a new fully-registered Bond or Bonds, in an aggregate principal amount equal to the Outstanding principal amount of this Bond, 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 \$13,600,000.

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 has been executed by the Trustee.

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

IN WITNESS WHEREOF, the City of St. Charles, 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.

CITY OF ST. CHARLES, MISSOURI

[SEAL]

By: _____
Daniel J. Borgmeyer, Mayor

ATTEST:

Kimberly Hudson, City Clerk



CERTIFICATE OF AUTHENTICATION

This Bond is the Taxable Industrial Revenue Bond (Clement Management Services, LLC Project), Series 2025, described in the Trust Indenture. The effective date of registration of this Bond is set forth below.

UMB BANK, N.A., as Trustee

Date

By: _____
Authorized Signatory



FORM OF ASSIGNMENT

(NOTE RESTRICTIONS ON TRANSFERS)

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

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

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

Dated: _____.

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

Medallion Signature Guarantee:

EXHIBIT C

FORM OF REPRESENTATION LETTER

City of St. Charles, Missouri
200 North Second Street
St. Charles, Missouri 63301
ATTN: Director of Administration

UMB Bank, N.A.
2 South Broadway, Suite 600
St. Louis, Missouri 63102
ATTN: Corporate Trust Department

Re: \$13,600,000 Maximum Principal Amount of Taxable Industrial Revenue Bonds (Clement Management Services, LLC Project), Series 2025 of the City of St. Charles, Missouri

Ladies and Gentlemen:

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

1. The undersigned fully understands that (a) the Bonds have been issued under and pursuant to a Trust Indenture dated as of October 1, 2025 (the "Indenture"), between the City of St. Charles, 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 Clement Management Services, LLC, a Missouri limited liability company (the "Company"), under a Lease Agreement dated as of October 1, 2025 (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 undersigned 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.

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

4. The Company has (a) furnished to the undersigned such information about itself as the undersigned 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 undersigned, 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. [*Delete this paragraph if the Company is the Purchaser of the Bonds.*]

5. The undersigned is now, and was when it agreed to purchase the Bonds, familiar with the operations of the Company and fully aware of the terms and risks of the Bonds. [*Delete previous sentence if the Company is the Purchaser of the Bonds.*] The undersigned believes that the Bonds which it is acquiring is a security of the kind that it wishes to purchase and hold for investment and that the nature and amount thereof are consistent with its investment program.

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

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

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

9. The undersigned is (a) the lessee under the Lease, (b) an affiliate of the lessee under the Lease, (c) the Lender (as defined in the Indenture), (d) a “qualified institutional buyer” under Rule 144A promulgated under the Securities Act of 1933, (e) a general business corporation or enterprise with total assets in excess of \$100,000,000 or (f) a Person approved by the City Council.

Dated: _____, 20__

[PURCHASER OF BONDS]

By: _____
Name: _____
Title: _____

EXHIBIT C

LEASE AGREEMENT

(On file in the office of the City Clerk)

**CITY OF ST. CHARLES, MISSOURI,
As Lessor,**

AND

**CLEMENT MANAGEMENT SERVICES, LLC,
As Lessee**

LEASE AGREEMENT

Dated as of October 1, 2025

Relating to:

**\$13,600,000
(Aggregate Maximum Principal Amount)
City of St. Charles, Missouri
Taxable Industrial Revenue Bonds
(Clement Management Services, LLC Project)
Series 2025**

Certain rights of the City of St. Charles, Missouri (the "City"), in this Lease Agreement have been pledged and assigned to UMB Bank, N.A., St. Louis, Missouri, as Trustee under the Trust Indenture dated as of October 1, 2025, between the City and the Trustee.

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I	
DEFINITIONS	
Section 1.1. Definitions of Words and Terms	2
Section 1.2. Rules of Interpretation.....	2
Section 1.3. Date of Lease.....	2
ARTICLE II	
REPRESENTATIONS	
Section 2.1. Representations by the City.....	3
Section 2.2. Representations by the Company	3
ARTICLE III	
GRANTING PROVISIONS	
Section 3.1. Granting of Leasehold Estate	4
Section 3.2. Lease Term.....	4
Section 3.3. Possession and Use of the Project.....	5
ARTICLE IV	
PURCHASE AND CONSTRUCTION OF THE PROJECT	
Section 4.1. Issuance of the Bonds.....	5
Section 4.2. Purchase and Construction of the Project	6
Section 4.3. Project Costs.....	6
Section 4.4. Payment for Project Costs	6
Section 4.5. Establishment of Completion Date	6
Section 4.6. Surplus in Project Fund.....	7
Section 4.7. Project Property of City.....	7
Section 4.8. Non-Project Improvements, Machinery and Equipment Property of the Company	7
ARTICLE V	
RENT PROVISIONS	
Section 5.1. Basic Rent	8
Section 5.2. Additional Rent	8
Section 5.3. Obligations of Company Absolute and Unconditional	9
Section 5.4. Prepayment of Basic Rent.....	9

ARTICLE VI

MAINTENANCE, TAXES AND UTILITIES

Section 6.1. Maintenance and Repairs 10
Section 6.2. Taxes, Assessments and Other Governmental Charges 10
Section 6.3. Utilities 10
Section 6.4. Property Tax Exemption 11

ARTICLE VII

INSURANCE

Section 7.1. Title Commitment 11
Section 7.2. Casualty Insurance 11
Section 7.3. Public Liability Insurance 12
Section 7.4. Blanket Insurance Policies 12
Section 7.5. Worker’s Compensation 12
Section 7.6. Sovereign Immunity 12

ARTICLE VIII

ALTERATION OF THE PROJECT

Section 8.1. Additions, Modifications and Improvements to the Project 12
Section 8.2. Additional Improvements on the Project Site 13
Section 8.3. Permits and Authorizations 13
Section 8.4. Mechanics’ Liens 13

ARTICLE IX

DAMAGE, DESTRUCTION AND CONDEMNATION

Section 9.1. Damage or Destruction 14
Section 9.2. Condemnation 16
Section 9.3. Bondowner Approval 17

ARTICLE X

SPECIAL COVENANTS

Section 10.1. No Warranty of Condition or Suitability by the City; Exculpation and Indemnification . 17
Section 10.2. Surrender of Possession 17
Section 10.3. Right of Access to the Project 17
Section 10.4. Granting of Easements; Leasehold Mortgages and Financing Arrangements 18
Section 10.5. Indemnification of City and Trustee 20
Section 10.6. Depreciation, Investment Tax Credit and Other Tax Benefits 21
Section 10.7. Company to Maintain its Existence 21
Section 10.8. Security Interests 21
Section 10.9. Environmental Matters, Warranties, Covenants and Indemnities Regarding
Environmental Matters 21

ARTICLE XI

OPTION AND OBLIGATION TO PURCHASE THE PROJECT

Section 11.1.	Option to Purchase the Project	23
Section 11.2.	Conveyance of the Project.....	24
Section 11.3.	Relative Position of Option and Indenture.....	24
Section 11.4.	Obligation to Purchase the Project.....	24

ARTICLE XII

DEFAULTS AND REMEDIES

Section 12.1.	Events of Default.....	25
Section 12.2.	Remedies on Default	26
Section 12.3.	Survival of Obligations	26
Section 12.4.	Performance of the Company's Obligations by the City	26
Section 12.5.	Rights and Remedies Cumulative	26
Section 12.6.	Waiver of Breach	27
Section 12.7.	Trustee's Exercise of the City's Remedies.....	27

ARTICLE XIII

ASSIGNMENT AND SUBLEASE

Section 13.1.	Assignment; Sublease	27
Section 13.2.	Assignment of Revenues by City	28
Section 13.3.	Prohibition Against Fee Mortgage of Project.....	28
Section 13.4.	Restrictions on Sale or Encumbrance of Project by City	28

ARTICLE XIV

AMENDMENTS, CHANGES AND MODIFICATIONS

Section 14.1.	Amendments, Changes and Modifications.....	28
---------------	--	----

ARTICLE XV

MISCELLANEOUS PROVISIONS

Section 15.1.	Notices.....	28
Section 15.2.	City Shall Not Unreasonably Withhold Consents and Approvals	30
Section 15.3.	Net Lease.....	30
Section 15.4.	Limitation on Liability of City	30
Section 15.5.	Governing Law.....	30
Section 15.6.	Binding Effect	31
Section 15.7.	Severability	31
Section 15.8.	Execution in Counterparts.....	31
Section 15.9.	Electronic Transaction.....	31
Section 15.10.	City Consents and Approvals.....	31
Section 15.11.	Subordination of Lease.....	31

Section 15.12. Anti-Discrimination Against Israel Act31

Signatures and Seal32

Exhibit A - Project Site

Exhibit B - Form of Requisition Certificate

Exhibit C - Form of Special Warranty Deed

LEASE AGREEMENT

THIS LEASE AGREEMENT, dated as of October 1, 2025 (this “Lease”), between the **CITY OF ST. CHARLES, MISSOURI**, a constitutional home rule charter city organized and existing under the laws of the State of Missouri (the “City”), as lessor, and **CLEMENT MANAGEMENT SERVICES, LLC**, a limited liability company organized and existing under the laws of the State of Missouri (the “Company”), as lessee;

RECITALS:

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

2. Pursuant to the Act, the City Council passed Ordinance No. _____ (the “Ordinance”) on October 21, 2025, approving a Plan for an Industrial Development Project relating to the construction of an approximately 63,650 square foot automobile service center (the “Project Improvements”) on approximately 3.45 acres of land located at 3707 Veterans Memorial Parkway in the City (the “Project Site,” as more fully described on **Exhibit A**, attached hereto and incorporated herein by reference).

3. Pursuant to the Act and the Ordinance, the City is authorized to (1) issue its Taxable Industrial Revenue Bonds (Clement Management Services, LLC Project), Series 2025, in the maximum principal amount of \$13,600,000 (the “Bonds”), for the purpose of acquiring the Project Site and constructing the Project Improvements (together, as they may at any time exist, the “Project”) and (2) enter into this Lease, pursuant to which the City, as lessor, will, or will cause the Company to, construct the Project Improvements and will lease the Project to the Company, as lessee, for rent sufficient to pay the principal of and interest on the Bonds.

4. The City and the Company acknowledge and agree that the title to the Project is subject and subordinate to the Deed of Trust dated December 30, 2024 (as amended, the “Fee Deed of Trust”) granted to Midwest Regional Bank, its successors and assigns (the “Lender”), by the Company, pursuant to various loan documents (collectively, including but not limited to the Fee Deed of Trust, the “Loan Documents”) evidencing the loan secured by the Fee Deed of Trust prior to the Company’s conveyance of fee title to the Project Site to the City in connection with the Project.

5. 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.

6. 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, capitalized words and terms used in this Lease shall have the meanings given to such words and terms in **Section 101** of the Indenture (which definitions are hereby incorporated by reference).

Section 1.2. Rules of Interpretation.

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

(b) Unless the context otherwise indicates, 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 Lease to designated “Articles,” “Sections” and other subdivisions are, unless otherwise specified, to the designated Articles, Sections and other subdivisions of this Lease 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.

Section 1.3. Date of Lease. The dating of this Lease as of October 1, 2025, is intended as and for the convenient identification of this Lease only and is not intended to indicate that this Lease was executed and delivered on said date, this Lease being executed and delivered and becoming effective simultaneously with the initial issuance of the Bonds.

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 home rule charter city duly organized and validly existing under the laws of the State of Missouri. Under the provisions of the Act, the City has lawful power and authority to enter into the transactions contemplated by this Lease and to carry out its obligations hereunder. By proper action of its City Council, 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 agrees to acquire fee title to the Project Site, subject to Permitted Encumbrances, and construct or cause the construction of the Project Improvements. 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, all for the purpose of furthering the public purposes of the Act.

(c) 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.

(d) 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.*]

(e) The Bonds are to be issued under and secured by the Indenture, pursuant to which the Project and the net earnings therefrom, consisting of 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 this Lease.

(f) 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 an Authorized Company Representative; provided, however, the City's execution of this Lease, the Indenture and the Performance Agreement shall not be deemed to violate this **Section 2.1(f)**.

(g) The City will not operate the Project as a business or in any other manner except as the lessor 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 Missouri.

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

(c) The execution and delivery of this Lease, the consummation of the transactions contemplated hereby, and the performance of or compliance with the terms and conditions of this Lease by the Company will not, to the best of the Company's knowledge, (i) conflict with or result in a breach of any of the terms, conditions or provisions of any mortgage, deed of trust, lease, the Fee Deed of Trust, any Leasehold Mortgage or any other restrictions, 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, (ii) or constitute a default under any of the foregoing, or (iii) 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) All deeds of trust and other security agreements secured by the Project, including the Fee Deed of Trust, shall recognize that PILOT Payments due and owing under the Performance Agreement are to be given the same priority as real property taxes in the event of a foreclosure. To evidence such preference, all such deeds of trust or other security agreements must contain the following language (or similar language approved by counsel to the City):

Subordination of [Mortgage] to PILOT Payments. Lender agrees that for so long as the [Real Property] is subject to abatement of ad valorem real property taxes pursuant to the Performance Agreement dated as of October 1, 2025, between Clement Management Services, LLC and the City of St. Charles, Missouri, the lien of the [Mortgage] shall be subject and inferior to the lien of the City thereto to the extent of any unpaid PILOT Payments (as defined in the aforementioned Performance Agreement). Lender agrees that any proceeds received by Lender as a result of a foreclosure or deed in lieu of foreclosure related to the [Real Property] shall first be applied to pay any due and owing PILOT Payments.

(e) The Project will comply in all material respects with all applicable building and zoning, health, environmental and safety orders and laws and all other applicable laws, rules and regulations.

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. The City and the Company agree and acknowledge that title to the Project is subject to the lien granted to the Lender by the Company prior to the delivery of this Lease, and no further notice of the Fee Deed of Trust is required for the Lender to have all Lender rights and protections provided herein and in the Indenture.

