

## **AGENDA**

Raymore City Council Special Meeting  
City Hall – 100 Municipal Circle  
Monday, December 20, 2021  
7:00 p.m.

- 1. Call to Order.**
- 2. Roll Call.**
- 3. Pledge of Allegiance.**
- 4. Presentations/Awards.**
- 5. Personal Appearances.**
- 6. Staff Reports.**
  - A. Public Works (pg 7)
  - B. Parks and Recreation (pg 9)
  - C. Communications Report
  - D. Comprehensive Plan
  - E. Monthly Financial Report (pg 13)
- 7. Committee Reports.**
- 8. Consent Agenda.**

*The items on the Consent Agenda are approved by a single action of the City Council. If any Councilmember would like to have an item removed from the Consent Agenda and considered separately, they may so request.*

- A. City Council Minutes, December 13, 2021 (pg 23)
- B. Acceptance of Public Improvements - Oak Ridge Farms

Reference: - Resolution 21-42 (pg 31)

The Director of Public Works has determined that the project has been satisfactorily completed in accordance with the project specifications. In addition, the Development Services and Public Works directors have inspected the site and found it to be in compliance with City of Raymore Code requirements.

C. Acceptance of Public Improvements - Eastbrooke 2nd

Reference: - Resolution 21-44 (pg 33)

The Director of Public Works has determined that the project has been satisfactorily completed in accordance with the project specifications. In addition, the Development Services and Public Works directors have inspected the site and found it to be in compliance with City of Raymore Code requirements.

D. Acceptance of Public Improvements - Edgewater 7th

Reference: - Resolution 21-52 (pg 35)

The Director of Public Works has determined that the project has been satisfactorily completed in accordance with the project specifications. In addition, the Development Services and Public Works directors have inspected the site and found it to be in compliance with City of Raymore Code requirements.

**9. Unfinished Business. Second Reading.**

A. Madison Valley Phase 2 Preliminary Plat

Reference: - Agenda Item Information Sheet (pg 39)  
- Resolution 21-35 (pg 41)  
- Staff Report (pg 42)  
- Memorandum of Understanding (pg 62)  
- Preliminary Plat (pg 82)

Tony Ward, representing Blue Springs Safety Storage South, LLC, filed a request for preliminary plat approval for Madison Valley Phase 2, a 154-lot single-family subdivision.

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| <ul style="list-style-type: none"><li>• City Council, 10/11/2021: Tabled 8-0</li><li>• City Council, 9/27/2021: Postponed 7-0</li><li>• Planning and Zoning Commission, 09/07/2021: Approved 7-0</li></ul> |
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B. Calling for April 5, 2022 Municipal Election

Reference: - Agenda Item Information Sheet (pg 85)  
- Bill 3672 (pg 87)

The Raymore City Charter, Section 9.1, states that the regular Municipal Election shall be held on the first Tuesday after the first Monday in April, or such day as may be mandated by State law. This Bill calls for the next municipal election to be held on April 5, 2022. Candidate filing begins Dec. 21,

2021 and ends on Jan. 18, 2022. Positions for Mayor (at large) will be open to serve a three-year term, City Council seats in each of the four wards will be open to serve a two year term, and one seat in Ward 1 will be open to serve a one year term.

- City Council, 12/13/2021: Approved 8-0

C. Contract for Real Estate Purchase

Reference: - Agenda Item Information Sheet (pg 89)  
- Bill 3673 (pg 91)  
- Contract (pg 94)  
- Location Map (pg 103)

Before the City Council is a real estate contract for the City to purchase two tracts of land comprising 10.85 acres located on the east side of North Madison Street, north of Pine Street.

- City Council, 12/13/2021: Approved 8-0

**10. New Business. First Reading.**

A. Brown Event Space Conditional Use Permit (public hearing)

Reference: - Agenda Item Information Sheet (pg 107)  
- Bill 3675 (pg 109)  
- Planning Commission Minutes Excerpt (pg 111)  
- Conceptual Plan (pg 129)

Steven Brown filed a request for a Conditional Use Permit to operate an event center in an existing barn on his property located at 16119 Kentucky Road.

- Planning and Zoning Commission, 12/7/2021: Approved 9-0

B. Raymore Commerce Center Chapter 100 Bond Issuance (Emergency Reading)

Reference: - Agenda Item Information Sheet (pg 131)  
- Bill 3674 (pg 133)  
- Bond Purchase Agreement (pg 137)  
- Lease Agreement (pg 144)  
- Trust Indenture (pg 195)  
- Estoppel Certificate (pg 261)  
- Consent to Collateral (pg 271)

Southern Glazer's Wine and Spirits, dba Kansas City Property Partners, LLC is requesting the issuance of taxable industrial revenue bonds by the City of

Raymore in an amount not to exceed \$44 million to assist in the financing of Building 1 within the Raymore Commerce Center. The Company would purchase the bonds and make the required PILOT payments over a 20-year period.

**11. Public Comments.** Please identify yourself for the record and keep comments to a maximum of five minutes.

**12. Mayor/Council Communication.**

**13. Adjournment.**

### **EXECUTIVE SESSION (CLOSED MEETING)**

**The Raymore City Council is scheduled to enter into executive session to discuss personnel matters as authorized by RSMo 610.021 (3).**

The Raymore City Council may enter an executive session before or during this meeting, if such action is approved by a majority of Council present, with a quorum, to discuss:

- Litigation matters as authorized by § 610.021 (1),
- Real Estate acquisition matters as authorized by § 610.021 (2),
- Personnel matters as authorized by § 610.021 (3),
- Other matters as authorized by § 610.021 (4-21) as may be applicable.

*Any person requiring special accommodation (i.e., qualified interpreter, large print, hearing assistance) in order to attend this meeting, please notify this office at (816) 331-3324 no later than forty eight (48) hours prior to the scheduled commencement of the meeting.*

*Hearing aids are available for this meeting for the hearing impaired. Inquire with the City Clerk, who sits immediately left of the podium as one faces the dais.*



# Staff Reports





## **PUBLIC WORKS MONTHLY REPORT**

**December 2021**

### **ENGINEERING DIVISION**

#### **Projects Advertised for Bid**

Ward Road Reconstruction

#### **Projects Under Construction**

Centerview Phase II  
Johnston Drive Sanitary Sewer Replacement  
FY2021 Street Preservation

#### **Projects Under Design**

2021 Inflow and Infiltration correction project  
FY 2022 Street Preservation  
FY 2022 Curb Replacement  
Sunset Lane and Hawkridge Park GO Improvements

#### **Development Under Construction**

- Eastbrook at Creekmoor
- Venue of the Good Ranch
- Oakridge Farms

#### **Developments Under Review**

- Prairie at Carroll Farms
- Edgewater 3rd
- Sendara
- Knoll Estates 2nd

### **OPERATIONS & MAINTENANCE DIVISION**

- 53 City Hall Work Orders
- 13 Driveway Inspections
- 2 Final ROW Inspections
- 232 Locates
- 35 Service Requests
- 10 Sewer Inspections
- 4 Water Inspections
- 8 Sidewalk Inspections
- 4 Water Taps
- 2 Curb Inspections
- Water turn ons from shut off list
- Pulled bi-monthly water samples
- Cleaned up from water break Monday-12/06

- Rebuilding salt brine
- Hooked up the salt brine tank
- Hooked up the pumps for the salt brine tank
- Pothole patching
- Maintenance on winter equipment
- Cleaned inlets with the sweeper
- Swept the streets
- Decal for the new bucket truck
- Changing over from the old bucket truck to the new bucket truck
- Hydrant Flushing
- MPR training 2021 Justin Paith, Zach Frazier and Mike Donahoe attended seminar from 11/30/21-12/02/21
- Water shut offs
- Water truck serviced and picked up
- Restocking supplies
- Water break on 11/29/21
- Meter repairs
- Equipment maintenance
- Sealing cracks
- Assisted Parks in the Mayor's Christmas tree installation
- Painted the handicap parking spacing in front of public works
- Street sweeping
- Hung banners along 58 and TB Hanna park
- Sinkhole repair
- Made new handicap signs adding fine amount in front of public works

## MONTHLY REPORT

December 2021

### Monthly Highlights

- Recreation Coordinator Corrine Harkins prepared for the Mayor's Tree Lighting held on December 3rd at T.B. Hanna Station. Harkins also took advantage of the shopping season to stock up on summer day camp supplies.
- Athletic Coordinator Todd Brennon hosted a referee training at the RAC. Brennon met with many coaches and passed out uniforms for the youth basketball season that begins this weekend.
- Athletic Coordinator Todd Brennon met with Homefield KC about partnering for some baseball and softball camps.
- Recreation Superintendent Jimmy Gibbs met with Marketing and Communications Manager Melissa Harmer to review the upcoming program guide. Gibbs also met with Athletic Coordinator Todd Brennon and Recreation Coordinator Corinne Harkins to review calendars and scheduling needs for upcoming activities and events including the Mayor's Tree Lighting and Raymore Christmas Tree Trail, and season opening of The Rink at T.B. Hanna Station.
- Recreation staff continued booking programs and activities for the upcoming year including the 2022 Winter Program guide.
- Recreation Staff including Recreation Superintendent Jimmy Gibbs, Athletic Coordinator Todd Brennon and Recreation Coordinator Corinne Harkins organized, cleaned and prepared the new Skate Rental Shop at the Station House at T.B. Hanna Station.
- Superintendent Jimmy Gibbs participated in a Community Spotlight interview with Dan Edson highlighting The Rink at T.B. Hanna Station.
- Park Maintenance crews assembled the Mayor's Christmas Tree at T.B. Hanna Station and put final touches on the park in preparation for [tonight's event](#).
- Parks Superintendent Steve Rulo participated in a virtual meeting with the Missouri Department of Conservation and Raymore-Peculiar High School students on a project at Hawk Ridge Park.



**Parks Maintenance Crew**  
Jacob Wickey, Nick Cook, Jeff Schmill, Eddie Gomez and Cody York



- Park maintenance crews took advantage of the warm weather to conduct end of season turf and native area maintenance throughout the park system. Crews are also actively maintaining trees in Eagle Glen and throughout the park system.
- Park crews are continuing scheduled preventative maintenance on park landscape equipment including mowers and chainsaws, and are refurbishing pitching mounds.
- Raymore Parks & Recreation Director Nathan Musteen attended the Agents of Change Leadership Symposium for Parks and Recreation Administrators.
- Significant progress has been made this week on the outdoor event space and trail connections at Centerview. This phase of new amenities started by adding sidewalks and a raised boardwalk overlooking expanded natural areas for plants, birds and wildlife.
- With the unseasonably warm temperatures, the Variety KC Inclusive Playground and The Rink at T.B. Hanna Station have been extra busy. The park also features the Mayor's Tree and the Raymore Christmas Tree Trail. Year-round restrooms are available for public use at the park.
- Athletic Coordinator Todd Brennon and Recreation Superintendent Jimmy Gibbs met with KC Sports for potential baseball tournaments during the spring/summer of 2022.
- Athletic Coordinator Todd Brennon noted that youth basketball continues this weekend with 12 games scheduled for the RAC and area middle schools. Kindergarten basketball also resumes this weekend at the RAC.
- The Holiday Movie viewing of *The Polar Express* is this Saturday, Dec. 11, at 7 p.m. at the Raymore Activity Center. This is a free, family-fun event.
- Currently 7 Private Skate Rink Rentals are booked through December 31

### **Parks and Recreation Board**

The Parks and Recreation Board met in a work session on December 14, 2021 in the Gilmore Room at Centerview. Topics of discussion included the Recreation Park Master Plan update, the FY22 CIP Skatepark project, Project updates and a discussion on the summer day camp fees.

The Park Board welcomed new member Daniel Mapes to complete the Ward 1 term recently vacated.

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**WE ARE HIRING!** Flexible hours, fun atmosphere, great part-time job for anyone 16 years or older.

- Concessions Attendants
- Site Supervisors
- Ice Rink Attendants
- Ice Skating Instructors

We are always looking for Program instructors - got a special skill, talent or desire to teach? Call the Parks and Recreation office for more information on how to offer your program to everyone.





### **Centerview**

Baby Shower  
2 Holiday Parties  
2 Birthday Parties  
Painting Snowmen Class  
Celebration of Life  
3 Bridge Club Meetings  
CBR Emerald Club Luncheon  
2 HOA Meetings  
CPR Training  
Optimist Holiday Dinner  
Holiday Family Dinner  
Drama Classes

### **The Raymore Activity Center**

Volleyball Rentals  
Open Volleyball  
Open Basketball  
Open Futsal  
Microchip & Vaccination Animal Clinic  
RayPec Prowlers Dance Team Practices  
Futsal Practice Rental  
Movie Night - Polar Express  
Basketball League Games

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### **Mayor's Coat Drive**

Residents of Raymore once again showed their giving spirit as we collected new and gently used coats and jackets this holiday season. The collection began at the Mayor's Tree Lighting event and during open hours in the lobbies of City Hall, Centerview and the Raymore Activity Center through Dec. 17. Donations will be delivered to Fishes 'N' Loaves Kings Closet the week of December 20th.

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### **The Rink at T.B. Hanna Station is Open!**

Ice skate rental is \$5 per person or you can purchase a one time \$25/person season pass to skate any time during open skate hours. Private rink rentals are available too!

Open skate:

- Thursday- 4-7 p.m.
- Friday- 4-7 p.m.
- Saturday- 1-7 p.m.
- Sunday- 1-7 p.m.

The Rink is closed Mondays for maintenance and Tuesdays and Wednesdays are reserved for programming. For more information, including details on private rink rentals, visit [www.raymore.com/skate](http://www.raymore.com/skate)







**RAYMORE**  
parks & recreation

**\$25 SEASON PASS**  
Ice skate rental at The Rink  
at T.B. Hanna Station

**Ice Skate Rental at T.B. Hanna Station**  
214 S. Washington St., Raymore  
816-322-2791 // [www.Raymore.com/Skate](http://www.Raymore.com/Skate)

- Must present card each time to rent skates.
- Valid only when skate shop is open / during open skate hours.
- Valid 2021-2022 season. Expires Feb. 20, 2022.
- Individual membership. Nontransferable.
- Skate rental only. Not valid for entry to special events/programs.

### **Tiny Basketball**

Registration is open for Tiny Basketball. It fills up fast, so don't wait to register!

This four-week instructional basketball camp is for children ages 3-4. This camp gives children an opportunity to play in a structured environment with other children and focus on basic basketball skill development such as dribbling, shooting and passing. Parents will be used to assist in drill stations. All players will receive a shirt and award for completing the camp.

Sessions run Saturdays from Jan. 8-Jan. 29, 2022 at the RAC.

Fee: \$45 per child / Learn more & register online: <https://bit.ly/3yp0G85>







## FINANCE MONTHLY REPORT

This report, consisting of a Financial Summary, Investment Summary and Grant Summary, has been prepared for the fiscal period November 1, 2021 to November 30, 2021.

### November Financial Summary

Some notes regarding this month's summary operating report:

#### General Fund

##### Revenue:

8.33% of the way through the fiscal year, General Fund revenues are generally tracking as expected with total collected revenue of 6.61% of budget. Inter-fund transfers are being completed on a monthly basis with the exception of the Capital Funds Transfer. The Capital Funds Transfers will occur throughout the year after the capital project has been accepted by the Council and final payments have been made.

- Property tax revenues collected are tracking as expected with the majority of the budgeted revenue expected by February 2022.
- Franchise Tax revenues as a whole are tracking slightly below straight line at 6.92%. This revenue source varies depending on the weather, staff will continue to monitor this closely throughout the year.
- Sales tax revenues as a whole are tracking slightly below straight line budget at 8.64%. City sales taxes are at 8.71% while state shared gasoline and vehicle taxes are at 8.25%.
- Fees and Permit revenues collected are tracking below straight line budget at 3.81%. There were 5 single family residential building permits issued out of the 150 budgeted starts. In addition, we have issued 3 commercial building permits.
- License revenues collected are tracking as expected at 25.12% of straight line budget. Occupational license revenues collected are tracking ahead of expectation and this is attributed to the ability to complete forms and pay for the license online. Nearly all of the revenue is received in January when the licenses are due and staff anticipates a small amount throughout the spring for new builders to the area. Liquor licenses are due in May and processed after the public hearing.
- Municipal Court revenues collected are below straight line budget at 4.79%. Staff will continue to monitor this revenue source closely throughout the year.

## **Expenditures:**

Departmental spending is tracking normally. Most of the departments are right at straight line expectation or slightly below.

- The Information Technology Department has replaced the majority of the computers scheduled for replacement, and has renewed 50% of the annual software maintenance agreements, putting it above straight line budget.
- The Emergency Management Department is currently at 13.18% of straight line budget primarily due to the payment of the siren maintenance contract.

## **Parks & Recreation Fund**

### **Revenue:**

Revenues are at 3.35% of budget 8.33% of the way through the year; normal for this time of the year. Staff will monitor all revenue sources closely

### **Expenditures:**

The Parks department is showing the same operational expenditure pattern as in years past. Recreation department expenses reciprocate recreation revenue. Expenditures are expected to increase as the number of programs offered goes up.

## **Enterprise Fund**

### **Revenue:**

Utility revenues as a whole are tracking at 9.63% of straight line budget. Staff will continue to monitor all utility revenue closely throughout the year.

### **Expenditures:**

Enterprise Fund expenditures tracking below straight line budget but at expectations.

01 -GENERAL FUND  
 FINANCIAL SUMMARY

	PRIOR YEAR ENDING PO BAL.	PRIOR YEAR PO ADJUST.	REMAINING PRIOR YEAR PO BALANCE	CURRENT BUDGET	CURRENT PERIOD	YEAR TO DATE ACTUAL	TOTAL ENCUMBRANCE	BUDGET BALANCE	% OF BUDGET
<u>REVENUE SUMMARY</u>									
<u>NON-DEPARTMENTAL</u>									
PROPERTY TAXES	0.00	0.00	0.00	1,693,079.00	1,761.48	1,761.48	0.00	1,691,317.52	0.10
FRANCHISE TAXES	0.00	0.00	0.00	2,109,554.00	146,030.67	146,030.67	0.00	1,963,523.33	6.92
SALES TAXES	0.00	0.00	0.00	3,849,653.00	332,695.53	332,695.53	0.00	3,516,957.47	8.64
FEES AND PERMITS	0.00	0.00	0.00	363,432.00	13,847.95	13,847.95	0.00	349,584.05	3.81
LICENSES	0.00	0.00	0.00	122,312.00	30,730.00	30,730.00	0.00	91,582.00	25.12
MUNICIPAL COURT	0.00	0.00	0.00	343,276.00	16,436.74	16,436.74	0.00	326,839.26	4.79
MISCELLANEOUS	0.00	0.00	0.00	522,151.00	26,129.79	26,129.79	0.00	496,021.21	5.00
TRANSFERS - INTERFUND	0.00	0.00	0.00	1,631,504.00	135,458.67	135,458.67	0.00	1,496,045.33	8.30
<b>TOTAL NON-DEPARTMENTAL</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>10,634,961.00</b>	<b>703,090.83</b>	<b>703,090.83</b>	<b>0.00</b>	<b>9,931,870.17</b>	<b>6.61</b>
<u>COVID-19</u>									
<b>TOTAL REVENUES</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>10,634,961.00</b>	<b>703,090.83</b>	<b>703,090.83</b>	<b>0.00</b>	<b>9,931,870.17</b>	<b>6.61</b>

EXPENDITURE SUMMARY

NON-DEPARTMENTAL	0.00	0.00	0.00	100,000.00	8,333.33	8,333.33	0.00	91,666.67	8.33
ADMINISTRATION	0.00	0.00	0.00	1,422,231.00	72,534.13	72,534.13	2,654.77	1,347,042.10	5.29
INFORMATION TECHNOLOGY	7,935.58	478.01	7,457.57	660,828.00	109,240.99	109,240.99	23,713.76	527,873.25	20.12
ECONOMIC DEVELOPMENT	0.00	0.00	0.00	158,219.00	7,496.80	7,496.80	12.99	150,709.21	4.75
COMMUNITY DEVELOPMENT	0.00	0.00	0.00	777,974.00	62,094.52	62,094.52	1,577.03	714,302.45	8.18
ENGINEERING	0.00	0.00	0.00	451,616.00	34,386.81	34,386.81	645.23	416,583.96	7.76
STREETS	10,894.66	0.00	10,894.66	844,407.52	32,838.85	32,838.85	4,375.09	807,193.58	4.41
BUILDING & GROUNDS	0.00	401.79 (	401.79)	361,933.00	21,424.75	21,424.75	5,771.65	334,736.60	7.51
STORMWATER	0.00	0.00	0.00	310,493.00	21,830.86	21,830.86	399.70	288,262.44	7.16
COURT	0.00	0.00	0.00	132,999.73	9,267.12	9,267.12	63.76	123,668.85	7.02
FINANCE	0.00	0.00	0.00	729,538.00	47,818.01	47,818.01	4,374.31	677,345.68	7.15
COMMUNICATIONS	3,467.00	0.00	3,467.00	193,219.00	8,191.17	8,191.17	620.50	184,407.33	4.56
PROSECUTING ATTORNEY	0.00	0.00	0.00	24,400.00	0.00	0.00	2,000.00	22,400.00	8.20
POLICE	0.00	0.00	0.00	4,328,192.00	302,100.30	302,100.30	11,330.16	4,014,761.54	7.24
EMERGENCY MANAGEMENT	0.00	0.00	0.00	136,295.00	17,722.09	17,722.09	235.02	118,337.89	13.18
COVID-19	3,290.90	0.00	3,290.90	0.00	0.00	0.00	0.00	0.00	0.00
<b>TOTAL EXPENDITURES</b>	<b>25,588.14</b>	<b>879.80</b>	<b>24,708.34</b>	<b>10,632,345.25</b>	<b>755,279.73</b>	<b>755,279.73</b>	<b>57,773.97</b>	<b>9,819,291.55</b>	<b>7.65</b>
<b>REVENUES OVER/(UNDER) EXPENDITURES</b>	<b>( 25,588.14)</b>	<b>879.80 (</b>	<b>24,708.34)</b>	<b>2,615.75 (</b>	<b>52,188.90(</b>	<b>52,188.90) (</b>	<b>57,773.97)</b>	<b>112,578.62</b>	<b>4,203.88-</b>

25 -PARK FUND  
 FINANCIAL SUMMARY

	PRIOR YEAR ENDING PO BAL.	PRIOR YEAR PO ADJUST.	REMAINING PRIOR YEAR PO BALANCE	CURRENT BUDGET	CURRENT PERIOD	YEAR TO DATE ACTUAL	TOTAL ENCUMBRANCE	BUDGET BALANCE	% OF BUDGET
<u>REVENUE SUMMARY</u>									
<u>NON-DEPARTMENTAL</u>									
<u>PARKS DIVISION</u>									
PROPERTY TAXES	0.00	0.00	0.00	453,391.00	474.05	474.05	0.00	452,916.95	0.10
MISCELLANEOUS	0.00	0.00	0.00	12,679.00	62.52	62.52	0.00	12,616.48	0.49
FACILITY RENTAL REVENUE	0.00	0.00	0.00	12,275.00	300.00	300.00	0.00	11,975.00	2.44
TRANSFERS - INTERFUND	0.00	0.00	0.00	450,000.00	37,500.00	37,500.00	0.00	412,500.00	8.33
TOTAL PARKS DIVISION	0.00	0.00	0.00	928,345.00	38,336.57	38,336.57	0.00	890,008.43	4.13
<u>RECREATION DIVISION</u>									
CONCESSION REVENUE	0.00	0.00	0.00	60,000.00	82.00	82.00	0.00	59,918.00	0.14
FACILITY RENTAL REVENUE	0.00	0.00	0.00	51,850.00	0.00	0.00	0.00	51,850.00	0.00
PROGRAM REVENUE	0.00	0.00	0.00	227,250.00	1,585.00	1,585.00	0.00	225,665.00	0.70
TOTAL RECREATION DIVISION	0.00	0.00	0.00	339,100.00	1,667.00	1,667.00	0.00	337,433.00	0.49
<u>CENTERVIEW</u>									
FACILITY RENTAL REVENUE	0.00	0.00	0.00	63,875.00	3,480.01	3,480.01	0.00	60,394.99	5.45
PROGRAM REVENUE	0.00	0.00	0.00	9,600.00	1,000.00	1,000.00	0.00	8,600.00	10.42
TOTAL CENTERVIEW	0.00	0.00	0.00	73,475.00	4,480.01	4,480.01	0.00	68,994.99	6.10
<u>RAYMORE ACTIVITY CENTER</u>									
MISCELLANEOUS	0.00	0.00	0.00	1,500.00	138.00	138.00	0.00	1,362.00	9.20
CONCESSION REVENUE	0.00	0.00	0.00	4,000.00	1.50	1.50	0.00	3,998.50	0.04
FACILITY RENTAL REVENUE	0.00	0.00	0.00	24,825.00	500.00	500.00	0.00	24,325.00	2.01
PROGRAM REVENUE	0.00	0.00	0.00	197,590.00	7,480.00	7,480.00	( 70.00)	190,180.00	3.75
TOTAL RAYMORE ACTIVITY CENTER	0.00	0.00	0.00	227,915.00	8,119.50	8,119.50	( 70.00)	219,865.50	3.53
TOTAL REVENUES	0.00	0.00	0.00	1,568,835.00	52,603.08	52,603.08	( 70.00)	1,516,301.92	3.35
<u>EXPENDITURE SUMMARY</u>									
PARKS DIVISION	0.00	0.00	0.00	892,337.50	52,979.24	52,979.24	3,580.93	835,777.33	6.34
RECREATION DIVISION	0.00	0.00	0.00	340,763.50	15,933.32	15,933.32	845.18	323,985.00	4.92
CENTERVIEW	0.00	125.00	( 125.00)	96,106.00	2,947.45	2,947.45	723.09	92,435.46	3.82
RAYMORE ACTIVITY CENTER	0.00	699.75	( 699.75)	233,382.50	10,242.46	10,242.46	( 87.15)	223,227.19	4.35
TOTAL EXPENDITURES	0.00	824.75	( 824.75)	1,562,589.50	82,102.47	82,102.47	5,062.05	1,475,424.98	5.58
REVENUES OVER/(UNDER) EXPENDITURES	0.00	824.75	824.75	6,245.50	( 29,499.39)	( 29,499.39)	( 5,132.05)	40,876.94	554.50-

50 -ENTERPRISE FUND  
 FINANCIAL SUMMARY

	PRIOR YEAR ENDING PO BAL.	PRIOR YEAR PO ADJUST.	REMAINING PRIOR YEAR PO BALANCE	CURRENT BUDGET	CURRENT PERIOD	YEAR TO DATE ACTUAL	TOTAL ENCUMBRANCE	BUDGET BALANCE	% OF BUDGET
<u>REVENUE SUMMARY</u>									
<u>NON-DEPARTMENTAL</u>									
MISCELLANEOUS	0.00	0.00	0.00	25,839.00	1,476.57	1,476.57	0.00	24,362.43	5.71
UTILITY REVENUE	0.00	0.00	0.00	9,353,114.00	901,398.00	901,398.00	0.00	8,451,716.00	9.64
<b>TOTAL NON-DEPARTMENTAL</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>9,378,953.00</b>	<b>902,874.57</b>	<b>902,874.57</b>	<b>0.00</b>	<b>8,476,078.43</b>	<b>9.63</b>
<u>COVID-19</u>									
<u>SRF SEWER BONDS</u>									
<b>TOTAL REVENUES</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>9,378,953.00</b>	<b>902,874.57</b>	<b>902,874.57</b>	<b>0.00</b>	<b>8,476,078.43</b>	<b>9.63</b>
<u>EXPENDITURE SUMMARY</u>									
NON-DEPARTMENTAL	0.00	0.00	0.00	600,000.00	49,899.28	49,899.28	0.00	550,100.72	8.32
WATER	0.00	0.00	0.00	3,441,890.52	85,236.87	85,236.87	871.35	3,355,782.30	2.50
SEWER	0.00	0.00	0.00	3,658,172.97	( 36,071.62)	( 36,071.62)	549.49	3,693,695.10	0.97
SOLID WASTE	0.00	0.00	0.00	1,880,296.00	0.00	0.00	0.00	1,880,296.00	0.00
<b>TOTAL EXPENDITURES</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>9,580,359.49</b>	<b>99,064.53</b>	<b>99,064.53</b>	<b>1,420.84</b>	<b>9,479,874.12</b>	<b>1.05</b>
<b>REVENUES OVER/(UNDER) EXPENDITURES</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>( 201,406.49)</b>	<b>803,810.04</b>	<b>803,810.04</b>	<b>( 1,420.84)</b>	<b>( 1,003,795.69)</b>	<b>398.39-</b>

## Investment Monthly Report

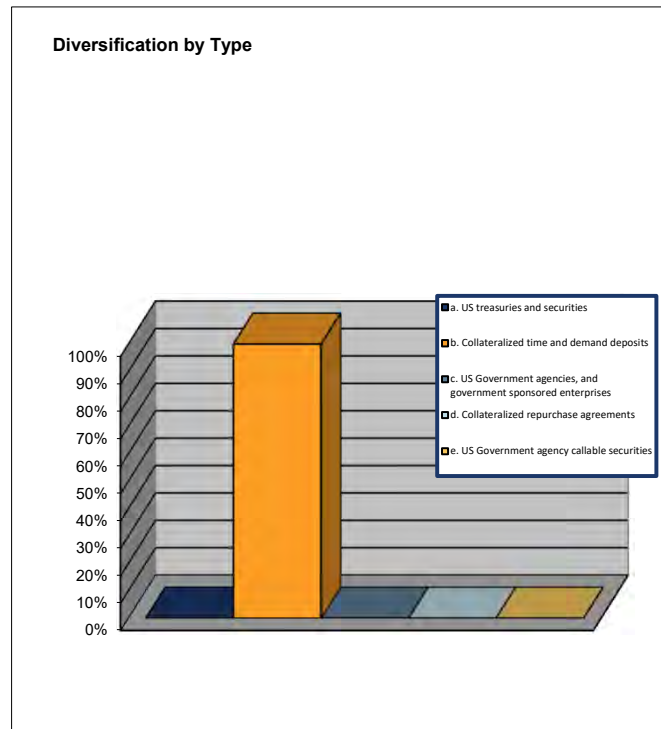
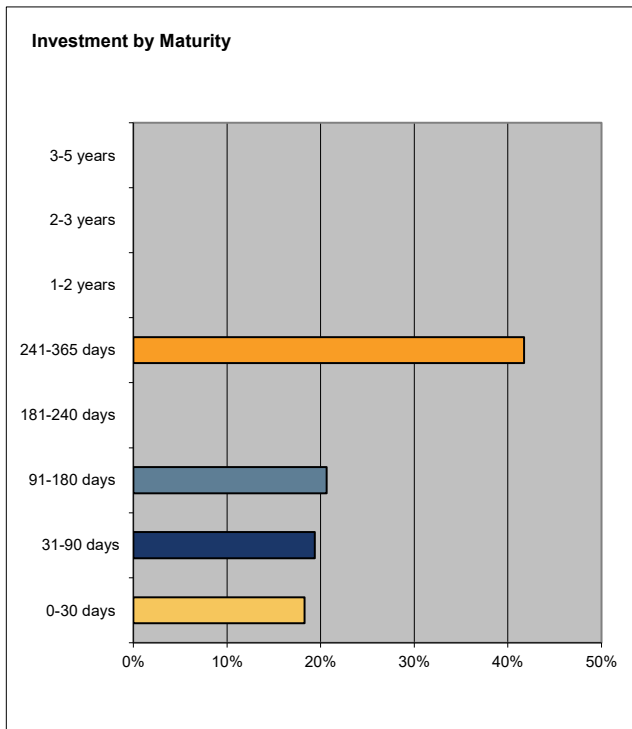
### Investments Held at 11/30/21

Purchase Date	Receipt #	Institution	Description	Restricted	Maturity Date	Principal	Par **	Yield	Market*
12/10/20	1560	CBR	CD		12/10/21	2,000,000.00	2,000,000.00	0.2000	2,000,000.00
12/10/20	1552	CBR	CD		12/10/21	2,500,000.00	2,500,000.00	0.2000	2,500,000.00
10/18/12		MOSIP	MOSIP POOLE- GENERAL FUND		NA	2,126,062.93	2,126,062.93	0.0600	2,126,062.93
06/03/16		MOSIP	MOSIP POOLE - GENERAL FUND		NA	1,016,727.08	1,016,727.08	0.0600	1,016,727.08
09/01/16		MOSIP	MOSIP POOLE - GENERAL FUND		NA	1,103,188.06	1,103,188.06	0.0600	1,103,188.06
08/26/21	1036781	NASB	CD		08/26/22	2,000,000.00	2,000,000.00	0.4300	2,000,000.00
08/14/19	901472	CBR	CD	Fund 50	08/25/22	699,769.30	699,769.30	0.2000	699,769.30
09/11/20	901488	CBR	CD		09/11/22	2,004,211.52	2,004,211.52	0.2100	2,004,211.52
10/01/21	1043778	NASB	CD		10/01/21	2,400,000.00	2,400,000.00	0.3900	2,400,000.00
10/01/21	1043760	NASB	CD		10/03/22	5,000,000.00	5,000,000.00	0.4400	5,000,000.00
10/01/21	1043786	NASB	CD		03/30/22	2,400,000.00	2,400,000.00	0.3900	2,400,000.00
<b>Investment Total</b>						<b>23,249,958.89</b>	<b>23,249,958.89</b>		<b>23,249,958.89</b>

\*Market value listed above is the value of the investment at month end

Average Annual Rate of Return: **0.2859**

\*\* Par value listed above is the actual amount if less than one year or the calculated annual earnings showing a one-year duration



#### Listing of Investments Matured During the Month

Month	Receipt #	Institution	Description	Restricted	Maturity Date	Principal	Par **	Yield	Days Held
Average Rate of Return on Maturities:									

# November Grant Summary

New Grant Applications	Grantor	Award Amt. Requested / Match Required	Project / Item	Notification Timeline	Awarded / Denied

Current Grant Awards:	Grantor	Award Amt. / Match Required	Eligible Amount Expended to Date	Awards/ Reimbursements Rec'd. to Date	Grant Deadline
<b>Police:</b>					
State & Community Hwy. Safety Grant - DWI (Oct. 2021 - Sept. 2022)	MoDOT (Traffic & Hwy. Safety Division)	\$7,500 (no match)	\$0.00	\$0.00	09/30/22
State & Community Hwy. Safety Grant - HMV (Oct. 2021 - Sept. 2022)	MoDOT (Traffic & Hwy. Safety Division)	\$6,000 (no match)	\$0.00	\$0.00	09/30/22
Bulletproof Vest Partnership (Sept. 2019 - Aug. 2021)	DOJ	\$2,141.76 (50% match)	\$0.00	\$0.00	08/31/21
<b>Parks:</b>					
<b>Emergency Management:</b>					
Emergency Mgmt. Performance Grant - 2022 (July 2021 - June 2022)	FEMA	\$51,213.99 (50% match)	\$0.00	\$0.00	06/30/22
Cares Act - COVID19	Cass County		\$1,124,198	\$1,124,198	12/31/20
American Rescue Plan Act (ARPA)	State of MO - Office of Administration	\$4,478,428.98	\$2,239,214.49	\$2,239,214.49	12/31/26
<b>Community Development:</b>					
Community Development	AARP	\$15,000	\$12,349.52	\$15,000.00	11/05/18

Past Grant Awards:	Grantor	Award Amount / Match Req'd.	Eligible Amount Expended to Date	Awards/ Reimbursements Rec'd. to Date	Grant Deadline
--------------------	---------	-----------------------------	----------------------------------	---------------------------------------	----------------

## November Grant Summary

State & Community Hwy. Safety Grant - DWI (Oct. 2020 - Sept. 2021)	MoDOT (Traffic & Hwy. Safety Division)	\$7,500 (no match)	\$2,417.58	\$2,417.58	09/30/21
State & Community Hwy. Safety Grant - HMV (Oct. 2020 - Sept. 2021)	MoDOT (Traffic & Hwy. Safety Division)	\$6,000 (no match)	\$5,854.85	\$5,854.85	09/30/21



# **Consent Agenda**



**THE RAYMORE CITY COUNCIL MET IN REGULAR SESSION ON MONDAY, DECEMBER 13, 2021 IN COUNCIL CHAMBERS AT 100 MUNICIPAL CIRCLE, RAYMORE, MISSOURI. MEMBERS PRESENT: MAYOR TURNBOW, COUNCILMEMBERS ABDELGAWAD, BARBER, BERENDZEN, BURKE, III, CIRCO, HOLMAN, TOWNSEND, AND WILLS-SCHERZER. ALSO PRESENT: CITY MANAGER JIM FEUERBORN, CITY ATTORNEY JONATHAN ZERR, AND CITY CLERK ERICA HILL.**

- 1. Call to Order.** Mayor Turnbow called the meeting to order at 7:00 p.m.
- 2. Roll Call.** City Clerk Erica Hill called roll; quorum present to conduct business.
- 3. Pledge of Allegiance.**
- 4. Presentation/Awards.**

Mayor Turnbow presented a proclamation to Cherie Turney recognizing her service as the Raymore Chamber of Commerce Executive Director.

Arts Commission Chair Loren Jones provided an update on projects and events of the Arts Commission.

- 5. Personal Appearances.**
- 6. Staff Reports.**

Development Services Director Jim Cadoret reviewed the staff report included in the Council packet and reviewed items coming before the Board of Adjustment.

City Clerk Erica Hill provided information regarding candidate filing for the April 5, 2022 General Municipal Election.

Chief of Police Jan Zimmerman announced three officers were sworn in today and will begin field training immediately. She also reviewed safety tips for the holiday season.

City Manager Jim Feuerborn announced that the December 20 work session will be a special meeting for regular business as City Hall will be closed December 27 and he announced the executive session scheduled for this evening has been postponed.

- 7. Committee Reports.**
- 8. Consent Agenda.**
  - A. City Council minutes, November 22, 2021**
  - B. Resolution 21-45: Planning and Zoning Commission Reappointment of Kelly Fizer**

- C. Resolution 21-46: Planning and Zoning Commission Reappointment of Mario Urquilla**
- D. Resolution 21-47: Board of Adjustment Reappointment of Terri Woods**
- E. Resolution 21-48: Board of Adjustment Reappointment of Ben Bailey**
- F. Resolution 21-49: Board of Adjustment Reappointment of Aaron Harrison**
- G. Resolution 21-50: Arts Commission Appointment of Randee Krumwiede**
- H. Resolution 21-51: Park Board Appointment of Daniel Mapes**

**MOTION:** By Councilmember Townsend, second by Councilmember Holman to approve the Consent Agenda as presented.

**DISCUSSION:** None

**VOTE:**

Councilmember Abdelgawad	Aye
Councilmember Barber	Aye
Councilmember Berendzen	Aye
Councilmember Burke, III	Aye
Councilmember Circo	Aye
Councilmember Holman	Aye
Councilmember Townsend	Aye
Councilmember Wills-Scherzer	Aye

## **9. Unfinished Business.**

### **A. LeMor Estates Lots 7 & 10 Rezoning**

**BILL 3669: "AN ORDINANCE OF THE CITY OF RAYMORE, MISSOURI, AMENDING THE ZONING MAP FROM "R-1P" SINGLE-FAMILY RESIDENTIAL PLANNED DISTRICT TO "R-2P" SINGLE AND TWO-FAMILY RESIDENTIAL PLANNED DISTRICT, LEMOR ESTATES LOT 7 AND LOT 10."**

City Clerk Erica Hill conducted the second reading of Bill 3669 by title only.