Section 3.2. Lease Term. This Lease shall become effective upon its execution and delivery. Subject to earlier termination pursuant to the provisions of this Lease, the lease of the Project shall terminate

on the earlier of (1) December 31 of the 9th year following the year in which the Abatement Initiation Date occurs or (2) December 31 of the year in which the value of the partial property tax abatement totals \$250,000.

The “Abatement Initiation Date” will be January 1 of the year immediately following the year in which the Project Improvements are completed, unless the Company notifies the City in writing by July 1 of the year in which the Project Improvements are completed that the Abatement Initiation Date should be January 1 of such year. The Project Improvements are expected to be completed in the first quarter of 2026, so the Abatement Initiation Date is expected to be January 1, 2026, and the lease is expected to terminate on December 31, 2035 (unless terminated sooner pursuant to clause (2) of the preceding paragraph).

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** following the occurrence and continuance of an Event of Default, as defined in **Section 12.1**, 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**) 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**, the Indenture and the Performance Agreement, 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 to defend the Company’s quiet and peaceable possession and enjoyment of the Project.

(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 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, as to the manner of use or the condition of the Project, or that otherwise may be applicable by virtue of the City’s ownership of the Project. 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**. The Company shall pay all costs, expenses, claims, fines, penalties and damages that may in any manner arise out of, or be imposed as a result of, the failure of the Company to comply with the provisions of this Section. Notwithstanding any provision contained in this Section, however, the Company 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.

ARTICLE IV

PURCHASE AND CONSTRUCTION OF THE PROJECT

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

Section 4.2. Purchase and Construction of the Project. The City and the Company agree that the Company, as the agent of the City, shall purchase and construct the Project as follows:

(a) The City will acquire fee title to the Project Site at the execution hereof. Concurrently with the execution of this Lease, (1) a deed and any other necessary instruments of transfer will be delivered to the City and placed of record, and (2) the commitment for title insurance or ownership and encumbrance report required by **Article VII** will be delivered to the City and the Trustee.

(b) On behalf of the City, the Company will purchase and construct the Project Improvements on the Project Site and otherwise improve the Project Site substantially in accordance with the Plans and Specifications. The Company may revise the Plans and Specifications from time to time as it deems necessary to carry out the Project, but revisions that affect the status of the Project as a "project" under the Act or that would materially alter the accuracy of the description of the Project in the Plan for an Industrial Development Project and Cost/Benefit Analysis distributed under the Act 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 any of the provisions of **Article VIII**.

(c) The Company will cause the purchase and construction of the Project to be completed on or before the Completion Date, except as otherwise provided in **Section 4.5**.

(d) The Project Improvements shall be constructed in a good and workmanlike manner and in strict compliance with all applicable laws, orders and ordinances.

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 requisition certificate pursuant to **Section 4.4**. 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 of the Completion Date. The maximum amount of Project Costs for which requisitions may be submitted is expressly limited to \$13,600,000.

Section 4.4. Payment for Project Costs. The City hereby authorizes and directs the Trustee to make disbursements from the Project Fund and endorse the Bonds, upon receipt by the Trustee of certificates in substantially the form of **Exhibit B**, signed by an Authorized Company Representative and approved by an Authorized City Representative. Upon request by the City, the Company shall provide the City with copies of invoices, bills, lien waivers and other reasonable documentation to support each submitted requisition certificate. 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 an Authorized Company Representative and an Authorized City Representative shall constitute, unto the Trustee, an irrevocable determination that all conditions precedent to the payments requested have been completed.

Section 4.5. Establishment of Completion Date. The Completion Date shall be evidenced to the City and the Trustee by a certificate signed by an Authorized Company Representative stating (a) that

the purchase, construction and improving of the Project have been completed in accordance with the Plans and Specifications, (b) the date of completion thereof, and (c) that all costs and expenses of the purchase, construction and improving of the Project have been incurred. Notwithstanding the foregoing, (i) 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 and (ii) such certificate shall be deemed given on December 31, 2026 if not actually filed with the City by December 31, 2026 (so long as the Project was substantially complete by such date), subject to any delay to the extent caused by force majeure, including, without limitation, damage or destruction by fire or casualty, strike, lockout, civil disorder, war, restrictive government regulations, lack of issuance of any permits and/or legal authorization by the governmental entity necessary for the construction and occupation of the Project, shortage or delay in shipment of material or fuel, acts of God, unusually adverse weather or wet soil conditions, or other like causes beyond the Company's reasonable control, including without limitation any litigation, court order or judgment resulting from any litigation affecting the validity of this Lease, the Indenture, the Ordinance or the Project (collectively, a "Permitted Excuse"). No Permitted Excuse shall be deemed to exist unless the Company provides a written notice to the City, within 30 days after the Company has actual notice of the claimed event, specifying the Permitted Excuse. In no event shall a Permitted Excuse extend the Completion Date beyond June 30, 2027. The Company and the City agree to cooperate in causing such certificate to be furnished to the Trustee. If the Trustee has not received such certificate by November 1, 2026, the Company shall notify the Trustee whether the Company expects the Completion Date to occur by December 31, 2026.

Section 4.6. Surplus in Project Fund. Upon receipt of the certificate described in **Section 4.5** and payment from the Project Fund of the Project Costs described therein, 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 (a) 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 (b) 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.

Section 4.7. Project Property of City. The Project Site and the Project Improvements located thereon at the execution hereof and which the Company desires to convey to the City, all work and materials related to the Project Improvements 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 and Permitted Encumbrances, the Fee Deed of Trust and the Leasehold Mortgage, if any. Upon reasonable request of and at the expense of the Company, the City agrees to cooperate with the Company regarding the enforcement of any claims the Company may have against third parties relating to the construction and equipping of the Project.

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 Improvements 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** and therefore are subject to taxation, to the extent otherwise provided by law.

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 the Lease Term, on or before 11:00 a.m., Trustee's local time, on each Payment Date, 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 principal of the Bonds and the interest thereon as provided in the Indenture. Except as offset pursuant to the right of the Company set forth below, 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 or any Financing Party 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 or the Financing Party as bondholder to pay principal of and interest on the Bonds 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 and that pursuant to the set-off, the City is deemed to have paid its obligation to the Company as bondholder to pay principal of and interest on the Bonds under the Indenture. 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 canceled 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 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 becomes due and payable, including all costs and expenses in connection with the call, redemption and payment of all Outstanding Bonds;

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

(d) all other payments of whatever nature which the Company has agreed in writing to pay or assume under the provisions of 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 becomes 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 any way 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**, nor the right of the Company to terminate this Lease and repurchase the Project as provided in **Article XI**.

(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, at the Company's expense, 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.

(a) 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.

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

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 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 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 becomes 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 on the Project Site 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 the Company (i) before instituting any such contest, gives the City and Trustee written notice of its intention to do so, (ii) diligently prosecutes any such contest, (iii) at all times effectively stays or prevents any official or judicial sale therefor, under execution or otherwise, (iv) promptly pays any final judgment enforcing the tax, assessment or other governmental charge so contested and (v) 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 Trustee from any costs and expenses the City and 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 PILOT Payments (as defined in the Performance Agreement) to be made by the Company under the Performance Agreement to the extent of any ad valorem taxes imposed 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 by the Company and shall be contracted by the Company in the Company's own name,

and the Company shall, at its sole cost and expense, procure any and all permits, licenses or authorizations necessary in connection therewith.

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

ARTICLE VII

INSURANCE

Section 7.1. Title Commitment or Report. Before conveying title to any real property to the City, the Company will purchase, 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. Casualty Insurance.

(a) Prior to commencement of construction of the Project Improvements, the Company shall at its sole cost and expense obtain a policy or policies of insurance (including builder's risk 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). The insurance required pursuant to this Section shall be maintained from commencement of construction throughout the Lease Term 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 with an A.M. Best rating of not less than "A-" or the equivalent thereof as may be selected by the Company. The Company shall deliver certificates of insurance for such policies to the City and the Trustee on the date of execution of this Lease and promptly after renewal of each insurance policy. All such policies of insurance pursuant to this Section, and all renewals thereof, shall include an endorsement naming the Lender, the City, the Trustee and the Company as insureds, as their respective interests may appear, shall name the Lender 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 Lender, the City, the Company and the Trustee.

(b) In the event of loss or damage to the Project, the Net Proceeds of casualty insurance carried pursuant to this Section shall be (i) paid over to the Trustee and shall be applied as provided in **Article IX**, or (ii) applied as directed by, or on behalf of, the Owners of 100% in principal amount of the Bonds Outstanding, subject to the rights of the Lender under the Loan Documents and any Financing Party under the Financing Document.

Section 7.3. Public Liability Insurance.

(a) The Company shall at its sole cost and expense maintain or cause to be maintained at all times during the Lease Term commercial general liability insurance (including but not limited to coverage for operations, contingent liability, operations of subcontractors, completed operations and contractual liability), under which the City, the Company 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 (subject to reasonable loss deductible clauses not to exceed the amounts normally or generally carried by the Company). The policies of said insurance shall contain a provision that such insurance may not be canceled by the issuer thereof without at least 10 days' advance written notice to the City, the Company and the Trustee. Certificates of such policies shall be furnished to the Trustee on the date of execution of this Lease 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. Blanket Insurance Policies. The Company may satisfy any of the insurance requirements set forth in this Article by using blanket policies of insurance, provided each and all of the requirements and specifications of this Article respecting insurance are complied with.

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

Section 7.6. Sovereign Immunity. Notwithstanding anything to the contrary contained herein, nothing in this Lease shall be construed to broaden the liability of the City beyond the provisions of Sections 537.600 to 537.610 of the Revised Statutes of Missouri or abolish or waive any defense at law that might otherwise be available to the City or its officers, agents and employees.

ARTICLE VIII

ALTERATION OF THE PROJECT

Section 8.1. Additions, Modifications and Improvements to the Project.

(a) The Company may make such additions, modifications and improvements in and to any part of the Project Site or the Project Improvements 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 (i) be made in a good and workmanlike manner and in strict compliance with all laws, orders and ordinances applicable thereto, and (ii) when commenced, be prosecuted to completion with due diligence.

(b) The Company shall, following the Completion Date, notify the City in writing of any improvements to the Project Site or the Project Improvements that in the aggregate are reasonably expected to exceed \$1,000,000 during any calendar year. If such improvements constitute personal property, any such improvements shall remain the property of the Company, shall not become part of the Project, and shall be subject to ad valorem taxes.

Section 8.2. Additional Improvements on the Project Site. Subject to **Section 8.1** and **Section 8.5**, 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 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 St. Charles County Assessor determines that such additional buildings and improvements are not subject to ad valorem taxes, the Company shall make payments in lieu of taxes in an amount equal to the taxes that would otherwise be due under this Section.

Section 8.3. Permits and Authorizations. The Company shall not do or permit others under its control to do any work on the Project or 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 strict compliance with all applicable material building and zoning laws and governmental regulations and requirements, and in accordance with the requirements, rules and regulations of all insurers under the policies required to be carried under the provisions of **Article VII**.

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 any 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 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, 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 (i) within 60 days after the Company becomes aware of any such lien notifies the City and the Trustee in writing of its intention so to do, (ii) diligently prosecutes such contest, (iii) at all times effectively stays or prevents any official or judicial sale of the Project, or any part thereof or interest therein, under execution or otherwise, (iv) promptly pays or otherwise satisfies any final

judgment adjudging or enforcing such contested lien claim and (v) thereafter promptly procures record release or satisfaction thereof. The Company may permit the lien so contested to remain unpaid during the period of such contest and any appeal therefrom unless the Company is notified by the City that, in the opinion of counsel, by nonpayment of any such item, the interest of the City in the Project will be subject to loss or forfeiture. In that event, the Company shall promptly, at its own expense, take such action as may be reasonably necessary to duly discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim if the same shall arise at any time. The Company shall save and hold harmless the City from any loss, costs or expenses the City may incur related to any such contest. The Company shall reimburse the City for any expense incurred by it in 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.

(c) In accordance with Section 513.455 of the Revised Statutes of Missouri, the City hereby consents to the subjection of the Project and the Project Site to the attachment of mechanics' liens filed under Chapter 429 of the Revised Statutes of Missouri.

ARTICLE IX

DAMAGE, DESTRUCTION AND CONDEMNATION

Section 9.1. Damage or Destruction.

(a) If the Project Improvements are damaged or destroyed by fire or any other casualty, whether or not covered by insurance, the Company, as promptly as 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 Improvements are 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, together with all new machinery, equipment and fixtures that 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 Improvements 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 Improvements as a "project" permitted by the Act.

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

Unless the Company makes the determination described in subsection (f) below, the Net Proceeds of casualty insurance required by **Article VII** 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, subject to the rights of the Lender under the Fee Deed of Trust and related Loan Documents or any Financing Party under any Financing Document. Subject to the provisions of the Fee Deed of Trust and related Loan Documents or any Financing Document, 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. Subject to the provisions of the Fee Deed of Trust and related Loan Documents or any Financing Document, insurance monies in an 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** 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, subject to the rights of the Lender or any Financing Party. 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), subject to the rights of the Lender under the Fee Deed of Trust and related Loan Documents.

(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 the Lender under the Loan Documents, any leasehold mortgagee under any Leasehold Mortgage, and any Financing Party. Completion of such repairs, restoration, replacement or rebuilding shall be evidenced by a certificate of completion provided to the City and the Trustee. 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 to be 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 Company will prosecute or defend 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.

(e) The Company agrees to give prompt written notice to the City, the Trustee and the Lender with respect to all fires and any other casualties occurring in, on, at or about the Project Site.

(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 the Fee Deed of Trust or any Leasehold Mortgage or Financing Document to use any Net Proceeds for repair or restoration of the Project, any Net Proceeds of casualty insurance required by **Article VII** 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 becomes due, all subject to the rights of the Lender under the Loan Documents, any mortgagee under the Leasehold Mortgage (if any) and the Financing Parties 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 rebuilt, repaired, 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.

(h) The rights of the City and the Trustee in and to any Net Proceeds are and will at all times be subject to the rights of the Lender with respect to such Net Proceeds.

(i) Nothing herein shall be deemed to authorize the Company to allow an unsafe, dangerous, unhealthy or injurious condition to exist on the Project or any portion thereof, in violation of any applicable laws, codes and ordinances due to a fire or other casualty.

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 \$100,000, 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 Lender under the Loan Documents, the mortgagee under the Leasehold Mortgage (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 or construct substitute improvements.

(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 or construction of such substitute improvements, so as to place the Project in substantially the same condition as existed before the exercise of the power of eminent domain, including the acquisition 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 (including, without limitation, any liens held by the Lender in and to such substitute Project Improvements). 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** (with respect to the receipt of casualty insurance proceeds).

(c) If the Company determines that it is not practicable or desirable to acquire or construct substitute improvements, or if the Company does not have the right under the Fee Deed of Trust or any Leasehold Mortgage to use any Net Proceeds of condemnation awards received by the Company, then 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 become due and payable, all subject to the rights of the Lender under the Loan Documents, the mortgagee under the Leasehold Mortgage (if any) and the 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 proceedings 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**, subject to the rights of the Lender, 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 in writing by the Owners or pledgees of 100% of the principal amount of Bonds Outstanding, subject and subordinate to (a) the rights of the City and the Trustee to be paid all their expenses (including attorneys' fees, trustee's fees and any extraordinary expenses of the City and the Trustee) incurred in the collection of such gross proceeds and (b) the rights of the City to any amounts then due and payable under the Performance Agreement.

ARTICLE X

SPECIAL COVENANTS

Section 10.1. No Warranty of Condition or Suitability by the City; Exculpation and Indemnification. The City makes no warranty, either express or implied, as to the condition of the Project 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 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 extent provided in **Section 12.2(b)**, the Company shall peacefully surrender possession of the Project to the City in 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. 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. 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 municipal 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 Days' prior notice, subject to the Company's usual business, proprietary, 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 acquisition, construction and installation provided for in **Section 4.2** as may be reasonably necessary, (c) to examine all files, records, books and other materials in the Company's possession pertaining to the acquisition, installation or maintenance of the Project, or (d) upon either (i) the occurrence and continuance of an Event of Default or (ii) the Company's failure to

purchase the Project at the end of the Lease Term, to exhibit the Project to prospective purchasers, lessees or trustees.

Section 10.4. Granting of Easements; Leasehold Mortgages 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, 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 sublease, easement, license, right-of-way or other right or privilege or any similar 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 or the Performance Agreement, and will be a Permitted Encumbrance and that the Company will defend, indemnify and save and hold harmless the City and the Trustee from and against all claims, demands, costs, liabilities, damages or expenses, including reasonable attorneys' fees, arising from the execution and delivery of any instrument, agreement or other arrangement pursuant to this Section. 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 (A) 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 (B) 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) Subject to the Fee Deed of Trust, and only with the express, prior written consent of the Lender, the Company may mortgage or grant a deed of trust against 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 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 Mortgage 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 15 days prior thereto, and (ii) before such sale or assignment, all payments then owing to the City under the Performance Agreement are paid.

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

(d) As long as the Fee Deed of Trust remains outstanding or upon notice by the Company to the City in writing that the Company has executed one or more Financing Documents under which it has

granted rights in this Lease to the Lender and/or any other Financing Party, which includes the name and address of such Lender and/or Financing Party, then the following provisions shall apply with respect to the Lender and the Financing Party:

(i) there shall be no merger of this Lease or of the leasehold estate created hereby with 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 Lender and each other Financing Party;

(ii) the City shall serve upon each such Lender and other Financing Party (at the address 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 Lender and other Financing Party;

(iii) each Lender and other 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 30 days, and the City shall accept performance by such Lender and other Financing Party as timely performance by the Company;

(iv) the City may exercise any of its rights or remedies with respect to any other Event of Default by the Company, subject to the rights of the Lender and 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 Fee Deed of Trust may cause the sale of the fee simple interest or any leasehold interest of the Company to be sold at foreclosure sale conducted in accordance with applicable law and the terms of the Fee Deed of Trust, 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)**;

(v) upon the occurrence and continuance of an Event of Default by the Company under this Lease, other than a default in the payment of money, the City shall take no action to effect a termination of this Lease by service of a notice or otherwise, without first giving notice thereof to each Lender and each Financing Party and permitting each 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 this Lease to effect said cure so long as the Lender or any other Financing Party (or its designee, nominee, assignee or transferee) is diligently prosecuting such cure); provided that each Lender and other 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;

(vi) the Lender and each other Financing Party (or its designee, nominee, assignee or transferee) may enter, possess and use the Project at such reasonable times and manner as are necessary or desirable to effectuate the remedies and enforce its rights under its respective Financing Documents; and

(vii) except for terminations of this Lease expressly authorized herein, this Lease may not be modified, amended, canceled or surrendered by agreement between the City and the Company, without the prior written consent of each Lender and other 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 the Lender or Financing Party and which are usual and customary in connection with the closing of the financing or refinancing pursuant to the Financing Documents, including, without limitation, subordination of the City's fee interest in the Project to any new Fee Deed of Trust or any modification of the existing Fee Deed of Trust. Moreover, to facilitate the recordation of a new Fee Deed of Trust or a modification of the existing Fee Deed of Trust, the City agrees to transfer its fee interest in the Project to the Company; provided that the Company re-conveys the Project back to the City immediately following the recordation of such document via a special warranty deed in a form reasonably acceptable to the City. This Lease (or the Indenture or any related document) shall not merge into any such deed or otherwise be affected by any such transfer. The Company agrees to reimburse the City for any and all costs and expenses incurred by the City pursuant to this Section, including reasonable attorneys' fees and expenses, in complying with such request.

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

(g) The Lender shall be a third-party beneficiary of **Sections 3.1, 10.4, 13.1 and 14.1** hereof, and the notice and cure provisions of **Sections 12.1 and 15.1** hereof.

Section 10.5. Indemnification of City and Trustee. The Company shall indemnify and save and hold harmless the City and the Trustee and their governing body members, officers, agents and employees from and against all claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, by or on behalf of any Person arising from the issuance of the Bonds and the execution of the Performance Agreement, this Lease or the Indenture 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 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 acquisition, purchase, construction, extension, installation or improvement of the Project, (d) any act of negligence of the Company or of any of its agents, contractors, servants, employees or licensees, (e) unless the Company has been released from liability pursuant to **Section 13.1(c)**, any act of negligence of any assignee or sublessee of the Company, or of any agents, contractors, servants, employees or licensees of any assignee or sublessee of the Company, (f) obtaining any applicable state and local sales and use tax exemptions for materials or goods that become part of the Project, and (g) any violation of Section 107.170 of the Revised Statutes of Missouri; provided, however, the indemnification contained in **Sections 10.5(a)-(e)** shall not extend (i) to the City to the extent that 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 (ii) to the City or the Trustee, respectively, to the extent that such claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, are the result of negligence or willful misconduct by the City or the Trustee, respectively. Upon written notice from the City or the Trustee of any such claim or demand, the Company shall defend them or either of them in any such action or proceeding; provided, that the City shall cooperate with the Company and provide reasonable assistance in such defense. All costs related to the defense of the City or the Trustee shall be paid by the Company. This **Section 10.5** shall survive any termination of the Performance Agreement and this Lease or the satisfaction and discharge of the Indenture.

Section 10.6. Depreciation, Investment Tax Credit and Other Tax Benefits. This Lease is intended to convey to the Company all of the benefits and burdens of ownership and to cause the Company to be treated as the owner of the Project for federal income tax purposes. The Trustee, the Company and the City agree to treat this Lease in a manner consistent with such treatment. The Company alone shall be entitled to all of the federal income tax attributes of ownership of the Project, including without limitation the right to claim depreciation, amortization deductions, investment tax credits and any other tax benefits. The City agrees that any depreciation, amortization deductions, investment tax credits 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, amortization deductions, investment tax credits or other tax benefits.

Section 10.7. Company to Maintain its Existence. The Company agrees that until the Bonds are paid or payment is provided for in accordance with the terms of the Indenture, it will maintain its corporate existence in good standing, and will not dissolve or otherwise dispose of all or substantially all of its assets; provided, however, that the Company may, without violating the agreement contained in this Section, consolidate with or merge into another Person or permit one or more other Persons to consolidate with or merge into it, or may sell or otherwise transfer to another Person all or substantially all of its assets as an entirety and thereafter dissolve 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 surviving, resulting or transferee Person either (a) has a long-term-debt rating or is controlled by or under common control with an entity with a long-term debt rating in any of the top three long-term debt rating categories established by any nationally recognized rating service, (b) is controlled by, under common control with or controls the Company, or (c) is otherwise approved by the City Council. This Section does not limit the Company's transfer rights under **Section 13.1**.

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 or pledgees of 100% of the Bonds then-Outstanding, the Trustee shall, pursuant to the terms of the Indenture, 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. Notwithstanding the foregoing, the Trustee shall not be obligated to file any original instrument and the Trustee shall not be responsible for the accuracy or sufficiency of any such original instrument. The City and the Company shall cooperate with the Trustee in this regard by providing such information as the Trustee may require to file or to renew such statements. The Trustee may conclusively rely upon any initial filing in filing any continuation statement or modification thereto pursuant to this Section.

Section 10.9. Environmental Matters, Warranties, Covenants and Indemnities Regarding Environmental Matters.

(a) As used in this Section, the following terms have the following meanings:

"Environmental Laws" means any now-existing or hereafter enacted or promulgated federal, state, local, or other law, statute, ordinance, order, rule, regulation or court order pertaining to (i) environmental protection, regulation, contamination or clean-up, (ii) toxic waste, (iii) underground storage tanks, (iv) asbestos or asbestos-containing materials, or (v) the handling, treatment, storage, use or disposal of Hazardous Substances, including without limitation the Comprehensive Environmental Response,

Compensation and Liability Act and the Resource Conservation and Recovery Act, all as amended from time to time.

“Hazardous Substances” means all (i) “hazardous substances” (as defined in 42 U.S.C. §9601(14)), (ii) “chemicals” subject to regulation under Title III of the Superfund Amendments and Reauthorization Act of 1986, as amended from time to time, (iii) natural gas liquids, liquefied natural gas or synthetic gas, (iv) any petroleum, petroleum-based products or crude oil, or (v) any other hazardous or toxic substances, wastes or materials, pollutants, contaminants or any other substances or materials which are included under or regulated by any Environmental Law.

(b) The Company warrants and represents to the City and the Trustee that to the knowledge of the Company there are no conditions on the Project Site which materially violate any applicable Environmental Laws and no claims or demands have been asserted or made in writing by any third parties arising out of, relating to or in connection with any Hazardous Substances on, or allegedly on, the Project Site for any injuries suffered or incurred, or allegedly suffered or incurred, by reason of the foregoing.

(c) The Company will provide the City and the Trustee with copies of any notifications of releases of Hazardous Substances or of any environmental hazards or potential hazards in material violation of Environmental Laws which are given by or on behalf of the Company to any federal, state or local or other agencies or authorities or which are received by the Company from any federal, state or local or other agencies or authorities with respect to the Project. Such copies shall be sent to the City and the Trustee concurrently with their being mailed or delivered to the governmental agencies or authorities or within 10 days after they are made or received by the Company. The Company will provide to the City for review only, any environmental assessments (“Assessments”) and reports regarding the correction or remediation of material environmental issues required by Environmental Laws to be addressed in the Assessments (“Reports”) concerning the Project Site and the Project Improvements; upon the completion of the City’s review of the Assessments and the Reports, the City shall immediately return to the Company all originals and copies of the Assessments and Reports.

(d) The Company warrants and represents that the Company has provided the City and the Trustee with copies of all emergency and hazardous chemical inventory forms (hereinafter “Environmental Notices”) showing Hazardous Substances on the Project Site given within two years preceding the date hereof, as of the date hereof, by the Company to any federal, state or local governmental authority or agency as required pursuant to the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C.A. §11001 *et seq.*, or any other applicable Environmental Laws. The Company will provide the City and the Trustee with copies of all Environmental Notices concerning Hazardous Substances on the Project Site subsequently sent to any such governmental authority or agency as required pursuant to the Emergency Planning and Community Right-to-Know Act of 1986 or any other applicable Environmental Laws. Such copies of subsequent Environmental Notices shall be sent to the City and the Trustee concurrently with their being mailed to any such governmental authority or agency.

(e) The Company will use its reasonable best efforts to comply with and operate and at all times use, keep and maintain the Project and every part thereof (whether or not such property constitutes a facility, as defined in 42 U.S.C. § 9601 *et seq.*) in material conformance with all applicable Environmental Laws. Without limiting the generality of the foregoing, the Company will not use, generate, treat, store, dispose of or otherwise introduce any Hazardous Substance into or on the Project or any part thereof nor cause, suffer, allow or permit anyone else to do so except in the ordinary course of the operation of the Company’s business and in material compliance with all applicable Environmental Laws.

(f) The Company agrees to indemnify, protect and hold harmless the City and the Trustee and their directors, officers, shareholders, officials or employees from and against any and all claims, demands, costs, liabilities, damages or expenses, including reasonable attorneys' fees and expenses, arising from (i) any release (as defined in 42 U.S.C. § 9601 (22)), actual or alleged, of any Hazardous Substances, upon the Project or respecting any products or materials previously, now or hereafter located upon the Project, regardless of whether such release or alleged release has occurred before the date hereof or hereafter occurs and regardless of whether such release or alleged release occurs as a result of any act, omission, negligence or misconduct of the Company or any third party or otherwise (except, with respect to the City, to the extent such release occurs as a result of any negligence or willful misconduct of the City), (ii) any violation now existing or hereafter arising (actual or alleged) of, or any other liability under or in connection with, any applicable Environmental Laws (A) relating to or affecting the Project, or (B) relating to any products or materials previously, now or hereafter located upon the Project, regardless of whether such violation or alleged violation or other liability is asserted or has occurred or arisen before the date hereof or hereafter is asserted or occurs or arises and regardless of whether such violation or alleged violation or other liability occurs or arises as the result of any act, omission, negligence or misconduct of the Company or any third party or otherwise (except, with respect to the City, to the extent such violation or other liability occurs as a result of any act, negligence or willful misconduct of the City), (iii) any assertion by any third party of any claims or demands for any loss or injury arising out of, relating to or in connection with any Hazardous Substances on or allegedly on the Project Site, or (iv) any material breach, falsity or failure of any of the representations, warranties, covenants and agreements contained in this Section; provided, however, that the Company's obligations under this **Section 10.9(f)** shall not apply (1) to the City to the extent 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 (2) to the City or the Trustee, respectively, to the extent such claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, are the result of negligence or willful misconduct by the City or the Trustee, respectively. The City shall cooperate with the Company in the defense of any matters included within the foregoing indemnity without any obligation to expend money. This subsection (f) shall survive any termination of this Lease.