**MOTION:** By Councilmember Townsend, second by Councilmember Holman to approve the second reading of Bill 3669 by title only.

**DISCUSSION:** None

**VOTE:**

Councilmember Abdelgawad	Aye
Councilmember Barber	Aye
Councilmember Berendzen	Aye
Councilmember Burke, III	Aye
Councilmember Circo	Aye
Councilmember Holman	Aye
Councilmember Townsend	Aye
Councilmember Wills-Scherzer	Aye

Mayor Turnbow announced the motion carried and declared Bill 3669 as **Raymore City Ordinance 2021-072.**

**B. 34th Amendment to the Unified Development Code**

**BILL 3670: "AN ORDINANCE OF THE CITY OF RAYMORE, MISSOURI, AMENDING THE UNIFIED DEVELOPMENT CODE."**

City Clerk Erica Hill conducted the second reading of Bill 3670 by title only.

**MOTION:** By Councilmember Townsend, second by Councilmember Holman to approve the second reading of Bill 3670 by title only.

**DISCUSSION:** None

<b>VOTE:</b>	Councilmember Abdelgawad	Aye
	Councilmember Barber	Aye
	Councilmember Berendzen	Aye
	Councilmember Burke, III	Aye
	Councilmember Circo	Aye
	Councilmember Holman	Aye
	Councilmember Townsend	Aye
	Councilmember Wills-Scherzer	Aye

Mayor Turnbow announced the motion carried and declared Bill 3670 as **Raymore City Ordinance 2021-073.**

**C. Watermark Rezoning - Correction of Legal Description**

**BILL 3671: "AN ORDINANCE OF THE CITY OF RAYMORE, MISSOURI, CORRECTING THE LEGAL DESCRIPTION FOR THE WATERMARK APARTMENT COMMUNITY REZONING APPLICATION."**

City Clerk Erica Hill conducted the second reading of Bill 3670 by title only.

**MOTION:** By Councilmember Townsend, second by Councilmember Holman to approve the second reading of Bill 3671 by title only.

**DISCUSSION:** None

<b>VOTE:</b>	Councilmember Abdelgawad	Aye
	Councilmember Barber	Aye
	Councilmember Berendzen	Aye
	Councilmember Burke, III	Aye
	Councilmember Circo	Aye
	Councilmember Holman	Aye
	Councilmember Townsend	Aye
	Councilmember Wills-Scherzer	Aye

Mayor Turnbow announced the motion carried and declared Bill 3671 as **Raymore City Ordinance 2021-074.**

**10. New Business.**

**A. The Estates at Knoll Creek Preliminary Plat (public hearing)**

**RESOLUTION 21-43: "A RESOLUTION OF THE RAYMORE CITY COUNCIL APPROVING THE ESTATES AT KNOLL CREEK PRELIMINARY PLAT."**

City Clerk Erica Hill conducted the reading of Resolution 21-43 by title only.

Mayor Turnbow opened the public hearing at 7:25 p.m. and called for a staff report.

Development Services Director Jim Cadoret provided a review of the staff report included in the Council packet. Tyler Sallee, representing Sallee Real Estate Investments LLC, filed a request for preliminary plat approval for The Estates at Knoll Creek, a 76-lot single-family subdivision proposed for 36 acres zoned R-1, Single-Family Residential District, located west of the existing Knoll Creek subdivision. A Memorandum of Understanding has been prepared detailing the requirements of the City and the Developer regarding the development. This public hearing was properly advertised in *The Journal* and he asked for the notices mailed to adjoining property owners, notice of publication, Unified Development Code, application, Growth Management Plan, staff report, and preliminary plat to be entered into the record. A Good Neighbor meeting was held on October 27, 2021, with 15 people in attendance. At its November 16, 2021 meeting, the Planning and Zoning Commission voted 9-0 to accept the staff proposed findings of fact and forward to Council with a recommendation of approval subject to a condition regarding the use of the detention basin located upon Tract C of the first plat.

Tyler Sallee, P.O. Box 4437, Lee's Summit, MO, introduced himself to the Council and made himself available to answer questions.

Mayor Turnbow opened the public hearing for public comment, and hearing none closed the public hearing at 7:31 p.m.

**MOTION:** By Councilmember Townsend, second by Councilmember Holman to approve the reading of Resolution 21-43 by title only.

**DISCUSSION:** None

<b>VOTE:</b>	Councilmember Abdelgawad	Aye
	Councilmember Barber	Aye
	Councilmember Berendzen	Aye
	Councilmember Burke, III	Aye
	Councilmember Circo	Aye
	Councilmember Holman	Aye

Councilmember Townsend Aye  
Councilmember Wills-Scherzer Aye

**B. Calling for April 5, 2022 Municipal Election**

**BILL 3672: "AN ORDINANCE OF THE CITY OF RAYMORE, MISSOURI, CALLING FOR AND ESTABLISHING THE DATE OF THE GENERAL MUNICIPAL ELECTION TO BE HELD ON APRIL 5, 2022."**

City Clerk Erica Hill conducted the first reading of Bill 3672 by title only.

City Clerk Erica Hill provided a review of the staff report included in the Council packet. City Charter, Section 9.1, calls for the regular municipal election to be held on the first Tuesday after the first Monday in April. The general municipal election will be held on Tuesday, April 5, 2022, for the seats listed below. Candidate filing begins Tuesday, December 21, and ends Tuesday, January 18, 2022.

Mayor, three year term: currently held by Kristofer Turnbow  
Councilmember Ward 1, two year term: currently held by Reginald Townsend  
Councilmember Ward 1, one year term: currently held by Victoria Wills-Scherzer  
Councilmember Ward 2, two year term: currently held by Tom Circo  
Councilmember Ward 3, two year term: currently held by Jay Holman  
Councilmember Ward 4, two year term: currently held by Sonja Abdelgawad

**MOTION:** By Councilmember Townsend, second by Councilmember Holman to approve the first reading of Bill 3672 by title only.

**DISCUSSION:** None

**VOTE:**

Councilmember Abdelgawad	Aye
Councilmember Barber	Aye
Councilmember Berendzen	Aye
Councilmember Burke, III	Aye
Councilmember Circo	Aye
Councilmember Holman	Aye
Councilmember Townsend	Aye
Councilmember Wills-Scherzer	Aye

**C. Contract for Real Estate Purchase**

**BILL 3673: "AN ORDINANCE OF THE CITY OF RAYMORE, MISSOURI, APPROVING AND AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT TO PURCHASE 10.85 ACRES OF UNDEVELOPED PROPERTY LOCATED EAST OF NORTH MADISON STREET AND NORTH OF PINE STREET IN THE AMOUNT OF \$675,000."**

City Clerk Erica Hill conducted the first reading of Bill 3673 by title only.

Development Services Director Jim Cadoret provided a review of the staff report included in the Council packet. For the past year City staff have actively searched for land to construct a Justice Center for the Police Department and Municipal Court. The selected two tracts of land currently owned by Hawthorn Bank is located on the east side of North Madison Street and north of Pine Street and is centrally located along two arterial roadways in the center of the City. The land consists of 10.85 acres and would provide adequate area for a Justice Center and associated parking lot while reserving land for additional City facilities if needed. City staff negotiated a real estate purchase price of \$675,000 with a tentative closing date of December 28, 2021. Previous actions of the City Council placed funding in the restricted revenue account to allow for the land purchase.

Councilmember Abdelgawad asked about the timeframe for the construction project to begin. Mr. Feuerborn stated it could be 4 to 5 years before construction may begin.

Staff answered questions from Council.

**MOTION:** By Councilmember Townsend, second by Councilmember Holman to approve the first reading of Bill 3673 by title only.

**DISCUSSION:** None

<b>VOTE:</b>	Councilmember Abdelgawad	Aye
	Councilmember Barber	Aye
	Councilmember Berendzen	Aye
	Councilmember Burke, III	Aye
	Councilmember Circo	Aye
	Councilmember Holman	Aye
	Councilmember Townsend	Aye
	Councilmember Wills-Scherzer	Aye

## **11. Public Comment.**

## **12. Mayor/Council Communication.**

Mayor Turnbow and Councilmembers thanked Cherie Turney for her service through the Chamber of Commerce, welcomed the newly sworn in officers, thanked the Arts Commission for their work, recognized the reappointed and newly appointed volunteers to the City's Boards and Commissions, and thanked staff for their foresight into the growth and needs of the community.

Councilmember Townsend noted the need for expansion of the roads leading into Raymore.

Councilmember Holman recognized recently deceased former Senator Bob Dole.

## **13. Adjournment.**



**MOTION:** By Councilmember Townsend, second by Councilmember Holman to adjourn.

**DISCUSSION:** None

<b>VOTE:</b>	Councilmember Abdelgawad	Aye
	Councilmember Barber	Aye
	Councilmember Berendzen	Aye
	Councilmember Burke, III	Aye
	Councilmember Circo	Aye
	Councilmember Holman	Aye
	Councilmember Townsend	Aye
	Councilmember Wills-Scherzer	Aye

The regular meeting of the Raymore Council adjourned at 7:59 p.m.

Respectfully submitted,

Erica Hill  
City Clerk



**RESOLUTION 21-42**

**"A RESOLUTION OF THE CITY OF RAYMORE, MISSOURI, ACCEPTING THE PUBLIC IMPROVEMENTS OF OAK RIDGE FARMS"**

**WHEREAS,** The Director of Public Works has determined that the project has been satisfactorily completed in accordance with the project specifications; and

**WHEREAS,** The Public Works Director and Development Services Director have visually inspected the site and found it to be in compliance with City of Raymore Code Requirements.

**NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF RAYMORE, MISSOURI, AS FOLLOWS:**

Section 1. The Public Improvements for Oak Ridge Farms are accepted.

Section 2. This Resolution shall become effective on and after the date of passage.

Section 3. Any Resolution or part thereof which conflicts with this Resolution shall be null and void.

**DULY READ AND PASSED THIS 20TH DAY OF DECEMBER, 2021, BY THE FOLLOWING VOTE:**

Councilmember Abdelgawad  
Councilmember Barber  
Councilmember Berendzen  
Councilmember Burke III  
Councilmember Circo  
Councilmember Holman  
Councilmember Wills-Scherzer  
Councilmember Townsend

ATTEST:

APPROVE:

\_\_\_\_\_  
Erica Hill, City Clerk

\_\_\_\_\_  
Kristofer P. Turnbow, Mayor

\_\_\_\_\_  
Date of Signature



**RESOLUTION 21-44**

**"A RESOLUTION OF THE CITY OF RAYMORE, MISSOURI, ACCEPTING THE PUBLIC IMPROVEMENTS OF EASTBROOKE 2ND"**

**WHEREAS,** The Director of Public Works has determined that the project has been satisfactorily completed in accordance with the project specifications; and

**WHEREAS,** The Public Works Director and Development Services Director have visually inspected the site and found it to be in compliance with City of Raymore Code Requirements.

**NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF RAYMORE, MISSOURI, AS FOLLOWS:**

Section 1. The Public Improvements for Eastbrooke 2nd are accepted.

Section 2. This Resolution shall become effective on and after the date of passage.

Section 3. Any Resolution or part thereof which conflicts with this Resolution shall be null and void.

**DULY READ AND PASSED THIS 20TH DAY OF DECEMBER, 2021, BY THE FOLLOWING VOTE:**

Councilmember Abdelgawad  
Councilmember Barber  
Councilmember Berendzen  
Councilmember Burke III  
Councilmember Circo  
Councilmember Holman  
Councilmember Wills-Scherzer  
Councilmember Townsend

ATTEST:

APPROVE:

\_\_\_\_\_  
Erica Hill, City Clerk

\_\_\_\_\_  
Kristofer P. Turnbow, Mayor

\_\_\_\_\_  
Date of Signature



**RESOLUTION 21-52**

**"A RESOLUTION OF THE CITY OF RAYMORE, MISSOURI, ACCEPTING THE PUBLIC IMPROVEMENTS OF EDGEWATER 7TH."**

**WHEREAS,** The Director of Public Works has determined that the project has been satisfactorily completed in accordance with the project specifications; and

**WHEREAS,** The Public Works Director and Development Services Director have visually inspected the site and found it to be in compliance with City of Raymore Code Requirements.

**NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF RAYMORE, MISSOURI, AS FOLLOWS:**

Section 1. The Public Improvements for Edgewater 7th are accepted.

Section 2. This Resolution shall become effective on and after the date of passage.

Section 3. Any Resolution or part thereof which conflicts with this Resolution shall be null and void.

**DULY READ AND PASSED THIS 20TH DAY OF DECEMBER, 2021, BY THE FOLLOWING VOTE:**

Councilmember Abdelgawad  
Councilmember Barber  
Councilmember Berendzen  
Councilmember Burke III  
Councilmember Circo  
Councilmember Holman  
Councilmember Wills-Scherzer  
Councilmember Townsend

ATTEST:

APPROVE:

\_\_\_\_\_  
Erica Hill, City Clerk

\_\_\_\_\_  
Kristofer P. Turnbow, Mayor

\_\_\_\_\_  
Date of Signature





# **Unfinished Business**





**CITY OF RAYMORE**  
**AGENDA ITEM INFORMATION FORM**

DATE: Dec. 20, 2021

SUBMITTED BY: Jim Cadoret

DEPARTMENT: Development Services

- |                                    |  |                                       |   |
|------------------------------------|--|---------------------------------------|---|
| <input type="checkbox"/> Ordinance | <input checked="" type="checkbox"/> Resolution | <input type="checkbox"/> Presentation | <input type="checkbox"/> Public Hearing |
| <input type="checkbox"/> Agreement | <input type="checkbox"/> Discussion            | <input type="checkbox"/> Other        |   |

**TITLE / ISSUE / REQUEST**

Res. 21-35: Madison Valley Phase 2 Preliminary Plat

**STRATEGIC PLAN GOAL/STRATEGY**

3.2.4: Provide quality, diverse housing options that meet the needs of our community.

**FINANCIAL IMPACT**

Award To:  
Amount of Request/Contract:  
Amount Budgeted:  
Funding Source/Account#:

**PROJECT TIMELINE**

Estimated Start Date

Estimated End Date

**STAFF RECOMMENDATION**

Approval

**OTHER BOARDS & COMMISSIONS ASSIGNED**

Name of Board or Commission: Planning and Zoning Commission  
Date: Sept. 7, 2021  
Action/Vote: Approval, 7-0

**LIST OF REFERENCE DOCUMENTS ATTACHED**

Staff Report  
Resident email  
Memorandum of Understanding; Preliminary Plat Drawing

REVIEWED BY:

Jim Feuerborn

## BACKGROUND / JUSTIFICATION

Tony Ward, representing Blue Springs Storage South, LLC, filed a request for preliminary plat approval for Madison Valley Phase 2, a 154-lot single-family subdivision proposed for 46 acres located west of the existing Madison Valley subdivision. A public hearing was opened and closed on Sept. 27, 2021 and the Council continued the request to the Oct. 11 meeting. On Oct. 11 Council tabled the request until such time that details could be worked out between the City and the developer.

A Memorandum of Understanding that is acceptable to both City staff and the developer is included in the Council packet. Phase 1 of the development will be limited to the land area west of the stream, with Sunset Lane being the designated construction entrance. Phase 2 will be east of the stream and north of Heritage Drive. The final phase is east of the stream and south of Heritage Drive and will include the connection to Park Drive.

**RESOLUTION 21-35**

**"A RESOLUTION OF THE RAYMORE CITY COUNCIL APPROVING THE MADISON VALLEY PHASE 2 PRELIMINARY PLAT."**

**WHEREAS**, the Planning and Zoning Commission held a public hearing on September 7, 2021, on the Madison Valley Phase 2 Preliminary Plat and forwarded its recommendation of approval to the City Council; and

**WHEREAS**, the City Council held a public hearing on September 27, 2021, and accepted the recommendation of the Planning and Zoning Commission, subject to certain conditions.

**NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF RAYMORE, MISSOURI, AS FOLLOWS:**

Section 1. The Madison Valley Phase 2 Preliminary Plat is approved.

Section 2. This resolution shall become effective on and after the date of passage and approval.

Section 3. Any Resolution or part thereof which conflicts with this Resolution shall be null and void.

**DULY READ AND PASSED THIS 20TH DAY OF DECEMBER, 2021, BY THE FOLLOWING VOTE:**

Councilmember Abdelgawad  
Councilmember Barber  
Councilmember Berendzen  
Councilmember Burke III  
Councilmember Circo  
Councilmember Holman  
Councilmember Townsend  
Councilmember Wills-Scherzer

ATTEST:

APPROVE:

\_\_\_\_\_  
Erica Hill, City Clerk

\_\_\_\_\_  
Kristofer P. Turnbow, Mayor

\_\_\_\_\_  
Date of Signature



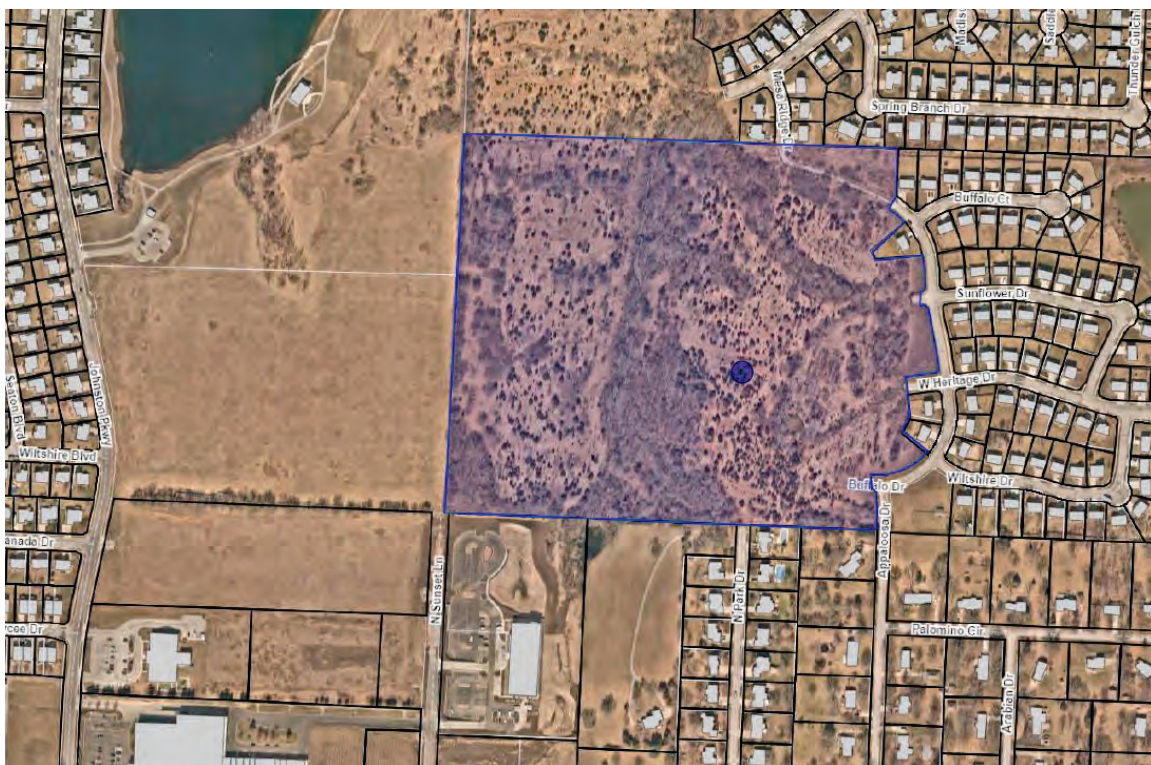
**To:** City Council  
**From:** Planning and Zoning Commission  
**Date:** December 20, 2021  
**Re:** Case #21022: Madison Valley Phase 2 - Preliminary Plat

**GENERAL INFORMATION**

**Applicant/Property Owner:** Tony Ward  
Blue Springs Safety Storage South, LLC  
1120 NW Eagle Ridge Blvd.  
Grain Valley, MO 64029

**Requested Action:** Preliminary Plat Approval for Madison Valley Phase 2

**Property Location:** Generally located north of 58 Highway, west of North Madison Street



**Existing Zoning: "R-1" Single-Family Residential Planned District**

**Existing Surrounding Zoning:**

North: R-1 (Single Family Residential)  
East: R-1P (Single Family Residential Planned)  
South: R-1 & PO (Single Family Residential & Professional Office)  
West: R-1 & PR (Single Family Residential & Parks, Recreation and Public Use)

**Total Tract Size:** 46.26 acres

**Total Number of Lots:** 154 lots & 8 tracts

**Legal Description:**

A TRACT OF LAND LOCATED IN THE NORTH HALF OF THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 46 NORTH, RANGE 32 WEST, IN THE CITY OF RAYMORE, CASS COUNTY, MISSOURI AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID NORTH HALF; THENCE ALONG THE WEST LINE OF SAID NORTH HALF, SOUTH 02°56'15" WEST, 19.59 FEET TO THE POINT OF BEGINNING; THENCE ALONG A LINE 19.59 FEET SOUTH OF AND PARALLEL TO THE NORTH LINE OF SAID NORTH HALF, A PORTION OF SAID LINE BEING THE SOUTH LINE OF MADISON CREEK THIRD PLAT, LOTS 104 THRU 149 AND TRACT E, A SUBDIVISION OF LAND AS RECORDED AT THE CASS COUNTY RECORDER OF DEEDS OFFICE, SOUTH 87°54'20" EAST, 1480.39 FEET TO THE NORTHWEST CORNER OF MADISON VALLEY FIRST PLAT, A SUBDIVISION OF LAND AS RECORDED AT THE CASS COUNTY RECORDER OF DEEDS OFFICE; THENCE ALONG THE WEST LINE OF SAID MADISON VALLEY FIRST PLAT THE FOLLOWING 26 COURSES; THENCE SOUTH 02°06'10" WEST, 164.15 FEET; THENCE SOUTH 31°05'35" WEST, 50.00 FEET; THENCE ALONG A CURVE TO THE RIGHT, HAVING AN INITIAL TANGENT BEARING OF SOUTH 58°54'25" EAST, A RADIUS OF 255.00 FEET, AN ARC LENGTH OF 72.08 FEET; THENCE SOUTH 47°17'20" WEST, 150.05 FEET; THENCE SOUTH 20°47'09" EAST, 28.87 FEET; THENCE NORTH 85°07'17" EAST, 161.56 FEET; THENCE ALONG A CURVE TO THE RIGHT, HAVING AN INITIAL TANGENT BEARING OF SOUTH 13°06'01" EAST, A RADIUS OF 255.00 FEET, AN ARC LENGTH OF 46.55 FEET; THENCE SOUTH 02°41'20" EAST, 59.20 FEET; THENCE ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 15.00 FEET, AN ARC LENGTH OF 22.98 FEET; THENCE SOUTH 04°56'45" EAST, 50.00 FEET; THENCE ALONG A CURVE TO THE RIGHT, HAVING AN INITIAL TANGENT BEARING OF NORTH 85°07'16" EAST, A RADIUS OF 15.00 FEET, AN ARC LENGTH OF 22.80 FEET; THENCE ALONG A REVERSE CURVE, HAVING A RADIUS OF 775.00 FEET, AN ARC LENGTH OF 60.63 FEET; THENCE SOUTH 12°15'47" EAST, OF 51.15 FEET; THENCE ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 975.00 FEET, AN ARC LENGTH OF 93.84 FEET; THENCE SOUTH 06°44'55" EAST, 8.92 FEET; THENCE ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 15.00 FEET, AN ARC LENGTH OF 23.56 FEET; THENCE SOUTH 83°15'05" WEST, 101.08 FEET; THENCE SOUTH 06°44'55" EAST, 133.84 FEET; THENCE SOUTH 29°02'49" WEST, 56.36 FEET; THENCE SOUTH 50°24'46" EAST, 115.00 FEET; THENCE ALONG A CURVE TO THE RIGHT, HAVING AN INITIAL TANGENT BEARING OF SOUTH 39°35'14" WEST, A RADIUS OF 225.00 FEET AN ARC LENGTH OF 209.22 FEET; THENCE SOUTH 02°51'53" WEST, 50.00 FEET; THENCE ALONG A CURVE TO THE RIGHT, HAVING AN INITIAL TANGENT BEARING OF SOUTH 87°08'53" EAST, A RADIUS OF 15.00 FEET, AN ARC LENGTH OF 21.49 FEET; THENCE SOUTH 05°03'48" EAST, 22.14 FEET; THENCE ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 375.00 FEET, AN ARC LENGTH OF 49.10 FEET; THENCE SOUTH 02°26'16" WEST, 45.84 FEET TO THE SOUTH LINE OF THE NORTH HALF, ALSO BEING THE NORTHEAST CORNER OF LOT 29, BRIDLECROFT LOTS 24 THRU 36, A SUBDIVISION OF LAND AS RECORDED AT THE CASS COUNTY RECORDER OF DEEDS OFFICE; THENCE ALONG THE SOUTH LINE OF SAID NORTH HALF, ALSO BEING THE NORTH LINE OF SAID BRIDLECROFT, THE NORTH LINE OF WEDGEWOOD PLACE, WEDGEWOOD MEADOWS & THE SECOND REPLAT OF KIRBY ESTATES, ALL BEING SUBDIVISIONS OF LAND AS RECORDED AT THE CASS COUNTY, RECORDER OF DEEDS OFFICE, NORTH 87°34'38" WEST, 1477.67 FEET TO THE SOUTHWEST CORNER OF SAID NORTH HALF; THENCE ALONG THE WEST LINE OF SAID NORTH HALF, NORTH 02°56'15" EAST, 1301.12 FEET, TO THE POINT OF BEGINNING AND CONTAINS 46.26 ACRES, MORE OR LESS.

**Growth Management Plan:** The Future Land Use Map of the current Growth Management Plan designates this property as appropriate for Low Density Residential.

**Major Street Plan:** The Major Thoroughfare Plan Map classifies Sunset Lane as a Minor Collector.

**Advertisement:** August 19, 2021 **Journal** newspaper  
September 9, 2021 **Journal** newspaper

**Public Hearing:** September 7, 2021 Planning Commission meeting  
September 21, 2021 City Council meeting

**Items of Record:** **Exhibit 1. M**



## ailed Notices to Adjoining Pr

**Property Owner**

- Exhibit 2. Notice of Publication**
  - Exhibit 3. Unified Development Code**
  - Exhibit 4. Application**
  - Exhibit 5. Growth Management Plan**
  - Exhibit 6. Staff Report**
  - Exhibit 7. Preliminary Plat**
  - Exhibit 8. Memorandum of Understanding**
  - Exhibit 9. Faulkner email**
- Additional exhibits as presented during hearing

## **PRELIMINARY PLAT REQUIREMENTS**

The following section of the Unified Development Code is applicable to this application:

### **Section 470.110: Preliminary Plats**

#### **A. Applications**

- 1.** An application for a preliminary plat may be obtained from the Development Services Director. The application must be completed in its entirety in accordance with Section 470.010C and submitted at least 60 days prior to the date of the meeting where it will be considered.
- 2.** For property in commercial or industrial zoning districts, the application must be submitted at least 30 days prior to the date of the meeting.

#### **B. Memorandum of Understanding**

A Memorandum of Understanding (MOU) may be required by the City for any preliminary plat application request.

#### **C. Procedure**

##### **1. Pre-Application Conference**

Prior to filing an application for a preliminary plat, the applicant must attend a pre-application conference in accordance with Section 470.010B.

##### **2. Development Review Committee and Other Agency Review**

**a.** Upon receipt of a complete application, the Development Services Director will distribute copies of the preliminary plat and supportive information to the Development Review Committee. The application will be reviewed by the Development Review Committee for compliance with applicable regulations of this Code.

**b.** The Development Services Director will also distribute copies of the preliminary plat to the following governmental agencies, departments, and other persons as may be deemed appropriate for the particular proposed subdivision:

- (1)** Fire District;
- (2)** Police Department;
- (3)** School District;

(4) State Highway Department (if the subdivision is adjacent to a State Highway); and

(5) any utility companies providing gas, electric or telephone service in or near the subdivision.

c. The agencies, departments and persons identified in this section will have a minimum of 10 working days to review the preliminary plat and to make their report and recommendations to the Planning and Zoning Commission.

d. If a report has not been returned to the office of the Development Services Director within 10 working days after receiving a plat for review, the proposed plat will be deemed to be in conformance with the laws, rules or policies of the reviewing agency or department.

### **3. Planning and Zoning Commission Public Hearing**

All proposed preliminary plats must be submitted to the Planning and Zoning Commission for review and recommendation. The Planning and Zoning Commission will hold a public hearing on the application in accordance with Section 470.010E

### **4. Planning and Zoning Commission Recommendation**

a. The Planning and Zoning Commission will consider the preliminary plat within 60 days of its receipt by the Development Services Director, or at the next regular meeting for which the plat may be scheduled.

b. The Planning and Zoning Commission will review and consider the reports and recommendations of the agencies, departments and persons to whom the preliminary plat has been submitted for review.

c. If the preliminary plat does comply with all requirements, the Planning and Zoning Commission will forward the application to the City Council with a recommendation of approval.

d. If the preliminary plat is in general, but not complete compliance, the Planning and Zoning Commission may recommend conditional acceptance of the preliminary plat. The conditions of such acceptance will specify the modifications necessary to achieve full compliance. The Planning and Zoning Commission will forward the application to the City Council with a recommendation of approval, subject to conditions.

e. If the preliminary plat is not in compliance with all requirements, the Planning and Zoning Commission will recommend disapproval of the preliminary plat. Within 10 days of its final action, the Planning and Zoning Commission must notify the subdivider in writing of the reasons for its recommendation for disapproval.

f. If the preliminary plat is not recommended for approval, the subdivider may modify the preliminary plat and re-submit it to the Planning and Zoning Commission. If the plat is amended and re-submitted within 60 days of the disapproval of the original preliminary plat, no additional filing fee will be required. The Planning and Zoning Commission may reconsider the preliminary plat at a regular meeting for which the plat may be scheduled by the Development Services Director.

### **5. City Council Public Hearing**

The Raymore City Council must hold a public hearing on the application in accordance with Section 470.010E1b through d and E2.

## 6. City Council Action

- a. The City Council must consider the request within 60 days of receipt of written recommendation of the Planning and Zoning Commission. Upon receipt of the recommendation of the Planning and Zoning Commission, the City Council must consider the application and may take final action to approve or disapprove it.
- b. If final action is not taken by the City Council within 120 days after the recommendation of the Planning and Zoning Commission is submitted to it, the preliminary plat will be deemed to have been defeated and denied, unless the applicant has consented to an extension of this time period. Whenever a preliminary plat is defeated, either by vote of the City Council or by inaction described in this section, such preliminary plat cannot be passed without another public hearing that is noticed in accordance with this chapter.
- c. If the City Council approves an application, it will adopt a resolution to that effect.

## 7. Findings of Fact

In its deliberation of a request, the Planning and Zoning Commission and City Council must make findings of fact taking into consideration the following:

- a. the preliminary plat will not adversely affect the appropriate use of neighboring property;
- b. the preliminary plat is in compliance with all applicable regulations of the Unified Development Code, Growth Management Plan, and other City regulations and plans;
- c. the preliminary plat will not impose undue burden upon existing public services and facilities; and
- d. the preliminary plat will make adequate provision to accommodate resulting additional demands which may be imposed upon roads and streets, water supply and storage, storm sewerage, sanitary sewerage, and wastewater treatment without substantially increasing public costs and expenditures.

## 8. Effect of Approval of Preliminary Plat

a. Approval of the preliminary plat does not constitute final acceptance of the subdivision by the City Council, but will be considered permission to prepare and submit a final plat. Preliminary plat approval will be effective for no more than one year from the date approval was granted unless:

- (1) a final plat application is submitted within one year of the date of preliminary plat approval;
  - (2) upon the request of the subdivider, the City Council grants an extension;  
or
  - (3) final plat applications are submitted in accordance with the requirements for staged development of final plats in accordance with Section 470.130E.
- b. If preliminary plat approval expires, the preliminary plat must be re-submitted as if no such plat had ever been approved.

## 9. Extension of Preliminary Plat

An applicant must request that the City Council grant an extension of an approved preliminary plat prior to the expiration date of the preliminary plat. An extension of the preliminary plat can

only be requested if it remains unchanged from last acceptance. A request for extension does not require submission of a new application fee or a public hearing

## **PREVIOUS PLANNING ACTIONS ON OR NEAR THE PROPERTY**

1. The subject property was rezoned from “A” Agricultural District to “R-1” Single Family Residential District on April 9, 2001.
2. The Hawthorne Ridge Preliminary Plat was approved for the subject property on April 23, 2001. The Preliminary Plat proposed 190 lots on 71 acres. The preliminary plat expired on April 23, 2002 due to no final plat application ever being approved.
3. A request to reclassify the zoning of a portion of the subject property from R-1 to “R-3P” Multiple-Family Dwelling Planned District was withdrawn by the property owner in March of 2004.
4. The Preliminary Plat for Madison Valley Subdivision was initially approved on September 27, 2004. The plat contained 202 single-family lots. The preliminary plat expired on October 10, 2014.
5. The Madison Valley 1st Final Plat was approved on October 10, 2005. The 1st plat was constructed and contained 75 lots.
6. In 2009 an application was filed to reclassify the zoning designation of the north half of the 1st plat area from R-1 to “R-2” Single and Two-Family Residential District. The application was withdrawn on April 20, 2009.
7. On June 10, 2013 the City approved the reclassification of zoning of 65 of the lots in the 1st Final Plat area from R-1 to “R-1P” Single-Family Residential Planned District. The rezoning modified the side yard setback requirement from a minimum of ten feet down to ten percent of the lot width, with a minimum setback of five feet.

## **GOOD NEIGHBOR INFORMATIONAL MEETING COMMENTS**

There were two Good Neighbor meetings held. All adjacent property owners within 185 feet of the proposed development were not properly notified of the first meeting held on August 4, 2021. The meeting was still held for those residents in attendance. After the August 4 meeting, notices were sent to all property owners within 185 feet of the proposed development for the official Good Neighbor meeting held on August 18, 2021.

### **August 4, 2021 meeting:**

Project Engineer Toby Williams made the presentation and answered questions. Development Services Director Jim Cadoret represented City staff. The comments below provide a summary of the meeting:

Toby Williams began the meeting by briefly explaining the project. Mr. Williams indicated the initial preliminary plat for the development has expired. The new developer is trying to get the overall layout to work. The stream buffer requirement reduces the area of the property that can be developed.

Attendees at the August 4 meeting had the following questions regarding the project:

**Q: Will there be stormwater detention?** Yes, there are four detention pond areas included in the development.

**Q: Is this a financially viable project?** Yes. The developer will be the builder of all lots in the subdivision.

**Q: What does the City gain from this development? I do not see any amenities.**

The City will gain the property tax revenue from the new homes constructed. This is an infill development that will provide connectivity between subdivisions and between Madison Street and Sunset Lane.

**Q: What are the minimum home sizes proposed?** 1,800 - 2,000 square feet, similar to the existing homes in Madison Valley.

**Q: Who is the developer?** Ward Development out of Grain Valley.

**Q: What is the requirement for access? We do not want our street to be a thoroughfare.** City is requiring connection to Park Drive and to Mesa Ridge Drive. City is allowing only one crossing of the creek and one connection to Sunset Lane..

**Q: What will be the construction traffic route?** Initially the route will be set off North Madison Street.

**Q: Is a "T" intersection at Park an option?** It is an option to have Park Drive intersect and stop at the first street to the north within the new plat.

**Q: Where has the developer built before?** The developer completed the undeveloped lots in Madison Valley. The developer has also built homes in Grain Valley.

**Q: Will the lots be for sale to individuals or to a corporation or LLC?** The developer will retain ownership of all of the lots and intend to sell the homes to individual homeowners.

**Q: What will be the size of the homes?** 2,000 to 3,000 square feet in size. There will be a mixture of reverse, walkouts, 1-story and 2-story homes.

**Q: What will the homes sell for?** What the market will bear.

**Q: Existing homeowners in Madison Valley do not want an HOA? Will an HOA be required?** Existing lot owners in Madison Valley would have to vote on and agree to be part of an HOA.

**Q: What is the impact on the school system?** The school district has been aware of the potential development and completion of Madison Valley for many years and have planned on its completion.

**Q: Is any mitigation necessary for the existing pond on the property?** A determination will need to be made if the pond is a regulated pond or not.

**Q: Is there a difference between the Clover & Hive homes and what is being proposed in Madison Valley?** The Clover and Hive homes are on 40-foot wide lots. These lots are wider and the homes will be larger.

**Q: Will there be a bridge over the creek?** There will be a culvert for the stream crossing.

**Q: Can the City require a 2nd stream crossing and connection to Sunset Lane?** It is best to limit the number of stream crossings and the City has indicated one crossing is adequate here. Sunset Lane is a minor collector and access to the road needs to be limited.

**August 18, 2021 meeting:**

Developer representative Bryan Rahn and Project Engineer Toby Williams made the presentation and answered questions. Development Services Director Jim Cadoret represented City staff. The comments below provide a summary of the meeting:

Bryan Rahn began the meeting by briefly talking about the developer and previous developments completed.

Attendees at the August 18 meeting had the following questions regarding the project:

**Q: Who are you?** Bryan Rahn, representing Countryclub Homes, which is a subsidiary of the property owner Blue Springs Safety Storage South, LLC.

**Q: Will you be the only builder?** Yes.

**Q: What is your role?** I am the project manager.

**Q: Have you done any work within the City of Raymore?** Yes, we finished the bulk of the homes in Madison Valley.

**Q: Who is Blue Springs Safety Storage South?** It is an LLC subsidiary of Ward Homes. We have been building homes since 1979.

**Q: Will lots be sold to anyone else?** No, we will be the only builder and will not be selling any lots.

**Q: What happens if the City doesn't approve the rezoning to R-1.5?** It becomes a financial decision on whether we can make a development work on the property.

**Q: When you purchased the property you knew it was zoned R-1. Why subject the neighbors to the R-1.5?** We were going through the process of determining the impact of the City Codes on developing the property. We need X number of lots to make this a viable project. Not everyone can afford homes on larger lots. There is a market for affordable homes and the smaller lots allow us to meet that need.

**Q: Will these be speculative homes?** Yes, we are not a custom home builder.

**Q: Will you blitz build all of the homes in one phase?** Our intention is to go down a street and build on each lot.

**Q: Did the City assure you that the R-1.5 zoning would be approved?** No. We have been discussing with the City staff the utilities to the site and requirements for stormwater control.



**Q: What is your plan B?** We do not have a plan B but we would work with the City to determine what works best.

**Q: How does this development benefit us as neighbors?** It probably doesn't benefit you. It benefits the City by providing a variety of homes and prices. Families can still afford to live in Raymore. We think it is good for Raymore to grow.

**Q: Can you show how many of the lots meet the R-1 requirements?** We did not create a map. The average lot size proposed is 8,269 square feet. Approximately 40% of the lots will remain R-1 sized lots.

**Q: Why can't the lots be the same size as the lots to the south?** It is not financially viable to create half-acre sized lots.

**Q: Is there any consideration for making the lots along the south property line bigger to match the lots to the south?** City Code will require a 25 foot buffer between the proposed lots and the existing lots.

**Q: Which houses did you build in Madison Valley?** We built homes on the undeveloped lots that remained in the subdivision. Our home plans are available on our website.

**Q: What is the minimum square footage of the homes?** 2,000 square feet, which is a 4 bedroom/2 or 3 bath home. Our 2-story plan would have an unfinished basement. The other plans have a finished basement. We use granite countertops and have stone on the front of the homes.

**Q: What will be the starting price for the homes?** \$300,000

**Q: Is a fence or wall required as part of the berm in the buffer?** No, only plantings are required.

**Q: Will the HOA be for the new phase only?** Yes. And the berm will be located in a common area tract maintained by the HOA.

**Q: If approved, can the final product look different than what is approved?** We are currently seeking preliminary approval. There may be minor changes made once engineering plans are prepared.

**Q: When will Sunset Lane be constructed?** Currently scheduled for 2022.

**Q: How will the property be marketed?** Since we develop the lots and build the homes, there will initially be limited marketing. Once homes are completed, marketing will occur as needed.

**Q: When will the project commence construction?** If the rezoning and preliminary plat are approved by October then we can start engineering drawings. Would not expect any home construction to commence until summer of 2022.

**Q: Can a second street connection be made to Sunset Lane?** City will dictate the connection points we are allowed to Sunset Lane.

**Q: Who decides where the construction access will be?** The City.

**Q: Can phase 3 be constructed before phase 2?** Possibly, but cannot answer that tonight. Answer depends on how phase 2 and 3 will be provided utility connections.

## **PARKS AND RECREATION BOARD RECOMMENDATION**

At its August 24, 2021 meeting the Parks and Recreation Board voted 5-0 to accept a fee-in-lieu payment for the required parkland dedication for Phase 2 of Madison Valley subdivision. Based upon 154 lots, the amount of parkland required to be dedicated to the City is 8.1312 acres. With the proximity of Hawk Ridge Park, the Park Board determined a fee-in-lieu payment was appropriate.

The fee-in-lieu payment, based on the formula outlined in the Unified Development Code, will be \$120,183.90. Payment shall be made at the time a Final Plat is recorded for the number of lots contained within each final plat.

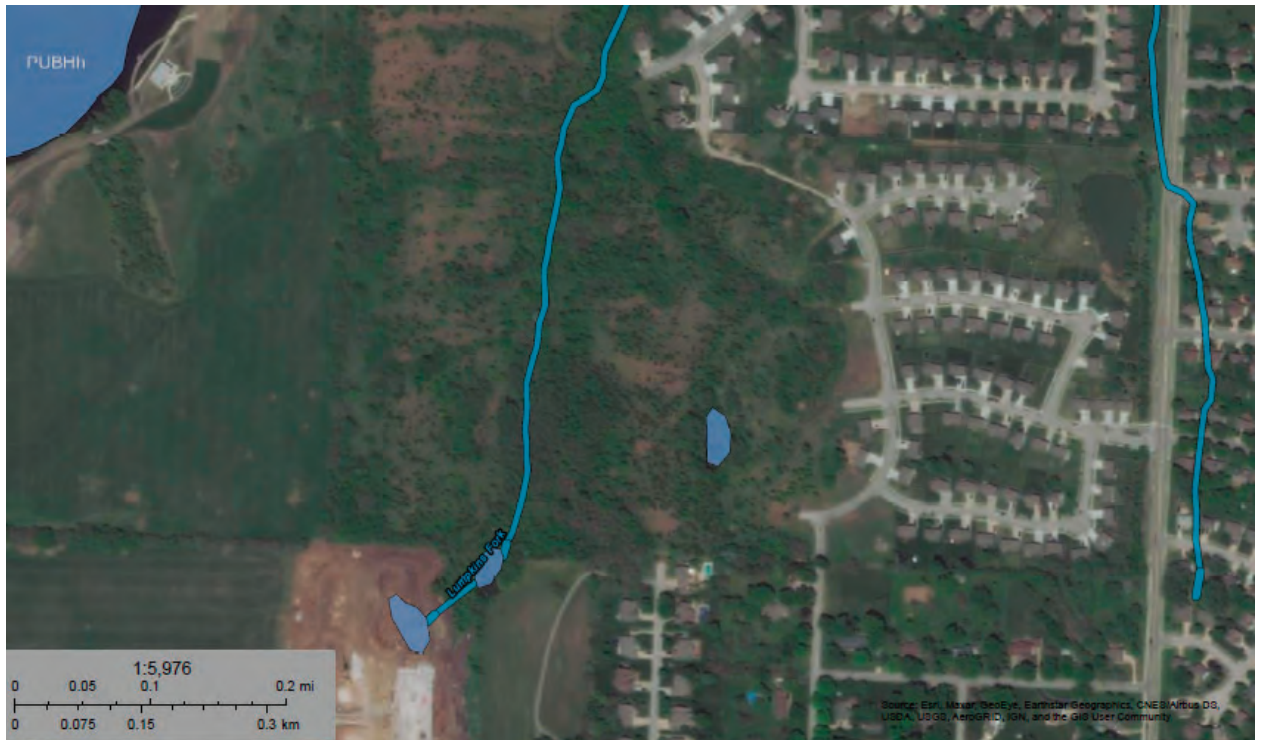
## **STAFF COMMENTS**

1. A request to reclassify the zoning of the property to "R-1.5" Single-Family Residential District was filed concurrently with the preliminary plat application.
2. The Preliminary Plat was reviewed utilizing the R-1.5 development standards. If the rezoning application is not approved, consideration of the preliminary plat application must be placed on hold until the plat drawing is revised so all proposed lots comply with the "R-1" Single-Family Residential development standards.

3. The property was purchased by the applicant on April 27, 2021.
4. The development standards for the R-1.5 zoning district are as follows:

R-1.5	
Minimum Lot Area (square feet)	6,500
Minimum Lot Width (feet)	60
Minimum Lot Depth (feet)	100
Yards, Minimum (feet)	
front	30
rear	30
side	7.5
side, exterior	15
Maximum Building Height (feet)	35
Maximum Building Coverage (%)	40

5. The reclassification of zoning to R-1.5 will allow an increase in the total number of lots proposed for the property under the new preliminary plat versus the preliminary plat approved in 2004. The 2004 plat proposed 125 lots within the undeveloped area, while the current proposal is for 154 lots, an increase of 29 lots. The 2004 plat did provide space for a swimming pool with associated parking lot and a 4.2 acre neighborhood park. If lots were included on these tracts in 2004, the lot count would have increased over the 125 lots.
6. The preliminary plat request was submitted to the administration of the Raymore-Peculiar School District for review and comment. The school district has been aware of the development since 2004 and is aware of the current plan for completion of the subdivision. The District accounted for full development of the subdivision when planning for future enrollment and needed facilities.
7. The preliminary plat request was submitted to the South Metropolitan Fire Protection District for review. The district requires Sunset Lane to be installed prior to construction of any homes in Phase 3 (west side of the stream).
8. The existing stream that crosses north/south through the property is classified as a First Order stream. A fifty-foot (50') buffer is required on both sides of the stream measured from the top of the existing stream bank. The required buffer has been provided on the Preliminary Plat.
9. There is no designated flood plain on the property.
10. The U.S. Fish and Wildlife Service National Wetlands Inventory identifies the existing pond on the property as a freshwater pond. Investigation will need to be completed prior to submittal of a final plat on whether this pond is a regulated pond and whether removal of the pond necessitates any mitigation.



11. Lampkin's Fork 21" interceptor line runs north/south through the property along the west side of the stream. The sewer line is sized to support the development of the subdivision.
12. Stormwater will be managed through four stormwater detention areas. Discharge from the detention areas will be to the stream channel with the flow naturally falling to the north. Stormwater treatment measures will be required.
13. The construction of Sunset Lane by the City as a General Obligation Bond project is scheduled to commence in 2022. The applicant shall dedicate the necessary right-of-way to the City.
14. No homes will be allowed to be constructed in Phase 3 (west side of the stream) until the connection of Heritage Drive across the stream to Sunset Lane is completed.
15. Goal 2.2 of the City Strategic Plan is to "Create a physical environment that inspires a sense of pride in public spaces". One of the strategies is to "Create and maintain a well-connected transportation network". Collector roadways such as Sunset Lane should have limited access to allow for free flow of traffic. City staff requested only one access point onto Sunset Lane from the development, similar to the access points to Madison Valley and Madison Creek subdivisions off North Madison Street.



16. North Park Drive, platted as part of the Wedgewood Place subdivision in 1986, was always planned to continue north. The road was platted and constructed to the north property line of Wedgewood Place. There is currently no cul-de-sac or turnaround for emergency vehicles, school buses, or City snow plows and maintenance equipment.



17. Mesa Ridge Drive, platted as part of the Madison Creek Third Plat subdivision in 2005, was always planned to continue south. The road was platted and constructed to the south property line of Madison Creek. There is currently no cul-de-sac or turnaround for emergency vehicles, school buses, or City snow plows and maintenance equipment.



18. At the Good Neighbor meeting residents of Wedgewood Place expressed concern about North Park Drive being utilized by residents of Madison Valley as a thoroughfare to get to 58 Highway. Connections of roadways that allow residents from one subdivision to travel to another subdivision exist throughout the City. A few examples of road connections between subdivisions are:
- Bristol Drive connects Brookside subdivision and Stonegate subdivision.
  - Sunset Lane connects Evan Brook subdivision and Brookside subdivision.
  - Wiltshire Drive connects Remington subdivision and Creekmoor.
  - Woodson Drive connects Rolling Hills subdivision and Keenland Estates subdivision.

While City staff acknowledges there will be residents occasionally traveling North Park Drive to get to/from 58 Highway and Madison Valley, the connection of Heritage Drive to Sunset Lane and North Madison will allow vehicles to get to collector roadways that lead to traffic signals at 58 Highway.

19. The subdivision adjacency requirements of the Unified Development Code apply to the preliminary plat. The applicant has chosen to utilize a landscape buffer with berm as described in Section 445.030F3a:

### 3. Standards

New residential subdivisions subject to the requirements of this section must provide one of the following lot compatibility techniques along the common property line:

#### a. Landscape Buffer with Berm

- (1) Shall have a minimum width of 25 feet;
- (2) Shall have a minimum height of four feet;
- (3) Evergreens shrubs, trees or other landscape plantings shall be utilized to create a Type A opaque buffer as defined in Section 430.080C1;
- (4) Perimeter barriers, including fencing or walls, may be utilized within the landscape buffer; and
- (5) The buffer shall be part of an open space or landscape tract.

The subdivision adjacency requirements have been met.

20. There are 154 lots proposed in Madison Valley Phase 2. A total of 52 of the lots, equalling 33% of all lots in Phase 2, comply with the R-1 development standards of 8,400 square feet in size and 70 feet in lot width.

21. A Memorandum of Understanding (MOU) has been prepared that outlines the responsibilities of the developer.

## PLANNING COMMISSION PROPOSED FINDINGS OF FACT

Under Section 470.110 of the Unified Development Code, the Planning and Zoning Commission and City Council is directed concerning its actions in dealing with a preliminary plat request. Under 470.110 (C) (7) the Planning and Zoning Commission and City Council is directed to make findings of fact taking into consideration the following:

### 1. the preliminary plat will not adversely affect the appropriate use of neighboring property;

The preliminary plat will not adversely affect the appropriate use of neighboring properties. The property has always been intended to be developed for single-family residential use. Street connections have always been planned. Subdivision adjacency requirements have been met.

### 2. the preliminary plat is in compliance with all applicable regulations of the Unified Development Code, Growth Management Plan, and other City regulations



**and plans;**

The preliminary plat is in compliance with all applicable regulations of the Unified Development Code, Growth Management Plan, and other City regulations and plans. The proposed lots comply with the development standards for the underlying zoning district, and the proposed land uses are consistent with the Future Land Use Map adopted by the City.

**3. the preliminary plat will not impose undue burden upon existing public services and facilities; and**

The preliminary plat will not impose undue burden upon existing public services and facilities. Infrastructure to serve the property has been sized to meet the future demands for service to the property.

**4. the preliminary plat will make adequate provision to accommodate resulting additional demands which may be imposed upon roads and streets, water supply and storage, storm sewerage, sanitary sewerage, and wastewater treatment without substantially increasing public costs and expenditures.**

There is sufficient capacity in the water and sanitary sewer systems to support full development of the property. The road network was designed to accommodate full development of the property, or is being extended to serve the development.

## REVIEW OF INFORMATION AND SCHEDULE

<u>Action</u>	<u>Planning Commission</u>	<u>City Council</u>
Public Hearing	September 7, 2021	September 27, 2021 October 11, 2021 Dec. 20, 2021

## STAFF RECOMMENDATION

City Staff recommends the Planning and Zoning Commission accept the staff proposed findings of fact and forward case #21022 Madison Valley Phase 2 - Preliminary Plat to the City Council with a recommendation of approval, subject to the following condition:

1. The request to reclassify the zoning of the property from "R-1" Single-Family Residential District to "R-1.5" Single-Family Residential District must be approved by City Council prior to final consideration of the preliminary plat.

## PLANNING AND ZONING COMMISSION RECOMMENDATION

The Planning and Zoning Commission, at its September 7, 2021 meeting, voted 7-0 to



accept the staff proposed findings of fact and forward case #21022 Madison Valley Phase 2 - Preliminary Plat to the City Council with a recommendation of approval, subject to the following conditions:

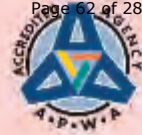
1. The request to reclassify the zoning of the property from “R-1” Single-Family Residential District to “R-1.5” Single-Family Residential District must be approved by City Council prior to final consideration of the preliminary plat.
2. Lemon Mint Drive at its intersection with Buffalo Drive shall be stubbed at its southern end.
3. Heritage Drive to be designated as the construction road for the development.
4. Delay of connection of North Park Drive until completion of Phase 2.

### **CITY COUNCIL ACTION - 9/27/2021**

The City Council, at its September 27, 2021 meeting, voted 7-0 to continue case #21022, Madison Valley Phase 2 - Preliminary Plat to the October 11, 2021 meeting.

### **CITY COUNCIL ACTION - 10/11/2021**

The City Council, at its October 11, 2021 meeting, voted 8-0 to table case #21022, Madison Valley Phase 2 - Preliminary Plat until such time that details can be worked out between the City and the developer.



## Memorandum

**TO:** Jim Cadoret, Director Development Services  
**FROM:** Michael Krass, Director of Public Works and Engineering  
**DATE:** August 31, 2021  
**RE:** Madison Valley Phase 2 Preliminary Plat

---

This project is a continuation of the Madison Valley Development.

### **Transportation System**

This development will access Madison Street to the east and future Sunset Lane to the west. Both of these roadways are classified as Collector Streets in the City's Transportation Master Plan. These roads have adequate capacity to convey traffic from this development as well as future development in the surrounding area.

### **Sanitary Sewer**

Sanitary sewer service will be provided by connecting to existing sewers within the development. These sewers have adequate capacity to serve the development.

### **Water Service**

Water service will be provided by connecting to existing water mains. These mains have adequate capacity to serve this development.

### **Storm Water**

Storm water runoff will be controlled through detention basins. Water quality measures have been included that meet the City's requirements.

### **Summary**

The existing infrastructure is adequate to serve this proposed development.



Jim Cadoret <jcadoret@raymore.com>

## Wedgewood Meadow sketches and access request

1 message

William Faulkner <faulkne5@swbell.net>  
To: Jim Cadoret <jcadoret@raymore.com>

Sun, Sep 12, 2021 at 8:37 PM

Hi Jim:

Attached are copies of a 2001 letter to Kelly Lange, City Planner, requesting access to our 6 acres, a 2003 paste-up of what a satellite view might look like, a 2003 sketch of how the 6 acres might be subdivided, and an updated 2021 sketch with the new location of Lemon Mint Drive.

Please forward to Mike Krass as you think appropriate. Please contact us if you have questions or comments. Thanks.

Jerry Faulkner

### 4 attachments

February 21, 2007

Ms. Kelly Lange, City Planner  
City of Raymore  
P.O. Box 400  
Raymore, MO 64080

Carella Lange

We would like to request that access to our 6-acre tract be provided when the 13 acres south of us is zoned for development, available for a stock market (providing the code properly and approximately in the middle of the 125 FT driveway). This will allow for the individual/duplicate development of up to 10 lots (8 to 11) with 10 acres and additional homes (approximately Wedgewood Place or Woodcroft). Our current access through Wedgewood Place Lot 12 will remain for the convenience of the City and surrounding property owners (even though we believe it is in the best interest of the City and surrounding property owners to have their street not block development of Wedgewood Meadows permanently.

Property was not required by the addition of a new street to the 12-acre development will be offset by the opportunity for two additional (or more) lots (more desirable) and the potential of additional development (more homes, better quality and better). We would like the street to be named (available for consultation with existing street names including Larch Road, where location is the best street name of this

Please contact us if you have any questions or wish further discussion.

Sincerely,

*William J. Faulkner*

*John D. Faulkner*

William J. Faulkner

John D. Faulkner

cc: Ms. Kelly Lange, City Planner

Wedgewood Meadow access request 20010221.jpg  
262K



Wedgewood Meadow satellite mockup 20031002.jpg  
740K



Wedgewood Meadow sketch 2003.jpg  
186K

Wedgewood Meadow sketch 2021.jpg  
190K



February 21, 2001

Ms. Kelly Lange, City Planner  
City of Raymore  
P.O. Box 440  
Raymore, Mo. 64083

Dear Ms. Lange,

We would like to request that access to our 6 acre tract be provided when the 72 acres north of us is platted for development, preferably via a stub street intersecting our north property line approximately in the middle of the 335.77' dimension. This will allow for the eventual planned development of our 6 acre tract as R-1 with lot sizes and additional homes comparable to Wedgewood Place or Bridlecroft. Our current access through Wedgewood Place Lot 12 was restricted by the homeowners association to permit access to only one single-family dwelling, and we believe it is in the best interest of the City and surrounding property owners to plan ahead and not block development of Wedgewood Meadow permanently.

Hopefully, any cost incurred by the addition of a stub street in the 72 acre development will be offset by the opportunity for two additional corner lots (more desirable) and the potential of adjacent Wedgewood caliber homes adding stability and appeal. We would like the stub street to be named Meadow for consistency with existing street names intersecting Lucy Webb, where Meadow is the next street west of Park.

Please contact us if you have any questions or wish further discussion.

Sincerely,

*William J. Faulkner*

William J. Faulkner

*Helen D. Faulkner*

Helen D. Faulkner

cc: Ms. Mary Jaeger, City Engineer



Send To Printer

Back To TerraServer

Change to 11x17 Print Size

Show Grid Lines

Change to Landscape

USGS Raymore, Missouri, United States 06 Mar 1997

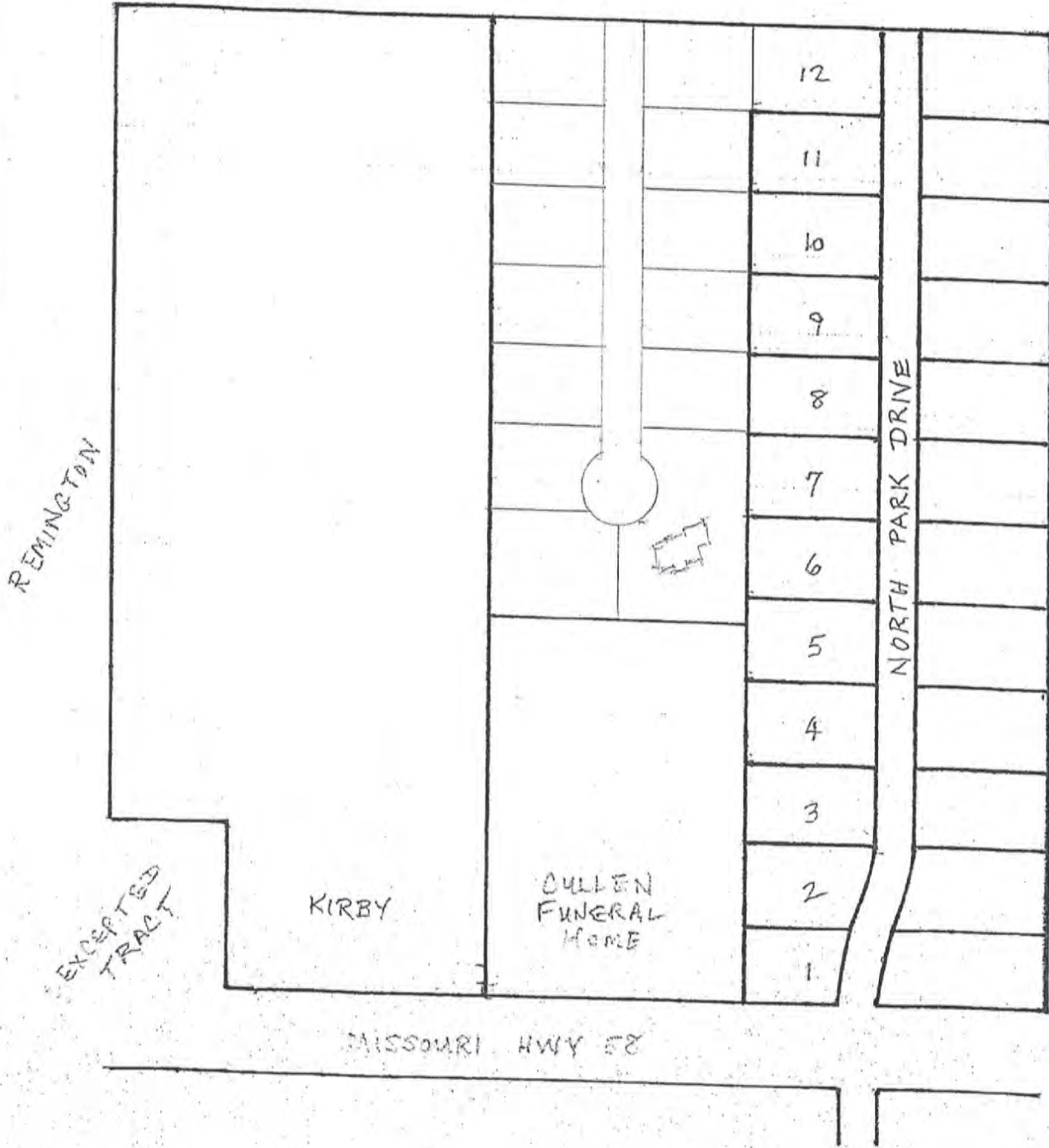


0 100M

0 100yd

Image courtesy of the U.S. Geological Survey  
© 2003 Microsoft Corporation. All rights reserved. **Terms of Use**

N ↑



SCALE: 1" = 200'

SEPTEMBER 2003









***Memorandum of Understanding  
for  
Madison Valley Phase 2***

Legal Description Contained on Page 2 & 3

**Between Blue Springs Safety Storage South, LLC,  
Grantor,**

**and**

**City of Raymore, Grantee  
100 Municipal Circle  
Raymore, MO 64083**

***December 20, 2021***

**MEMORANDUM OF UNDERSTANDING**  
*Madison Valley Phase 2*

THIS MEMORANDUM OF UNDERSTANDING ("MOU") FOR THE DEVELOPMENT OF THE MADISON VALLEY PHASE 2 SUBDIVISION is made and entered into this 20th day of December, 2021, by and between Blue Springs Safety Storage South, LLC. ("Sub-Divider") also being referred to herein as "Grantors"; and the City of Raymore, Missouri, a Municipal Corporation and Charter City under the laws of the State of Missouri ("City").

WHEREAS, Sub-Divider seeks to obtain approval from the City for a subdivision to be known as Madison Valley Phase 2, proposed to be located in the City of Raymore, Cass County, Missouri; and,

WHEREAS, Sub-Divider agrees to assume all subdivision development obligations of the City as described in this agreement; and,

WHEREAS, the City desires to ensure that the Sub-Divider will accomplish certain things in order to protect the public's health, safety and welfare.

NOW, THEREFORE, in consideration of the promises and covenants herein set forth, and receipt by the City of fees and costs as stated herein, the parties agree as follows:

**GEOGRAPHIC LOCATION:**

The provisions of this MOU shall apply to the following described property:

A TRACT OF LAND LOCATED IN THE NORTH HALF OF THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 46 NORTH, RANGE 32 WEST, IN THE CITY OF RAYMORE, CASS COUNTY, MISSOURI AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID NORTH HALF, THENCE ALONG THE WEST LINE OF SAID NORTH HALF, SOUTH 02°56'15" WEST, 19.59 FEET TO THE POINT OF BEGINNING; THENCE ALONG A LINE 19.59 FEET SOUTH OF AND PARALLEL TO THE NORTH LINE OF SAID NORTH HALF, A PORTION OF SAID LINE BEING THE SOUTH LINE OF MADISON CREEK THIRD PLAT, LOTS 104 THRU 149 AND TRACT E, A SUBDIVISION OF LAND AS RECORDED AT THE CASS COUNTY RECORDER OF DEEDS OFFICE, SOUTH 87°54'20" EAST, 1480.39 FEET TO THE NORTHWEST CORNER OF MADISON VALLEY FIRST PLAT, A SUBDIVISION OF LAND AS RECORDED AT THE CASS COUNTY RECORDER OF DEEDS OFFICE; THENCE ALONG THE WEST LINE OF SAID MADISON VALLEY FIRST PLAT THE FOLLOWING 26 COURSES: THENCE SOUTH 02°06'10" WEST, 164.15 FEET; THENCE SOUTH 31°05'35" WEST, 50.00 FEET; THENCE ALONG A CURVE TO THE RIGHT, HAVING AN INITIAL TANGENT BEARING OF SOUTH 58°54'25" EAST, A RADIUS OF 255.00 FEET, AN ARC LENGTH OF 72.08 FEET; THENCE SOUTH 47°17'20" WEST, 150.05 FEET; THENCE SOUTH 20°47'09" EAST, 28.87 FEET; THENCE NORTH 85°07'17" EAST, 161.56 FEET; THENCE ALONG A CURVE TO THE RIGHT, HAVING AN INITIAL TANGENT BEARING OF SOUTH 13°06'01" EAST, A RADIUS OF 255.00 FEET, AN ARC LENGTH OF 46.55 FEET; THENCE SOUTH 02°41'20" EAST, 59.20 FEET; THENCE ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 15.00 FEET, AN



ARC LENGTH OF 22.98 FEET; THENCE SOUTH 04°56'45" EAST, 50.00 FEET; THENCE ALONG A CURVE TO THE RIGHT, HAVING AN INITIAL TANGENT BEARING OF NORTH 85°07'16" EAST, A RADIUS OF 15.00 FEET, AN ARC LENGTH OF 22.80 FEET; THENCE ALONG A REVERSE CURVE, HAVING A RADIUS OF 775.00 FEET, AN ARC LENGTH OF 60.63 FEET; THENCE SOUTH 12°15'47" EAST, OF 51.15 FEET; THENCE ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 975.00 FEET, AN ARC LENGTH OF 93.84 FEET; THENCE SOUTH 06°44'55" EAST, 8.92 FEET; THENCE ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 15.00 FEET, AN ARC LENGTH OF 23.56 FEET; THENCE SOUTH 83°15'05" WEST, 101.08 FEET; THENCE SOUTH 06°44'55" EAST, 133.84 FEET; THENCE SOUTH 29°02'49" WEST, 56.36 FEET; THENCE SOUTH 50°24'46" EAST, 115.00 FEET; THENCE ALONG A CURVE TO THE RIGHT, HAVING AN INITIAL TANGENT BEARING OF SOUTH 39°35'14" WEST, A RADIUS OF 225.00 FEET AN ARC LENGTH OF 209.22 FEET; THENCE SOUTH 02°51'53" WEST, 50.00 FEET; THENCE ALONG A CURVE TO THE RIGHT, HAVING AN INITIAL TANGENT BEARING OF SOUTH 87°08'53" EAST, A RADIUS OF 15.00 FEET, AN ARC LENGTH OF 21.49 FEET; THENCE SOUTH 05°03'48" EAST, 22.14 FEET; THENCE ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 375.00 FEET, AN ARC LENGTH OF 49.10 FEET; THENCE SOUTH 02°26'16" WEST, 45.84 FEET TO THE SOUTH LINE OF THE NORTH HALF, ALSO BEING THE NORTHEAST CORNER OF LOT 29, BRIDLECROFT LOTS 24 THRU 36, A SUBDIVISION OF LAND AS RECORDED AT THE CASS COUNTY RECORDER OF DEEDS OFFICE; THENCE ALONG THE SOUTH LINE OF SAID NORTH HALF, ALSO BEING THE NORTH LINE OF SAID BRIDLECROFT, THE NORTH LINE OF WEDGEWOOD PLACE, WEDGEWOOD MEADOWS & THE SECOND REPLAT OF KIRBY ESTATES, ALL BEING SUBDIVISIONS OF LAND AS RECORDED AT THE CASS COUNTY, RECORDER OF DEEDS OFFICE, NORTH 87°34'38" WEST, 1477.67 FEET TO THE SOUTHWEST CORNER OF SAID NORTH HALF; THENCE ALONG THE WEST LINE OF SAID NORTH HALF, NORTH 02°56'15" EAST, 1301.12 FEET, TO THE POINT OF BEGINNING AND CONTAINS 46.26 ACRES, MORE OR LESS.

## **PRELIMINARY PLAT**

1. Sub-Divider intends to develop the entire property as a Detached Single Family Community in the manner shown on the Preliminary Plat, attached and incorporated herein as Exhibit A.

### **2. Zoning and Land Use**

- a. The zoning for the entire Property shall be "R-1.5" Single-Family Residential District.

- b. Land Use

1. Detached Single Family Dwellings, as defined by Section 485.010 of the Unified Development Code shall be permitted on all lots, subject to compliance with any special conditions.

2. Accessory uses are permitted in accordance with the provisions of the Unified Development Code.

### **3. Bulk and Dimensional Standards Table:**

The following bulk and dimensional standards are established for each lot in the development:

Minimum Lot Area	6,500 sq. ft.
Minimum Lot Width	60 feet
Minimum Lot Depth	100 feet
Minimum Front Yard	30 feet
Minimum Rear Yard	30 feet
Minimum Side Yard	7.5 feet
Minimum Side Yard, exterior	15 feet
Maximum Building Height	35 feet
Maximum Building Coverage	40%

**4. Common Open Space**

- a. Common open space and subdivision amenities shall be provided in accordance with the approved Preliminary Plat.
- b. Tracts A thru H are reserved as common area tracts for common open space.
- c. The stream buffer corridor will need to be designated as a common area tract when the final plat for the area is submitted.

**5. Landscaping & Screening**

- a. Landscaped buffers shall be provided in the common area tracts identified as Tract E and Tract F along Sunset Lane.
- b. A landscape buffer with a berm, in compliance with the requirements of Section 445.030F3a shall be installed in Tract G and Tract H along the southern property line of the subdivision as part of the public improvements that will serve the lots adjacent to Tract G and Tract H.
- b. One yard tree shall be provided in the front yard of each dwelling unit. For corner lots, one yard tree is required per street frontage.
- c. All required landscaping shall comply with Chapter 430 of the Unified Development Code. No details as to plant location, type or size are required as part of the Preliminary Plat.

- d. A landscape plan for the common area tracts shall be submitted with the application for each phase of a final plat that contains Tract E, Tract F, Tract G or Tract H.
  - e. All required buffer landscaping in Tract E and Tract F shall be installed prior to the issuance of any Certificate of Occupancy for any home within the corresponding phase of the final plat.
6. **Parking**
- a. Off-street Parking shall be provided for each home as follows:

<b>Use</b>	<b>Minimum Parking Spaces Required</b>
Single Family Dwelling	2 spaces per dwelling unit

**PHASING SCHEDULE**

- 1. The Preliminary Plat is being approved with a defined phasing plan. Phase 1 is the area west of the stream. Phase 2 is the area north of Heritage Drive and east of the stream. Phase 3 is the area south of Heritage Drive and east of the stream.
- 2. Any changes to the phasing plan requires approval by the Planning and Zoning Commission as part of a final plat submittal.

**FINAL PLATS**

- 1. Sub-Divider may submit final plats and associated construction drawings to the City in phases.
- 2. Each final plat must comply with the bulk and dimensional standards included in this MOU.
- 3. Final plats shall be submitted in accordance with the Unified Development Code.
- 4. A final plat application shall be submitted within one year of the date of approval of the Preliminary Plat or the Preliminary Plat becomes null and void.

## **TRANSPORTATION IMPROVEMENTS**

### **1. Road Improvements**

- a. All proposed roads shall be constructed as local roads with a fifty foot (50') right-of-way.
- b. Sunset Lane is being designed to provide access to the subdivision. No additional off-site road improvements are required.
- c. The internal roadways serving the development shall be built to City standards to be accepted by the City. Once the roadways are accepted, the City will assume maintenance responsibilities of the roadways.
- d. The Sub-Divider shall provide the necessary right-of-way for the construction of Sunset Lane at no cost to the City at the time the right-of-way is requested.
- e. The design and construction of Sunset Lane is a project funded by the 2020 General Obligation Bond Issuance approved by the voters. The design of Sunset Lane is currently being completed by the City. The City has assumed responsibility for the construction of Sunset Lane.
- f. Construction of Sunset Lane from its current southern terminus to the north property line of the Madison Valley subdivision is currently scheduled to be completed by the City of Raymore in 2022. If the Sub-Divider desires to expedite the timing of completion of this segment of Sunset Lane in advance of the City construction schedule, the City will enter into a reimbursement agreement with the Sub-Divider for the costs of construction of the road segment to be constructed pursuant to the City approved design and standards.
- g. The stream crossing for Heritage Drive shall be constructed by the Sub-Divider at the earliest of the following triggering events:
  1. Completed as part of the installation of public improvements for Phase 2 of the subdivision; or
  2. Completed no more than thirty-six (36) months from the date of issuance of the last Certificate of Occupancy within Phase 1.

- h. The Sub-Divider shall install a barricade to prevent any construction traffic from utilizing Park Drive to access the subdivision during construction of the subdivision. The barricade shall remain until the City accepts Park Drive as part of the public improvements for Phase 3.

## **2. Pedestrian Improvements**

- a. A five foot (5') sidewalk is required along the east side of Sunset Lane. This sidewalk shall be constructed as part of the installation of public improvements for the phase of the subdivision adjacent to Sunset Lane.
- b. A five foot (5') sidewalk is required on all lots and shall be constructed prior to the issuance of a Certificate of Occupancy for the lot the sidewalk is intended to serve.
- c. Sidewalks on common area tracts shall be installed at the time a home is constructed on a lot adjacent to the common area tract.

## **3. Street Lights**

- a. A street light plan shall be submitted by the Sub-Divider as part of the public infrastructure plans for each final plat phase that is constructed.
- b. All street lights in the final plat phase shall be fully operational prior to City Council acceptance of the public improvements for the final plat phase.

## **SANITARY SEWER IMPROVEMENTS**

1. Sanitary sewer service shall be provided to each lot by the Sub-Divider. A sanitary sewer line shall extend to the exterior perimeter property line of the development to provide service to adjacent properties.
2. All public improvements shall be installed in accordance with City standards. Before the installation of any sanitary sewer system improvements, the Sub-Divider shall have the engineering plans approved by the MoDNR and the City of Raymore.
3. The sanitary sewer shall be of sufficient size and depth to serve the tributary area identified in the City's Comprehensive Sewer Plan.



4. The Sub-Divider agrees to pay any applicable sewer connection fees and rate charges.
5. All improvements must be approved by the City, constructed to City standards, and inspected by the City; and the Sub-Divider agrees to dedicate easements to the City in compliance with City standards for utility easements.

### **WATER MAIN IMPROVEMENTS**

1. The development is located within the territorial area of the City of Raymore and shall be served by the City.
2. All improvements to the water service system shall comply with the requirements of the City of Raymore and with the requirements of the South Metropolitan Fire Protection District. Before the installation of any water system improvements, the Sub-Divider shall have the engineering plans approved by the MoDNR

### **STORMWATER IMPROVEMENTS**

1. On-site stormwater management shall be completed in accordance with the stormwater management study approved as part of the Preliminary Plat.
2. A final stormwater management plan is required to be submitted at the time public improvement construction plans are submitted for all the land area contained within the final plat phase.
3. Stormwater management infrastructure shall be installed and operational prior to the issuance of a Certificate of Occupancy for any applicable or affected building in the final plat phase.
4. Storm Water Quality BMPs shall be incorporated into the stormwater management plan in accordance with Chapter 450 of the Unified Development Code.
5. A Stormwater Maintenance Agreement shall be submitted addressing the perpetual maintenance of all stormwater management infrastructure.



## **OPEN SPACE**

1. Private open space shall be provided in accordance with the approved Preliminary Plat. All privately owned open space or common areas shall be constructed and maintained by the Sub-Divider or the Homeowner's Association.

## **SIGNAGE**

1. Subdivision entrance markers are permitted for the development in accordance with Chapter 435 of the Unified Development Code.

## **STREAM BUFFER**

1. No land disturbance activities or removal of any trees shall occur within the stream buffer area except for:
  - a. work to install the necessary outlet structures for the stormwater detention facilities; or
  - b. work to install any utility infrastructure; or
  - c. work to install a road crossing.
2. Construction fencing or a similar barrier shall be installed to discourage construction equipment and activity from occurring within the stream buffer area and to provide protection for existing tree canopy.

## **SOUTH METROPOLITAN FIRE PROTECTION DISTRICT**

1. All requirements of the Fire Code adopted by the South Metropolitan Fire Protection District shall be complied with.

## **STREET NAMES AND ADDRESSING**

1. The City Addressing and Street Naming Policy shall be followed for the assignment of any street name on a final plat and for the assignment of addresses issued for all buildings in the subdivision. The City is solely responsible for the final designation of street names and addresses.
2. The street names included on the Preliminary Plat have been pre-approved by the City and are being reserved for use within the subdivision.

3. Official street names shall be finalized as part of the final plat review and recording process. The City shall verify and approve the final use of any street name placed upon a final plat prior to recording.

### **PARKLAND DEDICATION**

1. Based on 154 dwelling units, a total of 8.1312 acres of park land are required to be dedicated.
2. The Parks and Recreation Board voted to accept a fee-in-lieu payment for the required parkland dedication. Based upon the purchase price of the property by the Sub-Divider, the fee-in-lieu to be paid to the City shall be One-Hundred Twenty Thousand One Hundred and Eighty-Three dollars and Ninety Cents (\$120,183.90).
3. The fee-in-lieu shall be paid at the time of recording of each final plat that contains lots platted for residential homes as follows:  
Amount to be paid = \$780.41 per lot

### **INSTALLATION AND MAINTENANCE OF PUBLIC IMPROVEMENTS**

1. Before the installation of any improvements for a Platted Area, Sub-Divider shall have all engineering plans approved by the City of Raymore.
2. Prior to the issuance of building permits, the Sub-divider shall install all public Improvements as shown on approved engineering plans of said subdivision and the City Council shall have accepted by Resolution all public Improvements.
3. The Sub-Divider shall be responsible for the installation and maintenance of all improvements as shown on the approved engineering plans of the subdivision for a period of two years after acceptance by the City, in accordance with the City specifications and policies. Said plans shall be on file with the City and shall reflect the development of said subdivision. Said plans shall include but are not exclusive to the sanitary sewer system, storm drainage system and channel improvements, erosion control, MBF elevations and water distribution systems.
4. The Sub-Divider shall be responsible for the installation of all improvements in accordance with the approved engineering plans. The

Sub-Divider hereby agrees to indemnify and hold harmless the City and its past, present and future employees, officers and agents from any and all claims arising from the construction of the improvements located on Sub-Divider's property or from the City's inspection or lack of inspection of the plans, specifications and construction relating to the improvements to be placed on the Sub-Divider's property. Sub-Divider hereby agrees to pay to the City all damages, costs and reasonable attorney's fees incurred by the City and its employees, officers and agents in defending said claims.