ARTICLE XI

OPTION AND OBLIGATION TO PURCHASE THE PROJECT

Section 11.1. Option to Purchase the Project. The Company shall have, and is hereby granted, the option to purchase all or any portion of the Project at any time, upon payment in full or redemption of the Outstanding Bonds to be redeemed or provision for their payment or redemption having been made pursuant to **Article XIII** of the Indenture. 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 of 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 foregoing, if the City or the Trustee provides notice of its intent to exercise its remedies hereunder upon an Event of Default (a "Remedies Notice"), the Company shall be deemed to have exercised its repurchase option under this Section on the 59th 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. The Company may rescind such exercise by providing written notice to the City and the Trustee on or before the 59th day and by taking such action as may be required to cure the default that led to the giving of the Remedies Notice. The purchase price payable by the Company in the event of its exercise of the option granted in this Section shall be the sum of the following:

(a) an amount of money which, when added to the amount then on deposit in the Bond Fund, will be sufficient to redeem all or a portion of 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

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

(c) an amount of money equal to the City's reasonable charges and expenses incurred in connection with the Company exercising its option to purchase all or a portion of the Project; plus

(d) 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

(e) the sum of \$10.00.

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

Section 11.2. Conveyance of the Project. At the closing of the purchase 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, in substantially the form of **Exhibit C**, 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 and this Lease; 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; provided that such option will not result in nonfulfillment of any condition to the exercise of such option (including the payment of all amounts specified in **Section 11.1**) and further provided that the option herein granted shall terminate upon the termination of this Lease.

Section 11.4. Obligation to Purchase the Project. 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, (b) attainment of the Maximum Cumulative Property Tax Abatement Value as described in **Section 3.8** of the Performance Agreement or (c) an Event of Default as described in **Section 12.1**. The amount of the purchase price under this Section shall be the sum of the items set forth in **Sections 11.1(a)-(e)**.

ARTICLE XII

DEFAULTS AND REMEDIES

Section 12.1. Events of Default. If any one or more of the following events occurs and is continuing, it is hereby defined as and declared to be and to constitute an “Event of Default” 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 to the Company and the Lender; or

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

(c) the Company: (i) admits in writing its inability to pay its debts as they become due; or (ii) 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 (iii) makes an assignment for the benefit of creditors; or (iv) consents to the appointment of a trustee, receiver or liquidator for all or a substantial 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 (v) is finally adjudicated as bankrupt or insolvent under any federal or state law; or (vi) 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 substantial 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 (vii) 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 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) an Event of Default under the Performance Agreement, as defined in **Section 6.1** thereof.

The Trustee shall give the Lender notice of the occurrence of any Event of Default of which the Trustee has notice pursuant to the terms of the Indenture and the Lender may, at its election, but shall have no obligation to, cure such Event of Default.

Section 12.2. Remedies on Default. If any Event of Default referred to in **Section 12.1** 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, in addition to the remedies provided in **Section 12.5**:

(a) cause all amounts payable with respect to the Bonds for the remainder of the term of this Lease to become due and payable, as provided in the Indenture; or

(b) give the Company written notice of intention to terminate this Lease on a date specified therein, which date shall not be earlier than 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**, the Company's or the Lender's rights to possession of the Project shall cease and this Lease shall thereupon be terminated, and the City may re-enter and take possession of the Project; provided, however, 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 in accordance with **Section 11.2**.

Section 12.3. Survival of Obligations. The Company covenants and agrees with the City and the 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 upon the payment of all Basic Rent and Additional Rent required under **Article V**, 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, the Company's obligations 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 to the Company by the City or the Trustee, and without waiving or releasing the Company from any obligation hereunder, as an additional but not exclusive remedy, make any such payment or perform any such obligation, and all reasonable sums so paid by the City or the Trustee and all necessary incidental reasonable costs and expenses incurred by the City or the Trustee (including, without limitation, attorney's fees and expenses) in performing such obligations shall be deemed Additional Rent and shall be paid to the City or the Trustee on demand, and if not so paid by the Company, the City or the Trustee shall have the same rights and remedies provided for in **Section 12.2** 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 re-purchase the Project 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 the City's right to exercise any of its rights and remedies provided for herein with respect to any such default or defaults of the Company which were in existence at the time such payment or payments were accepted by the City.

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

ARTICLE XIII

ASSIGNMENT AND SUBLEASE

Section 13.1. Assignment; Sublease.

(a) The Company may assign, transfer, encumber or dispose of this Lease or any interest herein or part hereof for any lawful purpose under the Act. Subject to the Fee Deed of Trust and except as otherwise provided in this Section, the Company must obtain the City's prior written consent (not to be unreasonably withheld) before any such disposition, unless such disposition is to an entity controlled by or under common control with or controlling the Company. Notwithstanding the foregoing, the Lender may sell at foreclosure sale or by deed in lieu of foreclosure, the interest of the Company in this Lease.

(b) With respect to any assignment, the Company or the Lender, as applicable, shall comply with the following conditions:

- (i) the Company shall notify the City and the Trustee of the assignment in writing;
- (ii) such assignment shall be in writing, duly executed and acknowledged by the assignor and in proper form for recording;
- (iii) such assignment shall include the entire then unexpired term of this Lease; and
- (iv) a duplicate original of such assignment shall be delivered to the City and the Trustee within 10 days after the execution thereof, together with an assumption agreement, duly executed and acknowledged by the assignee and in proper form for recording, by which the assignee shall assume all of the terms, covenants and conditions of this Lease on the part of the Company to be performed and observed.

(c) 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 other document related to the issuance of the Bonds.

(d) Notwithstanding the foregoing, the Company may, in its ordinary course of business, sublease all or portions of the Project to tenants without the prior consent of the City so long as the Company remains obligated to perform all of its obligations under this Lease and the Performance Agreement.

Section 13.2. Assignment of Revenues by City. The City shall assign and pledge any rents, revenues and receipts receivable under this Lease, 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. 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 the Lease Term, the City agrees that, except to secure the Bonds to be issued pursuant to the Indenture and except to enforce its rights under **Section 12.2(b)**, it will not sell, assign, encumber, mortgage, transfer or convey the Project or any interest therein.

ARTICLE XIV

AMENDMENTS, CHANGES AND MODIFICATIONS

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

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 deemed duly given if (i) mailed by registered or certified mail, postage prepaid, (ii) sent by overnight delivery which requires written acknowledgment of receipt by the addressee, or (iii) transmitted electronically and receipt confirmed by telephone or electronic read

receipt, addressed as follows (provided, all notices of default under **Section 12.1** must be provided by overnight delivery):

(a) To the City:

City of St. Charles, Missouri
200 North Second Street
St. Charles, Missouri 63301
ATTN: Mayor
E-mail: dan.borgmeyer@stcharlescitymo.gov

with copies to:

City Attorney
200 North Second Street
St. Charles, Missouri 63301
ATTN: Holly Magdziarz, Esq.
E-mail: holly.magdziarz@stcharlescitymo.gov

and:

Director of Administration
200 North Second Street
St. Charles, Missouri 63301
ATTN: Larry Dobrosky
E-mail: lawrence.dobrosky@stcharlescitymo.gov

and:

Gilmore & Bell, P.C.
211 North Broadway, Suite 2000
St. Louis, Missouri 63102
ATTN: Mark D. Grimm, Esq.
Email: mgrimm@gilmorebell.com
(314) 444-4118

(b) To the Trustee:

UMB Bank, N.A.
2 South Broadway, Suite 600
St. Louis, Missouri 63102
ATTN: Corporate Trust Department
Email: kristina.tibbits@umb.com
(314) 612-8488

(c) To the Company:

Clement Management Services, LLC
190 Spring Drive
St. Charles, Missouri 63303
ATTN: Lee Swartz

E-mail: lee.swartz@clementautogroup.com
(636) 290-4392

(iv) To the Lender:

Midwest Regional Bank
363 Festus Centre Drive
P.O. Box 1269
Festus, Missouri 63028
ATTN: _____
E-mail: _____
() - _____

All notices given by certified or registered mail as aforesaid shall be deemed fully given as of the date they are so mailed, provided, however, that notice to the Trustee shall be effective only upon receipt. All notices given by overnight delivery 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 Company to the other shall also be given to the Trustee. 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 15.2. City Shall Not Unreasonably Withhold Consents and Approvals. Wherever in this Lease it is provided that the City shall, may or must give its approval or consent, or execute supplemental agreements or schedules, the City shall not unreasonably, arbitrarily or unnecessarily withhold or refuse to give such approvals or consents or refuse to execute such supplemental agreements or schedules; provided, however, that nothing in this Lease shall be interpreted to affect the City's rights to approve or deny any additional project or matter unrelated to the Project 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 becomes 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 is 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 Transaction. The parties agree that the transaction described herein may be conducted and related documents may be sent, received or 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. City Consents and Approvals. Pursuant to the Ordinance, the Mayor and the Director of Administration are authorized to execute all documents on behalf of the City (including documents pertaining to the transfer of property or the financing or refinancing of the Project by the Company, and such easements, licenses, rights-of-way, plats and similar documents as may be requested by the Company) as may be required to carry out and comply with the intent of the Ordinance, the Indenture and this Lease. The Mayor and the Director of Administration are also authorized, unless expressly prohibited herein, to grant on behalf of the City such consents, estoppels and waivers relating to the Bonds, the Indenture, this Lease or the Performance Agreement as may be requested during the term hereof; provided, such consents, estoppels and/or waivers shall not increase the principal amount of the Bonds, increase the term of this Lease or the tax exemption as provided for herein, waive an Event of Default or materially change the nature of the transaction unless otherwise approved by the City Council.

Section 15.11. Subordination of Lease. By its execution hereof, each of the Company and the City hereby agrees that this Lease and the rights of the City hereunder (excluding the City's rights to indemnification and receipt of public liability insurance proceeds) shall be, are, and shall continue to be, subordinate and inferior to the Fee Deed of Trust, the other Loan Documents, any Financing Document and the rights of the Lender thereunder, until all Indebtedness (as such term is defined in the Fee Deed of Trust) have been indefeasibly paid and performed in full, including but not limited to, all future advances and future obligations secured by the Fee Deed of Trust, the other Loan Documents and any Financing Document. Such subordination shall be self-operative, and shall be irrespective of the time, manner, order of recording or perfection, any other priority that ordinarily would result under the Uniform Commercial Code as enacted in each and every applicable jurisdiction, and as amended from time to time, and other applicable law for the order of granting or perfecting of any security interests referred to herein.

Section 15.12. Anti-Discrimination Against Israel Act. Pursuant to Section 34.600 of the Revised Statutes of Missouri, the Company certifies it is not currently engaged in and shall not, for the duration of this Lease, engage in a boycott of goods or services from (a) the State of Israel, (b) companies doing business in or with the State of Israel or authorized by, licensed by, or organized under the laws of the State of Israel, or (c) persons or entities doing business in the State of Israel.

[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 ST. CHARLES, MISSOURI

[SEAL]

By: _____
Daniel J. Borgmeyer, Mayor

ATTEST:

Kimberly Hudson, City Clerk

CLEMENT MANAGEMENT SERVICES, LLC

By: _____
Name: Penuel Raj Clement
Title: Manager

EXHIBIT A
PROJECT SITE

A TRACT OF LAND BEING PART OF U.S. SURVEY 979 AND PART OF THE NORTHEAST QUARTER OF FRACTIONAL SECTION 34, TOWNSHIP 47 NORTH, RANGE 4 EAST, ST. CHARLES COUNTY, MISSOURI AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE EAST LINE OF ADJUSTED LOT 2 OF "RESUBDIVISION OF LOTS 2, 3, AND 4 OF 'ARCO BUSINESS PARK'", A SUBDIVISION ACCORDING TO THE INSTRUMENT RECORDED IN PLAT BOOK 45 PAGE 334 OF THE ST. CHARLES COUNTY RECORDS WITH THE NORTH LINE OF "OXFORD CROSSING", A SUBDIVISION ACCORDING TO THE INSTRUMENT RECORDED IN PLAT BOOK 30 PAGES 369-371 OF SAID RECORDS; THENCE NORTHWARDLY ALONG SAID EAST LINE OF ADJUSTED LOT 2 OF "RESUBDIVISION OF LOTS 2, 3, AND 4 OF 'ARCO BUSINESS PARK'" AND ALONG THE EAST RIGHT OF WAY LINE OF ARCO DRIVE (50 FEET WIDE), NORTH 03 DEGREES 31 MINUTES 13 SECONDS EAST 1031.97 FEET TO THE ACTUAL POINT OF BEGINNING OF THE DESCRIPTION HEREIN; THENCE CONTINUING ALONG SAID EAST RIGHT OF WAY LINE OF ARCO DRIVE (50 FEET WIDE), NORTH 03 DEGREES 31 MINUTES 13 SECONDS EAST 689.52 FEET TO THE SOUTH RIGHT OF WAY LINE OF MISSOURI INTERSTATE HIGHWAY 70, SAID POINT BEING 140.00 FEET PERPENDICULARLY DISTANT SOUTH OF MISSOURI INTERSTATE HIGHWAY 70 CENTERLINE STATION 1174+47.43; THENCE EASTWARDLY ALONG SAID SOUTH RIGHT OF WAY LINE OF MISSOURI INTERSTATE HIGHWAY 70, SOUTH 76 DEGREES 28 MINUTES 29 SECONDS EAST 228.62 FEET TO A POINT BEING 140.00 FEET PERPENDICULARLY DISTANT SOUTH OF MISSOURI INTERSTATE HIGHWAY 70 CENTERLINE STATION 1176+76.05; THENCE SOUTHWARDLY ALONG SAID SOUTH RIGHT OF WAY LINE OF MISSOURI INTERSTATE HIGHWAY 70, ALONG THE WEST LINE OF "TWIEHAUS PLACE", A SUBDIVISION ACCORDING TO THE INSTRUMENT RECORDED IN PLAT BOOK 5 PAGE 82 OF SAID RECORDS, ALONG THE WEST LINE OF "FLOANN SUBDIVISION", A SUBDIVISION ACCORDING TO THE INSTRUMENT RECORDED IN PLAT BOOK 5 PAGE 83 OF SAID RECORDS, AND ALONG THE WEST LINE OF PROPERTY CONVEYED TO MUTUAL ASSURANCE COMPANY PARTNERSHIP TRUST ACCORDING TO THE INSTRUMENT RECORDED IN DEED BOOK 2233 PAGE 1578 OF SAID RECORDS, SOUTH 03 DEGREES 31 MINUTES 28 SECONDS WEST 646.69 FEET TO A POINT; THENCE LEAVING SAID WEST LINE OF THE MUTUAL ASSURANCE COMPANY PARTNERSHIP TRUST PROPERTY, NORTH 87 DEGREES 16 MINUTES 19 SECONDS WEST 225.11 FEET TO THE POINT OF BEGINNING, ACCORDING TO A SURVEY BY BAX ENGINEERING COMPANY DURING APRIL, 2017.