### **FEES, BONDS AND INSURANCE**

1. The Sub-Divider agrees to pay to the City a one percent (1%) Plan Review Fee and five percent (5%) Construction Inspection Fee based on the contract development costs of all public improvements as shown on approved engineering plans of said subdivision. The City Engineer shall review and determine the reasonableness of all costs, as presented.
2. The Sub-Divider agrees to pay the cost of providing streetlights in accordance with the approved street light plan. Once streetlights are accepted by the City as part of infrastructure acceptance, the City will assume maintenance responsibility for the lights.
3. The Sub-Divider agrees to pay the City a \$9 per acre fee for the placement and maintenance of outdoor warning sirens.
4. Per Ordinance #20004, the license (excise) tax for building contractors will be charged at the time of building permits at the applicable rate at the time each building permit application is approved.

### **GENERAL PROVISIONS**

1. The parties agree that execution of this agreement in no way constitutes a waiver of any requirements of applicable City ordinances with which Sub-Divider must comply and does not in any way constitute prior approval of any future proposal for development.
2. The covenants contained herein shall run with the land described in this agreement and shall be binding and inure to the benefit of the parties hereto and their successors or assigns and on any future and subsequent purchasers of the property.

3. This agreement shall constitute the complete agreement between the parties and any modification hereof shall be in writing, subject to the approval of the parties.
4. If, at any time, any part hereof has been breached by Sub-Divider, the City may withhold approval of any or all building permits, or suspend or revoke any issued permits, applied for in the development, until the breach or breaches has or have been cured to the satisfaction of the City.
5. This agreement shall be recorded by the City and its covenants shall run with the land and shall bind the parties, their successors and assigns, in interest and title.
6. Any provision of this agreement which is not enforceable according to law will be severed heretofore and the remaining provisions shall be enforced to the fullest extent permitted by law. The terms of this agreement shall be construed and interpreted according to the laws of the State of Missouri. Venue for any dispute arising from, or interpretation of this agreement shall be in the Circuit Court of Cass County, Missouri.
7. The undersigned represent that they each have the authority and capacity from the respective parties to execute this Agreement. This Agreement shall not be effective until approved by ordinance duly enacted by the City Council of the City of Raymore, Missouri.
8. Whenever in this agreement it shall be required or permitted that notice or demand be given or served by either party to this agreement to or on the other party, such notice or demand shall be delivered personally or mailed by First Class United States mail to the addresses hereinafter set forth. Such notice or demand shall be deemed timely given when delivered personally or when deposited in the mail in accordance with the above.

If to the City, at:

City Manager  
100 Municipal Circle  
Raymore, MO 64083

If to Blue Springs Safety Storage South  
LLC. at:

%;Tony Ward  
1120 NE Eagle Ridge Blvd.  
Grain Valley, MO 64029



IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first written above.

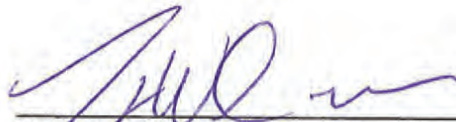
(SEAL)

THE CITY OF RAYMORE, MISSOURI

\_\_\_\_\_  
Jim Feuerborn, City Manager

Attest:

\_\_\_\_\_  
Erica Hill, City Clerk



\_\_\_\_\_  
Sub-Divider – Signature

Tony Ward - member

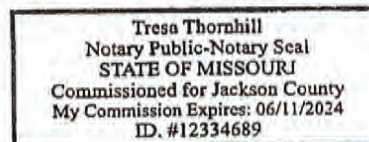
\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Sub-Divider – Signature

\_\_\_\_\_  
Printed Name

Subscribed and sworn to me on this  
the 13<sup>th</sup> day of Dec 2021  
in the County of Jackson  
State of Missouri

Stamp:



Notary Public: Tresa Thornhill My Commission Expires: 06/11/2024













**CITY OF RAYMORE**  
**AGENDA ITEM INFORMATION FORM**

DATE: Dec. 13, 2021

SUBMITTED BY: Erica Hill

DEPARTMENT: City Clerk

<input checked="" type="checkbox"/> Ordinance	<input type="checkbox"/> Resolution	<input type="checkbox"/> Presentation	<input type="checkbox"/> Public Hearing
<input type="checkbox"/> Agreement	<input type="checkbox"/> Discussion	<input type="checkbox"/> Other	

**TITLE / ISSUE / REQUEST**

Bill 3672 Calling for and establishing the April 5, 2022 Municipal Election

**STRATEGIC PLAN GOAL/STRATEGY**

4.3.3 Demonstrate our dedication to ethical behavior and transparency

**FINANCIAL IMPACT**

Award To:  
Amount of Request/Contract:  
Amount Budgeted:  
Funding Source/Account#:

**PROJECT TIMELINE**

Estimated Start Date	Estimated End Date
----------------------	--------------------

**STAFF RECOMMENDATION**

Approval

**OTHER BOARDS & COMMISSIONS ASSIGNED**

Name of Board or Commission:  
Date:  
Action/Vote:

**LIST OF REFERENCE DOCUMENTS ATTACHED**

**REVIEWED BY:**

Jim Feuerborn

## BACKGROUND / JUSTIFICATION

The City Charter, Section 9.1, calls for the regular municipal election to be held on the first (1st) Tuesday after the first (1st) Monday in April.

The election will be held on Tuesday, April 5, 2022, for the following officers of the City:

Mayor, three year term: currently held by Kristofer Turnbow

Councilmember Ward 1, two year term: currently held by Reginald Townsend

Councilmember Ward 1, one year term: currently held by Victoria Wills-Scherzer

Councilmember Ward 2, two year term: currently held by Tom Circo

Councilmember Ward 3, two year term: currently held by Jay Holman

Councilmember Ward 4, two year term: currently held by Sonja Abdelgawad

Candidate filing begins Tuesday, Dec. 21, and ends Tuesday, Jan. 18, 2022.

**BILL 3672**

**ORDINANCE**

**"AN ORDINANCE OF THE CITY OF RAYMORE, MISSOURI, CALLING FOR AND ESTABLISHING THE DATE OF THE GENERAL MUNICIPAL ELECTION TO BE HELD ON APRIL 5, 2022."**

**WHEREAS**, according to the Raymore City Charter Section 9.1 Municipal Election, the regular municipal election shall be held on the first (1st) Tuesday after the first (1st) Monday in April, or such day as may be mandated by State law.

**NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF RAYMORE, MISSOURI AS FOLLOWS:**

Section 1. The annual election of the officers of the City of Raymore shall be held on the 5th day of April, 2022.

Section 2. That at said election, the following officers shall be elected:

Mayor	(At Large)	Term: 3 years
Councilmember	(Ward 1)	Term: 2 years
Councilmember	(Ward 1)	Term: 1 years
Councilmember	(Ward 2)	Term: 2 years
Councilmember	(Ward 3)	Term: 2 years
Councilmember	(Ward 4)	Term: 2 years

Section 3. The City Clerk of the City of Raymore is directed to comply with the Comprehensive Election Act of 1977 as amended and to give notice as required by law. Candidate filing opens on December 21, 2021, and will close on January 18, 2022.

Section 4. Effective Date. This Ordinance shall become effective after its passage and approval and any parts of other Ordinances in conflict are hereby repealed.

Section 5. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**DULY READ THE FIRST TIME THIS 13TH DAY OF DECEMBER, 2021.**

**BE IT REMEMBERED THAT THE ABOVE ORDINANCE WAS APPROVED AND ADOPTED THIS 20TH DAY OF DECEMBER, 2022, BY THE FOLLOWING VOTE:**

Councilmember Abdelgawad  
Councilmember Barber  
Councilmember Berendzen  
Councilmember Burke III  
Councilmember Circo  
Councilmember Holman  
Councilmember Townsend  
Councilmember Wills-Scherzer

ATTEST:

APPROVE:

\_\_\_\_\_  
Erica Hill, City Clerk

\_\_\_\_\_  
Kristofer P. Turnbow, Mayor

\_\_\_\_\_  
Date of Signature



**CITY OF RAYMORE**  
**AGENDA ITEM INFORMATION FORM**

DATE: Dec. 13, 2021

SUBMITTED BY: Jim Cadoret

DEPARTMENT: Development Services

- |   |                                     |                                       |   |
|---|-------------------------------------|---------------------------------------|---|
| <input checked="" type="checkbox"/> Ordinance | <input type="checkbox"/> Resolution | <input type="checkbox"/> Presentation | <input type="checkbox"/> Public Hearing |
| <input type="checkbox"/> Agreement            | <input type="checkbox"/> Discussion | <input type="checkbox"/> Other        |   |

**TITLE / ISSUE / REQUEST**

Bill 3673: Contract for purchase of real estate

**STRATEGIC PLAN GOAL/STRATEGY**

2.1: Set the standard for a safe and secure community

**FINANCIAL IMPACT**

Award To:

Amount of Request/Contract: \$675,000

Amount Budgeted:

Funding Source/Account#: Restricted Revenue

**PROJECT TIMELINE**

Estimated Start Date

Estimated End Date

**STAFF RECOMMENDATION**

Approval

**OTHER BOARDS & COMMISSIONS ASSIGNED**

Name of Board or Commission:

Date:

Action/Vote:

**LIST OF REFERENCE DOCUMENTS ATTACHED**

Real Estate Contract

Location Map

REVIEWED BY:

Jim Feuerborn

## BACKGROUND / JUSTIFICATION

For the past year City staff have actively searched for land to construct a Justice Center for the Police Department and Municipal Court. The selected two tracts of land currently owned by Hawthorn Bank and located on the east side of North Madison Street and north of Pine Street, are centrally located along two arterial roadways in the center of the City. The land consists of 10.85 acres and provides adequate area for a Justice Center and associated parking lot while reserving land for additional City facilities if needed.

City staff negotiated a real estate purchase price of \$675,000 with a tentative closing date of Dec. 28, 2021. Previous actions of City Council placed adequate funding in the restricted revenue account to allow for the land purchase.

**BILL 3673**

**ORDINANCE**

**“AN ORDINANCE OF THE CITY OF RAYMORE, MISSOURI, APPROVING AND AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT TO PURCHASE 10.85 ACRES OF UNDEVELOPED PROPERTY LOCATED EAST OF NORTH MADISON STREET AND NORTH OF PINE STREET IN THE AMOUNT OF \$675,000.”**

**WHEREAS**, the City Council has desired to purchase land area to allow for future development of a Municipal Justice Center; and

**WHEREAS**, the land proposed to be purchased is in a centralized location in the City adjacent to 58 Highway; and

**WHEREAS**, the City Council has determined that the purchase price of the land is within the budget allocated for the project and furthers several goals of the City Strategic Plan for a safe and secure City.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF RAYMORE, MISSOURI, AS FOLLOWS:**

Section 1. The Mayor is directed and authorized to enter into a contract in the amount of \$675,000 with Hawthorn Bank to purchase the undeveloped property located east of North Madison Street and north of Pine Street and legally described as follows:

Tract 1:

ALL THAT PART OF THE NORTHEAST QUARTER OF SECTION 16, TOWNSHIP 46, RANGE 32 IN THE CITY OF RAYMORE, CASS COUNTY, MISSOURI, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID NORTHEAST QUARTER; THENCE SOUTH 2°30'31" WEST, ALONG THE EAST LINE OF SAID QUARTER SECTION, A DISTANCE OF 268.13 FEET; THENCE NORTH 87°38'43" WEST, A DISTANCE OF 25.00 FEET TO THE SOUTHEAST CORNER OF LOT 3, HERITAGE PROFESSIONAL PARK, A SUBDIVISION IN SAID CITY, COUNTY AND STATE AS RECORDED IN BOOK 9 AT PAGE 28; SAID POINT ALSO BEING ON THE WEST RIGHT OF WAY LINE OF NORTH MADISON STREET AS NOW ESTABLISHED AND THE POINT OF BEGINNING OF THE TRACT TO BE HEREIN DESCRIBED; THENCE CONTINUING NORTH 87°38'43" W, ALONG THE SOUTH LINE OF SAID TRACT 3, A DISTANCE OF 65.02 FEET TO A POINT OF CURVE; THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 125°43'38", FOR AN ARC DISTANCE OF 54.86 FEET TO A POINT OF REVERSE CURVE ON THE NORTHEASTERLY RIGHT OF WAY LINE OF MISSOURI STATE HIGHWAY NO. 58; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 868.51 FEET, A CENTRAL ANGLE OF 11°09'30", FOR AN ARC DISTANCE OF 169.14 FEET TO A POINT ON SAID WEST RIGHT OF WAY LINE; THENCE NORTH 2°30'31" EAST, ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 185.63 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS 9,164 SQUARE FEET OR 0.210 ACRES, MORE OR LESS.

Tract 2:

ALL THAT PART OF THE NORTH HALF OF THE NORTHWEST QUARTER OF SECTION 16, TOWNSHIP 46, RANGE 32 IN THE CITY OF RAYMORE, CASS COUNTY, MISSOURI, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID NORTHWEST QUARTER; THENCE SOUTH 2°30'31" WEST, ALONG THE WEST LINE OF SAID QUARTER SECTION, A DISTANCE OF 136.50 FEET; THENCE SOUTH 88°10'50" EAST, ALONG THE NORTH LINE OF HERITAGE PLAZA - LOT 10 AND THE SOUTH LINE OF HERITAGE HILLS, LOTS 1 THRU 45, BOTH SUBDIVISIONS OF RECORD, A DISTANCE OF 320.00 FEET TO THE NORTHEAST CORNER OF SAID LOT 10, AND THE POINT OF BEGINNING OF THE PART TO BE HEREIN DESCRIBED; THENCE SOUTH 88°10'50" EAST, CONTINUING ALONG SAID SOUTH SUBDIVISION LINE, A DISTANCE OF 312.39 FEET TO THE SOUTHWEST CORNER OF LOT 5 IN SAID SUBDIVISION AND THE NORTHWEST CORNER OF THE TRACT OF LAND DESCRIBED IN THE GENERAL WARRANTY DEED RECORDED SEPTEMBER 15, 2011 IN BOOK 3488 AT PAGE 563; THENCE SOUTH 1°45'15" WEST, ALONG THE EAST LINE OF SAID TRACT, A DISTANCE OF 240.00 FEET TO THE SOUTHWEST CORNER THEREOF; THENCE SOUTH 88°10'50" EAST, ALONG THE SOUTH LINE OF SAID TRACT, A DISTANCE OF 172.20 FEET TO THE SOUTHEAST CORNER THEREOF AND A POINT ON THE WEST LINE OF HERITAGE HILLS, LOTS 136 THRU 157, A SUBDIVISION OF RECORD; THENCE SOUTH 1°45'15" WEST, ALONG THE WEST LINE OF SAID SUBDIVISION, A DISTANCE OF 471.94 FEET TO A POINT ON THE NORTH RIGHT OF WAY LINE OF PINE STREET AS ESTABLISHED BY LAST SAID SUBDIVISION; THENCE NORTH 88°17'07" WEST, ALONG SAID RIGHT OF WAY LINE AND THE NORTH LINE OF LOTS 3 AND 4, HERITAGE PLAZA, SECOND PLAT, A SUBDIVISION OF RECORD, A DISTANCE OF 759.57 FEET TO A POINT ON THE EAST RIGHT OF WAY LINE OF MISSOURI STATE HIGHWAY NO. 58; THENCE NORTH 2°54'07" EAST, ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 26.18 FEET TO A POINT OF CURVE; THENCE CONTINUING NORTHWESTERLY ALONG SAID RIGHT OF WAY LINE, ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 868.51 FEET, A CENTRAL ANGLE OF 14°03'52", FOR AN ARC DISTANCE OF 213.19 FEET TO A POINT ON THE EAST RIGHT OF WAY LINE OF NORTH MADISON STREET; THENCE NORTH 2°30'31" EAST, ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 315.67 FEET TO THE SOUTHWEST CORNER OF AFORESAID HERITAGE PLAZA, LOT 10; THENCE SOUTH 88°10'50" EAST, ALONG THE SOUTH LINE OF SAID LOT 10, A DISTANCE OF 290.00 FEET TO THE SOUTHEAST CORNER THEREOF; THENCE NORTH 2°30'31" EAST, ALONG THE EAST LINE OF SAID LOT, A DISTANCE OF 160.00 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS 463,465 SQUARE FEET OR 10.640 ACRES, MORE OR LESS.

Section 2. The Mayor is authorized to execute the contract document attached as Exhibit A.

Section 3. Effective Date. The effective date of approval of this Ordinance shall be coincidental with the Mayor's signature and attestation by the City Clerk.

Section 4. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.



**DULY READ THE FIRST TIME THIS 13TH DAY OF DECEMBER, 2021.**

**BE IT REMEMBERED THAT THE ABOVE ORDINANCE WAS APPROVED AND ADOPTED THIS 20TH DAY OF DECEMBER, 2021, BY THE FOLLOWING VOTE:**

Councilmember Abdelgawad  
Councilmember Barber  
Councilmember Berendzen  
Councilmember Burke III  
Councilmember Circo  
Councilmember Holman  
Councilmember Townsend  
Councilmember Wills-Scherzer

ATTEST:

APPROVE:

\_\_\_\_\_  
Erica Hill, City Clerk

\_\_\_\_\_  
Kristofer P. Turnbow, Mayor

\_\_\_\_\_  
Date of Signature



### COMMERCIAL REAL ESTATE SALES CONTRACT

**PARTIES:** This contract ("Contract") is made between:

**SELLER:** \_\_\_\_\_ HAWTHORN BANK \_\_\_\_\_, and  
**BUYER:** \_\_\_\_\_ CITY OF RAYMORE \_\_\_\_\_, and is effective as of the date of acceptance on the last signature on this Contract (the "Effective Date").

**2. PROPERTY:** Seller agrees to sell to Buyer and Buyer agrees to purchase from Seller the real estate described in Exhibit A (Legal Description) attached hereto, such to be verified by the Title Company, together with any buildings and improvements thereon, and all personal property used in the operation of the buildings and improvements, including, if any, all mechanical systems, fixtures and equipment, heating, ventilating and air-conditioning equipment, electrical systems and lighting, plumbing equipment and fixtures, floor coverings, storm windows and doors, screens and awnings, keys, and including the following:

\_\_\_\_\_

all of which is commonly known and numbered as \_\_\_\_\_ SEE LEGAL DESCRIPTION EXHIBIT "A" (pages 5-7), in the City of \_\_\_\_\_ RAYMORE \_\_\_\_\_ in \_\_\_\_\_ CASS \_\_\_\_\_ County, State of \_\_\_\_\_ MISSOURI \_\_\_\_\_  
Such real estate and other property shall be collectively referred to in this Contract as the "Property".

**3. EXCEPTIONS:** The Property shall be subject, however, to the Permitted Exceptions (as defined in the paragraph entitled "Title Insurance"), zoning ordinances and laws and the following existing leases or tenancies: \_\_\_\_\_

**4. PURCHASE PRICE:** The Purchase Price is \_\_\_\_\_ Six Hundred Seventy Five Thousand \_\_\_\_\_ DOLLARS (\$ 675,000.00 \_\_\_\_\_) which Buyer agrees to pay as follows:

a. \_\_\_\_\_ Ten Thousand \_\_\_\_\_ DOLLARS (\$ 10,000.00 \_\_\_\_\_) at the signing of this Contract as Earnest Money, such to be deposited upon execution of this Contract within (10 days if the Property is located in Missouri) or (5 days if the Property is located in Kansas), in the insured trust or escrow account of \_\_\_\_\_ Coffelt Land Title \_\_\_\_\_ ("Escrow Agent") as part of the consideration of the sale;

b. The balance to be paid in the following manner: \_\_\_\_\_ Six Hundred Sixty Five Thousand \_\_\_\_\_ DOLLARS (\$ 665,000.00 \_\_\_\_\_), in guaranteed funds or cashier's check at Closing (as defined in this Contract), adjusted at Closing for pro-rations, closing costs and other agreed expenses, and [state other payment or financing terms if any]

**5. CLOSING AND POSSESSION DATE(S):** Subject to all the provisions of this Contract, the closing of this Contract (the "Closing") shall take place at the offices of \_\_\_\_\_ Coffelt Land Title \_\_\_\_\_ on the \_\_\_\_\_ 28th \_\_\_\_\_ day of \_\_\_\_\_ December \_\_\_\_\_, 2021 or prior thereto by mutual consent, and possession shall be delivered upon closing or as follows: \_\_\_\_\_

**6. EXISTING FINANCING:** Unless otherwise provided in this Contract, Seller shall make any payments required on existing mortgages or deeds of trust until Closing. If this Contract provides that the Property is being sold subject to any existing mortgage or deed of trust, Buyer shall, at Closing, reimburse Seller for any principal reductions not already considered in computing payments of purchase price and for any deposits held by the holder of the mortgage or deed of trust that are transferred to Buyer.

**7. PRORATIONS:** The rents, income and expenses from the Property, and the interest on any existing mortgages or deeds of trust to which this sale is made subject, shall be prorated between Seller and Buyer as of Closing. Seller shall pay all general real estate taxes levied and assessed against the Property, and all installments of special assessments for the years prior to the calendar year of Closing. All such taxes and installments of special assessments becoming due and accruing during the calendar year of Closing shall be prorated between Seller and Buyer on the basis of such calendar year, as of Closing. If the amount of any tax or special assessment cannot be ascertained at Closing, pro-ratio shall be computed on the amount for the preceding year's tax or special assessment. Buyer shall assume and pay all such taxes and installments of special assessments accruing after the Closing.

**8. TITLE INSURANCE:** Seller shall deliver and pay for an owner's ALTA title insurance policy insuring marketable fee simple title in Buyer in the amount of the Purchase Price as of the time and date of recording of Seller's Warranty Deed (the "Deed"), subject only to the Permitted Exceptions defined below. Seller shall, as soon as possible and not later than \_\_\_\_\_ December 17, 2021 \_\_\_\_\_ (\_\_\_\_) days after the Effective Date of this Contract, cause to be furnished to Buyer a current commitment to issue the title policy (Title Commitment), to be issued through \_\_\_\_\_ Coffelt Land Title \_\_\_\_\_ (the "Title Company"). Buyer shall have \_\_\_\_\_ Five \_\_\_\_\_ ( 5 ) days after receipt of the Title Commitment (the "Title Review Period") in which to notify Seller in writing of any objections Buyer has regarding any matters shown or referred to in the Title Commitment. Any matters which are set forth in the Title Commitment and to which Buyer does not object within the Review Period shall be deemed to be permitted exceptions to the status of Seller's title (the "Permitted Exceptions"). With regard to items to which Buyer does object within the Review Period, Seller shall have \_\_\_\_\_ Five \_\_\_\_\_ ( 5 ) days after receipt of Buyer's written notice of objections to cure such objections ("Title Cure Period").



If Seller does not cure the objections by the end of the Title Cure Period or if Seller and Buyer have not agreed to extend the Title Cure Period by amending this Contract, then this Contract shall automatically be terminated unless Buyer waives the objections no later than Ten ( 10 ) days after the end of the Title Cure Period.

(Check one)  Seller  Buyer assume responsibility for paying for a survey and shall order a survey of the Property as soon as possible and not later than Fifteen ( 15 ) days after the Effective Date of this Contract. Unless otherwise objected to in writing by Buyer or Seller within five (5) days of delivery of the survey, the survey will be accepted as being correct for the Property and there will be no objections to such.

**9. INSPECTIONS:** Seller shall grant Buyer reasonable access to the Property for Twenty One ( 21 ) days after the Effective Date of this Contract (the "Inspection Period") for the purpose of inspecting the physical condition of the Property. Buyer's inspection rights shall include performing soil tests, environmental tests or audits, foundation and mechanical inspections and such other inspections or surveys as Buyer may reasonably request. Buyer agrees to repair any damage to the Property arising from these inspections and to indemnify, defend and hold Seller harmless from and against all claims, costs, demands and expenses, including without limitation, reasonable attorney's fees, court costs and other legal expenses, resulting from these inspections. Buyer's obligations imposed by this paragraph shall survive termination of this Contract. Buyer agrees to provide Seller with a copy of any written reports resulting from such inspections within Five ( 5 ) days of the completion of said inspections. With regard to any deficiencies identified during the inspection by Buyer which Buyer requests be corrected, Seller shall have Five ( 5 ) days (the "Cure Period") after seller's receipt of Buyer's written notice of such inspection issues to define in an Amendment to this Contract how and when such deficiencies will be cured. If Seller elects not to cure the deficiencies within the time frame defined in such Amendment, then this Contract shall automatically be terminated unless Buyer waives the objections no later than Ten ( 10 ) days after the end of the Cure Period. Buyer shall be deemed to be thoroughly acquainted and satisfied with the physical condition of the Property, other than as set forth in the paragraph entitled "INSURANCE; MAINTENANCE; CASUALTY; CONDEMNATION; CHANGE OF CONDITION" of this Contract. In addition, Buyer, or Buyer's representatives, may re-inspect the Property before Closing upon reasonable notice to Seller.

**10. DUE DILIGENCE:** Buyer will have Twenty One ( 21 ) days after the Effective Date of this Contract to perform due diligence (the "Due Diligence Period") for the purpose of exploring and obtaining approval of governmental authorities for the intended purpose of the Property and any changes in zoning, if necessary. Upon presentation by Buyer to Seller of the written refusal(s) of such governmental authorities to Buyer's requests for approval of such intended purposes and zoning prior to the expiration of the Due Diligence Period, Buyer may deliver written notification to Seller to cancel this Contract and this Contract will be terminated. In the absence of such termination notice, the Inspections and Due Diligence shall be deemed to be satisfactory to Buyer.

**11. REPRESENTATIONS:** Buyer acknowledges that neither Seller nor any party on Seller's behalf has made, nor do they hereby make, any representations as to the past, present or future condition, income, expenses, operation or any other matter or thing affecting or relating to the Property except as expressly set forth in this Contract. Buyer agrees to assume full responsibility for completing Buyer's Due Diligence in such a manner as to answer all questions necessary to make the decision to purchase the Property.

**12. REAL ESTATE BROKER:** Seller and Buyer agree that Reece Commercial Real Estate and Reece Commercial Real Estate, BROKER(S), identified in the Commercial Agency and Broker Disclosure Addendum which is a part of this Contract, is(are) the only real estate broker(s) negotiating this sale, and Seller agrees to pay a sales commission of Six ( 6 ) percent of the Purchase Price pursuant to the agreement between Seller and BROKERS(S). Any party to this Contract through whom a claim to any broker's, finder's or other fee is made, contrary to the representations made above in this paragraph, shall indemnify, defend and hold harmless the other party to this Contract from any other loss, liability, damage, cost or expense, including without limitation, reasonable attorney's fees, court costs and other legal expenses paid or incurred by the other party, that is in any way related to such a claim. The provisions of this paragraph shall survive Closing or termination of this Contract.

**13. DELIVERY OF DEED; PAYMENT; DISBURSEMENT OF PROCEEDS:** At or before Closing, Seller agrees to properly execute and deliver into escrow the Deed, a Bill of Sale for any non-realty portion of the Property, and all other documents and funds necessary to complete the Closing. The Deed shall convey to Buyer marketable fee simple title to the Property, free and clear of all liens and encumbrances, other than the Permitted Exceptions. At or before the Closing, Seller and Buyer each agree to deliver into escrow a cashier's check or guaranteed funds sufficient to satisfy their respective obligations under this Contract. Seller understands that, unless otherwise agreed, disbursement of proceeds will not be made until after the Deed or the instrument of conveyance, and, if applicable, the mortgage/deed of trust have been recorded and the Title Company can issue the title policy with only the Permitted Exceptions.

**14. INSURANCE; MAINTENANCE; CASUALTY; CONDEMNATION; CHANGE OF CONDITION:** Seller agrees to maintain Seller's current fire and extended coverage insurance, if any, on the Property until Closing. Seller shall do ordinary and necessary maintenance, upkeep and repair to the Property through Closing. If, before Closing, all or any part of the Property is taken by eminent domain, or if a condemnation proceeding has been filed or is threatened against the Property or any part thereof, or if all or any part of the Property is destroyed or materially damaged after the Inspection Period, Seller shall promptly provide written notice to Buyer of any such event. UPON NOTICE OF SUCH OCCURRENCE, Buyer may re-inspect the Property and may, by written notice to Seller within ten (10) days after receiving Seller's notice, terminate this Contract.



Unless this Contract is so terminated, it shall remain in full force and effect, and Seller shall, at Closing, assign and transfer to Buyer all of Seller's right, title and interest in and to any awards that may be made for any taking and any insurance proceeds payable on account of casualty. If a non-material change in condition occurs with respect to the Property, Seller shall remedy such change before Closing. The provisions of this paragraph shall survive Closing or termination of this Contract.

**15. FOREIGN INVESTMENT:** Seller represents that Seller is not a foreign person as described in the Foreign Investment in Real Property Tax Act and agrees to deliver a certificate at Closing to that effect which shall contain Seller's tax identification number.

**16. TERMINATION:** If this Contract is terminated by either party pursuant to a right expressly given in this Contract, Buyer shall be entitled to an immediate return of the Earnest Money Deposit, and neither party shall have any further rights or obligations under this Contract except as otherwise stated in this Contract.

**17. DEFAULT AND REMEDIES:** Seller or Buyer shall be in default under this Contract if either fails to comply with any material covenant, agreement or obligation within any time limits required by this Contract. Following a default by either Seller or Buyer under this Contract, the other party shall have the following remedies, subject to the provisions of the paragraph entitled "DISPOSITION OF EARNEST MONEY DEPOSIT AND OTHER FUNDS AND DOCUMENTS" in this Contract:

(a) If Seller defaults, Buyer may (i) specifically enforce this Contract and recover damages suffered by Buyer as a result of the delay in the acquisition of the Property; or (ii) terminate this Contract by written notice to Seller and, at Buyer's option, pursue any remedy and damages available at law or in equity. If Buyer elects to terminate this Contract, the Earnest Money Deposit shall be returned to Buyer upon written demand.

(b) If Buyer defaults, Seller may (i) specifically enforce this Contract and recover damages suffered by Seller as a result of the delay in the sale of the Property; or (ii) terminate this Contract by written notice to Buyer and, at Seller's option, either retain the Earnest Money Deposit as liquidated damages as Seller's sole remedy (the parties recognizing that it would be extremely difficult to ascertain the extent of actual damages caused by Buyer's breach, and that the Earnest Money Deposit represents as fair an approximation of such actual damages as the parties can now determine), or pursue any other remedy and damages available at law or in equity. If, as a result of a default under this Contract, either Seller or Buyer employs an attorney to enforce its rights, the defaulting party shall, unless prohibited by law, reimburse the non-defaulting party for all reasonable attorneys' fees, court costs and other legal expenses incurred by the non-defaulting party in connection with the default.

**18. DISPOSITION OF EARNEST MONEY DEPOSIT AND OTHER FUNDS AND DOCUMENTS:** The Escrow Agent shall not distribute the Earnest Money Deposit or other escrowed funds or documents, once deposited, notwithstanding any other terms of this Contract providing for forfeiture or refund of the Earnest Money Deposit, without the written consent of all parties to this Contract. A party's signature on a closing statement prepared by the Escrow or Closing Agent shall constitute such consent. In the absence of either written consent or written notice of a dispute, failure by either Buyer or Seller to respond in writing to a certified letter from the Escrow Agent within Ten ( 10 ) days of receipt, or failure by either Buyer or Seller to make written demand upon the other party and upon the Escrow Agent for return or forfeiture of the Earnest Money Deposit, other escrowed funds or documents within Five ( 5 ) days after receiving written notice of cancellation of this Contract, shall constitute consent to the distribution of all funds and documents deposited with the Escrow Agent as suggested in any such certified letter or written demand. If a dispute arises over the disposition of funds or documents deposited with the Escrow Agent that results in litigation, any attorney's fees, court costs and other legal expenses incurred by the Escrow Agent in connection with such dispute shall be reimbursed from the Earnest Money Deposit or from other funds deposited with the Escrow Agent. Seller and Buyer release all brokers and licensees from any and all liability in regards to this Contract, for cancellation of this Contract and disbursing the Earnest Money Deposit or other escrowed funds or documents.

**19. ENTIRE AGREEMENT AND MANNER OF MODIFICATION:** This Contract, and any attachments or addenda hereto, constitute the complete agreement of the parties concerning the Property, supersede all other agreements and may be modified only by initialing changes in this Contract or by written agreement.

**20. NOTICES:** All notices, consents, approvals, requests, waivers, objections or other communications (collectively "notices") required under this Contract (except notice given pursuant to the paragraph entitled "DISPOSITION OF EARNEST MONEY DEPOSIT AND OTHER FUNDS AND DOCUMENTS" in this Contract) shall be in writing and shall be served by hand delivery, by prepaid U. S. Postal Service certified mail, return receipt requested, or by reputable overnight delivery service guaranteeing next-day delivery and providing a receipt. All notices shall be addressed to the parties at the respective addresses as set forth below, except that any party may, by notice in the manner provided above, change this address for all subsequent notices. Notices shall be deemed served and received upon the earlier of the third day following the date of mailing (in the case of notices mailed by certified mail) or upon delivery (in all other cases). A party's failure or refusal to accept service of a notice shall constitute delivery of the notice.

**21. DEADLINE FOR ACCEPTANCE:** Buyer's offer to purchase the Property from Seller shall expire if Seller has not accepted this Contract by signing and delivering a fully executed copy to Buyer, on or before the earlier of (i) \_\_\_\_\_, 20\_\_ or (ii) Buyer delivering written notice to Seller that Buyer's offer to enter into this Contract is withdrawn.

**22. TIME AND EXACT PERFORMANCE ARE OF THE ESSENCE UNDER THIS CONTRACT.**



23. **ADDENDA:** The following Addenda (riders, supplements, etc.) are attached hereto and are a part of this Contract (**Check Those Which Are Applicable**):

- Exhibit A (Legal Description)
- Commercial Agency & Brokerage Disclosure Addendum
- Other \_\_\_\_\_ Fraud Caution Advice

- Other \_\_\_\_\_
- Other \_\_\_\_\_
- Other \_\_\_\_\_

24. **ADDITIONAL TERMS:**

Earnest: Money placed in escrow with Coffelt Land Title is earned by the Seller following the 21 day Due Diligence period in contract.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**CAREFULLY READ THE TERMS HEREOF BEFORE SIGNING. WHEN SIGNED BY ALL PARTIES, THIS DOCUMENT BECOMES PART OF A LEGALLY BINDING CONTRACT. IF NOT UNDERSTOOD, CONSULT AN ATTORNEY BEFORE SIGNING. THE PARTIES EXECUTING THIS CONTRACT REPRESENT AND WARRANT THAT THEY ARE LEGALLY AUTHORIZED TO EXECUTE THIS CONTRACT.**

**All parties agree that this transaction can be conducted by electronic means, including email, according to the Uniform Electronic Transaction Act as adopted in Kansas and Missouri.**

SELLER: \_\_\_\_\_ HAWTHORN BANK \_\_\_\_\_

BUYER: \_\_\_\_\_ CITY OF RAYMORE \_\_\_\_\_

By: \_\_\_\_\_  
Date \_\_\_\_\_

By: \_\_\_\_\_  
Date \_\_\_\_\_

Name & Title: \_\_\_\_\_

Name & Title: \_\_\_\_\_

By: \_\_\_\_\_  
Date \_\_\_\_\_

By: \_\_\_\_\_  
Date \_\_\_\_\_

Name & Title: \_\_\_\_\_

Name & Title: \_\_\_\_\_

Address: \_\_\_\_\_  
Street \_\_\_\_\_

Address: \_\_\_\_\_  
Street \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Telephone #: \_\_\_\_\_

Telephone #: \_\_\_\_\_

TAX ID # \_\_\_\_\_

TAX ID # \_\_\_\_\_

**FOR INFORMATION ONLY—NOT PARTIES TO THE CONTRACT**

Listing Broker: \_\_\_\_\_ Reece Commercial Real Estate \_\_\_\_\_

Telephone #: \_\_\_\_\_ (816) 524-7272 \_\_\_\_\_

Listing Agent: \_\_\_\_\_ George Jump \_\_\_\_\_

Telephone #: \_\_\_\_\_ (913) 558-6828 \_\_\_\_\_

Selling Broker: \_\_\_\_\_ Reece Commercial Real Estate \_\_\_\_\_

Telephone #: \_\_\_\_\_ (816) 5247272 \_\_\_\_\_

Selling Agent: \_\_\_\_\_ George Jump \_\_\_\_\_

Telephone #: \_\_\_\_\_ (913)558-6828 \_\_\_\_\_

Escrow Agent: \_\_\_\_\_ Coffelt Land Title \_\_\_\_\_

Telephone #: \_\_\_\_\_ (816) 581-2200 \_\_\_\_\_

Closing Agent: \_\_\_\_\_ Stacey Brodersen \_\_\_\_\_

Telephone #: \_\_\_\_\_ (816) 581-2200 \_\_\_\_\_

Approved by Legal Counsel of the Kansas City Regional Association of REALTORS® for exclusive use by its REALTOR® members. No warranty is made or implied as to the legal validity or adequacy of this Contract, or that it complies in every respect with the law or that its use is appropriate for all situations. Local law, customs and practices, and differing circumstances in each transaction may dictate that amendments to this Contract be made. Last revised 11/16. All previous versions of this document may no longer be valid. Copyright January 2021.

## EXHIBIT "A"

### COMMERCIAL REAL ESTATE CONTRACT

**SELLER: HAWTHORN BANK**

**BUYER: CITY OF RAYMORE**

### TRACT 1

ALL THAT PART OF THE NORTHEAST QUARTER OF SECTION 16, TOWNSHIP 46, RANGE 32 IN THE CITY OF RAYMORE CASS COUNTY, MISSOURI BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID NORTHEAST QUARTER; THENCE SOUTH 2°30'31" WEST, ALONG THE EAST LINE OF SAID QUARTER SECTION, A DISTANCE OF 268.13 FEET; THENCE NORTH 87°38'43" WEST, A DISTANCE OF 25.00 FEET TO THE SOUTHEAST CORNER OF LOT 3, HERITAGE PROFESSIONAL PARK, A SUBDIVISION IN SAID CITY COUNTY AND STATE RECORDED IN BOOK 9 AT PAGE 28; SAID POINT ALSO BEING ON THE WEST RIGHT OF WAY LINE OF NORTH MADISON STREET AS NOW ESTABLISHED AND THE POINT OF BEGINNING OF THE TRACT TO BE HEREIN DESCRIBED; THENCE CONTINUING N 89°36'43" W, ALONG THE SOUTH LINE OF SAID TRACT 3, A DISTANCE OF 65.02 FEET TO A POINT OF CURVE; THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 25.00 FEET A CENTRAL ANGLE OF 125°43'38", FOR AN ARC DISTANCE OF 54.86 FEET TO A POINT OF REVERSE CURVE ON THE NORTHEASTERLY RIGHT OF WAY LINE OF MISSOURI STATE HIGHWAY NO. 58; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 868.63 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS 9,164 SQUARE FEET OR 0.210 ACRES, MORE OR LESS.



## EXHIBIT "A"

### COMMERCIAL REAL ESTATE CONTRACT

**SELLER: HAWTHORN BANK**

**BUYER: CITY OF RAYMORE**

### TRACT 2

ALL THAT PART OF THE NORTH HALF OF THE NORTHWEST QUARTER OF SECTION 16, TOWNSHIP 46, RANGE 32 IN THE CITY OF RAYMORE, CASS COUNTY, MISSOURI, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMENCING A THE NORTHWEST CORNER OF SAID NORTHWEST QUARTER; THENCE SOUTH 2° 30' 31" WEST, ALONG THE WEST, LINE OF SAID QUARTER SECTION, A DISTANCE OF 136.50 FEET, THENCE SOUTH 88°-10'-50" EAST, ALONG THE NORTH LINE OF HERITAGE PLAZA – LOT 10 AND THE SOUTH LINE OF HERITAGE HILLS LOTS 1 THRU 45, BOTH SUBDIVISIONS OF RECORD, A DISTANCE OF 320 FEET TO THE NORTHEAST CORNER OF SAID LOT 10, AND THE POINT OF BEGINNING OF THE PART TO BE HEREIN DESCRIBED; THENCE SOUTH 88°-10'-50" EAST, CONTINUING ALONG SAID SOUTH SUBDIVISION LINE, A DISTANCE OF 312.39 FEET TO THE SOUTHWEST CORNER OF LOT 5 IN LAST SAID SUBDIVISION AND THE NORTHWEST CORNER OF THE TRACT OF LAND DESCRIBED IN THE GENERAL WARRANTY DEED RECORDED SEPTEMBER 15, 2011 IN BOOK 3488 AT PAGE 563; THENCE SOUTH 1°-45'-15" WEST, ALONG THE EAST LING OF SAID TRACT, A DISTANCE OF 240.00 FEET TO THE SOUTHWEST CORNER THEREOF; THENCE SOUTH 88°-10'-50" EAST, ALONG THE SOUTH LINE OF SAID TRACT, A DISTANCE OF 172.20 FEET TO THE SOUTHEAST CORNER THEREOF AND A POINT ON THE WEST LINE OF HERITAGE HILLS, LOTS 136 THRU 157, A SUBDIVISION OF RECORD, THENCE SOUTH 1°-45'-15" WEST, ALONG THE WEST LINE OF SAID SUBDIVISION, A DISTANCE OF 471.94 FEET TO A POINT ON THE NORTH RIGHT OF WAY LINE OF PINE STREET AS ESTABLISHED BY LAST SAID SUBDIVISION; THENCE NORTH 88°-17'-07" WEST ALONG SAID RIGHT OF WAY LINE AND THE NORTH LINE OF LOTS 3 AND 4, HERITAGE PLAZA, SECOND PLAT, A SUBDIVISION OF RECORD A DISTANCE OF 759.57 FEET TO A POINT OF EAST RIGHT OF WAY LINE OF MISSOURI STATE HIGHWAY NO 58; THENCE NORTH 2°-54'-07" EAST, ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 26.18 FEET TO A POINT OF CURVE;



**THENCE CONTINUING NORTHWESTERLY ALONG SAID RIGHT OF WAY LINE, ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 868.51 FEET, A CENTRAL ANGLE OF 14°03'52", FOR AN ARC DISTANCE OF 213.19 FEET TO A POINT ON THE EAST RIGHT OF WAY LINE OF NORTH MADISON STREET; THENCE NORTH 2°-30'-31" EAST, ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 315.67 FEET TO THE SOUTHWEST CORNER OF AFORSAID HERITAGE PLAZA, LOT 10; THENCE SOUTH 88°-10'-50" EAST, ALONG THE SOUTH LINE OF SAID LOT 10, A DISTANCE OF 290.00 FEET TO THE SOUTHEAST CORNER THEREOF; NORTH 2°-30'-31" EAST, ALONG THE EAST LINE OF SAID LOT, A DISTANCE OF 160.00 FEET OR 10.640 ACRES MORE OR LESS.**

**THE ABOVE DESCRIBED TRACT CONTAINS 463,465 SQUARE FEET OR 10.64 ACRES MORE OR LESS.**





# COMMERCIAL AGENCY AND BROKERAGE DISCLOSURE ADDENDUM

SELLER/LANDLORD: HAWTHORN BANK

BUYER/TENANT: CITY OF RAYMORE

PROPERTY ADDRESS: 10.66 ACRES PARCEL ID 2267861 Raymore Cass MO 64083  
Street Address City County State Zip

DATE OF CONTRACT: \_\_\_\_\_

**THE FOLLOWING DISCLOSURE IS MADE IN COMPLIANCE WITH MISSOURI AND KANSAS REAL ESTATE LAWS AND RULES AND REGULATIONS. APPLICABLE SECTIONS BELOW MUST BE CHECKED, COMPLETED, SIGNED AND DATED FOR BOTH SELLER AND BUYER**

Seller/Landlord and Buyer/Tenant acknowledge that the real estate Licensee involved in this transaction may be acting as agents of the Seller/Landlord, agents of the Buyer/Tenant, Transaction Brokers or *(in Missouri only)* Disclosed Dual Agents. **LICENSEES ACTING AS AN AGENT OF THE SELLER/LANDLORD HAVE A DUTY TO REPRESENT THE SELLER'S/LANDLORD'S INTEREST AND WILL NOT BE THE AGENT OF THE BUYER/TENANT. INFORMATION GIVEN BY THE BUYER/TENANT TO A LICENSEE ACTING AS AN AGENT OF THE SELLER/LANDLORD WILL BE DISCLOSED TO THE SELLER/LANDLORD. LICENSEES ACTING AS AN AGENT OF THE BUYER/TENANT HAVE A DUTY TO REPRESENT THE BUYER'S/TENANT'S INTEREST AND WILL NOT BE AN AGENT OF THE SELLER/LANDLORD. INFORMATION GIVEN BY THE SELLER/LANDLORD TO A LICENSEE ACTING AS AN AGENT OF THE BUYER/TENANT WILL BE DISCLOSED TO THE BUYER/TENANT. LICENSEES ACTING IN THE CAPACITY OF A TRANSACTION BROKER ARE NOT AGENTS FOR EITHER PARTY AND DO NOT ADVOCATE THE INTERESTS OF EITHER PARTY. LICENSEES ACTING AS DISCLOSED DUAL AGENTS ARE ACTING AS AGENTS FOR BOTH THE SELLER/LANDLORD AND THE BUYER/TENANT. (Note: A separate Dual Agency Disclosure Addendum is required). SELLER/LANDLORD AND BUYER/TENANT HEREBY ACKNOWLEDGE THAT THE BROKERAGE RELATIONSHIPS WERE DISCLOSED TO THEM OR THEIR RESPECTIVE AGENTS AND/OR TRANSACTION BROKERS NO LATER THAN THE FIRST SHOWING, UPON FIRST CONTACT, OR IMMEDIATELY UPON THE OCCURRENCE OF ANY CHANGE TO THAT RELATIONSHIP.**

Licensee Assisting Seller/Landlord is acting as: *(Check applicable)*

- Seller's/Landlord's Agent
- Designated Seller's/Landlord's Agent (Supervising Broker acts as Transaction Broker)
- Transaction Broker
- Disclosed Dual Agent *(Missouri only-Disclosed Dual Agency Addendum is required)*
- N/A-Seller(s) is not represented
- Sub Agent

Licensee Assisting Buyer/Tenant is acting as: *(Check applicable)*

- Seller's/Landlord's Agent
- Buyer's/Tenant's Agent
- Designated Seller's/Landlord's Agent (Supervising Broker acts as Transaction Broker)
- Designated Buyer's/Tenant's Agent (Supervising Broker acts as Transaction Broker)
- Transaction Broker
- Disclosed Dual Agent *(Missouri only-Disclosed Dual Agency Addendum is required)*
- N/A, Buyer(s) is not represented
- Sub Agent

**PAYMENT OF COMMISSION:** All licensees(s) indicated above will be paid a commission at closing of the sale of the property as follows: (check applicable paragraph)

- Seller/Landlord to Pay all Licensees.** All Licensees(s) will be paid from the Seller's funds at closing according to the terms of the Listing or other Commission Agreement.
- Buyer/Tenant to Pay Buyer's Agent.** Seller/Landlord's Licensee, if any, will be paid from the Seller's funds at closing according to the terms of the Listing Agreement. Buyer/Tenant's Agent will be paid from the Buyer's funds according to the terms of the Buyer/Tenant Agency Agreement.

**CAREFULLY READ THE TERMS HEREOF BEFORE SIGNING. WHEN SIGNED BY ALL PARTIES, THIS DOCUMENT BECOMES PART OF A LEGALLY BINDING CONTRACT. IF NOT UNDERSTOOD, CONSULT AN ATTORNEY BEFORE SIGNING. THE PARTIES EXECUTING THIS CONTRACT REPRESENT AND WARRANT THAT THEY ARE LEGALLY AUTHORIZED TO DO SO.**

**Licensees hereby certify that they are licensed to sell real estate in the state in which the Property is located.**

SELLER/LANDLORD \_\_\_\_\_ DATE \_\_\_\_\_ BUYER/TENANT \_\_\_\_\_ DATE \_\_\_\_\_

SELLER/LANDLORD \_\_\_\_\_ DATE \_\_\_\_\_ BUYER/TENANT \_\_\_\_\_ DATE \_\_\_\_\_

LICENSEE ASSISTING SELLER/LANDLORD \_\_\_\_\_ DATE \_\_\_\_\_ LICENSEE ASSISTING BUYER/TENANT \_\_\_\_\_ DATE \_\_\_\_\_



# Don't Let Scam Artists Steal Your Money!

Because you are going to be involved in a commercial real estate transaction where money is changing hands, you are a potential target for cyber-criminals. These sophisticated criminals could:

- Try to hack into your email account or the email of other persons involved in your transaction and direct you to send a wire to the hacker's account.
- They can even send you emails that appear to be from your agent, your closer or another trusted source!

WHEN YOU ARE USING REECE COMMERCIAL, WE WILL NEVER ASK YOU TO WIRE MONEY VIA EMAIL, EVER!

**If you receive wiring instructions, even if it appears legitimate, do not send money to that account. Always call to verify such instructions with the closing company or attorney. When verifying such instructions, remember:**

- Do not use a phone number or other contact information from an email.
- Use a business number from another source (such as the closing company's or attorney's website) to make sure you are actually talking to your closer and not someone intent on stealing your money.

I acknowledge the above information:

\_\_\_\_\_  
(Buyer/Seller) (Date)

\_\_\_\_\_  
(Buyer/Seller) (Date)

**Date Presented** \_\_\_\_\_





Published: 12/20/21  
Scale: 1 in = 187.08 ft





# **New Business**









**CITY OF RAYMORE**  
**AGENDA ITEM INFORMATION FORM**

DATE: Dec. 20, 2021

SUBMITTED BY: Jim Cadoret

DEPARTMENT: Development Services

<input checked="" type="checkbox"/> Ordinance	<input type="checkbox"/> Resolution	<input type="checkbox"/> Presentation	<input checked="" type="checkbox"/> Public Hearing
<input type="checkbox"/> Agreement	<input type="checkbox"/> Discussion	<input type="checkbox"/> Other	

**TITLE / ISSUE / REQUEST**

Bill 3675: Brown Event Space Conditional Use Permit

**STRATEGIC PLAN GOAL/STRATEGY**

3.1: Create a healthy and sustainable economy

**FINANCIAL IMPACT**

Award To:  
Amount of Request/Contract:  
Amount Budgeted:  
Funding Source/Account#:

**PROJECT TIMELINE**

Estimated Start Date	Estimated End Date
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**STAFF RECOMMENDATION**

Approval

**OTHER BOARDS & COMMISSIONS ASSIGNED**

Name of Board or Commission: Planning and Zoning Commission  
Date: 12/7/2021  
Action/Vote: Approved 9-0

**LIST OF REFERENCE DOCUMENTS ATTACHED**

Planning and Zoning Commission Meeting Minutes Excerpt  
Conceptual Plan

**REVIEWED BY:**

Jim Feuerborn

## BACKGROUND / JUSTIFICATION

Steven Brown filed a request for a Conditional Use Permit to operate an event center in an existing barn on his property located at 16119 Kentucky Road. Mr. Brown intends to renovate the barn and provide additional structures for kitchen and restroom facilities. A new driveway to provide access to the barn and associated parking area will be installed along the north property line.

The conceptual plan illustrates the general location of the event space. A formal site plan is required to be submitted and approved by the Planning and Zoning Commission. The site plan will provide the specific details on access, parking, landscaping, screening, utilities and architectural renderings of the buildings to be utilized.

The Planning and Zoning Commission recommendation of approval includes six conditions for operation of the event space, including a time limit of six years with the opportunity to renew the permit.

**BILL 3675**

**ORDINANCE**

**"AN ORDINANCE OF THE CITY OF RAYMORE, MISSOURI, APPROVING A CONDITIONAL USE PERMIT FOR THE BROWN EVENT SPACE."**

**WHEREAS**, after a public hearing was held on December 7, 2021, the Planning and Zoning Commission submitted its recommendation of approval on the application to the City Council; and

**WHEREAS**, the City Council held a public hearing on December 20, 2021, after notice of said hearing was published in a newspaper of general circulation in Raymore, Missouri, at least fifteen (15) days prior to said hearing.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF RAYMORE, MISSOURI, AS FOLLOWS:**

Section 1. The City Council makes its findings of fact on the application and accepts the recommendation of the Planning and Zoning Commission, including the 6 recommended conditions.

Section 2. That the Conditional Use Permit for the Brown Event Space is approved for the property commonly known as 16119 Kentucky Road, Raymore, Missouri.

Section 3. The Conditional Use Permit is valid for 6 years from the date of City Council approval of the CUP with the opportunity to renew the permit.

Section 4. Effective Date. The effective date of approval of this Ordinance shall be coincidental with the Mayor's signature and attestation by the City Clerk.

Section 5. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**DULY READ THE FIRST TIME THIS 20TH DAY OF DECEMBER, 2021.**

**BE IT REMEMBERED THAT THE ABOVE ORDINANCE WAS APPROVED AND ADOPTED THIS 10TH DAY OF JANUARY, 2022, BY THE FOLLOWING VOTE:**

Councilmember Abdelgawad  
Councilmember Barber  
Councilmember Berendzen  
Councilmember Burke III  
Councilmember Circo  
Councilmember Holman  
Councilmember Townsend  
Councilmember Wills-Scherzer

ATTEST:

APPROVE:

\_\_\_\_\_  
Erica Hill, City Clerk

\_\_\_\_\_  
Kristofer P. Turnbow, Mayor

\_\_\_\_\_  
Date of Signature



**To:** City Council  
**From:** Planning and Zoning Commission  
**Date:** December 20, 2021  
**Re:** Case #21041 Brown Event Space Conditional Use Permit

**GENERAL INFORMATION**

**Applicant** Steven Brown  
**Property Owner:** Steven Brown  
16119 Kentucky Rd.  
Raymore, MO 64083  
**Property Location:** 16119 Kentucky Rd,





**Site Photographs:**



**View of Proposed Event Space (looking East)**



**Looking South (Proposed location for His and Her Quarters as well as the Kitchen)**





**View from the eastern portion of the property (Looking West)**



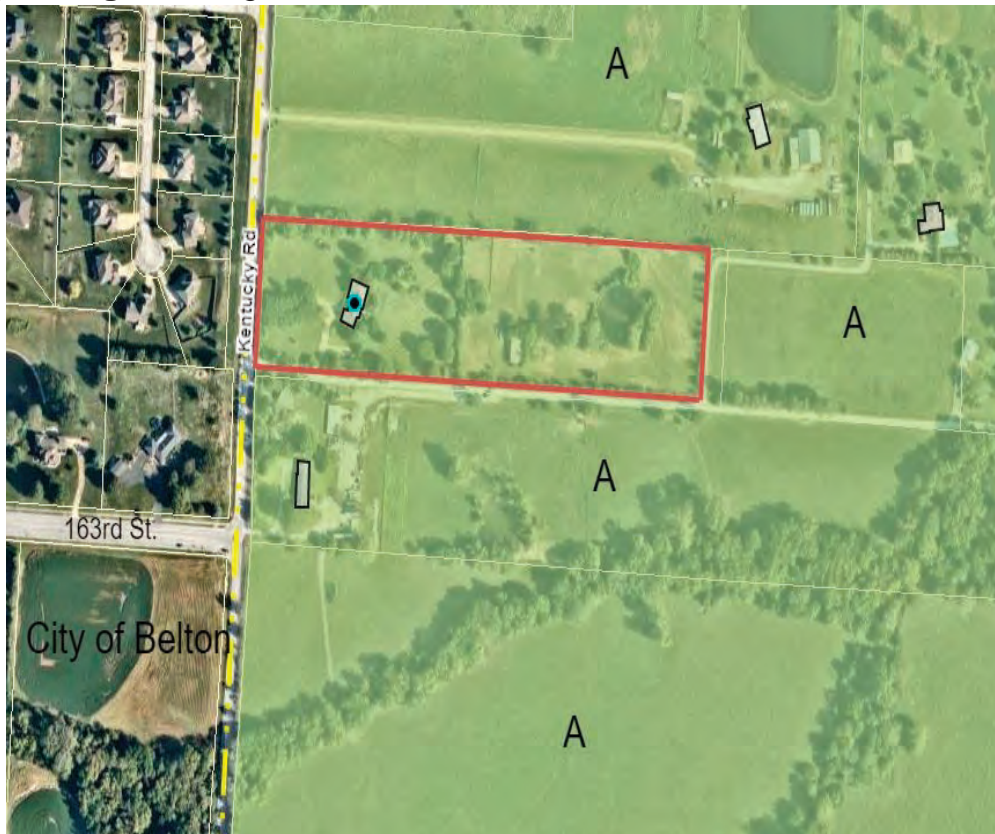
**View from the south looking north (Proposed Restroom Location)**





View from the south looking northwest (Proposed parking lot)

Existing Zoning: "A" Agriculture District



**Existing Surrounding Uses:**   **North:** Residential  
  **South:** Residential  
  **East:** School and Residential  
  **West:** Residential (City of Belton)

**Total Tract Size:**   **9 Acres**

**Growth Management Plan:** The Future Land Use Plan Map contained in the Growth Management Plan identifies this area as appropriate for low density residential development.

**Major Street Plan:** The Major Thoroughfare Plan Map classifies Kentucky Rd. as a Minor Arterial.

**Advertisement:** November 18, 2021 edition of **The Journal**  
December 2, 2021 edition of **The Journal**

**Public Hearing:** December 7, 2021 Planning Commission Meeting  
December 20, 2021 City Council

**Items of Record:**   **Exhibit 1. Mailed Notices to Adjoining Property Owners**  
  **Exhibit 2. Notice of Publication**  
  **Exhibit 3. Unified Development Code**  
  **Exhibit 4. Application**  
  **Exhibit 5. Growth Management Plan**  
  **Exhibit 6. Staff Report**  
  **Exhibit 7. Site Plan**

**Additional exhibits as presented during hearing**

## **PROPOSAL**

Outline of Requested Action: The applicant seeks to obtain a Conditional Use Permit to operate an event space on the property.

City Ordinance Requirements: In order for the applicant to accomplish the aforementioned action, they must meet the provisions of the Unified Development Code. Chapter 470 of the Unified Development Code outlines the requirements and actions that need to be taken for a Conditional Use Permit, specifically, Section 470.030.

## PREVIOUS ACTIONS ON OR NEAR THE PROPERTY

1. The subject property was annexed into the City of Raymore with an "A" Agriculture zoning designation.
2. Single Family Home built in 1988.
3. Barn constructed in 1989.
4. An additional barn was constructed in 1995.

## STAFF COMMENTS

1. The applicant's request for a CUP only applies to the use of the property. If the use is approved, the applicant would have to apply for site plan approval which would provide additional details on parking, landscaping, lighting, utilities, and building improvements.
2. The applicant may have to apply for additional permits with BP Pipeline if the additional access point off of Kentucky Rd crosses, or is within, the BP Pipeline Easement.
3. Signage is required at the additional access point from Kentucky Rd. to prevent confusion between the private residence driveway and the event space driveway.
4. House of Operation:  
Monday through Thursday 5pm-10pm  
Friday and Saturday 6am-12am  
Sunday 6am-11pm
5. A Knox box would be required by the South Metro Fire District located at the gates that would be located on the south side of the property and the north side of the property.
6. The additional access from Kentucky Rd. would be required to be paved as well as the parking lot.
7. An on-site sewage disposal system for the event center would be required to be constructed.
8. The applicant did meet with city staff (Building Official, Fire Marshal and planning) to discuss the requirements for converting the existing barn into an event center, including ADA access and restroom requirements.

9. The neighbor on the west side of Kentucky Rd. raised concern with the additional access from Kentucky Road as they were worried about vehicular headlights shining into their home with the proposed location of the additional driveway.

## **PLANNING COMMISSION PROPOSED FINDINGS OF FACT**

Chapter 470, Section 470.030(E) of the Unified Development Code states that a Conditional Use Permit may be granted by the City Council by ordinance provided that specific written findings of fact have been made by the Planning and Zoning Commission based upon the particular evidence presented which supports the following conclusions :

1. **the proposed conditional use complies with all applicable provisions of the Unified Development Code.** The proposed conditional use is not a traditional request as the property is zoned "A" Agriculture District. However, the proposed CUP, and site layout do comply with all of the applicable provisions within the Unified Development Code (UDC).
2. **it is in the interest of the public welfare or convenience and will not have a significant adverse impact on the general welfare of the neighborhood or community.** The requested CUP is in the general interest of the community, and will not have a significant adverse impact on surrounding properties. This would be the first event center located in Raymore other than Centerview. With the conditions recommended by staff, there will be minimal impact to neighbors.
3. **the proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.** With the conditions recommended by staff, the proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.
4. **it is compatible with the character of the surrounding property in terms of site planning, building scale, and project design.** With the conditions recommended by staff, the proposed use is compatible with surrounding property. Site layout and design are compatible with adjacent developments.
5. **it is compatible with the character of surrounding property in terms of operating characteristics, such as hours of operation, outdoor lighting, noise, and traffic generation.** The proposed use is compatible with surrounding properties in terms of operating characteristics. The subject property has farmland to the north, south and east with a residential neighborhood to the west that is located within the City limits of Belton. The roadways surrounding the property were designed to handle



traffic volumes associated with the proposed use.

6. **the location and size of the conditional use, the nature or intensity of the proposed conditional use would prevent the development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the conditional use will adversely affect the immediate neighborhood, consideration must be given to:**
  - a. **the location, nature and height of buildings, structures, walls, and fences on the site** The location, nature and height of buildings, proposed event center, and proposed restrooms, kitchen, his and hers quarters on the site will not prevent the development of neighboring properties under the existing zoning classification.
  - b. **the nature and extent of landscaping and screening on the site.** With the topography of the proposed site, the location of the event center is at the back five (5) acres and would not be noticeable from Kentucky Rd. The site also has numerous mature trees that aid in the screening of the proposed CUP.
7. **off-street parking and loading areas will be provided in accordance with the standards set forth in the Unified Development Code, and such areas will be screened from adjoining residential uses and located so as to protect such residential uses from any injurious effect.** Screening would not normally be required as the surrounding zoning districts are "A" Agriculture, but given the proposed use city staff will be reviewing the need for screening during the site plan review process.
8. **existing public facilities (infrastructure) and services are adequate to accommodate the additional demands of the proposed use or will be made to accommodate such demands without substantially increasing public expenditures.** Public infrastructure currently exists to serve the demands of the site under the proposed conditional use. Extensions of those facilities will need to occur in order to serve the site. An on-site sewage disposal system will be required as well as upgrading electrical capacity which would all be a part of the site plan review process.
9. **it will not have a significant adverse impact on pedestrian safety and comfort.** With the stipulation to have signage located at the entrance of the access road as well as providing adequate parking spaces and ADA spaces there will not be any adverse impacts on pedestrian safety or comfort.
10. **adequate access roads or entrance and exit drives will be provided and will be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys; and**

There will be an additional access point provided by adding an access road to the north of the existing residential driveway off of Kentucky Rd. to allow

for ingress/egress of vehicular traffic.

**11. all special conditions have been met as set forth by Chapter 420.**

All special conditions set forth by Chapter 420 of the Unified Development Code for the conditional use.

## REVIEW OF INFORMATION AND SCHEDULE

<u>Action</u> Public Hearing	<u>Planning Commission</u> December 7, 2021	<u>City Council 1<sup>st</sup></u> December 20, 2021	<u>City Council 2<sup>nd</sup></u> January 10, 2022
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## STAFF RECOMMENDATION

Staff recommends that the Planning and Zoning Commission accept the staff proposed findings of fact and forward Case #21041: Brown Event Space Conditional Use Permit to the City Council with a recommendation for approval, subject to the following conditions:

1. Business owners will adhere to the proposed hours of operation  
Monday-Thursday 5pm-10pm  
Friday and Saturday 6am-12am  
Sunday 6am to 11pm
2. A sign shall be placed at the entrance of the additional access point from Kentucky Road. A sign permit must be obtained from the City of Raymore.
3. A Site Plan application shall be submitted and approved by the Planning and Zoning Commission prior to operation of the event center.
4. Installation of an approved on-site sewage disposal system for the event center.
5. Approval of a building permit from the City of Raymore and South Metro Fire Department for any renovations to the barn and the addition of any buildings associated with the event center.

## PLANNING AND ZONING COMMISSION RECOMMENDATION

The Planning and Zoning Commission, at its December 7, 2021 meeting, voted 9-0 to accept staff's proposed findings of fact and forward case#21041 Brown Event Space - Conditional Use Permit to the City Council with a recommendation of approval, subject to the following conditions:

1. Business owners will adhere to the proposed hours of operation  
Monday-Thursday 5pm-10pm  
Friday and Saturday 6am-12am  
Sunday 6am to 11pm
2. A sign shall be placed at the entrance of the additional access point from Kentucky Road. A sign permit must be obtained from the City of Raymore.
3. A Site Plan application shall be submitted and approved by the Planning and Zoning Commission prior to operation of the event center.
4. Installation of an approved on-site sewage disposal system for the event center.
5. Approval of a building permit from the City of Raymore and South Metro Fire Department for any renovations to the barn and the addition of any buildings associated with the event center.
6. The Conditional Use Permit is valid for 6 years from the date of City Council approval of the CUP with the opportunity to renew the permit.

**16119 Kentucky Rd, Belton, MO 64012**

**Steven Brown**

**Description:** Utilize the barn in the rear 5 acres of the property as an event space. The event space would accommodate weddings, birthday parties, graduations, etc. It will have tables and chairs, bathrooms, electricity, HVAC, parking lot, access road, kitchen, bar. It will be wheelchair/handicap accessible. Planned operating times would be:

Monday - Thursday 5pm – 10pm.

Friday – Saturday 6am – 12am.

Sunday 6am – 11pm.



Dylan Eppert &lt;deppert@raymore.com&gt;

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**Concerns regarding Request for conditional use**

1 message

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**WJ Foster** <wrfjrf@gmail.com>  
To: deppert@raymore.com

Wed, Dec 1, 2021 at 5:01 PM

Hello Mr Eppert,

My name is William Foster. We spoke a few days ago regarding a public meeting At Raymore City Hall on December 7th. I live in Belton with my back yard on Kentucky Rd. I received a letter regarding a request for conditional use at the address of 16119 Kentucky Rd, Raymore. My address is 16113 Bluegrass Ct, Belton.

I have at least two concerns for the proposed request.

1. The included pencilled drawing of the property appears to put a new access road directly across from my home. I am concerned about headlights from cars shining into my home at night and increased traffic on the road during the day and at night after we have gone to bed.
2. We have a concern about excessive noise from music during whatever events are catered at the property. While the facility to be built is behind a residence I would expect to experience loud music when there is an event. I don't know if Raymore has any noise abatement ordinances that would cover this concern.

I will try to attend the meeting on Dec 7th. Do I need to express my concerns to the board? Should I request a few minutes to express my concerns?

if you or anyone else wants to contact me they can leave a voicemail at 816-803-1226 on my cell phone and I'll call them back as soon as I can

thank you for your assistance  
William Foster



## Planning and Zoning Commission Meeting Minutes Excerpt December 7, 2021

### 7. New Business -

#### a. Case #21041: Brown Event Space Conditional Use Permit (*public hearing*)

Chairman Wiggins opened the public hearing at 7:02pm.

Stephen Brown Jr., 16119 Kentucky Rd., Belton MO 64012, came to the podium on behalf of the Brown family. Mr. Brown stated that the request is for a conditional use permit to allow the barn on the rear portion of their property to be used as an event space. The barn currently sits on 5 acres. The current proposal shows a new road to be constructed with access to Kentucky Road that would lead to the proposed event space. There will be plenty of concrete parking, as well as handicap parking. Mr. Brown stated that on either side of the barn, there would be a trailer that can be used for guests staying the night or as dressing rooms for the events. The restrooms will be located on the east side of the barn. The operating hours are suggested to be 5pm-10pm Monday through Thursday, 6am-12am Friday and Saturday, and 6am-11pm on Sunday. The reasoning for the early hours on the weekend is to allow for the staff and guests to arrive early in the day to set up for the event in the later part of the day.

City Planner Dylan Eppert provided the Staff Report. The proposal is for a conditional use permit for the address of 16119 Kentucky Rd. The surrounding uses are residential to the north, south, and west (City of Belton). To the east, the use is school and residential. The total tract size is 9 acres, and the Future Land Use Plan Map identifies this area as appropriate for low density residential development. The Major Thoroughfare Plan Map classifies Kentucky Road as a Minor Arterial. Mr. Eppert entered 7 exhibits into record, as well as any additional exhibits as presented during the hearing. The proposal would allow for an event space. The property was annexed into the City of Raymore with an "A" Agriculture zoning designation. The single-family home on the property was built in 1988, the barn was constructed in 1989, and an additional barn was constructed in 1995. The request for a Conditional Use Permit (CUP) applies only to the use of the property. If the use is approved, the applicant must apply for the site plan approval, which would include additional details on parking, landscaping, lighting, utilities, and building improvements. The applicant would need to obtain permits from BP pipeline, since there is a pipeline that runs through the northwest corner of the property. Signage would be required off of Kentucky Road. Since there is already a driveway to the property, signage would be needed to differentiate the residential driveway from the event space driveway. The South Metro Fire District will require a Knox box to be located at the gates that would be located on the south side of the property and the north side of the property. There will be gates that section off the 4 acres where the residential home is from the 5 acres where the event space will be located. The gates will be open during events, and will be closed when there are no events taking place. There is also an easement to the south that the Fire Department could use as access to the space. An on-site sewage disposal system would be required for the event center. The neighbor to the west raised concern regarding the access point from Kentucky Road as they are worried about vehicular headlights shining into their home with the proposed location of the additional driveway. This has been discussed with the applicant and would be discussed more in depth with the site plan review. Staff recommends that the Planning & Zoning Commission accept the staff proposed findings of fact and forward Case #21041: Brown Event Space Conditional Use Permit to the City Council with a recommendation of approval subject to 5 conditions regarding business hours, signage, Site Plan application and approval, on-site sewage disposal system requirements, and

approval of a building permit from the City of Raymore and South Metro Fire Department for any renovations to the barn.

Commissioner Bowie reminded the Commission the only thing to be considered is the Conditional Use Permit, but asked Mr. Eppert to explain the process of what would happen after the permit is granted.

Mr. Eppert stated that after the approval of the CUP, the applicant would come back before the Commission with a Site Plan. This would include showing the lighting, parking, what will be done to the barn, the layout, etc.

Mason Banks, 16207 Kentucky Rd., Raymore MO 64083, came to the podium for comments. Mr. Banks stated that he is the neighbor to the south of the subject property, and they share a driveway and property boundary. Mr. Banks runs a minor agricultural livestock program and has some concerns about the event space being in a predominantly residential area. The lights and noise are a concern, and Mr. Banks asked the Commission to consider and review the application closely so it doesn't turn into a livestock issue or property issue with any of the adjoining neighbors. Mr. Banks also mentioned that an evaluation of Kentucky Road could be warranted to establish whether increased traffic would cause any concern. The road is not lit, and there are no shoulders. Kentucky Road has become an overflow road during rush hour traffic.

Chairman Wiggins closed the public hearing at 7:12pm.

Mayor Turnbow asked Mr. Brown to explain why he intends to create an event space.

Mr. Brown replied that there doesn't seem to be many event spaces in the Raymore and Belton area. The opportunity came about to start this business now, and it's a good opportunity to start something as a family business. Mr. Brown stated that he teaches martial arts, and to have a space for the community to use would bring the community together. Mr. Brown also mentioned that a few of his friends have stated that it would be nice to have a place to have an event, especially in a barn-type setting.

Mayor Turnbow asked Mr. Brown if the South Metro Fire Department has been involved in the planning of this?

Mr. Brown responded that during the initial meeting with the City, the Fire Department presented a list of specs and requirements that would have to be met to have the facility open and pass inspection.

Mayor Turnbow asked Mr. Brown about the occupancy limits for the proposed space. Judging by the drawing that was presented, there is not a clear idea of what the plan for the space is. It is hard to envision something based on the drawing that was presented in order to approve the CUP.

Mr. Brown responded that the occupancy limit has been discussed, but nothing has been set in stone yet, since the event space will still have to go through the site plan process. The square footage of the proposed space is 2400 square feet for the barn, and the plan is to get a 12'x40' trailer to put on the east side of the barn to use as the restrooms. There would be an additional 12'x40' trailer on the opposite side with two 8'x20' on either side to use as the His & Hers quarters. The larger trailer will be used as the kitchen and storage for the facility. The plan is to create a hallway that would connect the trailers to the barn, so the trailers are not actually connected to the barn itself. This would allow the trailers to be switched out if need be without damage or reconstruction of the barn. The intent is to keep the 2400 square feet of the barn as open as possible to allow for maximum capacity.

Mayor Turnbow asked Mr. Brown if he had checked with the Chamber of Commerce to see if they had any input about inquiries about event spaces in the area.

Mr. Brown replied that he did not check with the Chamber of Commerce.

Commissioner Urquilla asked if there has been a market study to determine the demand for an event space. Will there be martial arts lessons at the barn, or is it only for events?

Mr. Brown replied that the event space is proposed to work as both a place for events, but also for smaller events during the week.

Commissioner Petermann asked if the temporary trailers on either side of the barn will be permanent and attached to the barn.

Mr. Brown replied that the plan is to build hallways to separate the barn and the trailers, so that the trailers are not directly attached to the barn and the structure would not be compromised.

Commissioner Faulkner stated that it appears that there are commercial-type lots to the east and the northeast of the subject property. Are there any other zonings surrounding the subject property other than residential?

Mr. Eppert responded that to the north and south are zoned "A" Agricultural. Mr. Brown mentioned that Commissioner Faulkner seems to be referring to KC Gunite, which is owned by the neighbor to the south, Mr. Banks.

Commissioner Faulkner asked if there was a shared driveway with that business.

Mr. Brown replied that yes, there is a shared driveway.

Commissioner Faulkner asked about the property to the northeast with the big pond. It appears to share a driveway with the subject property and has a gated entrance.

Mr. Brown stated that Mr. Banks' parents live there.

Commissioner Faulkner asked if all of the Banks' land was a shared enterprise.

Mr. Banks stated that the land to the north is Randy Phillips with a 20 acre tract. The bulk of the land is agricultural where he raises livestock. The property to the northeast, owned by Mr. Banks' parents, is approximately 15 acres.

Commissioner Faulkner asked if the buildings to the east of the subject property have been there for quite some time.

Mr. Banks replied that yes, the collection of buildings have been there since 1985.

City Attorney Jonathan Zerr reminded the Commission that what is being presented is a Conditional Use Permit only. The Commission may add additional conditions if deemed necessary that would help protect the neighboring property owners. One condition that may be appropriate to add would be that the Conditional Use Permit is applicable for a set period of time. This would allow for individuals to come in after that time is up to update the City of any disturbances or concerns that have occurred.

Commissioner Mansur asked if screening had been planned for the proposed event space.

Chairman Wiggins stated that screening would be a part of the Site Plan, as opposed to the Conditional Use Permit.

Mr. Zerr stated that the owners will have to comply with all construction requirements and City requirements that would be outlined in the Site Plan. Mr. Zerr mentioned that upon approval of the CUP, a much more detailed, engineered Site Plan would be required and would come before the Commission.

Commissioner Urquilla stated that there are already trees lining the property.

Mr. Eppert stated that the occupancy limit is 300 occupants. The occupancy limit depends on the size of the finished building, the use of the building, and until more detail about what the proposed space will be, it is very hard to know exactly what the occupancy limit will be.

**Motion by Commissioner Urquilla, Seconded by Commissioner Bowie, to accept Staff proposed findings of fact and forward Case #21041 Brown Event Space Conditional Use Permit to the City Council with a recommendation for approval, subject to the 5 conditions outlined.**

Commissioner Mansur stated that he would like to discuss the possibility of the time limit for the Conditional Use Permit.

Mr. Zerr stated that there could be a motion to amend the motion to add a 6th condition that would allow the Conditional Use Permit to be valid for a period of time.

Commissioner Mansur asked Mr. Zerr if he could give an example of an appropriate amount of time to allow the Conditional Use Permit to be valid.

Mr. Zerr stated that he would defer to City Staff.

Mr. Eppert stated that 10 years is the maximum period that has been the longest term approved, and that 5 years is the usual amount of time the Conditional Use Permits are valid for.

Commissioner Urquilla asked if the time limit has to be determined with the Conditional Use Permit, or can it be done at a later date?

Mr. Zerr stated that it would become a condition of the Conditional Use Permit when the City Council approves the Permit. The length of time the Conditional Use Permit will be valid for can be modified if the Commission determines they will allow a year for the construction time as well as the next five years, for example, making the permit valid for 6 years in effect.

Commissioner Urquilla clarified his question, asking if the time frame has to be established before the Commission can approve the case, or if the Commission can wait to see what the building plans will look like before they approve the time frame of the Conditional Use Permit.

Mr. Zerr confirmed that this was correct.

Commissioner Bowie stated that then the City Council could accept or reject the new condition for the permit, or alter it if need be.

Commissioner Faulkner asked Mr. Zerr if it would be permissible for the proposed new condition to have language that would allow the term of the permit to start after the approval of the Site Plan or after the construction has finished.

Mr. Zerr stated that the UDC does not identify any manner of when the restriction is allowed or not, it simply indicates that in approving a conditional use, the Council may impose a restriction in the conditions for the permit. The City Council may limit the Conditional Use

permit to a specific time period, allow the permit to be transferable, or allow the permit to be renewed.

Commissioner Urquilla asked the applicant whether the approval of the proposed condition to add a time limit on the Conditional Use permit would impact their decision to move forward. Is the time limit an acceptable term?

Mr. Zerr stated that he spoke with the applicant and outlined what would happen if the addition of the time limit condition passes. It will need to be approved by the applicant.

Chairman Wiggins asked Commissioner Mansur to decide the time limit since he is the one who made the motion.

Commissioner Mansur asked the applicant if the time limit is acceptable.

Mr. Brown stated that yes, either 5 or 6 years would be acceptable.

Mayor Turnbow asked Staff at what point does the Conditional Use permit turn into a business that will require an occupational license with the City?

Director of Development Services Jim Cadoret stated that the Conditional Use permit is for the event center. The City is not limiting what type of events go on at the event center. Holding a class in the facility is considered an event, which can be repeated. The event center will have to have an Occupational License with the City. The classes will not have to have an Occupational license to be held there.

**Motion by Commissioner Mansur, Seconded by Commissioner Fizer to amend the motion, and add a 6th condition that will add a 6 year time period on the Conditional Use permit with the opportunity to renew.**

Mr. Zerr asked Commissioner Mansur if the 6 year time period would begin upon the issuance of the Conditional Use Permit.

Commissioner Mansur responded yes, that is correct.

Mayor Turnbow reminded the Commission that this vote is for the amendment to the motion only.