TOGETHER WITH all buildings, structures, and other improvements, all fixtures, presently existing, or hereinafter erected or attached,

TOGETHER WITH all appurtenances, easements, rights, rents and profits,

SUBJECT TO the recorded plat thereof and all the easements, reservations and restrictions of record.

EXHIBIT B

FORM OF REQUISITION CERTIFICATE

Requisition No. _____
Date: _____

REQUISITION CERTIFICATE

TO: UMB BANK, N.A., AS TRUSTEE UNDER A TRUST INDENTURE DATED AS OF OCTOBER 1, 2025, BETWEEN THE CITY OF ST. CHARLES, MISSOURI, AND THE TRUSTEE, AND THE LEASE AGREEMENT DATED AS OF OCTOBER 1, 2025, BETWEEN THE CITY OF ST. CHARLES, MISSOURI, AND CLEMENT MANAGEMENT SERVICES, LLC

The undersigned Authorized Company Representative hereby states and certifies that:

1. A total of \$_____ is requested to pay for Project Costs. The total amount of this requisition and all prior requisitions are as follows:

<i><u>Date of Project Costs</u></i>	<i><u>Amount Submitted in this Requisition</u></i>	<i><u>Requisitions Submitted to Date (Including this Requisition)</u></i>

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 construction of the Project, 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 construction 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 this disbursement, the Company (i) certifies it has reviewed any wire instructions set forth herein to confirm such wire instructions are accurate, and (ii) agrees that it will not seek recourse from the Trustee as a result of losses incurred by it for making the disbursement in accordance with such wire instructions.

6. Capitalized words and terms used in this Requisition Certificate have the meanings given to such words and terms in **Section 101** of the Trust Indenture.

CLEMENT MANAGEMENT SERVICES, LLC

By: _____
Authorized Company Representative

Approved this ____ day of _____, 20__.

CITY OF ST. CHARLES, MISSOURI

By: _____
Authorized City Representative

SCHEDULE 1 TO REQUISITION CERTIFICATE

PROJECT COSTS

<u>Payee and Address</u>	<u>Description</u>	<u>Amount</u>
--------------------------	--------------------	---------------

EXHIBIT C

FORM OF SPECIAL WARRANTY DEED

Space Above for Recorder's Use Only

DOCUMENT COVER SHEET

TITLE OF DOCUMENT: Special Warranty Deed

DATE OF DOCUMENT: _____, 20__

GRANTOR: CITY OF ST. CHARLES, MISSOURI

Mailing Address: 200 North Second Street
St. Charles, Missouri 63301

GRANTEE: CLEMENT MANAGEMENT SERVICES, LLC

Mailing Address: 190 Spring Drive
St. Charles, Missouri 63303

LEGAL DESCRIPTION: See Exhibit A

RETURN DOCUMENTS TO: Mark D. Grimm, Esq.
Gilmore & Bell, P.C.
211 North Broadway, Suite 2000
St. Louis, Missouri 63102

REFERENCE BOOK & PAGE: N/A

SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED, made _____, 20____, by and between

CITY OF ST. CHARLES, MISSOURI

200 North Second Street
St. Charles, Missouri 63301

(the “Grantor”), and

CLEMENT MANAGEMENT SERVICES, LLC,

a Missouri limited liability company
190 Spring Drive
St. Charles, Missouri 63303

(the “Grantee”)

WITNESSETH, THAT THE GRANTOR, in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration to it paid by the Grantee (the receipt and sufficiency of which are hereby acknowledged) does by these presents, **SELL** and **CONVEY** unto the Grantee, its successors and assigns, the lots, tracts or parcels of land described in **EXHIBIT A**, attached hereto and incorporated herein by reference, together with any improvements thereon (the “Real Estate”);

SUBJECT TO (a) easements, restrictions, reservations and declarations of record at the time the Grantee conveyed title to the Real Estate to the Grantor, (b) taxes and assessments, general and special, not now due and payable, (c) rights of the public in and to the parts thereof in streets, roads, or alleys, and (d) easements, restrictions, reservations and declarations of record not described in clauses (a) – (c) above, which have been consented to in writing by the Grantee.

TO HAVE AND TO HOLD, the premises aforesaid, with all and singular the rights, privileges, appurtenances and immunities thereto belonging or in any way appertaining unto the Grantee and unto its successors and assigns forever; the Grantor hereby covenanting that said premises are free and clear from any encumbrance done or suffered by it; except as provided above; and that it will warrant and defend the title to said premises unto the Grantee and unto the Grantee’s successors and assigns forever, against the lawful claims and demands of all persons claiming under it but none other, except as provided above.

IN WITNESS WHEREOF, the Grantor and the Grantee have executed this Special Warranty Deed as of the day and year above written.

[The remainder of this page has intentionally been left blank.]

IN WITNESS WHEREOF, the Grantor has executed these presents the day and year first above written.

“GRANTOR”

CITY OF ST. CHARLES, MISSOURI

[SEAL]

By: _____, Mayor

ATTEST:

_____, City Clerk

ACKNOWLEDGMENT

STATE OF MISSOURI)
)
COUNTY OF ST. CHARLES) SS.

On this ____ day of _____, 20 __, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, to me personally known, who, being by me duly sworn, did say that s/he is the Mayor of the CITY OF ST. CHARLES, MISSOURI, and that the seal affixed to the foregoing instrument is the corporate seal of said City, and that said instrument was signed and sealed by authority of its City Council, and said officer acknowledged said instrument to be executed for the purposes therein stated and as the free act and deed of said City.

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

Name: _____
Notary Public in and for said State

My Commission Expires:
PLEASE AFFIX SEAL FIRMLY AND CLEARLY IN THIS BOX

EXHIBIT A

LEGAL DESCRIPTION OF THE REAL ESTATE

A TRACT OF LAND BEING PART OF U.S. SURVEY 979 AND PART OF THE NORTHEAST QUARTER OF FRACTIONAL SECTION 34, TOWNSHIP 47 NORTH, RANGE 4 EAST, ST. CHARLES COUNTY, MISSOURI AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE EAST LINE OF ADJUSTED LOT 2 OF "RESUBDIVISION OF LOTS 2, 3, AND 4 OF 'ARCO BUSINESS PARK'", A SUBDIVISION ACCORDING TO THE INSTRUMENT RECORDED IN PLAT BOOK 45 PAGE 334 OF THE ST. CHARLES COUNTY RECORDS WITH THE NORTH LINE OF "OXFORD CROSSING", A SUBDIVISION ACCORDING TO THE INSTRUMENT RECORDED IN PLAT BOOK 30 PAGES 369-371 OF SAID RECORDS; THENCE NORTHWARDLY ALONG SAID EAST LINE OF ADJUSTED LOT 2 OF "RESUBDIVISION OF LOTS 2, 3, AND 4 OF 'ARCO BUSINESS PARK'" AND ALONG THE EAST RIGHT OF WAY LINE OF ARCO DRIVE (50 FEET WIDE), NORTH 03 DEGREES 31 MINUTES 13 SECONDS EAST 1031.97 FEET TO THE ACTUAL POINT OF BEGINNING OF THE DESCRIPTION HEREIN; THENCE CONTINUING ALONG SAID EAST RIGHT OF WAY LINE OF ARCO DRIVE (50 FEET WIDE), NORTH 03 DEGREES 31 MINUTES 13 SECONDS EAST 689.52 FEET TO THE SOUTH RIGHT OF WAY LINE OF MISSOURI INTERSTATE HIGHWAY 70, SAID POINT BEING 140.00 FEET PERPENDICULARLY DISTANT SOUTH OF MISSOURI INTERSTATE HIGHWAY 70 CENTERLINE STATION 1174+47.43; THENCE EASTWARDLY ALONG SAID SOUTH RIGHT OF WAY LINE OF MISSOURI INTERSTATE HIGHWAY 70, SOUTH 76 DEGREES 28 MINUTES 29 SECONDS EAST 228.62 FEET TO A POINT BEING 140.00 FEET PERPENDICULARLY DISTANT SOUTH OF MISSOURI INTERSTATE HIGHWAY 70 CENTERLINE STATION 1176+76.05; THENCE SOUTHWARDLY ALONG SAID SOUTH RIGHT OF WAY LINE OF MISSOURI INTERSTATE HIGHWAY 70, ALONG THE WEST LINE OF "TWIEHAUS PLACE", A SUBDIVISION ACCORDING TO THE INSTRUMENT RECORDED IN PLAT BOOK 5 PAGE 82 OF SAID RECORDS, ALONG THE WEST LINE OF "FLOANN SUBDIVISION", A SUBDIVISION ACCORDING TO THE INSTRUMENT RECORDED IN PLAT BOOK 5 PAGE 83 OF SAID RECORDS, AND ALONG THE WEST LINE OF PROPERTY CONVEYED TO MUTUAL ASSURANCE COMPANY PARTNERSHIP TRUST ACCORDING TO THE INSTRUMENT RECORDED IN DEED BOOK 2233 PAGE 1578 OF SAID RECORDS, SOUTH 03 DEGREES 31 MINUTES 28 SECONDS WEST 646.69 FEET TO A POINT; THENCE LEAVING SAID WEST LINE OF THE MUTUAL ASSURANCE COMPANY PARTNERSHIP TRUST PROPERTY, NORTH 87 DEGREES 16 MINUTES 19 SECONDS WEST 225.11 FEET TO THE POINT OF BEGINNING, ACCORDING TO A SURVEY BY BAX ENGINEERING COMPANY DURING APRIL, 2017.

TOGETHER WITH all buildings, structures, and other improvements, all fixtures, presently existing, or hereinafter erected or attached,

TOGETHER WITH all appurtenances, easements, rights, rents and profits,

SUBJECT TO the recorded plat thereof and all the easements, reservations and restrictions of record.

EXHIBIT D

BOND PURCHASE AGREEMENT

(On file in the office of the City Clerk)

\$13,600,000
(AGGREGATE MAXIMUM PRINCIPAL AMOUNT)
CITY OF ST. CHARLES, MISSOURI
TAXABLE INDUSTRIAL REVENUE BONDS
(CLEMENT MANAGEMENT SERVICES, LLC PROJECT)
SERIES 2025

Dated as of October 1, 2025

BOND PURCHASE AGREEMENT

Honorable Mayor and City Council
City of St. Charles, Missouri

On the basis of the representations and covenants and upon the terms and conditions contained in this Bond Purchase Agreement (this “Agreement”), Clement Management Services, LLC, a Missouri limited liability company (the “Purchaser”), offers to purchase from the City of St. Charles, Missouri (the “City”), the above-referenced bonds (the “Bonds”), to be issued by the City under and pursuant to Ordinance No. _____, adopted by the City Council on October 21, 2025 (the “Ordinance”) and a Trust Indenture dated as of October 1, 2025 (the “Indenture”), by and between the City and UMB Bank, N.A., as trustee (the “Trustee”). *Capitalized terms not otherwise defined herein shall have the meanings set forth in the Indenture.*

SECTION 1. REPRESENTATIONS AND AGREEMENTS

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

(1) The City is a constitutional home rule charter city duly organized and validly existing under the laws of the State of Missouri. The City is authorized pursuant to the Constitution and the laws of the State of Missouri, and the ordinances, orders and resolutions of the City, and all necessary action has been taken, to authorize, issue and deliver the Bonds and to consummate all transactions contemplated by the Ordinance, this Bond Purchase Agreement, the Indenture, the Lease Agreement dated as of October 1, 2025 (the “Lease”) by and between the City and the Purchaser, the Performance Agreement dated as of October 1, 2025 (the “Performance Agreement”) by and between the City and the Purchaser, and any and all other agreements relating thereto. The proceeds of the Bonds shall be used for the purpose of acquiring, constructing and improving the Project and paying the costs incurred in connection with the issuance of the Bonds.

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

(b) The Purchaser represents as follows:

(1) *Organization.* The Purchaser is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Missouri.

(2) *No Conflict or Breach.* The execution, delivery and performance of this Bond Purchase Agreement by the Purchaser have been duly authorized by all necessary action of the Purchaser and do not and will not conflict with or result in the breach of any of the terms, conditions or provisions of, or constitute a default under, its organizational documents, any law, court or administrative regulation, decree or order applicable to or binding upon the Purchaser, or, to the best of its knowledge, any agreement, indenture, mortgage, lease or instrument to which the Purchaser is a party or by which it is bound.

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

(4) *Purchaser's Certificates.* Any certificate signed by an authorized officer or agent of the Purchaser and delivered to the City shall be deemed a representation and warranty by the Purchaser to the City 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 set forth herein and in the Indenture, the Purchaser agrees to purchase from the City and the City agrees to sell to the Purchaser the Bonds on the terms and conditions set forth herein.