**Vote on Motion:**

Chairman Wiggins	Aye
Commissioner Faulkner	Aye
Commissioner Bowie	Aye
Commissioner Fizer	Aye
Commissioner Engert	Aye
Commissioner Petermann	Aye
Commissioner Urquilla	Nay
Commissioner Mansur	Aye
Mayor Turnbow	Aye

**Motion passed 8-1-0.**

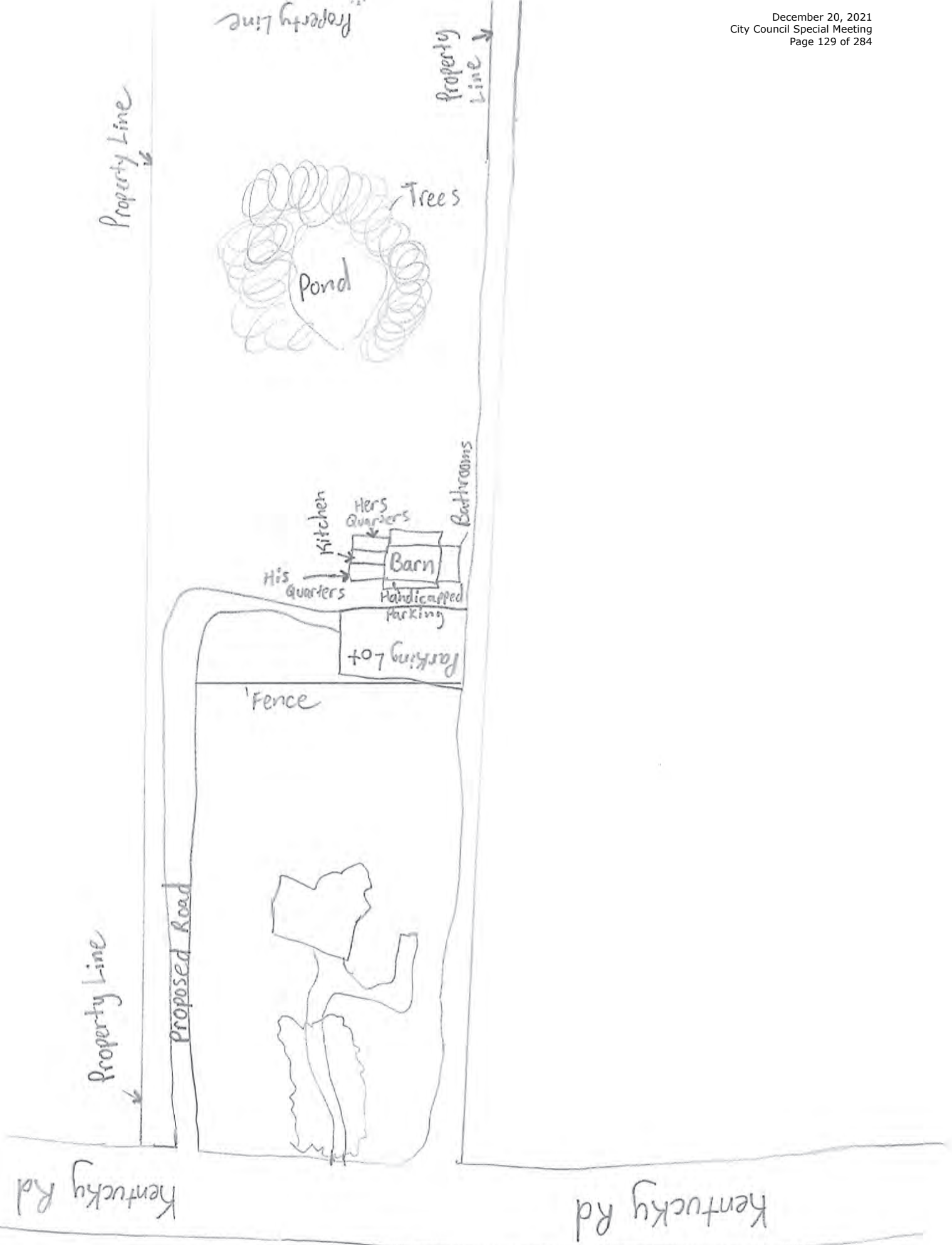
**Vote on Original Motion, as amended, to approve Case #21041 Brown Event Space Conditional Use permit, and forward to the City Council with a recommendation of approval.**

**Vote on Motion:**



Chairman Wiggins	Aye
Commissioner Faulkner	Aye
Commissioner Bowie	Aye
Commissioner Fizer	Aye
Commissioner Engert	Aye
Commissioner Petermann	Aye
Commissioner Urquilla	Aye
Commissioner Mansur	Aye
Mayor Turnbow	Aye

**Motion passed 9-0-0.**







**CITY OF RAYMORE**  
**AGENDA ITEM INFORMATION FORM**

DATE: 12/20/2021

SUBMITTED BY: David Gress

DEPARTMENT: Economic Development

<input checked="" type="checkbox"/> Ordinance	<input type="checkbox"/> Resolution	<input type="checkbox"/> Presentation	<input type="checkbox"/> Public Hearing
<input type="checkbox"/> Agreement	<input type="checkbox"/> Discussion	<input type="checkbox"/> Other	

**TITLE / ISSUE / REQUEST**

Bill 3674 - Raymore Commerce Center Chapter 100 - Building I

**STRATEGIC PLAN GOAL/STRATEGY**

3.1.2 Attract a variety of new industries and businesses to the community

**FINANCIAL IMPACT**

Award To:  
Amount of Request/Contract:  
Amount Budgeted:  
Funding Source/Account#:

**PROJECT TIMELINE**

Estimated Start Date	Estimated End Date
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**STAFF RECOMMENDATION**

Approval

**OTHER BOARDS & COMMISSIONS ASSIGNED**

Name of Board or Commission:  
Date:  
Action/Vote:

**LIST OF REFERENCE DOCUMENTS ATTACHED**

Trust Indenture, Lease Agreement, Bond Purchase Agreement, Consent to Collateral, Estoppel Certificate

**REVIEWED BY:**

Jim Feuerborn

## BACKGROUND / JUSTIFICATION

Southern Glazers Wine & Spirits, dba Kansas City Property Partners, LLC (the "Company"), is requesting the issuance of taxable industrial revenue bonds by the City of Raymore not to exceed \$44 million to assist in the financing of Building I within the Raymore Commerce Center. The Company will purchase the bonds and make the required PILOT payments over a 20-year period.

In 2019, the Raymore City Council approved Bill 3501, which provided real property tax abatement for property within the Raymore Commerce Center to the Developer of Record, VanTrust Real Estate, as a means of attracting new businesses and primary employers to the community.

In August of 2021, Southern Glazers Wine & Spirits purchased Building I (567,495 square feet) with the intention of utilizing the facility as their main point of distribution within the State of Missouri.

Bill 3674 formally authorizes the City to issue Chapter 100 Bonds for Building I.



**BILL 3674**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AUTHORIZING THE TAXABLE INDUSTRIAL REVENUE BONDS (KANSAS CITY PROPERTY PARTNERS, LLC PROJECT), SERIES 2021 RELATED TO AN INDUSTRIAL DEVELOPMENT PROJECT IN THE CITY AND AUTHORIZING THE CITY TO ENTER INTO CERTAIN AGREEMENTS AND TAKE CERTAIN OTHER ACTIONS.**

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

**WHEREAS**, 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 issue its Taxable Industrial Revenue Bonds (Kansas City Property Partners, LLC Project), Series 2021, in an aggregate principal amount not to exceed \$44,000,000 (the “Bonds”), for the purpose of (a) acquiring certain land in the City (the “Project Site”), (b) leasing the Project Site and Project Improvements (as hereinafter defined) to Kansas City Property Partners, LLC, a Florida limited liability company (the “Tenant”) for the construction and equipping a distribution warehouse and commercial facility and associated site works and infrastructure, consisting of one building approximately 567,495 square feet, including land, buildings, structures, improvements and fixtures relating thereto (collectively, the “Project Improvements,” with the Project Site and the Project Improvements being the “Project”), and (c) paying a portion of the costs of issuing the Bonds; and

**WHEREAS**, the City Council further finds and determines that it is necessary and desirable in connection with the issuance of the Bonds that the City enter into certain documents and that the City take certain other actions and approve the execution of certain other documents as herein provided

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF RAYMORE, MISSOURI:**

**SECTION 1:** Authorization and Sale of the Bonds and Approval of Documents. The City is hereby authorized to issue the Bonds for the purpose of providing funds to pay the costs of the Project. The following documents (the “City Documents”) are hereby approved in substantially the forms presented to the Council at this meeting (copies of which documents shall be filed in the records of the City), and the City is hereby authorized to execute and deliver the City Documents with such changes therein as shall be approved by the officials of the City executing such documents, such officials’ signatures thereon being conclusive evidence of their approval thereof:

A. Trust Indenture dated as of the date set forth therein (the "Trust Indenture"), between the City and the bond trustee designated in the Trust Indenture (the "Trustee"), pursuant to which the Bonds shall be issued;

B. Lease Agreement dated as of the date set forth therein (the "Lease Agreement"), between the City and the Tenant, under which the City will lease the Project to the Tenant;

C. Bond Purchase Agreement dated as of the date set forth therein, between the City and the Tenant, pursuant to which the Tenant agrees to purchase the Bonds; and

D. City Agreement and Consent to Collateral Assignment among the City, the Tenant and Western-Southern Life Assurance Company (the "Lender") to provide for the consent by the City to the encumbrances of the Project to secure financing provided by the Lender to the Tenant.

E. Landlord Estoppel Certificate and Agreement Regarding Lease by the City and the Lender regarding the loan made by the Lender to the Tenant.

SECTION 2: Execution of Documents. The Mayor or City Manager of the City is hereby authorized and directed to execute the Bonds and the City Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance, for and on behalf of and as the act and deed of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City to the Bonds and the City Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

SECTION 3: Further Authority. The Mayor, City Manager, City Clerk and other officials, agents and employees of the City as required are hereby authorized and directed to take such further action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance and to carry out, comply with and perform the duties of the City with respect to the Bonds and the City Documents.

SECTION 4: Emergency Reading. In order to assure timely completion of the financing of the Project, the Mayor hereby authorizes the passage of this Ordinance as an emergency bill.

SECTION 5: Effective Date. This Ordinance shall take effect and be in full force from and after its passage and adoption by the City Council and approval by the Mayor.

*[remainder of page intentionally left blank]*



**DULY READ THE FIRST TIME THIS 20th DAY OF DECEMBER, 2021**

**BE IT REMEMBERED THE ABOVE ORDINANCE WAS READ A SECOND TIME AND APPROVED AND ADOPTED THIS 20th DAY OF DECEMBER, 2021, BY THE FOLLOWING VOTE:**

Councilmember Reginald Townsend	_____
Councilmember Victoria Wills-Scherzer	_____
Councilmember Thomas R. Circo	_____
Councilmember Joseph Burke III	_____
Councilmember Jay Holman	_____
Councilmember Kevin Barber	_____
Councilmember Sonja Abdelgawad	_____
Councilmember John P. Berendzen	_____

ATTEST:

APPROVED:

\_\_\_\_\_  
Erica Hill, City Clerk

\_\_\_\_\_  
Kristofer P. Turnbow, Mayor

(SEAL)

\_\_\_\_\_  
Date of Signature

Approved as to form:

\_\_\_\_\_  
City Attorney

**\$44,000,000**  
**Maximum Principal Amount**

**CITY OF RAYMORE, MISSOURI**  
**TAXABLE INDUSTRIAL REVENUE BONDS**  
**(KANSAS CITY PROPERTY PARTNERS, LLC PROJECT)**  
**SERIES 2021**

**Dated as of December \_\_, 2021**

**BOND PURCHASE AGREEMENT**

City of Raymore, Missouri  
100 Municipal Circle  
Raymore, Missouri 64083

On the basis of the representations, and covenants and upon the terms and conditions contained in this Bond Purchase Agreement (the “Agreement”), Kansas City Property Partners, LLC, a Florida limited liability company (the “**Purchaser**”) offers to purchase from the City of Raymore, Missouri (the “**Issuer**”), the above-referenced Taxable Industrial Revenue Bonds, dated as provided in the Indenture (hereinafter defined), in the maximum aggregate principal amount of \$44,000,000 (the “**Bond**”), to be issued by the Issuer, under and pursuant to an ordinance adopted by the governing body of the Issuer on \_\_\_\_\_, 2021 (the “**Ordinance**”) and a Trust Indenture dated as of December \_\_, 2021 (the “**Indenture**”), by and between the Issuer and Security Bank of Kansas City, a Kansas state banking corporation authorized to accept and execute trusts of the character herein set forth under the laws of the State of Missouri, with a corporate trust office located in Kansas City, Kansas, as Trustee (the “**Trustee**”).

**SECTION 1. REPRESENTATIONS AND AGREEMENTS**

By the Issuer’s acceptance hereof, the Issuer hereby represents to the Purchaser that:

(a) The Issuer is a constitutional charter city duly organized and existing under the laws of the State of Missouri. The Issuer is authorized pursuant to the Constitution and laws of the State of Missouri, and the ordinances and resolutions of the City, and all necessary actions have been taken to authorize, issue and deliver the Bond and to consummate all transactions contemplated by this Bond Purchase Agreement, the Ordinance, the Indenture, the Lease Agreement dated as of December \_\_, 2021 (the “**Lease Agreement**”), by and between the Issuer and the Purchaser, the Development and Performance Agreement dated as of December 23, 2019, between the Issuer and the Purchaser (as assignee of VTRE Development, LLC) (the



“Performance Agreement”), and any and all other agreements relating thereto. The proceeds of the Bond shall be used to finance the Project as defined in the Indenture and to pay for the costs incurred in connection with the issuance of the Bond.

(b) There is no controversy, suit or other proceeding of any kind pending or threatened wherein or whereby any question is raised or may be raised, questioning, disputing or affecting in any way the legal organization of the Issuer 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 Bond or the constitutionality or validity of the indebtedness represented by the Bond or the validity of the Bond, the Lease Agreement, the Indenture, the Performance Agreement, the Ordinance or this Bond Purchase Agreement.

The Purchaser represents as follows:

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

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

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

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

## **SECTION 2. PURCHASE, SALE AND DELIVERY OF THE BOND**

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

The Bond shall be sold to the Purchaser by the Issuer on the Closing Date (hereinafter defined) upon payment of an amount equal to the Closing Price (hereinafter defined), which amount shall be deposited in the Project Fund as provided in **Section 502** of the Indenture and shall thereafter on the

Closing Date immediately be applied to the payment of Project Costs as provided in **Section 4.4** of the Lease Agreement. From time to time after the Closing Date, the Purchaser may make additional payments with respect to the Bond (“**Additional Payments**”) to the Trustee under the Indenture, which Additional Payments shall be deposited in the Project Fund and applied to the payment of Project Costs and the outstanding principal amount of the Bond shall increase by each such Additional Payment; provided that the sum of the Closing Price and all such Additional Payments shall not, in the aggregate, exceed \$44,000,000.

As used herein, the term “**Closing Date**” shall mean the date of this Agreement, or such other date as shall be mutually agreed upon by the Issuer and the Purchaser; the term “**Closing Price**” shall mean that certain amount specified in writing by the Purchaser and agreed to by the Issuer as the amount required to fund the initial disbursement from the Project Fund on the Closing Date.

The Bond shall be issued under and secured as provided in the Ordinance and in the Indenture and the Lease Agreement authorized by the Ordinance and the Bond shall have the maturity, interest rate and shall be subject to redemption as set forth therein. The delivery of the Bond shall be made in definitive form as a fully registered bond in the maximum aggregate principal denomination of \$44,000,000; provided, that the principal amount of the Bond outstanding at any time shall be that amount recorded in the official bond registration records of the Trustee and further provided that interest shall be payable on the Bond only on the outstanding principal amount of the Bond, as more fully provided in the Indenture.

The Purchaser agrees to indemnify and hold harmless the Issuer and the Trustee, including any member, officer, official or employee of the Issuer or of the Trustee within the meaning of Section 15 of the Securities Act of 1933, as amended (collectively, the “**Indemnified Parties**”), against any and all losses, claims, damages, liabilities or expenses whatsoever caused by any violation or failure to comply with any federal or state securities laws in connection with the Bond; provided, however, the indemnification contained in this paragraph shall not extend to such Indemnified Party if such loss, claim, damage, liability or expense is (a) the result of the Indemnified Party’s negligence or willful misconduct, or (b) the Indemnified Party is not following the written instructions of the Purchaser or the owner of the Bond.

In case any action shall be brought against one or more of the Indemnified Parties based upon the foregoing indemnification and in respect of which indemnity may be sought against the Purchaser, the Indemnified Parties shall promptly notify the Purchaser in writing and the Purchaser shall promptly assume the defense thereof, including the employment of counsel, the payment of all reasonable expenses and the right to negotiate and consent to settlement. Any one or more of the Indemnified Parties shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party or Indemnified Parties unless employment of such counsel has been specifically authorized in writing by the Purchaser. The Purchaser shall not be liable for any settlement of any such action effected without its consent by any of the Indemnified Parties, but if settled with the consent of the Purchaser or if there be a final judgment (not subject to appeal) for the plaintiff in any such action against the Purchaser or any of the Indemnified Parties, with or without the consent of the Purchaser, the Purchaser agrees to indemnify and hold harmless the Indemnified Parties to the extent provided herein.

### **SECTION 3. CONDITIONS TO THE PURCHASER'S OBLIGATIONS**

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

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

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

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

(d) The Purchaser shall execute a certificate, dated the Closing Date, to the effect that (i) no litigation, proceeding or investigation is pending against the Purchaser or, to the knowledge of the Purchaser, threatened which would (A) contest, affect, restrain or enjoin the issuance, validity, execution, delivery or performance of the Bond, (B) in any way contest the existence or powers of the Purchaser, or (C) reasonably be expected to adversely affect its ability to perform its obligations under the Lease Agreement, the Performance Agreement or this Bond Purchase Agreement, (ii) 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 (iii) such other matters as are reasonably requested by the other parties in connection with the issuance of the Bond.

### **SECTION 4. THE PURCHASER'S RIGHT TO CANCEL**

The Purchaser shall have the right to cancel its obligation hereunder to purchase the Bond by notifying the Issuer in writing sent by first class mail, facsimile or reputable overnight delivery service, of its election to make such cancellation at any time prior to the Closing Date.

## **SECTION 5. CONDITIONS OF OBLIGATIONS**

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

## **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 Bond to the Purchaser.

## **SECTION 7. PAYMENT OF EXPENSES**

The Purchaser shall pay all reasonable expenses and costs to effect the authorization, preparation, issuance, delivery and sale of the Bond from Bond proceeds or otherwise.

## **SECTION 8. NOTICE**

Any notice or other communication to be given to the Issuer or the Purchaser under this Agreement may be given by mailing or delivering the same in writing as provided in the Indenture; and any notice or other communication to be given to the Purchaser under this Agreement may be given by delivering the same in writing to Purchaser at c/o Southern Glazer's Wine and Spirits, LLC, 14911 Quorum, Suite 150, Dallas, Texas 75254, Attention: General Counsel – Real Estate.

## **SECTION 9. APPLICABLE LAW; ASSIGNABILITY**

This Agreement shall be governed by the laws of the State of Missouri and may be assigned by the Purchaser in whole as to all or any part of the Bond to any Person that expressly assumes in writing all of the obligations of the Purchaser contained in the Lease and the Performance Agreement; provided that the consent of the Issuer for the assignment of this Agreement shall not be required if the consent of the Issuer is not required for such Person's assumption of the Lease and the Performance Agreement. Any such assignee shall agree to be bound by the terms of this Agreement. This Agreement may be assigned, without approval of but with notice to the Issuer, 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 Bond may be pledged, without approval of the Issuer, 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 10. EXECUTION OF COUNTERPARTS**

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

[The remainder of this page is left intentionally blank]

**KANSAS CITY PROPERTY PARTNERS, LLC,**  
a Florida limited liability company

By: \_\_\_\_\_  
\_\_\_\_\_, Manager



Accepted and Agreed as of the Closing Date.

**CITY OF RAYMORE, MISSOURI**

By: \_\_\_\_\_  
Mayor

(Seal)

ATTEST:

By: \_\_\_\_\_  
City Clerk

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**CITY OF RAYMORE, MISSOURI,  
As Lessor,**

**AND**

**KANSAS CITY PROPERTY PARTNERS, LLC,  
As Lessee**

---

**LEASE AGREEMENT**

**Dated as of December \_\_, 2021**

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**Relating to:**

**\$44,000,000  
(Aggregate Maximum Principal Amount)  
City of Raymore, Missouri  
Taxable Industrial Revenue Bonds  
(Kansas City Property Partners, LLC Project)  
Series 2021**

---

**The interest of the City of Raymore, Missouri (the “Issuer”), in this Lease Agreement has been pledged and assigned to Security Bank of Kansas City, as Trustee under the Trust Indenture dated as of December \_\_, 2021, between the Issuer and the Trustee.**

## LEASE AGREEMENT

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## LEASE AGREEMENT

**THIS LEASE AGREEMENT**, dated as of December \_\_, 2021 (the **“Lease”**), between the **CITY OF RAYMORE, MISSOURI**, a constitutional charter city duly organized and validly existing under the laws of the State of Missouri (the **“Issuer”**), as lessor, and **KANSAS CITY PROPERTY PARTNERS, LLC**, a Florida limited liability company (the **“Tenant”**), as lessee;

### WITNESSETH:

**WHEREAS**, the Issuer is authorized and empowered pursuant to the provisions of Article VI, Section 27(b) of the Missouri Constitution and Sections 100.010 through 100.200, inclusive, of the Revised Statutes of Missouri, as amended (collectively, the **“Act”**), to purchase, construct, extend, equip 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 Issuer deem advisable;

**WHEREAS**, pursuant to the Act, the governing body of the Issuer has heretofore passed an ordinance (the **“Ordinance”**) on \_\_\_\_\_, 2021, authorizing the Issuer to issue its Taxable Industrial Revenue Bonds (Kansas City Property Partners, LLC Project), Series 2021, in the maximum principal amount of \$44,000,000 (the **“Bonds”**), for the purpose of acquiring, constructing, installing and equipping an approximately 567,495 square foot industrial distribution warehouse and commercial facility, including land, buildings, structures, improvements, and fixtures, as hereinafter more fully described (the **“Project”**), and authorizing the Issuer to lease the Project to the Tenant;

**WHEREAS**, pursuant to the Ordinance, the Issuer is authorized to enter into a Trust Indenture of even date herewith (the **“Indenture”**), with Security Bank of Kansas City (the **“Trustee”**), for the purpose of issuing and securing the Bonds, as therein provided, and to enter into this Lease with the Tenant under which the Issuer will acquire, purchase, construct, improve, equip and remodel the Project and will lease the Project to the Tenant in consideration of rental payments by the Tenant which will be sufficient to pay the principal of and interest on the Bonds;

**WHEREAS**, the Issuer and the Tenant acknowledge and agree that title to the Project is subject and subordinate to the Fee Deed of Trust and the Leasehold Deed of Trust, each granted to Lender, by Tenant pursuant to various loan documents evidencing the loan thereby;

**WHEREAS**, pursuant to the foregoing, the Issuer desires to lease the Project to the Tenant and the Tenant desires to lease the Project from the Issuer, 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 Issuer and the Tenant do hereby represent, covenant and agree as follows:

## ARTICLE I

### DEFINITIONS

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

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

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

**“Environmental Reports”** means any environmental reports completed in connection with the property.

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

**“Event of Default”** means any Event of Default as described in **Section 12.1** of this Lease.

**“Full Insurable Value”** means an amount at least sufficient to avoid the effect of any coinsurance provisions of the applicable fire and casualty insurance policy.

**“Indenture”** means the Trust Indenture dated as of December \_\_, 2021, between the Issuer and the Trustee, as from time to time amended and supplemented in accordance with the provisions thereof.

**“Lease”** means this Lease Agreement, between the Issuer and the Tenant, as from time to time amended and supplemented in accordance with the provisions of **Article XIV** of this Lease and **Article XII** of the Indenture.

**“Lease Term”** means the period from the effective date of this Lease until the Lease Termination Date.

**“Lease Termination Date”** means December 1, 2041.

**“Lender”** means any financial institution or lender providing financing to Tenant and its successors or assigns secured by a Mortgage from Tenant to Lender with respect to the Project.

**“Mortgage”** means any mortgage or deed of trust granted by the Tenant to secure a loan to the Tenant, which mortgage constitutes a lien on a portion or all of the Project, including but not limited to the Fee Deed of Trust and the Leasehold Deed of Trust.

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

**“Plans and Specifications”** means the plans and specifications prepared for and showing the Project, as amended by the Tenant from time to time prior to the Completion Date, the same being duly certified by the Tenant, and on file at the principal office of the Tenant and which shall be available for reasonable inspection by the Issuer, the Trustee and their duly appointed representatives upon advanced notice to the Tenant.

**“Project Equipment”** means all items of machinery, equipment and parts or other personal property installed or acquired or to be acquired for installation in the Project Improvements or elsewhere on the Project Site pursuant to **Article IV** hereof and paid for in whole or in part from the proceeds of Bonds, as described in **Exhibit C** attached hereto and by this reference made a part hereof, and all replacements thereof and substitutions therefor made pursuant to this Lease.

**“Project Improvements”** means all buildings, structures, improvements and fixtures located on or to be acquired, purchased, constructed, improved or remodeled on the Project Site pursuant to **Article IV** hereof, as described in **Exhibit B** attached hereto and by this reference made a part hereof, and all additions, alterations, modifications and improvements thereof made pursuant to this Lease.

**“Project Site”** means all of the real estate described in **Exhibit A** attached hereto and by this reference made a part hereof.

**“Trustee”** means Security Bank of Kansas City, a state banking corporation duly organized and validly existing under the laws of the State of Kansas and authorized to accept and execute trusts of the character herein set forth under the laws of the State of Missouri, 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 the Indenture.

**Section 1.2. Rules of Interpretation.**

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

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

(c) Wherever in this Lease it is provided that either party shall or will make any payment or perform or refrain from performing any act or obligation, each such provision shall, even though not so

expressed, be construed as an express covenant to make such payment or to perform, or not to perform, as the case may be, such act or obligation.

(d) All references in this instrument to designated “Articles,” “Sections” and other subdivisions are, unless otherwise specified, to the designated Articles, Sections and subdivisions of this instrument as originally executed. The words “herein,” “hereof,” “hereunder” and other words of similar import refer to this Lease Agreement 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.

## ARTICLE II

### REPRESENTATIONS

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

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

(b) The Issuer proposes to acquire, purchase, construct, improve, equip and remodel or cause to be acquired, purchased, constructed, improved, equipped and remodeled on the Project Site the Project Improvements, and proposes to acquire and install, or cause to be acquired and installed, the Project Equipment in the Project Improvements or on the Project Site. The Issuer proposes to lease the Project to the Tenant and sell the Project to the Tenant if the Tenant exercises its option to purchase the Project, all for the purpose of furthering the public purposes of the Act, and the governing body of the Issuer has found and determined that the acquisition, purchase, construction, improving, equipping and remodeling of the Project will further the public purposes of the Act.

(c) To finance the costs of the Project, the Issuer 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.

(d) The Bonds are to be issued under and secured by the Indenture, pursuant to which the Project and the net earnings therefrom, including all rents, revenues and receipts to be derived by the Issuer 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.



(e) The Issuer will not mortgage the Project or pledge the revenues derived therefrom for any bonds or other obligations other than the Bonds except with the written consent of the Authorized Tenant Representative and Lender.

(f) The Issuer shall have no authority to operate the Project as a business or in any other manner except as the lessor thereof.

(g) The acquisition, purchase, construction, improvement, equipping and remodeling of the Project and the leasing of the Project by the Issuer to the Tenant will further the public purposes of the Act.

(h) No member of the governing body of the Issuer or any other officer of the Issuer has any significant or conflicting interest, financial, employment or otherwise, in the Tenant or in the transactions contemplated hereby.

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

(a) The Tenant is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Florida, and authorized to do business in the State of Missouri.

(b) The Tenant has lawful power and authority to enter into this Lease and to carry out its obligations hereunder and by proper corporate action of its members, the Tenant has been duly authorized to execute and deliver this Lease.

(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 Tenant will not conflict with or result in a material breach of any of the terms, conditions or provisions of, or constitute a material default under, any mortgage, deed of trust, lease or any other restrictions or any agreement or instrument to which the Tenant is a party or by which it or any of its property is bound, or any order, rule or regulation applicable to the Tenant or any of its property of any court or governmental body, or constitute a material default under any of the foregoing, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Tenant under the terms of any instrument or agreement to which the Tenant is a party.

(d) The Project will comply with all presently applicable building and zoning, health, environmental and safety ordinances and laws, and to the best of its knowledge, without independent investigation, the Project will comply with all other applicable laws, rules and regulations.

(e) To the best of Tenant's knowledge, the Project is located wholly within the corporate limits of the City of Raymore, Missouri.

## ARTICLE III

### GRANTING PROVISIONS

**Section 3.1. Granting of Leasehold Estate .** The Issuer hereby rents, leases and lets the Project to the Tenant, subject to Permitted Encumbrances, and the Tenant hereby rents, leases and hires the Project from the Issuer, subject to Permitted Encumbrances, for the rentals and upon and subject to the terms and conditions herein contained. The Issuer and the Tenant agree and acknowledge that title to the Project is subject to the lien granted to the Lender by the Tenant prior to the Tenant's conveyance of the Project Site to the Issuer in connection with the Project 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 delivery, and subject to sooner termination pursuant to the provisions of this Lease, shall have an initial term commencing as of the date of this Lease and terminating on the Lease Termination Date.

**Section 3.3. Possession and Use of the Project.**

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

(b) Subject to the provisions of this Section, the Tenant shall have the right to use the Project for any lawful purpose allowed by law and contemplated by the Act. The Tenant shall comply with all statutes, laws, ordinances, orders, judgments, decrees, regulations, directions and requirements of all federal, state, local and other governments or governmental authorities, now or hereafter applicable to the Project or to any adjoining public ways, as to the manner of use or the condition of the Project or of adjoining public ways. The Tenant shall also comply with the mandatory requirements, rules and regulations of all insurers under the policies carried under the provisions of **Article VII** hereof. The Tenant 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 Tenant to comply with the provisions of this Section. Notwithstanding any provision contained in this Section, however, the Tenant shall have the right, at its own cost and expense, to contest or review by legal or other appropriate procedures the validity or legality of any such governmental statute, law, ordinance, order, judgment, decree, regulation, direction or requirement, or any such requirement, rule or regulation of an insurer, and during such contest or review the Tenant may refrain from complying therewith.

## ARTICLE IV

### PURCHASE, CONSTRUCTION, RENOVATION, INSTALLATION AND EQUIPPING OF THE PROJECT

#### Section 4.1. Issuance of the Bonds.

(a) In order to provide funds for the payment of the Project Costs, the Issuer agrees that it will issue, sell and cause to be delivered to the purchaser thereof the Bonds in accordance with the provisions of the Indenture and the Bond Purchase Agreement. The proceeds of the sale of the Bonds, when received, shall be paid over to the Trustee for the account of the Issuer. The Trustee shall promptly deposit such proceeds, when received, as provided in the Indenture, to be used and applied as hereinafter provided in this Article and in the Indenture.

(b) The Issuer may authorize the issuance of Additional Bonds from time to time upon the terms and conditions provided in **Section 209** of the Indenture for the purposes described therein.

(c) If the Tenant is not in default hereunder, the Issuer will, at the request of the Tenant, from time to time, use its best efforts to issue the amount of Additional Bonds specified by the Tenant; provided that the terms of such Additional Bonds, the purchase price to be paid therefor and the manner in which the proceeds therefrom are to be disbursed shall have been approved in writing by the Tenant; provided further that the Tenant and the Issuer shall have entered into an amendment to this Lease to provide for rent in an amount at least sufficient to pay principal and interest on the Additional Bonds when due and the Issuer shall have otherwise complied with the provisions of the Indenture with respect to the issuance of such Additional Bonds.

**Section 4.2. Purchase, Construction, Renovation, Installation and Equipping of the Project.** The Issuer and the Tenant agree that the Issuer will and the Tenant as the agent of the Issuer shall, but solely from the Project Fund except as otherwise provided herein, acquire, purchase, construct, improve, equip and remodel the Project as follows:

(a) Concurrently with the execution of this Lease, the Issuer will acquire the Project Site and any Project Improvements and Project Equipment located on the Project Site which the Tenant desires to convey to the Issuer. Concurrently with the execution of this Lease (1) a deed and any other necessary instruments of transfer will be delivered to the Issuer, (2) said deed will be placed of record, and (3) the title insurance policies required by **Article VII** hereof or commitments to issue such policies will be delivered to the Trustee.

(b) The Tenant will, on behalf of the Issuer, acquire, purchase, construct, improve and remodel the Project Improvements on the Project Site and otherwise improve the Project Site in accordance with the Plans and Specifications. The Tenant agrees that the aforesaid acquisition, purchase, construction, improvement and remodeling will, with such changes and additions as may be made hereunder, result in a Project suitable for use by the Tenant for its purposes, and that all real and personal property described therein is necessary in connection with the Project.

(c) The Tenant will, on behalf of the Issuer, purchase and install the Project Equipment in the Project Improvements or on the Project Site in accordance with the Plans and Specifications. The Issuer and the Tenant recognize that the Project Equipment is subject to change during the Construction Period and thereafter pursuant to the provisions of this Lease and agree that the definitive list of the Project Equipment shall be the list maintained by the Trustee pursuant to this Lease. The Tenant shall transfer title to the Project Equipment and the Project Improvements to the Issuer from time to time by bills of sale or other instruments of transfer (including requisition certificates in the form of **Exhibit D**). On or before March 1 of each year or such other date required by law for reporting personal property declarations, the Tenant shall furnish to the Issuer, Cass County, Missouri (the "County") and the Trustee a list of items (based on the Tenant's internal record keeping) comprising the Project Equipment and Project Improvements as of January 1 of such year. The improper inclusion or exclusion of any Project Equipment or Project Improvements pursuant to such list may be rectified by the Tenant within 30 days after notice of such improper inclusion or exclusion. The improper inclusion or exclusion of an item on or from such list shall not affect the items comprising the Project Equipment or Project Improvements for the purpose of this Lease or title thereto as intended by the parties hereto. The Tenant shall provide such information to the Issuer, the County and the Trustee as may be requested by the Issuer or the Tenant in order to ensure that such list corresponds to the list of Project Equipment and Project Improvements maintained by the Trustee pursuant to **Section 10.8**. Each bill of sale or other instrument of transfer and each personal property declaration form shall be of sufficient specificity so as to enable the County's officials (including representatives of the Assessor's office) to determine which personal property as reported on the annual personal property declaration constitutes Project Equipment and/or Project Improvements (and therefore is owned by the Issuer) and which personal property does not constitute Project Equipment or Project Improvements (and therefore is owned by the Tenant). The Issuer and the Tenant agree that, pursuant to **Section 4.8**, property purchased in whole or in part by the Tenant with its own funds, and not Bond proceeds, shall not constitute part of the Project Equipment or Project Improvements and shall remain the property of the Tenant and therefore subject to taxation.

(d) The Tenant agrees that it will use its best efforts to cause the acquisition, purchase, construction, improvement, equipping and remodeling of the Project to be completed as soon as practicable with all reasonable dispatch. In the event such acquisition, purchase, construction, improvement, and equipping and remodeling commences prior to the receipt of proceeds from the sale of the Bonds, the Tenant agrees to advance all funds necessary for such purpose. The Tenant may seek reimbursement for all such funds advanced.

(e) Notwithstanding anything to the contrary contained herein, the Tenant may make changes in and to the Construction Contracts and the Plans and Specifications incorporated therein without the consent of the Issuer.

**Section 4.3. Project Costs** . The term Project Costs shall have the meaning set forth in the Indenture. The Issuer hereby agrees to pay for, but solely from the Project Fund, and hereby authorizes and directs the Trustee to pay for, but solely from the Project Fund, all Project Costs upon receipt by the Trustee of a certificate or certificates pursuant to **Section 4.4** hereof. The Tenant may not submit any requisition certificates for Project Costs incurred after the Completion Date.

**Section 4.4. Payment for Project Costs.** All Project Costs as specified in **Section 4.3** hereof shall be paid by the Trustee from the Project Fund as more fully provided in the Indenture. The Issuer hereby authorizes and directs the Trustee to make disbursements from the Project Fund, upon receipt by the Trustee of certificates in substantially the form attached hereto as **Exhibit D**, signed by an Authorized Tenant Representative:

(a) requesting payment or reimbursement of a specified amount of such funds (which amount shall not exceed the value of the property being transferred to the Issuer simultaneously with any request) and directing to whom such amount shall be paid (which may include the Tenant in the event of a reimbursement);

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

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

(d) stating that, except for the amounts, if any, stated in said certificate, to the best of the knowledge of the Authorized Tenant Representative there are no outstanding disputed statements for which payment is requested for labor, wages, materials, supplies or services in connection with the purchase, installation or equipping of the Project which, if unpaid, might become the basis of a vendors', mechanics', laborers' or materialmen's statutory or similar lien upon the Project or any part thereof, or setting out (i) all disputed statements and the reason for such disputes, and (ii) all statements in process but not yet presented to the Trustee for payment.

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

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



being. The Tenant and the Issuer agree to cooperate in causing such certificate to be furnished to the Trustee.

**Section 4.6. Surplus or Deficiency in Project Fund .**

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

(b) If the Project Fund shall be insufficient to pay fully all Project Costs and to complete the Project lien free, the Tenant shall pay, in cash, the full amount of any such deficiency by making payments thereof directly to the contractors and to the suppliers of materials and services as the same shall become due, and the Tenant shall save the Issuer and the Trustee whole and harmless from any obligation to pay such deficiency.

**Section 4.7. Project Property of the Issuer.** The Project Site and all Project Improvements located thereon at the execution hereof and which the Tenant desires to convey to the Issuer, all work and materials on the Project Improvements as such work progresses, and all additions or enlargements thereto or thereof, the Project as fully completed, including Project Equipment, 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 Tenant under the provisions of this Lease, except as otherwise specifically provided herein, shall immediately when erected or installed become the absolute property of the Issuer, subject only to Permitted Encumbrances.

**Section 4.8. Machinery and Equipment Purchased by the Tenant.** Any item of machinery or equipment the entire purchase price of which is paid for by the Tenant with the Tenant'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 Tenant.

**Section 4.9. Environmental Matters.**

(a) The Tenant acknowledges that is it responsible for maintaining the Project in compliance with all Environmental Laws. In the event that the Tenant fails to undertake to comply with any final, non-appealable order issued by any local, state or federal authority under applicable Environmental Law, the Issuer or the Trustee, thirty days after written notice to the Tenant, may elect (but shall not be required) to undertake such compliance if the Tenant has not undertaken such compliance or is otherwise not prosecuting the same to completion with reasonable diligence. Any moneys expended by the Issuer or the Trustee in efforts to comply with any applicable Environmental Law (including the reasonable cost of hiring consultants, undertaking sampling and testing, performing any cleanup necessary or useful in the compliance process and reasonable attorneys' fees) shall be due and payable as Additional Rent hereunder with interest thereon at the rate of interest per annum on the Bonds from the date such cost is

incurred. There shall be unlimited recourse to the Tenant to the extent of any liability incurred by the Issuer or the Trustee with respect to any breaches of the provisions of this section.

(b) The Tenant shall be solely responsible for and shall complete any cleanup if and to the extent required by any Environmental Law or federal or state regulatory authority with respect to, all “Potential Environmental Concerns” identified in any Environmental Reports.