The Bonds shall be sold to the Purchaser by the City on the Closing Date (hereinafter defined) upon payment of an amount equal to the Closing Price (hereinafter defined), which amount shall be applied as provided in the Indenture and the Lease. From time to time after the Closing Date, the Purchaser shall make additional payments with respect to the Bonds ("Additional Payments") to the Trustee under the Indenture, which Additional Payments shall be applied to the payment or reimbursement of Project Costs as provided in the Indenture and the Lease; provided that the sum of the Closing Price and all such Additional Payments shall not, in the aggregate, exceed \$13,600,000 plus the costs of issuance of the Bonds (if such costs of issuance are not paid with Bond proceeds).

As used herein, the term "Closing Date" shall mean October __, 2025, or such other date as shall be mutually agreed upon by the City and the Purchaser; the term "Closing Price" shall mean the amount specified in writing by the Purchaser and agreed to by the City as the amount required to pay for the initial issuance of the Bonds on the Closing Date, which amount shall be equal to (a) any Project Costs paid by the Purchaser from its own funds on or before the Closing Date, and, at the Purchaser's option, the costs of issuance of the Bonds if such costs are not paid for from Bond proceeds or (b) the aggregate principal amount of the Bonds, if all of the proceeds of the Bonds are being transferred to the Trustee on the Closing Date.

The Bonds shall be issued under and secured as provided in the Ordinance and the Indenture and the Lease authorized thereby, and the Bonds shall mature, accrue interest and 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 \$13,600,000; provided, that the principal amount of the Bonds outstanding at any time shall be that amount recorded in the records of the Trustee, absent manifest error, and further provided that interest shall be payable only on the outstanding principal amount of the Bonds, as more fully provided in the Indenture.

SECTION 3. CONDITIONS TO THE OBLIGATIONS

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

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

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

(c) The Purchaser shall execute a certificate, dated the Closing Date, to the effect that (1) no litigation, proceeding or investigation is pending against the Purchaser or its affiliates or, to the knowledge of the Purchaser, threatened which would (A) contest, affect, restrain or enjoin the issuance, validity, execution, delivery or performance of the Bonds, or (B) in any way contest the existence or powers of the Purchaser, (2) no litigation, proceeding or investigation is pending or, to the knowledge of the Purchaser, threatened against the Purchaser that could reasonably be expected to adversely affect its ability to perform its obligations hereunder or under the Lease or the Performance Agreement, (3) the representations and warranties of the Purchaser herein were and are true and correct in all material respects and not misleading as of the date made and as of the Closing Date, and (4) such other matters as are reasonably requested by the other parties in connection with the issuance of the Bonds.

SECTION 4. THE PURCHASER'S RIGHT TO CANCEL

The Purchaser may cancel its obligation hereunder to purchase the Bonds by notifying the City in writing at or before 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 (if one is requested), with respect to the validity of the authorization and issuance of the Bonds.

SECTION 6. REPRESENTATIONS AND AGREEMENTS TO SURVIVE DELIVERY

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

SECTION 7. NOTICE

Any notice or other communication to be given under this Bond Purchase Agreement may be given in writing by mailing or delivering the same as follows:

(a) To the City:

City of St. Charles, Missouri
200 North Second Street
St. Charles, Missouri 63301
ATTN: Mayor
E-mail: dan.borgmeyer@stcharlescitymo.gov

with copies to:

City Attorney
200 North Second Street
St. Charles, Missouri 63301
ATTN: Holly Magdziarz, Esq.
E-mail: holly.magdziarz@stcharlescitymo.gov

and:

Director of Administration
200 North Second Street
St. Charles, Missouri 63301
ATTN: Larry Dobrosky
E-mail: lawrence.dobrosky@stcharlescitymo.gov

and:

Gilmore & Bell, P.C.
211 North Broadway, Suite 2000
St. Louis, Missouri 63102
ATTN: Mark D. Grimm, Esq.
Email: mgrimm@gilmorebell.com
(314) 444-4118

(b) To the Trustee:

UMB Bank, N.A.
2 South Broadway, Suite 600
St. Louis, Missouri 63102
ATTN: Corporate Trust Department
Email: kristina.tibbits@umb.com
(314) 612-8488

(c) To the Purchaser:

Clement Management Services, LLC
190 Spring Drive
St. Charles, Missouri 63303
ATTN: Lee Swartz
E-mail: lee.swartz@clementautogroup.com
(636) 290-4392

(d) To the Lender:

Midwest Regional Bank
363 Festus Centre Drive
P.O. Box 1269
Festus, Missouri 63028
ATTN: _____
E-mail: _____
() ____-____

SECTION 8. APPLICABLE LAW; ASSIGNABILITY

This Bond Purchase Agreement shall be governed by the laws of the State of Missouri. This Bond Purchase Agreement may be assigned by the Purchaser, in whole as to all of the Bonds, to any Person that expressly assumes in writing all of the obligations of the Purchaser contained in the Lease and the Performance Agreement, or if such assignment is in part as to the Bonds, the obligations of the Purchaser contained in the Lease; provided that the consent of the City for the assignment of this Bond Purchase Agreement shall not be required if the consent of the City is not required for such Person's assumption of the Lease under the provisions of **Article XIII** thereof. Any such assignee shall agree to be bound by the terms of this Bond Purchase Agreement. This Bond Purchase Agreement may be assigned, without approval of but with notice to the City, by the Purchaser to any lender of the Purchaser as collateral for a loan secured by a deed of trust or mortgage of the Project, and the Bonds may be pledged, without approval of the City, by the Purchaser to any lender of the Purchaser as collateral for a loan secured by a deed of trust or mortgage of the Project.

SECTION 9. EXECUTION IN 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.

SECTION 10. ANTI-DISCRIMINATION AGAINST ISRAEL ACT

Pursuant to Section 34.600 of the Revised Statutes of Missouri, the Purchaser certifies it is not currently engaged in and shall not, for the duration of this Bond Purchase Agreement, engage in a boycott of goods or services from (a) the State of Israel, (b) companies doing business in or with the State of Israel or authorized by, licensed by, or organized under the laws of the State of Israel, or (c) persons or entities doing business in the State of Israel.

[Remainder of Page Intentionally Left Blank]

Very truly yours,

CLEMENT MANAGEMENT SERVICES, LLC

By: _____
Name: Penuel Raj Clement
Title: Manager

DATE OF EXECUTION: October ____, 2025

Accepted and Agreed to this ____ day of October, 2025.

CITY OF ST. CHARLES, MISSOURI

[SEAL]

By: _____
Daniel J. Borgmeyer, Mayor

ATTEST:

Kimberly Hudson, City Clerk

EXHIBIT E

PERFORMANCE AGREEMENT

(On file in the office of the City Clerk)

PERFORMANCE AGREEMENT

THIS PERFORMANCE AGREEMENT, dated as of October 1, 2025, as from time to time amended and supplemented in accordance with the provisions hereof (this “Agreement”), between the **CITY OF ST. CHARLES, MISSOURI**, a constitutional home rule charter city organized and existing under the laws of the State of Missouri (the “City”), and **CLEMENT MANAGEMENT SERVICES, LLC**, a Missouri 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 (collectively, the “Act”) and the City Charter to purchase, construct, extend and improve certain projects (as defined in the Act), 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, office industry, warehousing and industrial development purposes upon such terms and conditions as the City deems advisable.

2. Pursuant to the Act, the City Council passed Ordinance No. ____ (the “Ordinance”) on October 21, 2025, approving a Plan for an Industrial Development Project relating to the construction of an approximately 63,650 square foot automobile service center (the “Project Improvements”) on approximately 3.45 acres of land located at 3707 Veterans Memorial Parkway in the City (the “Project Site,” as more fully described on **Exhibit A**, attached hereto and incorporated herein by reference).

3. Pursuant to the Act and the Ordinance, the City is authorized to (1) issue its Taxable Industrial Revenue Bonds (Clement Management Services, LLC Project), Series 2025, in the maximum principal amount of \$13,600,000 (the “Bonds”), for the purpose of acquiring the Project Site and constructing the Project Improvements (together, as they may at any time exist, the “Project”) and (2) enter into a Lease Agreement dated as of October 1, 2025 with the Company (the “Lease”), pursuant to which the City, as lessor, will, or will cause the Company to, acquire, construct and install the Project and will lease the Project to the Company, as lessee, for rent sufficient to pay the principal of and interest on the Bonds.

4. Pursuant to the foregoing, the City desires to enter into this Agreement with the Company in consideration of the Company’s desire to cause the purchase, construction and improvement of the Project, upon the terms and subject to the 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 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 following words and terms as used herein shall have the following meanings:

“Abatement Initiation Date” means January 1 of the calendar year immediately following the calendar year in which the Project Improvements are completed, unless the Company notifies the City in writing by July 1 of the year in which the Project Improvements are completed that the Abatement Initiation Date should be January 1 of such year. The Project Improvements are expected to be completed in the first quarter of 2026, so the Abatement Initiation Date is expected to be January 1, 2026.

“Ambulance District” means the St. Charles County Ambulance District.

“Assessor” means the Assessor of St. Charles County, Missouri.

“Collector” means (a) the Collector of Revenue of St. Charles County, Missouri, or (b) if the Collector of Revenue of St. Charles County, Missouri, will not perform the responsibilities of the Collector hereunder, the City.

“Contractual Payments” means the payments due to the City under **Section 3.2(f)** and **(g)**.

“Cumulative Property Tax Abatement Value” means as of and for any year determined and calculated, the cumulative amount of property tax abatement received for the Project.

“Event of Default” means any Event of Default as provided in **Section 6.1**.

“Excess Abatement PILOT” means an additional PILOT Payment paid pursuant to **Section 3.8** in the amount of the difference between the Cumulative Property Tax Abatement Value and the Maximum Cumulative Property Tax Abatement Value.

“Indenture” means the Trust Indenture dated as of October 1, 2025 between the City and the Trustee, as may be amended or supplemented from time to time.

“Maximum Cumulative Property Tax Abatement Value” means \$250,000.

“PILOT Payments” means the payments in lieu of taxes provided for in **Article III**.

“Project Costs” means all costs of purchasing, constructing and improving the Project.

“Trustee” means UMB Bank, N.A., St. Louis, Missouri, or any other corporation which at the time may be substituted in its place pursuant to and at the time serving as Trustee under the Indenture.

ARTICLE II

ISSUANCE OF BONDS

Section 2.1. Issuance of the Bonds. As described herein, the City intends to issue the Bonds (to be purchased by the Company) under the Act for the purpose of paying a portion of the Project Costs. In connection with the issuance of the Bonds, the City will acquire fee title to the Project.

ARTICLE III

PROPERTY TAX EXEMPTION; PILOT PAYMENTS

Section 3.1. Property Tax Exemption.

(a) So long as the City owns title to the Project, the City expects that the Project will be exempt from ad valorem taxes on real property. The Bond transaction is intended to facilitate up to 10 years of real property tax abatement, beginning in the year in which the Abatement Initiation Date occurs.

(b) Notwithstanding any provision of this Agreement to the contrary, the value of the real property tax abatement to the Company shall not exceed the Maximum Cumulative Property Tax Abatement Value. The Cumulative Property Tax Abatement Value will be measured annually pursuant to **Section 3.8**, and the tax abatement contemplated by this **Section 3.1** will terminate after the Cumulative Property Tax Abatement Value equals or exceeds the Maximum Cumulative Property Tax Abatement Value.

Section 3.2. Payments in Lieu of Taxes; Contractual Payments.

(a) The Company covenants and agrees that, during each year the Project is exempt from ad valorem real property taxes by reason of the City's ownership thereof, the Company will make PILOT Payments in the specified amounts and at the times set forth in this **Article III**.

(b) The parties expect the Assessor to annually determine an assessed valuation with respect to the Project in accordance with Article X, Section 4(b) of the Missouri Constitution and Section 137.115 of the Revised Statutes of Missouri as if title to the Project were in the name of the Company and not the City. To facilitate the assessment, the Company agrees to provide to the Assessor such information as the Assessor may reasonably require to complete the assessment of the Project.

(c) Upon receipt from the Assessor, the City will forward the assessed valuation to the Company. If the Company has not received such notice by July 1, the Company shall (1) request the most recent assessed valuation of the Project directly from the Assessor and (2) upon receipt from the Assessor, provide a copy thereof to the City.

(d) On or about the same date on which taxpayers are notified of taxes due under Missouri law, the Collector shall notify the Company of the amount of PILOT Payments due hereunder. If the Company has not received such notice by December 1, the Company shall (1) request the amount of PILOT Payments due hereunder directly from the Collector and (2) upon receipt from the Collector, provide a copy thereof to the City. The amount of PILOT Payments due hereunder shall be calculated as follows:

(1) In each year before the Abatement Initiation Date occurs, the Company will make a PILOT Payment equal to 100% of the real property taxes that would otherwise be due to all of the affected taxing jurisdictions, including the Ambulance District, with respect to the Project, but for the City's ownership thereof; and

(2) In the year in which the Abatement Initiation Date occurs and in each of the 9 years thereafter (expected to be 2026 through 2035, inclusive), the Company will make a PILOT Payment equal to (A) 100% of the real property taxes that would be due to the Ambulance District and (B) 50% of the real property taxes, including the commercial surcharge taxes, that would be due to all

of the affected taxing jurisdictions, but not to exceed an aggregate value of \$250,000 over a 10-year period.

(e) If the Company sells any portion of the Project before December 31, 2035, the Company must pay to the City, within 30 days after such sale, an additional PILOT Payment equal to the amount of sales tax that the City would have received through Year 10 had the annual sales benchmarks been attained.

(f) If the amount of sales tax that the City receives each calendar year, beginning in the first full calendar year after the Project is complete, is less than the City's aggregate sales tax rate multiplied by the following benchmarks, the Company must pay to the City a Contractual Payment equal to the difference between the amount of sales tax the City actually received and the amount of sales tax that the City would have received if the benchmarks had been attained:

Year 1	Year 2	Year 3	Year 4	Year 5
\$ 2,000,000	\$2,831,000	\$3,470,000	\$3,575,000	\$3,700,000

Year 6	Year 7	Year 8	Year 9	Year 10
\$3,811,000	\$3,944,000	\$4,062,000	\$4,205,000	\$4,431,000

Any Contractual Payment described above will be due within 30 days after the City sends the Company written notice of the amount due.

By way of example, if the City's sales tax rate is 2.0%, then the City would receive \$40,000 in Year 1 (projected to be 2027) if the Company's sales at the Project Site are \$2,000,000. If the Company's sales subject to sales tax at the Project Site in 2027 are \$1,900,000 (producing \$38,000 in sales tax for the City), the Company would owe the City a Contractual Payment of \$2,000.

(g) In addition, on or before January 15 of each year, beginning on January 15, 2028, the Company shall file with the City an Annual Compliance Report (in substantially the form attached as **Exhibit D**) showing the number of full-time equivalent jobs at the Project Site as of January 1 of such year. The Company shall pay to the City, by February 1 of such year, a Contractual Payment of \$1,000 for each full-time equivalent job fewer than 30 that existed at the Project Site as of January 1 of such year. The Company shall provide the City such supporting documentation as the City may reasonably request to verify the number of jobs.

Notwithstanding any provision hereof to the contrary, in no event shall the Contractual Payments payable under subsections (e), (f) and (g) of this Section in the aggregate exceed \$250,000. The provisions of subsections (e), (f) and (g) of this Section shall survive the termination of this Agreement pursuant to **Section 7.1(c)**.

(h) Notwithstanding any provision of this Agreement to the contrary, if the Company is advised by an emergency services provider (other than the Ambulance District), the City, the Collector or the Assessor that an additional PILOT Payment is required to comply with Section 100.050.4 of the Act, the Company shall remit the appropriate amount to or for the benefit of the applicable emergency services provider, as the Company may be directed in writing; provided, the Company may challenge such payment if the Company reasonably believes that such payment is not due under the Act.

(i) The Company covenants and agrees to make all PILOT Payments due hereunder to the Collector on or before December 31 of each year during the term of this Agreement. The Company's failure

to receive notice under subsection (c) or (d) of this Section does not relieve the Company of its obligation to make the applicable PILOT Payment by December 31 as provided herein.

(j) Within 30 days after receipt of each PILOT Payment, the Collector shall, after deducting its customary fee for collection thereof, distribute each such PILOT Payment to the taxing jurisdictions affected by the Project in proportion to their respective, then-current tax levies.

(k) No later than the earlier of (1) January 1 of the year following the year in which the Maximum Cumulative Property Tax Abatement Value is exceeded or (2) December 31 of the 9th year following the year in which the Abatement Initiation Date occurs, the Company shall purchase the Project pursuant to **Section 11.4** of the Lease. If title to the Project has not been transferred by the City to the Company before such date, then on or before December 31 of such year, and each year thereafter until title to the Project is transferred to the Company, the Company shall pay to the Collector a PILOT Payment equal to 100% of the ad valorem real property taxes that would otherwise be payable on the Project, but for the City's ownership thereof.

Section 3.3. Other Property Taxes in Connection with the Project. The property tax exemption provided by the City's ownership of the Project is expected to apply to all interests in the Project during the period it is owned by the City. The Company shall be responsible for any taxes related to any interest in the Project that the Company owns in its own name or is granted to the Company other than pursuant to the Lease.

Section 3.4. No Abatement on Special Assessments, Licenses or Fees. The City and the Company hereby agree that the property tax exemption described in this Agreement shall not eliminate any special assessments, licenses or fees owing to the City or any other taxing jurisdiction with respect to the Project, including but not limited to any levee assessments or taxes. The Company hereby agrees to make payments with respect to all special assessments, licenses and fees, including but not limited to any levee assessments or taxes, that would otherwise be due with respect to the Project if the Project were not owned by the City.

Section 3.5. PILOT Payment if Company Purchases the Project.

(a) If the Company exercises its option to purchase the Project pursuant to **Section 11.1** of the Lease before the Collector notifies the Company of the annual PILOT Payment due under this Agreement, the Company shall pay to the Collector an amount equal to 100% of the ad valorem real property taxes that would have been payable to the Ambulance District, but for the City's ownership of the Project, for the preceding calendar year (the "Escrowed Amount"). Once the Collector notifies the Company of the PILOT Payment due under **Section 3.2** for the calendar year in which the Company purchases the Project, the Collector will use the Escrowed Amount to pay such PILOT Payment (to be distributed as provided in **Section 3.2(h)**) and refund the remaining amount, if any, to the Company.

(b) If the Company exercises its option to purchase the Project pursuant to **Section 11.1** of the Lease after receiving notification of the PILOT Payment due under this Agreement for the calendar year in which the Company purchases the Project, the Company shall pay that amount to the Collector (to be distributed as provided in **Section 3.2(h)**), prior to closing on the purchase of the Project.

(c) The parties agree that the PILOT Payment made pursuant to (a) or (b) above shall be in lieu of the actual ad valorem real property taxes that would otherwise be payable on the Project in the year the Company exercises its option to purchase the Project.

Section 3.6. 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 right to appeal, protest or otherwise contest in the name of the Company and/or the City, as appropriate, any property tax valuation, assessment or classification of the Project on behalf of or in the name of the City following written notice to the City from the Company, but solely at the Company's expense. The City agrees to join the Company in any administrative or judicial proceedings related to the property tax valuation, assessment or classification of the Project, but solely at the Company's expense.

Section 3.7. Personal Property. The Company may acquire personal property on its own accord, and such personal property shall not be financed with the proceeds of the Bonds, shall not be subject to the terms of this Agreement and shall be subject to ad valorem taxes.

Section 3.8. Cumulative Property Tax Abatement Value.

(a) No later than March 1 of each year, beginning on March 1, 2027, the Company shall submit to the City a detailed written calculation of the Cumulative Property Tax Abatement Value as of December 31 of the prior calendar year. The City shall review the Company's calculation of the Cumulative Property Tax Abatement Value and, within 60 days of the City's receipt of the calculation, provide written confirmation of the calculation or objection to the calculation. Any objection to the calculation shall be accompanied by a description of the basis for the objection, and the Company shall then have 30 days to submit a corrected calculation. If the City fails to confirm or object to any calculation within 60 days from the City's receipt of such calculation, the City will be deemed to have confirmed the calculation.

(b) Notwithstanding any provision of this Agreement to the contrary, if, at any time, the calculation of the Cumulative Property Tax Abatement Value (as confirmed or deemed confirmed by the City) equals or exceeds the Maximum Cumulative Property Tax Abatement Value, then no further tax abatement for the Project will be permitted by this Agreement after December 31 of the year in which the Maximum Cumulative Property Tax Abatement Value is met or exceeded. If the Maximum Cumulative Property Tax Abatement Value is exceeded, then the information submitted by the Company to the City pursuant to subsection (a) shall include a calculation of the Excess Abatement PILOT due. The City shall review such calculation in the same manner and at the same times as described in subsection (a). Upon the City's confirmation or deemed confirmation of the Excess Abatement PILOT, the Company shall (1) pay the Excess Abatement PILOT to the Collector within 60 days and (2) purchase the Project pursuant to **Section 11.4** of the Lease. Within 30 days after receipt of the Excess Abatement PILOT, the Collector will, after deducting its customary fee for collection thereof, and, if applicable, any other deductions generally provided by law as if the Excess Abatement PILOT were a "property tax collection," divide the Excess Abatement PILOT among all taxing jurisdictions except the Ambulance District in proportion to their respective, then-current ad valorem tax levies.

ARTICLE IV
COVENANTS, REPRESENTATIONS AND AGREEMENTS
OF THE COMPANY AND THE CITY

Section 4.1. Inspection. The City may conduct such periodic inspections of the Project as may be generally provided in the City's municipal code. In addition, the Company agrees that the City and its duly authorized agents may, at reasonable times during business hours (but without interference or prejudice to the Company's operations) and, except in the event of emergencies, upon not less than two business days' prior notice, subject to the Company's usual business, proprietary, safety, confidentiality and security requirements, 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 organized, validly existing and in good standing under the laws of 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 have been duly authorized by all necessary action and do not violate the articles of organization of the Company, as the same may be amended and supplemented, or to the best of the Company's knowledge, any applicable provision of law, nor do they 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) There are no actions or proceedings by or before any court, governmental commission, board, bureau or other administrative agency pending, or to the best of the Company's knowledge, threatened or affecting the Company that would impair its ability to enter into or perform its obligations under this Agreement.

(5) 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 purchase, construct and operate the Project.

(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.

(7) The Project will be purchased, constructed and operated by the Company in a manner that is substantially consistent with the description of the Project herein and in the Lease. Without limiting the generality of the foregoing, the Company acknowledges that (i) the City is issuing the Bonds and offering incentives pursuant to this Agreement in reliance on the Company's

agreement to construct the Project substantially in accordance with Figure 2 as shown on **Exhibit C** hereto and (ii) the Company's failure to construct the Project substantially in accordance with Figure 2 will constitute an Event of Default hereunder.

(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 home rule 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 have 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.

(4) There are no actions or proceedings by or before any court, governmental commission, board, bureau or other administrative agency pending, or to the best of the City's knowledge, 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 warranties, representations, covenants and agreements of the Company contained herein, including but not limited to those in **Section 3.2(e), (f) and (g)**, shall survive termination of this Agreement for any reason.

Section 4.4. Indemnification of City. The Company shall indemnify and defend the City to ensure that the City is held harmless 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 City's ownership of the Project, from the conduct or management of, or from any work or thing done in, on or about, the Project during the term of the Lease, and against and from all claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, arising during the term of the Lease from any event described in **Section 10.5** or **Section 10.9** of the Lease to the extent and subject to the limitations provided therein. Notwithstanding the foregoing, the indemnification contained in this Section shall not extend to the City to the extent that such claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, are the result of negligence or willful misconduct by the City.

Section 4.5. Costs of Issuance of the Bonds; Payment to City. The Company agrees to pay or provide for the payment of, on the issuance date of the Bonds, all costs of issuance incurred in connection therewith. The Company shall further pay all legal fees incurred by the City in connection with the transfer of fee title to the Project. If this Agreement is terminated before the payment in full of the Bonds or the expiration of the term of the Lease or the rights and interests of the Company under this Agreement are assigned pursuant to **Article V**, the Company shall pay any costs of the City in connection therewith, including the City's legal fees and bond counsel fees.

Section 4.6. Sales and Use Tax Exemptions. The City will provide a project exemption certificate to the Company, its contractors and subcontractors to purchase and pay for, exempt from sales and use tax, certain construction materials to be incorporated into or used up in the Project, pursuant to a Missouri Department of Revenue Project Exemption Certificate, Form 5060. The Company agrees to make, and to cause its contractors and subcontractors to make, such purchases in compliance with the provisions of Section 144.062 of the Revised Statutes of Missouri. Such construction materials may only include

tangible personal property and materials that can only be used for the Project and that are actually used up or consumed in constructing the Project. Except as provided in the prior sentences, the acquisition and construction of the Project shall not be exempt from any sales or use taxes imposed by any governmental authority by virtue of the City's interest in the Project, and neither the City nor the Company will request any such exemption. Nothing herein shall limit the Company's right to any exemption of sales or use taxes not resulting from the City's interest in the Project.

ARTICLE V

SALE AND ASSIGNMENT

Section 5.1. 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.

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 Contractual Payment required to be paid hereunder within 30 days after written notice and demand is given by the City to the Company;

(b) the Company fails to perform any of its material obligations hereunder or under the Lease for a period of 60 days (or such longer period as the City and the Company may agree in writing) after the City has given written notice to the Company specifying such failure, or if such matter is not subject to cure within such 60 days after such notice, the Company fails to initiate action to cure the default within such 60 days after such notice is given and fails to pursue such action diligently; or

(c) any representation of the Company contained herein or in the Lease proves to be materially false or erroneous and is not corrected or brought into compliance within 60 days (or such longer period as the City and the Company 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 if such matter is not subject to cure within such 60 days after such notice, the Company fails to initiate action to cure the default within such 60 days after such notice is given and fails to pursue such action diligently.

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

Section 6.3. Interest on Late Payments. Any amounts due hereunder that are not paid when due shall bear interest at the interest rate of 18% per annum from the date 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 jurisdiction that would benefit from the PILOT Payments or Contractual Payments provided for in this Agreement may bring an action for specific performance to enforce such payments. In any judicial or non-judicial proceeding to enforce any right or remedy of the Trustee under the Indenture or the City hereunder, there shall be allowed and included in the judgment or decree all expenditures and expenses (including without limitation, attorneys' fees and costs and the cost of obtaining title reports, title insurance, environmental reports, appraisal reports, insurance, past due taxes and assessments with respect to the Project) that may be paid or incurred in connection with the exercise by the Trustee or the City of such party's rights and remedies provided or referred to in this Agreement, the Indenture or the Lease, together with interest thereon at the statutory rate of interest, and the same shall be Additional Rent as defined in **Section 5.2** of the Lease.

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 the cure period and the subsequent termination of this Agreement pursuant to the provisions of the Lease and this Agreement; or
- (c) the expiration of the term of the Lease set forth in **Section 3.2** of the Lease.

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 owing during the year in which this Agreement terminates, to the extent the Company receives the ad valorem tax exemption contemplated for that year.

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.

Section 8.3. Severability; Effect of Invalidity. If for any reason any provision of this Agreement is determined to be invalid or unenforceable, such invalid or unenforceable provision will be deemed severed from this Agreement and the validity and enforceability of the other provisions hereof shall not be affected thereby. 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 real property taxes and sales taxes in an amount at least equal to the PILOT Payments and Contractual Payments due under this Agreement.

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 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 in any bankruptcy court.

Section 8.7. Entire Agreement. This Agreement, together with the Lease, 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. This Agreement shall not be modified except by written agreement signed on behalf of the City and the Company by their duly authorized representatives.

Section 8.8. Electronic Transaction. The parties agree that the transaction described herein may be conducted and related documents may be sent, received or 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 of the Revised Statutes of Missouri, which requires (a) 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 business entity receiving tax abatement, and (b) 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 entity receiving tax abatement. The Company shall provide such affidavit, in substantially the form of **Exhibit B**, and documentation to the Director of Administration or his designee on or before November 15 of each year during the term of this Agreement, beginning November 15, 2025.