## ARTICLE V

### RENT PROVISIONS

**Section 5.1. Basic Rent** . The Tenant covenants and agrees to pay to the Trustee in same day funds for the account of the Issuer during this Lease Term, on or before 11:00 a.m., Trustee’s local time, on or before each December 1 (each a “Payment Date”), commencing December 1, 2021 and continuing until the principal of and interest on the Bonds shall have been fully paid, as “Basic Rent” for the Project, an amount which, when added to any collected funds then on deposit in the Bond Fund and available for the payment of principal of the Bonds and the interest thereon on such Payment Date, shall be equal to the amount payable on such Payment Date as principal of and interest on the Bonds (except as offset pursuant to the right of the Tenant described herein). On December 1, 2041 (or such earlier date as the Tenant may elect to redeem all of the Bonds), the Tenant shall also pay an amount equal to all remaining principal due on the Bonds in connection with such maturity or redemption (subject to the right of the Tenant to surrender the Bonds in lieu of such payment). All payments of Basic Rent provided for in this Section shall be paid directly to the Trustee and shall be deposited in accordance with the provisions of the Indenture into the Bond Fund and shall be used and applied by the Trustee in the manner and for the purposes set forth in this Lease and the Indenture. In furtherance of the foregoing, and notwithstanding any other provision in this Lease, the Indenture, the Bond Purchase Agreement or the Performance Agreement to the contrary, and provided that the Tenant is the sole holder of the Bonds, the Tenant may set-off the then-current Basic Rent payment against the Issuer’s obligation to the Tenant as Bondholder under the Indenture in lieu of delivery of the Basic Rent on any Payment Date, without providing notice of such set-off to the Trustee. The Trustee may conclusively rely on the absence of any notice from the Tenant to the contrary as evidence that such set-off has occurred. On the final Payment Date, the Tenant will (a) if the Trustee holds the Bonds, notify the Trustee of the Bonds not previously paid that are to be cancelled or (b) if an entity other than the Trustee holds the Bonds, deliver or cause to be delivered to the Trustee for cancellation Bonds not previously paid. The Tenant shall receive a credit against the Basic Rent payable by the Tenant 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 Tenant shall pay as Additional Rent the following amounts:

(a) all reasonable fees, agreed upon charges and expenses, including, without limitation, agent and counsel fees and expenses, of the Trustee and the Paying Agent incurred under the Indenture, the Lease or any other document entered into in connection with the Bonds, as and when the same become due;

(b) all costs incident to 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, costs, charges and expenses reasonably incurred in connection with the enforcement of any rights against the Tenant or the Project under this Lease, the Performance Agreement or the Indenture by the Issuer, the Trustee or the Bondowners, except for such expenses as may be incurred solely as a result of the negligence or wrongful misconduct of the Issuer, the Trustee or both;

(d) an amount sufficient to reimburse the Issuer for all expenses reasonably incurred by the Issuer hereunder and in connection with the performance of its obligations under this Lease or the Indenture and agreed upon by Tenant; and

(e) all other payments of whatever nature which the Tenant has agreed to pay or assume under the provisions of this Lease, the Indenture, the Performance Agreement or any other document entered into in connection with the Bonds.

**Section 5.3. Obligations of Tenant Absolute and Unconditional.**

(a) The obligations of the Tenant under this Lease to make payments of Basic Rent and Additional Rent on or before the date the same become due, and to perform all of its other obligations, covenants and agreements hereunder shall be absolute and unconditional, without notice or demand (except as expressly provided herein), 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 shall have been started or completed, or whether the Issuer's title thereto or to any part thereof is defective or nonexistent, and notwithstanding any failure of consideration or frustration of commercial purpose, legal curtailment of the Tenant's use thereof, the eviction or constructive eviction of the Tenant, 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 Issuer's legal organization or status, or any default of the Issuer hereunder, and regardless of the invalidity of any action of the Issuer, and regardless of the invalidity of any portion of this Lease.

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

**Section 5.4. Prepayment of Basic Rent** . The Tenant may at any time prepay all or any part of the Basic Rent provided for hereunder (subject to the limitations of **Section 301** of the Indenture relating to the partial redemption of the Bonds), provided such prepayment shall not be effective until notice thereof shall have been delivered to the Trustee (whether such prepayment is deemed to be paid, paid by set-off, or paid through a transfer of funds). 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 Tenant shall not be obligated to make payments of Basic Rent under the provisions of this Lease.

**Section 5.5. Redemption of Bonds** . The Issuer and the Trustee, at the written direction of the Tenant, at any time the aggregate moneys in the Bond Fund are sufficient for such purposes, shall (a) if the same are then redeemable under the provision of **Article III** of the Indenture, take all steps that may be necessary under the applicable redemption provisions of the Indenture to effect the redemption of all or such part of the then Outstanding Bonds as may be specified by the Tenant, on such redemption date as may be specified by the Tenant or (b) cause such moneys in the Bond Fund or such part thereof as the Tenant shall direct, to be applied by the Trustee, to the extent practical, pursuant to the appropriate written instructions of the Tenant, for the purchase of Bonds in the open market for the purpose of cancellation at prices not exceeding the principal amount thereof, or (c) a combination of (a) and (b) as provided in such direction.

**Section 5.6. Payments In Lieu of Taxes.** The Tenant covenants and agrees to make payment of PILOTS to the City upon issuance of the Bonds and on or before each December 1 thereafter, in the following amounts and in the years as set forth below:

Year	Fixed PILOT
2021	\$17,025
2022	17,025
2023	17,025
2024	17,025
2025	17,025
2026	34,050
2027	34,050
2028	34,050
2029	45,400
2030	45,400

Year	Fixed PILOT
2031	\$62,424
2032	62,424
2033	261,048
2034	261,048
2035	261,048
2036	402,921
2037	402,921
2038	402,921
2039	402,921
2040	402,921

The PILOTS payment shall be applicable to the PILOTS due under the Performance Agreement the year after payment required herein and shall be held in escrow by the City and disbursed to the affected taxing districts on December 1 in the year following the receipt of the PILOTS payment from the Tenant by the City as provided in the Performance Agreement. The payment of the PILOTS payments as required hereunder shall satisfy the obligation to make such payments under the Performance Agreement.

## ARTICLE VI

### MAINTENANCE, TAXES AND UTILITIES

**Section 6.1. Maintenance and Repairs.** Throughout the Lease Term the Tenant shall, at its own expense, keep the Project in as reasonably safe condition as the operation thereof will permit, and keep the Project in good repair and in good operating condition, making from time to time all necessary repairs thereto and renewals and replacements thereof.

**Section 6.2. Taxes, Assessments and Other Governmental Charges.**

(a) Subject to subsection (b) of this Section, the Tenant shall promptly pay and discharge, as the same become due, all taxes and assessments, general and special, and other governmental charges of any kind whatsoever that may be lawfully taxed, charged, levied, assessed or imposed upon or against the Project, or any part thereof or interest therein (including the leasehold estate of the Tenant therein) or any buildings, improvements, machinery and equipment at any time installed thereon by the Tenant, or Basic Rent and other amounts payable under this Lease, 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 materially impair the security of the Bonds or materially encumber the Issuer'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 Tenant shall be obligated to pay only such installments thereof as become due and payable during the Lease Term.

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

**Section 6.3. Utilities** . All utilities and utility services used by the Tenant in, on or about the Project shall be paid for by the Tenant and shall be contracted for by the Tenant in the Tenant's own name, and the Tenant 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 Issuer and the Tenant expect that while the Project is owned by the Issuer and is subject to this Lease, the Project will be exempt from all ad valorem real and personal property taxes by reason of such ownership, and the Issuer agrees that it will (at the expense of the Tenant) cooperate with the Tenant to defend such exemption against all parties. The Issuer and the Tenant further acknowledge and agree that the Issuer's obligations hereunder are contingent upon the Tenant making the payments due under and otherwise complying with the terms of the Performance Agreement during the term of this Lease. The terms and conditions of the Performance Agreement are incorporated herein as if fully set forth herein.

## ARTICLE VII

### INSURANCE

**Section 7.1. Title Insurance.** The Tenant will provide to the Issuer and the Trustee, at its expense, a copy of the owner's title insurance policy purchased by Tenant upon its acquisition of the Project Site. The Tenant shall not be required to purchase a title insurance policy with respect to the interests of the Issuer or the Trustee in the Project Site.

#### **Section 7.2. Casualty Insurance .**

(a) Subject to the right of the Tenant to increase the deductibles described herein and to provide for self-insurance as provided in subparagraph (c) of this Section, the Tenant shall at all times during the Construction Period maintain at its sole cost and expense, or cause the contractors under the Construction Contracts to maintain, in full force and effect a policy or policies of Builder's Risk-Completed Value Form Insurance special causes of loss form policy then in use in the State of Missouri to the Full Insurable Value of the Project (subject to reasonable loss deductible clauses not to exceed \$2,000,000).

Subject to the rights of the Tenant provided in subparagraph (c) of this Section, prior to or simultaneously with the expiration of said Builder's Risk Insurance, the Tenant shall at its sole cost and expense obtain and shall maintain throughout the Lease Term, a policy or policies of insurance to keep the Project constantly insured against loss or damage by fire, lightning and all other risks covered by the extended coverage insurance endorsement then in use in the State of Missouri in an amount equal to the Full Insurable Value thereof (subject to reasonable loss deductible clauses not to exceed \$2,000,000). The initial determination of Full Insurable Value shall be made at the Completion Date, and thereafter, the Full Insurable Value of the Project shall be provided once in every three years and from time to time at the written request of the Issuer (but not more frequently than once in every three years) by the certificate of an Authorized Tenant Representative or the chief financial officer of the Tenant. The insurance required pursuant to this Section shall be maintained at the Tenant's sole cost and expense, shall be maintained with an insurance company or companies authorized to do business in the State of Missouri and rated not less than AM Best A- VII as may be selected by the Tenant. Certificates of insurance providing for the type and amount of insurance obtained required under this Section shall be delivered by the Tenant to the

Trustee and copies of the insurance policies will be provided by Tenant to the Issuer and the Trustee upon request. All such policies of insurance pursuant to this Section, and all renewals thereof, shall name the Issuer, the Tenant and the Trustee as insureds as their respective interests may appear, subject to the rights of Lender under the provisions of the Loan Documents (as such term is defined in the Fee Deed of Trust) of the Lender, and shall contain a provision that such insurance may not be canceled by the issuer thereof without at least 30 days' advance written notice to the Issuer, the Tenant and the Trustee (provided such endorsement is then generally available in the commercial insurance market), and shall be payable to the Trustee.

(b) Subject to the provisions of the Loan Documents of the Lender (if any) which shall otherwise control, in the event of loss or damage to the Project, the Net Proceeds of casualty insurance carried pursuant to this Section shall be paid over to the Trustee and shall be applied as provided in **Article IX** of this Lease, or as may be directed by, or on behalf of, the Owners of 100% in principal amount of the Bonds outstanding.

(c) In lieu of obtaining all or any part of the insurance required by subparagraph (a) hereof, the Tenant may elect to be self-insured for all or any part of the foregoing requirements (which right to self-insure shall include the right of the Tenant to increase the deductibles on such policies to an amount not to exceed \$2,000,000) provided the Tenant complies with each of the following: (i) the Tenant notifies the Issuer and the Trustee in writing that it has elected to increase one or more of the deductibles on such policies or to provide such coverages through a self-insurance program, (ii) if the self-insurance program is maintained by a legal entity other than the Tenant, the Tenant notifies the Issuer and the Trustee in writing of an address to which the Issuer and the Trustee may submit claims under such self-insurance program, and (iii) the provider of such self-insurance program is rated in one of the three highest rating categories by a nationally recognized rating agency (without regard to any rating modifiers).

### **Section 7.3. Public Liability Insurance .**

(a) Subject to the right of the Tenant to increase the deductibles described herein and to provide for blanket insurance policies as provided in **Section 7.4** of this Lease, the Tenant shall at its sole cost and expense maintain or cause to be maintained at all times during the Lease Term general accident and public liability insurance (including but not limited to coverage for all losses whatsoever arising from the ownership, maintenance, operation or use of any automobile, truck or other motor vehicle), under which the Issuer, the Tenant and the Trustee shall be named as additional insureds, properly protecting and indemnifying the Issuer and the Trustee, in an amount not less than \$2,000,000 adjusted for inflation pursuant to Section 537.610 of the Revised Statutes of Missouri, as amended for bodily injury (including death) in any one occurrence (subject to reasonable loss deductible clauses not to exceed \$1,000,000), and not less than \$1,000,000 for property damage in any one occurrence (subject to reasonable loss deductible clauses not to exceed \$1,000,000). The policies of said insurance shall contain a provision that such insurance may not be canceled by the issuer thereof without at least 30 days' advance written notice to the Issuer, the Tenant and the Trustee (provided such endorsement is then generally available in the commercial insurance market). Such policies or copies or certificates thereof shall be furnished to the Trustee and the Issuer upon request, and certificates of insurance for such policies shall be furnished to the Trustee.

(b) In the event of a public 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 Tenant 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.

## ARTICLE VIII

### ALTERATION OF THE PROJECT

**Section 8.1. Additions, Modifications and Improvements of the Project .** The Tenant shall have and is hereby given the right, at its sole cost and expense, to make such additions, modifications and improvements in and to any part of the Project as the Tenant from time to time may deem necessary or desirable for its business purposes. All additions, modifications and improvements made by the Tenant pursuant to the authority of this Section shall (a) be made in workmanlike manner and in strict compliance with all laws and ordinances applicable thereto, (b) when commenced, be prosecuted to completion with due diligence, and (c) when completed, be deemed a part of the Project; provided, however, that additions of machinery and equipment installed in the Project by the Tenant not purchased or acquired from funds deposited with the Trustee hereunder and not constituting repairs, renewals or replacements of Project Equipment under **Section 8.2** hereof shall remain the property of the Tenant and may be removed by the Tenant.

**Section 8.2. Removal of Project Equipment .** The Tenant shall have the right, provided the Tenant is not in default in the payment of Basic Rent or Additional Rent hereunder, to remove from the Project and (on behalf of the Issuer) sell, exchange or otherwise dispose of, without responsibility or accountability to the Issuer or the Trustee with respect thereto, any items of machinery and equipment which constitute a part of the Project Equipment and which have become inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary or which, in the sound discretion of the Tenant, are otherwise no longer useful to the Tenant in its operations conducted on or in the Project; provided that, if the aggregate value of Project Equipment sold, exchanged or disposed of in any fiscal year (on a non-cumulative basis) exceeds \$100,000, then with respect to the proposed removal in such fiscal year of such items of Project Equipment that originally cost \$25,000 or more, the Tenant shall either:

(a) Prior to any such removal, deliver to the Issuer, the Lender and the Trustee a certificate signed by the Tenant (1) containing a description of any machinery or equipment constituting a part of the Project Equipment which it proposes to remove from the Project, (2) stating the reason for such removal, and (3) setting forth the estimated market value of such machinery or equipment; and pay the estimated value of such machinery or equipment as set forth in said certificate to the Trustee for deposit in the Bond Fund or obtain a written waiver from the Owners of all of the Bonds of the requirement that the estimated value be deposited into the Bond Fund; or

(b) Promptly replace any such Project Equipment so removed with machinery and equipment of the same or a different kind but with a value equal to or greater than the fair market value of the Project Equipment so removed, and such machinery and equipment shall be deemed a part of the Project Equipment; within 30 days after any such replacement, deliver to the Trustee a certificate signed by the Tenant (1) setting forth a complete description, including make, model and serial numbers, if any, of the machinery and equipment which the Tenant has acquired to replace the Project Equipment so removed by the Tenant, (2) stating the cost thereof, and (3) stating that the machinery and equipment described in said certificate are fully paid for and have been installed on the Project.

The Trustee shall amend the list of Project Equipment maintained by it pursuant to **Section 10.8** hereof upon receipt of such certificate. Upon request, the Issuer will execute and deliver a bill of sale that transfers full and complete title to the Tenant of such portion of the Project Equipment removed. Notwithstanding anything to the contrary contained herein, title to any item of the Project Equipment so removed from the Project Site for purposes of sale, exchange, replacement or disposal shall automatically vest in the Tenant without further instrument or action, and such vesting of title shall be self-operative effective upon removal. All machinery and equipment that replaces Project Equipment removed from the Project by the Tenant pursuant to paragraph (b) of this Section shall become and be deemed a part of the Project.

In all cases, the Tenant shall pay all the costs and expenses of any such removal and shall immediately repair at its expense all damage to the Project caused thereby. The Tenant's rights under this Section to remove from the Project machinery and equipment constituting a part of the Project Equipment is intended only to permit the Tenant to maintain an efficient operation by the removal of machinery and equipment which is no longer suitable to the Tenant's use of the Project for any of the reasons set forth in this Section, and such right is not to be construed to permit a removal under any other circumstances and specifically is not to be construed to permit the Tenant to make a wholesale removal of the Project Equipment.

**Section 8.3. Additional Improvements on the Project Site.** The Tenant shall have and is hereby given the right, at its sole cost and expense, to construct on portions of the Project Site not theretofore occupied by buildings or improvements such additional buildings and improvements as the Tenant 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 Tenant pursuant to the authority of this Section shall, during the life of this Lease, remain the property of the Tenant and may be added to, altered or razed and removed by the Tenant at any time. The Tenant 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, (b) to keep and maintain said additional buildings and improvements in good condition and repair, ordinary wear and tear excepted, and (c) to promptly and with due diligence either raze and remove in a good and workmanlike manner, or repair, replace or restore any of said additional buildings and improvements as may from time to time be permanently damaged by fire or other casualty. The Tenant shall pay all *ad valorem* taxes and assessments due and owing with respect to such additional buildings and improvements which remain the property of the Tenant. If for any reason the County Assessor determines that such additional buildings and improvements are not subject to *ad valorem* taxes based upon Issuer ownership of the Project, the Tenant shall make payments

in lieu of taxes in an amount equal to the taxes that would otherwise be due as reflected in a written statement from the County Assessor and/or Issuer, subject to the rights of the Tenant to contest the same in accordance with applicable laws.

**Section 8.4. Permits and Authorizations** . The Tenant shall not do or permit others under its control to do any work on the Project related to any repair, rebuilding, restoration, replacement, modification or addition to the Project, or any part thereof, unless all requisite municipal and other governmental permits and authorizations shall have been first procured. The Issuer agrees not to charge the Tenant any fees for any such permits or authorizations. All such work shall be done in a good and workmanlike manner and in compliance with all applicable building, zoning and other laws, ordinances, governmental regulations and requirements and in accordance with the requirements, rules and regulations of all insurers under the policies required to be carried under the provisions of **Article VII** hereof.

**Section 8.5. Mechanics' Liens** .

(a) Neither the Issuer nor the Tenant shall do or suffer anything to be done whereby the Project, or any part thereof, may be encumbered by any mechanics' or other similar 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 Tenant shall discharge the same of record within 90 days after the date of filing. Notice is hereby given that the Issuer shall not be liable for any labor or materials furnished to the Tenant or anyone claiming by, through or under the Tenant 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 Issuer in and to the Project or any part thereof. Notwithstanding the foregoing, Tenant shall not be liable for any labor or materials furnished to the Issuer or anyone claiming by, through or under the Issuer and Issuer shall be responsible for ensuring 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 Tenant in and to the Project or any part thereof.

(b) Notwithstanding paragraph (a) above, and subject to the terms of the Fee Deed of Trust, the Leasehold Deed of Trust or other documents executed by the Tenant in favor and for the benefit of the Lender, the Tenant may contest any such mechanics' or other similar lien if within said 90-day period stated above it notifies the Issuer and the Trustee in writing of its intention so to do, and provided the Tenant diligently prosecutes such contest, 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, and pays or otherwise satisfies any final judgment enforcing such contested lien claim and thereafter promptly procures record release or satisfaction thereof. The Tenant shall hold the Issuer, the Lender and the Trustee whole and harmless from any loss, costs or expenses the Issuer may incur related to any such contest. The Issuer shall cooperate fully with the Tenant in any such contest.

**Section 8.6. Option to Purchase Unimproved Portions of the Project Site.** The Issuer hereby grants to the Tenant the right at any time and from time to time to purchase any unimproved portion or portions of the Project Site. For the purposes of this Section "unimproved" shall mean real property upon which no improvements are located, excluding improvements relating to streets, sidewalks,



bridges, stormwater, grading, utility or other similar improvements. As conditions to such purchase the Issuer, the Lender and the Trustee shall receive from the Tenant at least 30 days prior to the proposed date for completing the purchase the following (1) a written certificate from the Tenant to the effect (i) that the Tenant desires to purchase an unimproved portion of the Project Site, (ii) the proposed date for completing the purchase, and (iii) that the Tenant is not in default under any of the provisions of this Lease or the Indenture, (2) providing the Issuer and the Trustee with an adequate legal description of that portion (together with the interest in such portion) of the property to be purchased and a copy of a title commitment with respect to such property, (3) a certificate of an independent engineer or surveyor, dated not more than 30 days prior to the date of the request stating that, in the opinion of the person signing such certificate, (i) the unimproved portion of the Project Site is unimproved within the definition contained in this Section (ii) the unimproved portion of the Project Site so proposed to be purchased is not needed for the operation of the Project, and (iii) the proposed purchase will not impair the usefulness of the Project for its intended purposes and will not destroy the means of ingress thereto and egress therefrom, and (4) the written consent of the Owners of all of the Bonds.

The purchase price for such unimproved portion of the Project Site shall be determined by the Owners of all of the Bonds and shall be received in writing by the Issuer and the Trustee at least 10 days prior to the proposed date for completing the purchase. Such purchase price shall be paid to the Trustee at the time the Issuer executes and delivers a Special Warranty Deed conveying the property which is to be purchased to the Tenant. The Trustee shall deposit such amount (if any) into the Bond Fund. If such amount is more than \$1,000, such amount shall be used by the Trustee to redeem Bonds in accordance with **Section 302** of the Indenture. If such amount is \$1,000 or less the Trustee shall apply such amount to the next interest payment on the Bonds.

Upon the Issuer's receipt of written notice from the Trustee that the Trustee has received all of the items required by this Section, any duly authorized officers of the Issuer shall execute a Special Warranty Deed conveying such property to the Tenant and shall deliver such deed to the Tenant. Such Special Warranty Deed shall be subject to the following: (1) those liens and encumbrances, if any, to which title to that portion of the Project Site was subject when conveyed to the Issuer; (2) those liens and encumbrances created by the Tenant or to the creation or suffering of which the Tenant consented; (3) those liens and encumbrances resulting from the failure of the Tenant to perform or observe any of the agreement on its part contained in this Lease; (4) Permitted Encumbrances other than the Indenture and this Lease; and (5) if the unimproved portion of the Project Site or any part thereof is being condemned, the rights and title of any condemning authority.

## ARTICLE IX

### DAMAGE, DESTRUCTION AND CONDEMNATION

#### Section 9.1. Damage or Destruction .

(a) If the Project shall be damaged or destroyed by fire or any other casualty, whether or not covered by insurance, the Tenant, as promptly as practicable, shall either repair, restore, replace or rebuild the same to as nearly as may be practicable their condition and character immediately prior to such

damage or destruction, and so that upon completion of such repairs, restoration, replacement or rebuilding such Project shall be of a value not less than the value thereof immediately prior to the occurrence of such damage or destruction or, at the Tenant's option, shall construct upon the Project Site new buildings and improvements thereafter together with all new machinery, equipment and fixtures which are either to be attached to or are to be used in connection with the operation or maintenance thereof, provided that (i) the value thereof shall not be less than the value of such destroyed or damaged Project Improvements and/or Project Equipment immediately prior to the occurrence of such damage or destruction and (ii) the nature of such new buildings, improvements, machinery, equipment and fixtures will not impair the character of the Project as an enterprise permitted by the Act.

If the Tenant shall elect 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 and any reference to the words "Project Equipment" shall be deemed to include any such new machinery, equipment and fixtures which are either attached to or are used in connection with the operation or maintenance of such new buildings and improvements and all additions or replacements thereof.

The Net Proceeds of casualty insurance required by **Article VII** hereof received with respect to such damage or loss to the Project, shall be disbursed in accordance with the Mortgage. If there is no Mortgage and the Net Proceeds are less than \$100,000, the Net Proceeds shall be paid to the Tenant. If the Net Proceeds equal or exceed \$100,000, the Net Proceeds shall be paid to the Trustee and shall be applied in the following manner:

(i) there shall be paid to the Tenant from the Net Proceeds such part thereof as shall equal the cost to the Tenant of making such temporary repairs or doing such other work, as, in the Tenant's reasonable opinion, may be necessary in order to protect the Project pending adjustment of the insurance loss or the making of permanent repairs, restoration, replacement or rebuilding;

(ii) there shall be paid to the Tenant from the Net Proceeds such part thereof as shall equal the cost to the Tenant of repairing, restoring, replacing or rebuilding the Project or any part thereof;

(iii) payment to the Tenant pursuant to subdivisions (i) or (ii) of this subsection (a) from such Net Proceeds shall be made to the Tenant from time to time as the work progresses, in amounts equal to the cost of labor and material incorporated into and used in such work, the buildings', architects' and engineers' fees, and other charges in connection with such work, upon delivery to the Trustee of a certificate of the Tenant's architect or general contractor, as the case may be, in charge of such work, certifying: (1) that the amounts so to be paid to the Tenant are payable to the Tenant in accordance with the provisions of this Article and that such amounts are then due and payable by the Tenant or have theretofore been paid by the Tenant; (2) the progress of the work; (3) that the work has been done in accordance with the plans and specifications therefor and all insurance requirements of **Article VII** hereof; (4) that the sum requested when added to all sums previously paid out under this Article for the work does not exceed the value of the work done to the date of such certificate; (5) the estimated cost of completing the work, in

reasonable detail; and (6) that the remaining Net Proceeds are sufficient to pay the estimated cost of completing the work (the Trustee may rely conclusively upon each such certificate and shall not be required to make any inquiry or investigation with respect thereto);

(iv) the Tenant shall furnish to the Trustee at the time of any such payment, an official search, or other evidence reasonably satisfactory to the Trustee, that there has not been filed with respect to the Project Site or the Project Improvements any mechanic's or other lien which has not been discharged of record, in respect of any work, labor, services or materials performed, furnished or supplied, in connection with the work and that all of said materials have been purchased free and clear of all security interest or other encumbrances. The Trustee shall not pay out any such sum when the Project Site or the Project Improvements shall be encumbered with any such security interest or encumbrance. Upon the termination of this Lease and the payment in full of the Bonds or any monies then held by the Trustee shall be paid over to the Tenant.

(b) The insurance monies, if any, paid to the Tenant as provided under this Article, on account of any loss or destruction to the Project, shall be held by it in trust and applied only for the purposes of repairing, reconstructing or restoring the Project or constructing new buildings and improvements and installing new machinery, equipment and fixtures thereto.

(c) If any of the insurance monies paid by the insurance company to the Trustee or the Tenant as hereinabove provided, shall 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 terms of the Fee Deed of Trust and the Leasehold Deed of Trust, except as otherwise provided by law. If the Net Proceeds shall be insufficient to pay the entire cost of such repairs, restoration, replacement or rebuilding, the Tenant shall pay the deficiency.

(d) 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 except that the payment of all Basic Rent required hereunder to be paid by the Tenant shall be abated until such time as the Project is restored.

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

(f) The Tenant agrees to give prompt notice to the Issuer and the Trustee with respect to all fires and any other casualties occurring in, on, at or about the Project.

(g) If the Tenant shall determine that rebuilding, repairing, restoring or replacing the Project is not practicable and desirable, or if the Tenant does not have the right under the Fee Deed of Trust, the Leasehold Deed of Trust or any other document for the benefit of the Lender, then any Net Proceeds of casualty insurance required by **Article VII** hereof received with respect to such damage or loss shall be paid into the Bond Fund and shall be used to redeem Bonds on the earliest practicable redemption date or to pay the principal of any Bonds as the same become due, all subject to rights of the mortgagee

(including the Lender) under any Mortgage. The Tenant agrees to be reasonable in exercising its judgment pursuant to this subsection (g).

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

(i) Notwithstanding the foregoing, the provisions of the Loan Documents of the Lender (if any) shall control the application of Net Proceeds of casualty insurance in the event of loss or damage to the Project.

## **Section 9.2. Condemnation .**

(a) If during the Lease Term, title to, or the temporary use of, all or any part of the Project shall be 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 Tenant 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 Issuer, the Trustee and the mortgagee (including the Lender) under any Mortgage 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 Tenant shall determine that such substitution is practicable and desirable, the Tenant 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 prior to the exercise of the said power of eminent domain, including the acquisition or construction of other improvements suitable for the Tenant's operations at the Project (which improvements will be deemed a part of the Project and available for use and occupancy by the Tenant 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 Issuer subject to no liens, security interests or encumbrances prior to the lien and/or security interest afforded by the Indenture other than Permitted Encumbrances. In such case, any Net Proceeds received from any award or awards with respect to the Project or any part thereof made in such condemnation or eminent domain proceedings, or of the sale proceeds, shall be applied in the same manner as provided in **Section 9.1** hereof (with respect to the receipt of casualty insurance proceeds).

(c) If the Tenant shall determine that it is not practicable and desirable to acquire or construct substitute improvements, or if the Tenant does not have the right under the Fee Deed of Trust or the Leasehold Deed of Trust to use any Net Proceeds of condemnation awards received by the Tenant, then any Net Proceeds of condemnation awards received by the Tenant shall be paid into the Bond Fund and shall be used to redeem Bonds on the earliest practicable redemption date or to pay the principal of any Bonds as the same becomes due and payable, all subject to the rights of the mortgagee (including the

Lender) under any Mortgage, provided that if the Tenant is the sole owner of the Bonds and it has determined that acquiring and constructing substitute improvements is not practicable or desirable, it may tender Bonds to the Trustee for cancellation in a principal amount up to an amount equal to the Net Proceeds of the condemnation awards, and retain such proceeds for its own account, all subject to the rights of the mortgagee (including the Lender) under any Mortgage.

(d) The Tenant 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 Issuer, the Trustee or the Bondowners or to any abatement or diminution of the rentals payable by the Tenant under this Lease nor of any other obligations hereunder except as expressly provided in this Section.

(e) The Issuer shall cooperate fully with the Tenant 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 Tenant to litigate in any such proceeding in the name and on behalf of the Issuer. In no event will the Issuer 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 Tenant and Lender (if any).

(f) Notwithstanding the foregoing, the provisions of the Loan Documents of the Lender (if any) shall control the application of Net Proceeds of condemnation awards received in connection with the Project.

**Section 9.3. Bondowner Approval .** Notwithstanding anything to the contrary contained in this **Article IX**, subject to the rights of the mortgagee under the Mortgage, the proceeds of any insurance received subsequent to a casualty or of any condemnation proceedings (or threats thereof) may, prior to the application thereof by the Issuer or the Trustee, be applied as directed by the Owners of 100% of the principal amount of Bonds outstanding, subject and subordinate to the rights of the Issuer and the Trustee to be paid all their expenses (including reasonable attorneys' fees, trustee's fees and any extraordinary expenses of the County and the Trustee) incurred in the collection of such gross proceeds and the rights of the Issuer to any amounts then due and payable under the Performance Agreement. For purposes of this Section only, any person to whom Bonds have been pledged in good faith shall be deemed to be the Owner of the Bonds.

## ARTICLE X

### SPECIAL COVENANTS

**Section 10.1. No Warranty of Condition or Suitability by the Issuer; Exculpation and Indemnification .** The Issuer makes no warranty, either express or implied, as to the condition of the Project or that it will be suitable for the Tenant's purposes or needs. The Tenant releases the Issuer from, agrees that the Issuer shall not be liable for and agrees to hold the Issuer 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 use thereof; unless such loss is the result of the Issuer's gross negligence or willful misconduct.

**Section 10.2. Surrender of Possession.** Upon accrual of the Issuer's right of re-entry because of the Tenant's uncured default hereunder or upon the cancellation or termination of this Lease for any reason other than the Tenant's purchase of the Project pursuant to **Article XI** hereof, the Tenant shall peacefully surrender possession of the Project to the Issuer in good condition and repair, ordinary wear and tear excepted; provided, however, the Tenant shall have the right within 90 days (or such later date as the Issuer may agree to) after the termination of this Lease to remove from the Project Site any buildings, improvements, furniture, trade fixtures, machinery and equipment owned by the Tenant 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 Tenant, and the Tenant shall bear the sole responsibility for and bear the sole risk of loss for said buildings, improvements, furniture, trade fixtures, machinery and equipment in connection with such removal by Tenant. All buildings, improvements, furniture, trade fixtures, machinery and equipment owned by the Tenant and which are not so removed from the Project prior to the expiration of said period shall be the separate and absolute property of the Issuer.

**Section 10.3. Issuer's Right of Access to the Project .** In addition to the inspection rights of the Issuer pursuant to the Performance Agreement, the Tenant agrees that the Issuer and the Trustee and their duly authorized agents shall have the right at reasonable times during business hours, subject to 48 hours' prior written notice and the Tenant's usual safety and security requirements, to enter upon the Project Site after delivering written notice to the Tenant (a) as may be reasonably necessary to cause to be completed the acquisition, purchase, construction, improving, equipping or remodeling provided for in **Section 4.2** hereof, (b) to perform such work in and about the Project made necessary by reason of the Tenant's uncured default under any of the provisions of this Lease, and (c) following an uncured Event of Default, to exhibit the Project to prospective purchasers, lessees or trustees. The Tenant shall have the right to have representatives present during any such examination or inspection, including legal counsel.

**Section 10.4. Granting of Easements; Mortgages**

(a) If no uncured Event of Default under this Lease shall have happened and be continuing, the Tenant may at any time or times (1) grant easements, licenses, rights-of-way (including the dedication of public highways) and other rights or privileges in the nature of easements that are for the direct use of the Project, or part thereof, by the grantee, licensee, etc., (2) release existing easements, licenses, rights-of-way and other rights or privileges, all with or without consideration and upon such terms and conditions as the Tenant shall determine, or (3) incur Permitted Encumbrances. The Issuer 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 or release any such easement, license, right-of-way or other right or privilege or any such agreement or other arrangement, upon receipt by the Issuer and the Trustee of: (i) a copy of the instrument of grant or release or of the agreement or other arrangement, (ii) a written application signed by an Authorized Tenant Representative requesting such instrument, and (iii) a certificate executed by an Authorized Tenant Representative stating that such grant or release is not detrimental to the proper conduct of the business of the Tenant, will not impair the effective use or interfere with the efficient and economical operation of the Project, and will not materially adversely

affect the security intended to be given by or under the Indenture or the Lease. If the instrument of grant shall provide that any such easement or right and the rights of such other parties thereunder shall be superior to the rights of the Issuer and the Trustee under this Lease and the Indenture and shall not be affected by any termination of this Lease or default on the part of the Tenant hereunder then such easement shall not have any effect whatsoever without the written consent of the Issuer. If no Event of Default shall have happened and be continuing beyond any applicable grace period, any payments or other consideration received by the Tenant for any such grant or with respect to or under any such agreement or other arrangement shall be and remain the property of the Tenant, but, in the event of the termination of this Lease or during the continuation of an uncured Event of Default, all rights then existing of the Tenant with respect to or under such grant shall inure to the benefit of and be exercisable by the Issuer and the Trustee.

(b) This Lease shall be subject to any existing or hereafter existing Mortgage from Tenant to a Lender. The Issuer acknowledges that the Tenant has granted the Fee Deed of Trust and the Leasehold Deed of Trust to the Lender prior to its execution of this Lease, and that a duplicate original or certified copies or photostatic copies of the Fee Deed of Trust and the Leasehold Deed of Trust have been delivered to the Issuer as of the date of this Lease. The right of Lender to foreclose upon the lien of the Fee Deed of Trust or Leasehold Deed of Trust, or accept a deed in lieu of foreclosure from the Tenant, shall not require the consent of the Issuer, if (i) written notice of the proposed sale or assignment is provided to the Issuer at least fifteen (15) days prior thereto, and (ii) before such sale or assignment, all payments then owing to the Issuer pursuant to the Performance Agreement or otherwise are paid and the Bonds are paid or redeemed in full.

(c) Notwithstanding anything contained to the contrary in this Lease, (a) the Tenant shall have the right to assign this Lease and any subleases to the Lender or to the designee or nominee of Lender, without the consent of the Issuer, and (b) if the Lender or its designee or nominee shall acquire ownership of the leasehold estate, either following foreclosure of the Mortgage or in liquidation of the indebtedness and in lieu of foreclosure thereof, the Lender or its designee or nominee shall have the further right to further assign this Lease and any subleases and any purchase money mortgage accepted in connection therewith, without the consent of the Issuer and such assignee shall enjoy all rights, powers and privileges granted herein to Lender. In accordance with applicable law and the terms of the Mortgage, as applicable, the Lender may accept an assignment of the Project in lieu of foreclosure and may appoint a receiver for the Project, all without obtaining the prior written consent of the Issuer but subject to the provisions of this Article.

(d) During the term of any existing or hereafter existing Mortgage (including the Fee Deed of Trust and the Leasehold Deed of Trust), the following provisions shall apply:

(i) this Lease may not be modified, amended, canceled or surrendered by agreement between the Issuer and the Tenant, without the prior written consent of Lender;

(ii) there shall be no merger of this Lease or of the leasehold estate created hereby with the fee title to the Project, notwithstanding that this Lease or said leasehold estate and said fee title shall be owned by the same person or persons, without the prior written consent of Lender;

(iii) the Issuer shall serve upon Lender a copy of each notice of default and each notice of termination given to the Tenant under this Lease, at the same time as such notice is served upon the Tenant. No such notice to the Tenant shall be effective unless a copy thereof is thus served upon Lender;

(iv) Lender shall have the same period of time after the service of such notice upon it within which the Tenant may remedy or cause to be remedied the default which is the basis of the notice plus twenty (20) days; and the Issuer shall accept performance by Lender as timely performance by the Tenant;

(v) Lender shall not be required to continue possession or continue foreclosure proceedings under paragraph (vii) of this subsection if the particular default has been cured;

(vi) the Issuer may exercise any of its rights or remedies with respect to any other default by the Tenant occurring during the period of such forbearance provided for under said paragraph (vii), subject to the rights of the Lender under this Section as to such other defaults. Without limiting the generality of the foregoing, the Lender may (1) foreclose upon the lien of the Fee Deed of Trust, or (2) cause the sale of the fee simple or leasehold interest of the Tenant to be sold, pursuant to a foreclosure sale conducted or (3) to accept assignment of this Lease in lieu of foreclosure and to appoint a receiver for the Project;

(vii) in case of default by the Tenant under this Lease, other than a default in the payment of money, the Issuer shall take no action to effect a termination of this Lease by service of a notice or otherwise, without first giving to Lender a reasonable time within which either to obtain possession of the Project and to remedy such default in the case of a default which is susceptible of being cured when Lender has obtained possession of the Project, or to institute and with reasonable diligence to complete foreclosure proceedings or otherwise acquire the Tenant's leasehold estate under this Lease in the case of a default which is not susceptible of being remedied by Lender, provided that the Lender shall deliver to the Issuer within thirty (30) days after the expiration of the grace period applicable to the particular default, an instrument unconditionally agreeing to remedy such default other than a default not susceptible of being remedied by Lender. The Issuer's right to terminate this Lease by reason of a default which is not susceptible of being remedied by Lender shall end with respect to such default when the Lender obtains possession of the Project as aforesaid, which possession shall be deemed to include possession by a receiver;

(viii) if this Lease shall terminate prior to the expiration of the Lease Term as the result of an uncured Event of Default (and not due to Tenant's right to purchase the Project pursuant to Section 11.1 of this Lease), the Issuer shall enter into a new lease for the Project with Lender or its designee or nominee, for the remainder of the term, effective as of the date of such termination, at the same rent and upon the same terms, covenants and conditions contained herein, except that such new lease shall not guarantee possession of the Project to the new tenant as against the Tenant and/or anyone claiming under the Tenant, and the Issuer, simultaneously with the execution and delivery of such new lease, shall turn over to the new tenant all monies, if any, then held by the Issuer under the Lease on behalf of the Tenant, on condition that:

(A) Lender shall make written request for such new lease within thirty (30) days after the date of such termination, and

(B) on the commencement date of the term of the new lease, Lender shall cure all defaults of the Tenant under the Lease (susceptible of being cured by Lender) which remain uncured on that date, and shall pay or cause to be paid all unpaid sums which at such time would have been payable under this Lease but for such termination, and shall pay or cause to be paid to the Issuer on that date all fees, costs, charges and expenses, including, without limitation, reasonable counsel fees, court costs and disbursements, incurred by the Issuer or the Trustee in connection with any such default and termination as well as in connection with the execution and delivery of such new lease;

(ix) Lender may, on behalf of the Tenant and without the consent of the Tenant, but only having first caused the redemption of the Bonds, exercise the right to purchase the Project pursuant to **Section 11.1** hereof, upon compliance with the provisions of that Section. The Tenant agrees that the Issuer will have no liability for taking direction from Lender in connection with a conveyance of the Project back to the Tenant pursuant to **Article XI** hereof;

(x) if Lender or its designee or nominee shall become the owner of this Lease either following foreclosure of the Mortgage or in liquidation of the indebtedness and in lieu of foreclosure thereof and the Lender or its designee or nominee shall have assigned this Lease, Lender or its designee or nominee so assigning shall be released from all liability accruing from and after the date of such assignment.