Section 8.10. Anti-Discrimination Against Israel Act. Pursuant to Section 34.600 of the Revised Statutes of Missouri, the Company certifies it is not currently engaged in and shall not, for the duration of this Agreement, engage in a boycott of goods or services from (a) the State of Israel, (b) companies doing business in or with the State of Israel or authorized by, licensed by, or organized under the laws of the State of Israel, or (c) persons or entities doing business in the State of Israel.

[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 ST. CHARLES, MISSOURI

[SEAL]

By: _____
Daniel J. Borgmeyer, Mayor

ATTEST:

Kimberly Hudson, City Clerk

CLEMENT MANAGEMENT SERVICES, LLC

By: _____
Name: Penuel Raj Clement
Title: Manager

EXHIBIT A
PROJECT SITE

A TRACT OF LAND BEING PART OF U.S. SURVEY 979 AND PART OF THE NORTHEAST QUARTER OF FRACTIONAL SECTION 34, TOWNSHIP 47 NORTH, RANGE 4 EAST, ST. CHARLES COUNTY, MISSOURI AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE EAST LINE OF ADJUSTED LOT 2 OF "RESUBDIVISION OF LOTS 2, 3, AND 4 OF 'ARCO BUSINESS PARK'", A SUBDIVISION ACCORDING TO THE INSTRUMENT RECORDED IN PLAT BOOK 45 PAGE 334 OF THE ST. CHARLES COUNTY RECORDS WITH THE NORTH LINE OF "OXFORD CROSSING", A SUBDIVISION ACCORDING TO THE INSTRUMENT RECORDED IN PLAT BOOK 30 PAGES 369-371 OF SAID RECORDS; THENCE NORTHWARDLY ALONG SAID EAST LINE OF ADJUSTED LOT 2 OF "RESUBDIVISION OF LOTS 2, 3, AND 4 OF 'ARCO BUSINESS PARK'" AND ALONG THE EAST RIGHT OF WAY LINE OF ARCO DRIVE (50 FEET WIDE), NORTH 03 DEGREES 31 MINUTES 13 SECONDS EAST 1031.97 FEET TO THE ACTUAL POINT OF BEGINNING OF THE DESCRIPTION HEREIN; THENCE CONTINUING ALONG SAID EAST RIGHT OF WAY LINE OF ARCO DRIVE (50 FEET WIDE), NORTH 03 DEGREES 31 MINUTES 13 SECONDS EAST 689.52 FEET TO THE SOUTH RIGHT OF WAY LINE OF MISSOURI INTERSTATE HIGHWAY 70, SAID POINT BEING 140.00 FEET PERPENDICULARLY DISTANT SOUTH OF MISSOURI INTERSTATE HIGHWAY 70 CENTERLINE STATION 1174+47.43; THENCE EASTWARDLY ALONG SAID SOUTH RIGHT OF WAY LINE OF MISSOURI INTERSTATE HIGHWAY 70, SOUTH 76 DEGREES 28 MINUTES 29 SECONDS EAST 228.62 FEET TO A POINT BEING 140.00 FEET PERPENDICULARLY DISTANT SOUTH OF MISSOURI INTERSTATE HIGHWAY 70 CENTERLINE STATION 1176+76.05; THENCE SOUTHWARDLY ALONG SAID SOUTH RIGHT OF WAY LINE OF MISSOURI INTERSTATE HIGHWAY 70, ALONG THE WEST LINE OF "TWIEHAUS PLACE", A SUBDIVISION ACCORDING TO THE INSTRUMENT RECORDED IN PLAT BOOK 5 PAGE 82 OF SAID RECORDS, ALONG THE WEST LINE OF "FLOANN SUBDIVISION", A SUBDIVISION ACCORDING TO THE INSTRUMENT RECORDED IN PLAT BOOK 5 PAGE 83 OF SAID RECORDS, AND ALONG THE WEST LINE OF PROPERTY CONVEYED TO MUTUAL ASSURANCE COMPANY PARTNERSHIP TRUST ACCORDING TO THE INSTRUMENT RECORDED IN DEED BOOK 2233 PAGE 1578 OF SAID RECORDS, SOUTH 03 DEGREES 31 MINUTES 28 SECONDS WEST 646.69 FEET TO A POINT; THENCE LEAVING SAID WEST LINE OF THE MUTUAL ASSURANCE COMPANY PARTNERSHIP TRUST PROPERTY, NORTH 87 DEGREES 16 MINUTES 19 SECONDS WEST 225.11 FEET TO THE POINT OF BEGINNING, ACCORDING TO A SURVEY BY BAX ENGINEERING COMPANY DURING APRIL, 2017.

TOGETHER WITH all buildings, structures, and other improvements, all fixtures, presently existing, or hereinafter erected or attached,

TOGETHER WITH all appurtenances, easements, rights, rents and profits,

SUBJECT TO the recorded plat thereof and all the easements, reservations and restrictions of record.

EXHIBIT B

COMPANY'S AFFIDAVIT

STATE OF MISSOURI)
) SS
COUNTY OF ST. CHARLES)

I, the undersigned, am over the age of 18 years and have personal knowledge of the matters stated herein.

I am a duly authorized officer of Clement Management Services, LLC, a Missouri limited liability company (the "*Company*"), and am authorized by the Company to attest to the matters set forth herein.

I hereby affirm the Company's enrollment and participation in a "federal work authorization program" as defined in Section 285.525 of the Revised Statutes of Missouri, as amended.

The Company does not knowingly employ any person who is an "unauthorized alien" as defined in Section 285.525 of the Revised Statutes of Missouri, as amended.

Further Affiant Sayeth Not.

CLEMENT MANAGEMENT SERVICES, LLC

By: _____
Name: Penuel Raj Clement
Title: Manager

Subscribed and sworn to before me this _____ day of _____, 20__.

Notary Public

My commission expires on: _____

EXHIBIT C
RENDERINGS OF THE PROJECT



Figure 1: Rendering of elevation approved at the Planning and Zoning Commission (April 14, 2025).



Figure 2: Rendering of revised elevation approved administratively during permit review.

EXHIBIT D

ANNUAL COMPLIANCE REPORT

To be filed on or before January 15 of each year, beginning on January 15, 2028

<i>Business Name and Address</i> Clement Management Services, LLC 3707 Veterans Memorial Parkway St. Charles, Missouri 63301	<i>MO Tax I.D. Number</i>
<i>Name, Title, and Contact Information for Certifier</i>	<i>Federal Employer I.D. Number (FEIN)</i>
<i>Number of FTE Jobs at Project Site as of January 1</i>	
<i>Contractual Payment due per Section 3.2(f) (if applicable)</i>	

The undersigned, a duly authorized representative of Clement Management Services, LLC., hereby states and certifies that the information set forth in this report is true and correct.

<i>Authorized Signature</i>	<i>Date</i>
------------------------------------	--------------------

For questions, please contact Jennifer O'Connor at (636) 949-3271.

Please send form to:

City of St. Charles, Missouri
200 North Second Street
St. Charles, Missouri 63301
Attn: Jennifer O'Connor
Email: jennifer.oconnor@stcharlescitymo.gov

EXHIBIT F

SPECIAL WARRANTY DEED

(On file in the office of the City Clerk)

(The above space is reserved for Recorder's Certification.)

TITLE OF DOCUMENT: SPECIAL WARRANTY DEED

DATE OF DOCUMENT: [*Transfer Date*]

GRANTOR: CLEMENT MANAGEMENT SERVICES, LLC

GRANTOR'S MAILING ADDRESS: 190 Spring Drive
St. Charles, Missouri 63303

GRANTEE: CITY OF ST. CHARLES, MISSOURI

GRANTEE'S MAILING ADDRESS: 200 North Second Street
St. Charles, Missouri 63301

RETURN DOCUMENTS TO: Mark D. Grimm, Esq.
Gilmore & Bell, P.C.
211 North Broadway, Suite 2000
St. Louis, Missouri 63102

LEGAL DESCRIPTION: See **Exhibit A**

REFERENCE BOOK & PAGE: Instrument No. _____ [Memorandum of
Lease Agreement]

SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED, made October ___, 2025, by and between

CLEMENT MANAGEMENT SERVICES, LLC,

A Missouri limited liability company

190 Spring Drive

St. Charles, Missouri 63303

(the “Grantor”), and

CITY OF ST. CHARLES, MISSOURI

200 North Second Street

St. Charles, Missouri 63301

(the “Grantee”);

WITNESSETH, THAT THE GRANTOR, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration to it paid by the Grantee (the receipt and sufficiency of which are hereby acknowledged) does by these presents, **SELL** and **CONVEY** unto the Grantee, its successors and assigns, the lots, tracts or parcels of land described in **EXHIBIT A**, attached hereto and incorporated herein by reference, together with any improvements thereon;

SUBJECT TO (a) the terms and provisions of the Lease Agreement dated as of October 1, 2025, between the Grantee, as lessor, and the Grantor, as lessee, a memorandum thereof being recorded on October ___, 2025, as Instrument No. _____ in the Public Records of St. Charles County, Missouri, and the Trust Indenture and the Performance Agreement (both as defined therein); (b) easements, restrictions, reservations, and other agreements and matters of record, if any; and (c) rights of the public in and to the parts thereof in streets, roads, or alleys, if any.

TO HAVE AND TO HOLD, the premises aforesaid, with all and singular the rights, privileges, appurtenances and immunities thereto belonging or in any way appertaining unto the Grantee and unto its successors and assigns forever; the Grantor hereby covenanting that said premises are free and clear from any encumbrance done or suffered by it; except as provided above; and that it will warrant and defend the title to said premises unto the Grantee and unto the Grantee’s successors and assigns forever, against the lawful claims and demands of all persons claiming under it but none other, except as provided above.

IN WITNESS WHEREOF, the Grantor and the Grantee have executed this Special Warranty Deed as of the day and year above written.

[Remainder of Page Intentionally Left Blank]

EXHIBIT A

LEGAL DESCRIPTION

A TRACT OF LAND BEING PART OF U.S. SURVEY 979 AND PART OF THE NORTHEAST QUARTER OF FRACTIONAL SECTION 34, TOWNSHIP 47 NORTH, RANGE 4 EAST, ST. CHARLES COUNTY, MISSOURI AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE EAST LINE OF ADJUSTED LOT 2 OF "RESUBDIVISION OF LOTS 2, 3, AND 4 OF 'ARCO BUSINESS PARK'", A SUBDIVISION ACCORDING TO THE INSTRUMENT RECORDED IN PLAT BOOK 45 PAGE 334 OF THE ST. CHARLES COUNTY RECORDS WITH THE NORTH LINE OF "OXFORD CROSSING", A SUBDIVISION ACCORDING TO THE INSTRUMENT RECORDED IN PLAT BOOK 30 PAGES 369-371 OF SAID RECORDS; THENCE NORTHWARDLY ALONG SAID EAST LINE OF ADJUSTED LOT 2 OF "RESUBDIVISION OF LOTS 2, 3, AND 4 OF 'ARCO BUSINESS PARK'" AND ALONG THE EAST RIGHT OF WAY LINE OF ARCO DRIVE (50 FEET WIDE), NORTH 03 DEGREES 31 MINUTES 13 SECONDS EAST 1031.97 FEET TO THE ACTUAL POINT OF BEGINNING OF THE DESCRIPTION HEREIN; THENCE CONTINUING ALONG SAID EAST RIGHT OF WAY LINE OF ARCO DRIVE (50 FEET WIDE), NORTH 03 DEGREES 31 MINUTES 13 SECONDS EAST 689.52 FEET TO THE SOUTH RIGHT OF WAY LINE OF MISSOURI INTERSTATE HIGHWAY 70, SAID POINT BEING 140.00 FEET PERPENDICULARLY DISTANT SOUTH OF MISSOURI INTERSTATE HIGHWAY 70 CENTERLINE STATION 1174+47.43; THENCE EASTWARDLY ALONG SAID SOUTH RIGHT OF WAY LINE OF MISSOURI INTERSTATE HIGHWAY 70, SOUTH 76 DEGREES 28 MINUTES 29 SECONDS EAST 228.62 FEET TO A POINT BEING 140.00 FEET PERPENDICULARLY DISTANT SOUTH OF MISSOURI INTERSTATE HIGHWAY 70 CENTERLINE STATION 1176+76.05; THENCE SOUTHWARDLY ALONG SAID SOUTH RIGHT OF WAY LINE OF MISSOURI INTERSTATE HIGHWAY 70, ALONG THE WEST LINE OF "TWIEHAUS PLACE", A SUBDIVISION ACCORDING TO THE INSTRUMENT RECORDED IN PLAT BOOK 5 PAGE 82 OF SAID RECORDS, ALONG THE WEST LINE OF "FLOANN SUBDIVISION", A SUBDIVISION ACCORDING TO THE INSTRUMENT RECORDED IN PLAT BOOK 5 PAGE 83 OF SAID RECORDS, AND ALONG THE WEST LINE OF PROPERTY CONVEYED TO MUTUAL ASSURANCE COMPANY PARTNERSHIP TRUST ACCORDING TO THE INSTRUMENT RECORDED IN DEED BOOK 2233 PAGE 1578 OF SAID RECORDS, SOUTH 03 DEGREES 31 MINUTES 28 SECONDS WEST 646.69 FEET TO A POINT; THENCE LEAVING SAID WEST LINE OF THE MUTUAL ASSURANCE COMPANY PARTNERSHIP TRUST PROPERTY, NORTH 87 DEGREES 16 MINUTES 19 SECONDS WEST 225.11 FEET TO THE POINT OF BEGINNING, ACCORDING TO A SURVEY BY BAX ENGINEERING COMPANY DURING APRIL, 2017.

TOGETHER WITH all buildings, structures, and other improvements, all fixtures, presently existing, or hereinafter erected or attached,

TOGETHER WITH all appurtenances, easements, rights, rents and profits,

SUBJECT TO the recorded plat thereof and all the easements, reservations and restrictions of record.