(e) In connection with the execution of one or more documents for the benefit of Lender related to financing or refinancing the Project, upon the request of the Tenant, the Issuer agrees to execute such documents as shall be reasonably requested by Lender and which are usual and customary in connection with the closing of the financing or refinancing pursuant to such documents so long as such documents do not impact any of the rights of the Issuer. The Tenant agrees to reimburse the Issuer for any and all costs and expenses incurred by the Issuer pursuant to this Section, including reasonable attorneys' fees and expenses, in complying with such request.

(f) The Tenant's obligations under any Mortgage or other document relating to financing or refinancing the Project entered into after the date of execution of this Lease (the execution of which shall be expressly subject to the prior written consent of Lender in accordance with the Fee Deed of Trust) shall be subordinate to the Tenant's obligations under this Lease.

**Section 10.5. Indemnification of Issuer, Lender and Trustee.** The Tenant shall indemnify and save the Issuer, the Lender and the Trustee harmless from and against all claims, losses, liabilities, damages, costs and expenses (including, without limitation, attorney's fees and expenses) by or on behalf of any person, firm or corporation arising from the conduct or management of, or from any work or thing done in, on or about, the Project during the Lease Term, and against and from all claims, losses, liabilities, damages, costs and expenses (including, without limitation, reasonable attorney's fees and expenses) arising during the Lease Term from (a) any condition of the Project caused by the Tenant, (b) any breach

or default on the part of the Tenant in the performance of any of its obligations under this Lease, (c) any contract entered into in by the Tenant or its sublessee, if any, in connection with the acquisition, purchase, construction, improving, equipping or remodeling of the Project, (d) any act of negligence of the Tenant or of any of its agents, contractors, servants, employees or licensees, (e) any act of negligence of any assignee or sublessee of the Tenant, and (f) obtaining any applicable state and local sales and use tax exemptions for materials or goods that become part of the Project; provided, however, the indemnification contained in this **Section 10.5** shall not extend to the Issuer, the Lender or the Trustee if (i) such claim is the result of work performed, or being performed, at the Project by employees of the Issuer, or (ii) such claim is the result of the Issuer's, Lender's or the Trustee's negligence or willful misconduct including, without limitation, the Issuer's negligence or willful misconduct with respect to obtaining any applicable state and local sales and use tax exemptions for materials or goods that become part of the Project. The Tenant shall indemnify and save the Issuer, the Lender and the Trustee harmless from and against all costs and expenses, including, without limitation, reasonable attorney's fees and expenses, (except those which have arisen from the willful misconduct or negligence of the Issuer, the Lender or the Trustee) incurred in or in connection with any action or proceeding brought in connection with claims arising from circumstances described in clauses (a) through (e), and upon notice from the Issuer, the Lender or the Trustee, the Tenant shall defend them or either of them in any such action or proceeding.

The Tenant agrees to indemnify and reimburse the Issuer, the Lender and the Trustee, and their respective members, directors, officers, employees, agents, attorneys, successors and assigns for any liability, loss, damage, expense or cost, including, without limitation, reasonable attorney's fees and expenses, arising out of or incurred by the Issuer, the Lender or the Trustee or their respective members, directors, officers, employees, agents, attorneys, successors and assigns, which is the result of any liability, loss, damage, expense or cost sustained as a result of any failure by Tenant to comply with any Environmental Laws or of there being located in, on or about the Project Site or the Project any hazardous, dangerous, or toxic pollutants, wastes or chemicals, together with reasonable attorney's fees and expenses incurred in connection with the defense of any action against the Issuer or the Trustee arising out of the above; provided, however, the indemnification contained in this **Section 10.5** shall not extend to the Issuer, the Lender or the Trustee if such claim is the result of the Issuer's, the Lender's or the Trustee's negligence or willful misconduct or those acting on behalf of the Issuer, the Lender or the Trustee. Other than as identified in any Environmental Reports provided to the Issuer, to the best of the Tenant's knowledge, the Tenant represents and warrants to the Issuer, the Lender and the Trustee that the Project Site and the Project and their respective prior and existing uses have at all times complied with and will comply with all Environmental Laws. The Tenant shall promptly and diligently take or cause to be taken all actions necessary to cure any noncompliance with any Environmental Law and shall be solely responsible for any violation by it, its employees or agents of any Environmental Laws, and the Tenant further agrees that it will take all necessary action to clean-up, eliminate or contain any environmental contamination, including contamination caused by any previous owner of the Project or the Project Site, and will pay in full all costs and expenses associated with such action.

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



**Section 10.7. Tenant to Maintain its Corporate Existence** . The Tenant agrees that until the Bonds are paid or payment is provided for in accordance with the terms of the Indenture, Tenant will not dissolve or otherwise dispose of all or substantially all of its assets; provided, however, that the Tenant may, without violating the agreement contained in this Section, consolidate with or merge into another domestic corporation (i.e., a corporation incorporated and existing under the laws of one of the states of the United States) or permit one or more other domestic corporations to consolidate with or merge into it, or may sell or otherwise transfer to another domestic corporation all or substantially all of its assets as an entirety and thereafter dissolve, provided, the surviving, resulting or transferee corporation expressly assumes in writing all the obligations of the Tenant contained in this Lease; and, further provided, that the surviving, resulting or transferee corporation, as the case may be, has a consolidated net worth (after giving effect to said consolidation, merger or transfer) at least equal to or greater than that of the Tenant immediately prior to said consolidation, merger or transfer. The term “net worth”, as used in this Section, shall mean the difference obtained by subtracting total liabilities (not including as a liability any capital or surplus item) from total assets of the Tenant and all of its subsidiaries. In any such consolidation, merger or transfer the Tenant shall comply with the provisions of **Section 10.1** hereof to the extent applicable.

**Section 10.8. Security Interests** . At the written request of the Owner of the Bonds, the Issuer and the Tenant agree to enter into all instruments (including financing statements and statements of continuation) necessary for perfection of and continuance of the perfection of the security interests of the Issuer and the Trustee in the Project. Upon the written instructions of the Owner of the Bonds, the Trustee shall file, at the expense of the Tenant, all instruments the Owner of the Bonds shall deem necessary to be filed and the Trustee shall continue or cause to be continued the liens of such instruments for so long as the Bonds shall be Outstanding. The Issuer and the Tenant shall cooperate with the Trustee in this regard by executing such continuation statements and providing such information as the Trustee may require to renew such liens. The Trustee shall, at the expense of the Tenant, maintain a file showing a description of all Project Equipment, said file to be compiled from the certificates furnished to the Trustee pursuant to **Section 4.4** and **Section 8.2** hereof.

## ARTICLE XI

### OPTION AND OBLIGATION TO PURCHASE THE PROJECT

**Section 11.1. Option to Purchase the Project** . The Tenant shall have, and is hereby granted, the option to purchase the Project at any time, prior to the expiration of the Lease Term upon payment in full of all Bonds then Outstanding or provision for their payment having been made pursuant to **Article XIII** of the Indenture. To exercise such option the Tenant shall give written notice to the Issuer, the Lender and the Trustee, if any, of the Bonds as shall then be unpaid or provision for their payment shall not have been made in accordance with the provisions of the Indenture, and shall specify therein the date of closing such purchase, which date shall be not less than 30 nor more than 180 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 Tenant shall make arrangements satisfactory to the Trustee for the giving of the required notice of redemption. Notwithstanding the forgoing, subsequent to the occurrence of an uncured Event of Default, if the Issuer or the Trustee provides notice of its intent to exercise its remedies

hereunder (a "**Remedies Notice**"), the Tenant shall be deemed to have exercised its repurchase option under this Section on the 29th day following the issuance of the Remedies Notice without any further action by the Tenant; provided said notice of intent to exercise remedies hereunder has not been rescinded by such date (such option to take place on the 29th day following the issuance of the Remedies Notice). The Tenant may rescind such exercise by providing written notice to the Issuer and the Trustee on or prior to the 29th day. The purchase price payable by the Tenant in the event of its exercise or deemed 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 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 and expenses under the Indenture accrued and to accrue until such redemption of the Bonds; plus
- (c) 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
- (d) an amount of money equal to the Issuer's reasonable fees and expenses for its counsel in connection with such purchase of the Project; plus
- (e) the sum of \$1,000.

At its option, to be exercised at least 5 days prior to the date of closing such purchase, the Tenant may deliver to the Trustee for cancellation Bonds not previously paid, and the Tenant shall receive a credit against the purchase price payable by the Tenant 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 Issuer will upon receipt of the purchase price deliver to the Tenant the following:

- (a) If the Indenture shall not at the time have been satisfied in full, a release from the Trustee of the Project from the lien and/or security interest of the Indenture or the Lease.
- (b) A special warranty deed conveying to the Tenant legal title to the Project, as it then exists, subject to the following: (1) those liens and encumbrances, if any, to which title to the Project was subject when conveyed to the Issuer; (2) those liens and encumbrances created by the Tenant or to the creation or suffering of which the Tenant consented; (3) those liens and encumbrances resulting from the failure of the Tenant to perform or observe any of the agreement on its part contained in this Lease; (4) Permitted Encumbrances other than the Indenture and this Lease, as applicable; and (5) 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 options and obligation to purchase the Project granted to the Tenant in this Article shall be and remain prior and superior to the Indenture and may be exercised whether or not the Tenant is in default under this Lease, provided that such default will not result in nonfulfillment of any condition to the exercise of any such option.

**Section 11.4. Obligation to Purchase the Project.** The Tenant hereby agrees to purchase, and the Issuer hereby agrees to sell, the Project for the sum of \$1,000 at the expiration of the Lease Term following full payment of the Bonds or provision for payment thereof and all other fees, charges and expenses having been made in accordance with the provisions of the Indenture, this Lease and all other documents entered into with respect to the Bonds; provided, however, that the Tenant may deliver to the Trustee for cancellation Bonds not previously paid, and the Tenant shall receive a credit against the purchase price payable by the Tenant in an amount equal to 100% of the principal amount of the Bonds so delivered for cancellation, plus the accrued interest thereon, if any. If Tenant has not sooner elected to exercise the option to purchase pursuant to this **Article XI**, Tenant shall be automatically deemed to have exercised such option on the day before the expiration date of this Lease, unless Tenant shall have rescinded such election by written notice given to Issuer or Trustee on or before such day.

## ARTICLE XII

### DEFAULTS AND REMEDIES

**Section 12.1. Events of Default** . If any one or more of the following events shall occur and be continuing, it is hereby defined as and declared to be and to constitute an “Event of Default” or “default” under this Lease:

(a) Default in the due and punctual payment of Basic Rent, or the payment of PILOTS, for a period of 5 days following written notice to the Tenant by the Issuer or the Trustee or default in the due and punctual payment of Additional Rent for a period of 30 days following written notice to the Tenant and the Lender by the Issuer or the Trustee; or

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

(c) The Tenant shall: (1) admit in writing its inability to pay its debts as they become due; or (2) file 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 file a pleading asking for such relief; or (3) make an assignment for the benefit of creditors; or (4)

consent to the appointment of a trustee, receiver or liquidator for all or a major portion of its property or shall fail to have the appointment of any trustee, receiver or liquidator made without the Tenant's consent or acquiescence, vacated or set aside; or (5) be finally adjudicated as bankrupt or insolvent under any federal or state law; or (6) be subject to any proceeding, or suffer the entry of a final and non-appealable court order, under any federal or state law appointing a trustee, receiver or liquidator for all or a major part of its property or ordering the winding-up or liquidation of its affairs, or approving a petition filed against it under the Bankruptcy Code, as now or in the future amended, which order or proceeding, if not consented to by it, shall not be dismissed, vacated, denied, set aside or stayed within 60 days after the day of entry or commencement; or (7) suffer a writ or warrant of attachment or any similar process to be issued by any court against all or any substantial portion of its property, and such writ or warrant of attachment or any similar process is not contested, stayed, or is not released within 60 days after the final entry, or levy or after any contest is finally adjudicated or any stay is vacated or set aside; or

(d) The Tenant shall vacate or abandon the Project, or shall have been ejected from the Project or any portion thereof by reason of a defect in title to the Project, and the same shall remain uncared for and unoccupied for a period of 60 days (or such longer period as is reasonably required to cure such defect in title); or

(e) The occurrence and continuance of an "Event of Default" by the Tenant under the Performance Agreement, following any applicable notice and grace period provided in the Performance Agreement, and such default shall continue for 60 days after the Issuer has given the Tenant written notice specifying such default.

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. 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** hereof shall have occurred and be continuing beyond any applicable notice and cure period, then the Issuer may at the Issuer'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 Event of Default shall continue beyond any applicable notice and cure period, take any one or more of the following actions as the Issuer's sole and exclusive remedies (except as otherwise expressly provided herein):

(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 (unless the Owners of 100% of the principal amount of such Bonds determine otherwise); provided that if all obligations due and owing under the Indenture, this Lease and the Performance Agreement have been paid, the Issuer shall convey the Project to the Tenant in accordance with **Section 11.2** hereof;

(b) give the Tenant 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 Tenant's rights to possession of the Project shall cease and this Lease shall thereupon be terminated, and the Issuer may re-enter and take possession of the Project (unless Tenant shall have exercised or be deemed to have exercised Tenant's option to purchase under **Article XI** hereof, in which event the terms of such **Article XI** shall control).

**Section 12.3. Survival of Obligations** . The Tenant covenants and agrees with the Issuer and Bondowners that those of its obligations under this Lease which by their nature require performance after the end of the term of this Lease, or which are expressly stated herein as intended to survive expiration or termination of this Lease shall survive the cancellation and termination of this Lease, for any cause, and that the Tenant shall continue to pay the Basic Rent and Additional Rent and perform all other obligations provided for in this Lease, all at the time or times provided in this Lease; provided, however, that upon the payment of all Basic Rent and Additional Rent required under **Article V** hereof, and upon the satisfaction and discharge of the Indenture under **Section 1301** thereof, the Tenant's obligation under this Lease shall thereupon cease and terminate in full.

**Section 12.4. Performance of the Tenant's Obligations by the Issuer** . If the Tenant shall fail to keep or perform any of its obligations as provided in this Lease in the making of any payment or performance of any obligation, then the Issuer, or the Trustee in the Issuer's name, or the Lender may (but shall not be obligated so to do) upon the continuance of such failure on the Tenant's part for 30 days after written notice of such failure is given to the Tenant and the Lender by the Issuer or the Trustee, and without waiving or releasing the Tenant 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 Issuer, or the Trustee and all necessary incidental reasonable costs and expenses (including, without limitation, attorney's fees and expenses) incurred by the Issuer or the Trustee in performing such obligations shall be deemed Additional Rent and shall be paid to the Issuer or the Trustee on demand, and if not so paid by the Tenant, the Issuer or the Trustee shall have the same rights and remedies provided for in **Section 12.2** hereof in the case of default by the Tenant in the payment of Basic Rent.

**Section 12.5. Rights and Remedies Cumulative** . The rights and remedies reserved by the Issuer and the Tenant hereunder 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 Issuer and the Tenant 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 availability of an adequate remedy at law, and each party hereby waives the right to raise such defense in any proceeding in equity.

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



**Section 12.7. Trustee's Exercise of the Issuer's Remedies** . Whenever any Event of Default shall have occurred and be 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 Issuer under this Article, upon notice as required of the Issuer unless the Issuer has already given the required notice. In addition, the Trustee shall have available to it all of the remedies prescribed by the Indenture and this Lease.

**Section 12.8. Notice of Defaults Under Section 12.1; Opportunity of Tenant to Cure Defaults** .

(a) Anything herein to the contrary notwithstanding, no default specified in **Section 12.1(c), (d) or (e)** shall constitute an Event of Default until actual notice of such default by registered or certified mail shall be given by the Issuer, the Trustee or by the Owners of 25% in aggregate principal amount of all Bonds Outstanding to the Tenant and the Lender and the Tenant and the Lender shall have had 30 days after receipt of such notice to correct said default or cause said default to be corrected, and shall not have corrected said default or caused said default to be corrected within such period; provided, however, if any such default shall be such that it cannot be corrected within such period, it shall not constitute an Event of Default if corrective action is instituted by the Tenant or the Lender within such period and diligently pursued until the default is corrected.

(b) With regard to any alleged default concerning which notice is given to the Tenant and the Lender under the provisions of this Section, the Issuer hereby grants the Tenant and the Lender full authority for account of the Issuer to perform any covenant or obligation, the nonperformance of which is alleged in said notice to constitute a default, in the name and stead of the Issuer, with full power to do any and all things and acts to the same extent that the Issuer could do and perform any such things and acts in order to remedy such default.

**ARTICLE XIII**

**ASSIGNMENT AND SUBLEASE**

**Section 13.1. Assignment; Sublease.**

(a) The Tenant shall have the right to assign, transfer, encumber or dispose of this Lease or any interest therein or part thereof, with the written consent of the Issuer (unless such assignment, transfer, encumbrance, or disposition is an assignment to the Lender, in which case no such written consent of the Issuer is required), for any lawful purpose under the Act, and consistent with the Performance Agreement. Notwithstanding the foregoing, the Lender may sell at foreclosure sale or by deed in lieu of foreclosure, the interest of the Tenant in this Lease. With respect to any assignment, the Tenant or the Lender, as applicable, shall comply with the following conditions:

- (1) Such assignment shall be in writing, duly executed and acknowledged by the assignor and in proper form for recording;
- (2) Such assignment shall include the entire then unexpired term of this Lease;

(3) A duplicate original of such assignment shall be delivered to the Issuer and the Trustee within ten (10) days after the execution thereof, together with an assumption agreement, duly executed and acknowledged by the assignee 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 Tenant to be performed and observed;

(4) At the time of any such assignment there shall be no damage or destruction to the Project which has not been repaired, restored and replaced in accordance with the provisions of this Lease, unless any funds then held by the Tenant for the purposes of such repair, restoration and replacement are simultaneously transferred to the assignee;

(5) Any assignee of all the rights of the Tenant 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; and

(6) Issuer shall be satisfied that the assignee has the financial resources to perform its obligations under **Section 10.5** hereof or the Issuer and the Trustee shall be provided indemnification from another party acceptable to the Issuer that has the financial resources to perform such obligations.

Upon the satisfaction of the conditions set forth herein, the assignor shall be relieved of all further liability occurring on and after the effective date of such assignment. The consent of the Issuer to any assignment, transfer, encumbrance or disposition described in this subsection (a) shall not be unreasonably withheld or delayed.

(b) The Tenant shall have the right to sublet all or any portion of the Project to an entity or entities for any lawful purpose under the Act. No sublease of the Project shall release or discharge the Tenant from its primary liability for the payment of the Basic Rent and Additional Rent hereunder and the performance of each and all of the covenants and agreements herein contained, and its duties and obligations under this Lease or the Performance Agreement shall continue as if no such sublease had been made.

If for any reason this Lease and the leasehold estate of the Tenant hereunder is terminated by the Issuer by summary proceedings or otherwise in accordance with the terms of this Lease, the Issuer covenants and agrees that such termination of this Lease shall not result in a termination of any sublease (so long as no event has occurred that by notice or with the passage of time would be a default in the terms of such sublease) affecting the Project or any part or parts thereof and that they shall all continue for the duration of their respective terms and any extensions thereof as a direct lease between the Issuer hereunder and the sublessee thereunder, with the same force and effect as if the Issuer hereunder had originally entered into such sublease as landlord thereunder. Any such sublessee shall not be named or joined in any action or proceeding by the Issuer under this Lease to recover possession of the Project or for any other relief if such sublessee is not then in default under the terms of its sublease beyond any applicable grace period for curing the same. The Issuer shall, upon request, execute, acknowledge and deliver such agreements evidencing and agreeing to the foregoing in a form reasonably satisfactory to the Tenant.

Any consent of the Issuer required by this subsection (b) shall not be unreasonably withheld or delayed.

**Section 13.2. Assignment of Revenues by Issuer** . The Issuer 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 Tenant hereby consents to such pledge and assignment.

**Section 13.3. Prohibition Against Fee Mortgage of Project.** The Issuer shall not mortgage its fee or leasehold 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 Issuer.** During this Lease Term, the Issuer agrees that, except to secure the Bonds to be issued pursuant to the Indenture, it will not sell, assign, encumber, mortgage, transfer or convey the Project or any interest therein.

#### ARTICLE XIV

#### AMENDMENTS, CHANGES AND MODIFICATIONS

**Section 14.1. Amendments, Changes and Modifications.** Except as otherwise provided in this Lease or in the Indenture, subsequent to the issuance of Bonds and prior to 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 and the Lender (if any), given in accordance with the provisions of the Indenture.

#### 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 when (i) mailed by registered or certified mail, postage prepaid, or (ii) sent by overnight delivery or other delivery service which requires written acknowledgment of receipt by the addressee, addressed as follows:

(a) To the Issuer:

City of Raymore, Missouri  
100 Municipal Circle  
Raymore, Missouri 64083  
Attention: City Manager

(b) To the Tenant:

Kansas City Property Partners, LLC  
C/o Southern Glazers Wine and Spirits, LLC  
14911 Quorum, Suite 150  
Dallas, Texas 75254  
Attention: General Counsel – Real Estate

(c) To the Trustee:

Security Bank of Kansas City  
701 Minnesota Avenue  
Kansas City, Kansas 66101

(d) To the Lender:

Western-Southern Life Assurance Company  
400 Broadway  
Cincinnati, Ohio 45202  
Attention: Sarah Herron/Michael Barnett  
With a copy to:

Pircher, Nichols & Meeks  
1901 Avenue of the Stars, Suite 1200  
Los Angeles, California 90067  
Attention: Real Estate Notices (DLP/4317.145)

Any notice or demand hereunder shall be deemed given when received. Any notice or demand which is rejected, the acceptance of delivery of which is refused or which is incapable of being delivered during normal business hours at the address specified herein or such other address designated pursuant hereto shall be deemed received as of the date of the attempted delivery. A duplicate copy of each notice, certificate or other communication given hereunder by either the Issuer, the Trustee or the Tenant shall also be given to the others and to the Lender. The Issuer, the Tenant, 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. Any notice of default given to Tenant hereunder must include a statement that Tenant's failure to cure said default and/or rescind its automatic exercise of the option will result in an automatic exercise of the option to purchase by Tenant under **Article XI** hereof.

**Section 15.2. Issuer Shall Not Unreasonably Withhold Consents and Approvals .**

Wherever in this Lease it is provided that the Issuer shall, may or must give its approval or consent, or execute supplemental agreements or schedules, the Issuer 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 Issuer'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 Issuer.

**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 Issuer and the Trustee funds adequate in amount to pay all principal of and interest accruing on the Bonds as the same become due and payable, and (c) that if after the principal of and interest on the Bonds and all fees, expenses and costs incident to the payment of the Bonds have been paid in full the Trustee or the Issuer 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 Tenant 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 Tenant.

**Section 15.4. No Pecuniary Liability.** No provision, covenant or agreement contained in this Lease, the Indenture or the Bonds, or any obligation herein or therein imposed upon the Issuer, or the breach thereof, shall constitute or give rise to or impose upon the Issuer a pecuniary liability or a charge upon the general credit or taxing powers of the City of Raymore, Missouri or the State of Missouri. Such limitation shall not apply to any liability or charge directly resulting from the Issuer's breach of any provision, covenant or agreement contained herein.

**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 Issuer and the Tenant and their respective successors and assigns. The Lender shall be recognized as a third-party beneficiary of this Lease with the right to enforce its rights hereunder.

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

**Section 15.8. Execution in Counterparts** . This Lease may be executed 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 15.9. Electronic Storage** . The parties agree that the transactions described herein may be conducted and related documents may be received, sent 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. Issuer Consent.** Pursuant to the Ordinance, the Mayor or the City Manager are authorized to execute all documents on behalf of the Issuer (including documents pertaining to the transfer of property or the financing or refinancing of the Project by the Tenant) as may be required to carry out and comply with the intent of the Ordinance, the Indenture and this Lease. The Mayor or the City Manager are also authorized, unless expressly prohibited herein, to grant on behalf of the Issuer 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, and provided further, that the Mayor or the City Manager may seek the input or a decision from the City Council on any matter.

**Section 15.11. Subordination of Lease.** By its execution hereof, each of the Tenant and the Issuer hereby agree that this Lease shall be, is and shall continue to be, subordinate and inferior to the Fee Deed of Trust and the other Loan Documents of the Lender until all Indebtedness (as such term is defined in the Fee Deed of Trust) has 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 and the other Loan Documents. Such subordination shall be self-operative and shall be irrespective of the time, manner, order of recording or perfection or 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 any security interests referred to herein.

**Section 15.12. Satisfaction of Tenant's Obligations** . Any obligation of the Tenant under this Lease, including, but not limited to, the obligations of the Tenant to pay Basic Rent, Additional Rent and to maintain insurance pursuant to **Article VII**, may be performed by a member of the Tenant or a sublessee of Tenant, and such performance by a member or sublessee of the Tenant shall be treated as though the obligation were performed by the Tenant.

**Section 15.13 Complete Agreement** . **THE TENANT AND THE ISSUER UNDERSTAND THAT ORAL OR UNEXECUTED AGREEMENTS OR COMMITMENTS TO LOAN MONEY, EXTEND CREDIT OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT INCLUDING PROMISES TO EXTEND OR RENEW SUCH DEBT ARE NOT ENFORCEABLE. TO PROTECT THE TENANT AND THE ISSUER FROM MISUNDERSTANDING OR DISAPPOINTMENT, ANY AGREEMENTS THE TENANT AND THE ISSUER REACH COVERING SUCH MATTERS ARE CONTAINED IN THIS LEASE AND THE PERFORMANCE AGREEMENT, WHICH ARE THE COMPLETE AND EXCLUSIVE STATEMENTS OF THE AGREEMENT BETWEEN THE TENANT AND THE ISSUER, EXCEPT AS THE TENANT AND THE ISSUER MAY LATER AGREE IN WRITING TO MODIFY THIS LEASE OR THE PERFORMANCE AGREEMENT.**

*[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]*

**IN WITNESS WHEREOF**, the parties hereto have caused this Lease to be executed in their respective corporate names and their respective corporate seals to be hereunto affixed and attested by their duly authorized officers, all as of the date first above written.

**CITY OF RAYMORE, MISSOURI**

By: \_\_\_\_\_  
Mayor

(Seal)

ATTEST:

By: \_\_\_\_\_  
City Clerk

**KANSAS CITY PROPERTY PARTNERS, LLC,**  
a Florida limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_

## GUARANTEE WITH RESPECT TO CERTAIN INDEMNITY PROVISIONS

In consideration of the agreement by the City of Raymore, Missouri, (the “Issuer”) to take title to the Project Site (as defined in the Lease) and to enter into the foregoing Lease Agreement (the “Lease”) with KANSAS CITY PROPERTY PARTNERS, LLC (the “Company”), the undersigned hereby unconditionally guarantees to the Issuer and the Lender and their elected officials, officers, and employees, the full and prompt performance of the indemnity obligations of the Company under **Section 10.5** of the Lease, but solely to the extent provided in such Section.

SOUTHERN GLAZER’S WINE AND SPIRITS OF  
MISSOURI, LLC

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT A**

**PROJECT SITE**

All of the following property located in Cass County, Missouri:

Lot 1 of the Raymore Commerce Center, First Plat Subdivision, Cass County, Missouri.



## **EXHIBIT B**

### **PROJECT IMPROVEMENTS**

All buildings, structures, improvements and fixtures located on or to be acquired or purchased for the construction, improvement, equipping or remodeling of the Project Site pursuant to **Article IV** hereof and paid for in whole or in part from the proceeds of Bonds and all additions, alterations, modifications and improvements thereof made pursuant to this Lease.

**EXHIBIT C**  
**PROJECT EQUIPMENT**

**None**

## EXHIBIT D

### [FORM OF REQUISITION CERTIFICATE]

Requisition No. \_\_\_\_\_

Date: \_\_\_\_\_

### REQUISITION CERTIFICATE

TO: SECURITY BANK OF KANSAS CITY, AS TRUSTEE UNDER A TRUST INDENTURE DATED AS OF December \_\_, 2021, BETWEEN THE CITY OF RAYMORE, MISSOURI, AND THE TRUSTEE, AND LEASE AGREEMENT DATED AS OF December \_\_, 2021, BETWEEN THE CITY OF RAYMORE, MISSOURI, AND KANSAS CITY PROPERTY PARTNERS, LLC

Pursuant to **Section 503** of the Trust Indenture dated as of December \_\_, 2021 (the "Indenture") relating to the City of Raymore, Missouri, Taxable Industrial Revenue Bonds (Kansas City Property Partners, LLC Project), Series 2021, (the "Bonds"), the undersigned Authorized Tenant Representative hereby requests payment of Project Costs from the Project Fund in accordance with this request, and hereby certifies as follows:

*Capitalized terms not defined herein shall have the meanings set forth in the Indenture.*

1. The Trustee is requested and directed to pay Project Costs from the proceeds of the Bonds deposited in the Project Fund said Project Costs to be paid in such amounts, to such payees and for such purposes as set forth on **Schedule 1** hereto.

2. **Schedule 2** contains a description of each item of Project Costs for which payment is being requested, including, if applicable (a) for each item of Project Equipment or Project Improvement, a description of the item and, for each item of Project Equipment, a serial or other identifying number, if any, for such item.

3. The amounts requested are or were necessary and appropriate in connection with the purchase, construction, installation and equipping of the Project, have been properly incurred and are a proper charge against the Project Fund, and have been paid by the Tenant 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, construction, installation and equipping of the Project which, if unpaid, might become the basis of a vendors', mechanics', laborers' or materialmen's statutory or similar lien upon the Project or any part thereof.

5. Lien waivers for costs for which payment is hereby requested have been received and are on file with the Tenant and will be delivered upon request.

6. With respect to any personal property described in this Requisition Certificate and for which Project Costs are disbursed pursuant to this Requisition Certificate, in consideration of such disbursement, such personal property is hereby BARGAINED and SOLD, and the Tenant by these presents does now GRANT and CONVEY, unto the CITY OF RAYMORE, MISSOURI, and its successors and assigns, all of its right, title and interest, if any, in and to such personal property, and such personal property shall constitute a portion of the "Project" as defined under the Lease Agreement dated as of December \_\_, 2021, between the Tenant and the Issuer. The property is being conveyed "as is," "where is" and "with all faults" as of the date of this Requisition Certificate, without any representation or warranty whatsoever as to its condition, fitness for any particular purpose, merchantability, or any other warranty, express or implied.

**KANSAS CITY PROPERTY PARTNERS, LLC,**  
a Florida limited liability company,  
as Purchaser

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Authorized Tenant Representative

**SCHEDULE 1 TO REQUISITION CERTIFICATE**

<u>Amount</u>	<u>Payee and Address</u>	<u>Description</u>
---------------	--------------------------	--------------------

\$ _____		
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**SCHEDULE 2 TO REQUISITION CERTIFICATE**

**IDENTIFICATION OF PROJECT COMPONENTS**

**FOR WHICH PROJECT COSTS ARE REQUESTED**

<u>Description of Project Cost</u>	Amount Constituting Project Improvements <u>(Real Property)</u>	Amount Constituting Project <u>Equipment</u>	Serial Number or Other Identification (for Project <u>Equipment</u> )
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**CITY OF RAYMORE, MISSOURI**

**AND**

**SECURITY BANK OF KANSAS CITY  
As Trustee**

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**TRUST INDENTURE**

**Dated as of December \_\_, 2021**

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**Relating to:**

**\$44,000,000  
(Aggregate Maximum Principal Amount)  
City of Raymore, Missouri  
Taxable Industrial Revenue Bonds  
(Kansas City Property Partners, LLC Project)  
Series 2021**

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## TRUST INDENTURE

**THIS TRUST INDENTURE** dated as of December \_\_, 2021 (the “**Indenture**”), between the **CITY OF RAYMORE, MISSOURI**, a constitutional charter city duly organized and validly existing under the laws of the State of Missouri (the “**Issuer**”), and **SECURITY BANK OF KANSAS CITY, a** state banking corporation duly organized and validly existing under the laws of the State of Kansas and authorized to accept and execute trusts of the character herein set forth under the laws of the State of Missouri, with a corporate trust office located in Kansas City, Kansas, as Trustee (the “**Trustee**”);

### WITNESSETH:

**WHEREAS**, the Issuer is authorized and empowered pursuant to the provisions of Article VI, Section 27(b) of the Missouri Constitution and Sections 100.010 through 100.200, inclusive, of the Revised Statutes of Missouri, as amended (collectively, the “**Act**”), to purchase, construct, extend, equip 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 Issuer deem advisable;

**WHEREAS**, pursuant to the Act, the governing body of the Issuer has heretofore passed an ordinance (the “**Ordinance**”) on \_\_\_\_\_, 2021, authorizing the Issuer to issue its Taxable Industrial Revenue Bonds (Kansas City Property Partners, LLC Project), Series 2021, in the maximum principal amount of not to exceed \$44,000,000 (the “**Bonds**”), for the purpose of acquiring, constructing and equipping an industrial distribution warehouse and commercial facility and associated site works and infrastructure, consisting of one building with approximately 567,495 square feet, including land, buildings, structures, improvements and fixtures, as hereinafter more fully described (the “**Project**”), and authorizing the Issuer to lease the Project to the Tenant;

**WHEREAS**, pursuant to the Ordinance, the Issuer is authorized to execute and deliver this Indenture for the purpose of issuing and securing the Bonds and to enter into the Lease Agreement of even date herewith (the “**Lease**”), with the Tenant under which the Issuer, as lessor, will acquire, purchase, construct, equip and remodel the Project and will lease the Project to the Tenant, as lessee, in consideration of rentals which will be sufficient to pay the principal of and interest on the Bonds; and

**WHEREAS**, 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 Issuer, and to constitute this Indenture a valid and legally binding pledge and assignment of the Trust Estate herein made for the security of the payment of the principal of and interest on the Bonds, have been done and performed, and the execution and delivery of this Indenture and the execution and issuance of the Bonds, subject to the terms hereof, have in all respects been duly authorized;

**NOW, THEREFORE, THIS TRUST INDENTURE WITNESSETH:**

**GRANTING CLAUSES**

That the Issuer, in consideration of the premises, the acceptance by the Trustee of the trusts hereby created, the purchase and acceptance of the Bonds by the Owners thereof, and of other good and valuable consideration, the receipt of which is hereby acknowledged, and in order to secure the payment of the principal of and interest on all of the Bonds issued and Outstanding under this Indenture from time to time according to their tenor and effect, and to secure the performance and observance by the Issuer 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 (subject to the proviso set forth in the following paragraph), 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 Issuer in and to the Project together with the tenements, hereditaments, appurtenances, rights, privileges and immunities thereunto belonging or appertaining;

(b) All right, title and interest of the Issuer in, to and under the Lease (excluding its rights of indemnification and the payment of its fees and expenses), and all rents, revenues and receipts derived by the Issuer from the Project including, without limitation, all rentals and other amounts to be received by the Issuer and paid by the Tenant under and pursuant to and subject to the provisions of the Lease; and

(c) All moneys and securities from time to time held by the Trustee under the terms of this Indenture, and any and all other real or personal property of every kind and nature from time to time hereafter, by delivery or by writing of any kind, pledged, assigned or transferred as and for additional security hereunder by the Issuer 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 Issuer shall well and truly pay, or cause 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 shall provide for the payment thereof (as provided in **Article XIII** hereof), and shall pay or cause to be paid to the Trustee all other sums of money due or to become due to it in accordance with the terms and provisions hereof, then upon such final payments this Indenture and

the rights thereby granted shall cease, determine and be void; otherwise, this Indenture shall be and remain in full force and effect.

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

## ARTICLE I

### DEFINITIONS

**Section 101. Definitions of Words and Terms** . In addition to words and terms defined in **Section 1.1** of the Lease, which definitions shall be deemed to be incorporated herein, and terms defined elsewhere in this Indenture, the following words and terms as used in this Indenture shall have the following meanings, unless some other meaning is plainly intended:

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

**“Additional Bonds”** means any Bonds issued pursuant to **Section 209** of this Indenture.

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

**“Authorized Tenant Representative”** means the person at the time designated to act on behalf of the Tenant as evidenced by written certificate furnished to the Issuer and the Trustee containing the specimen signature of such person and signed on behalf of the Tenant by authorized officers. Such certificate may designate an alternate or alternates each of whom shall be entitled to perform all duties of the Authorized Tenant Representative.

**“Bond”** or **“Bonds”** means the Taxable Industrial Revenue Bonds (Kansas City Property Partners, LLC Project), Series 2021, in the maximum principal amount of not to exceed \$44,000,000, issued pursuant to **Section 208** of this Indenture and Additional Bonds, authenticated and delivered under and pursuant to this Indenture.

**“Bond Fund”** means “City of Raymore, Missouri, Taxable Industrial Revenue Bond Fund –Kansas City Property Partners, LLC, Series 2021” created in **Section 601** of this Indenture.

“**Bondowner**” means the registered owner of any Bond, as recorded in the books maintained by the Trustee for registration and transfer of the Bonds, and for any actions requiring the consent of an Owner hereunder, the Lender.

“**Bond Purchase Agreement**” means the agreement by that name with respect to the Bonds by and between the Issuer and the purchaser identified therein.

“**Business Day**” shall mean a day which is not (a) a Saturday, Sunday or any other day on which the Issuer or banking institutions in New York, New York, or cities in which the principal payment or other designated corporate office of the Trustee is located are required or authorized to close or (b) a day on which the New York Stock Exchange is closed.

“**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 Issuer as the amount required to pay for the initial issuance of the Bonds on the Closing Date, which amount shall be equal to any Project Costs spent by the Tenant from its own funds before the Closing Date plus the costs of issuing the Bonds.

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

“**Costs of Issuance Fund**” means the “City of Raymore, Missouri, Costs of Issuance Fund – Kansas City Property Partners, LLC” created in **Section 501** hereof.

“**Cumulative Outstanding Principal Amount**” means an amount equal to the aggregate of all amounts paid into the Project Fund in accordance with the provisions of this Indenture, the Bond Purchase Agreement and the Lease, as reflected in the bond registration records maintained by the Trustee or in the Table of Cumulative Outstanding Principal Amount set forth in the form of Bond in **Section 401** hereof.

“**Event of Default**” means 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, Security Agreement, Assignment of Leases and Rents and Fixture Filing dated as of December \_\_, 2021 granted by the Tenant for the benefit of Western-Southern Life Assurance Company, an Ohio corporation.

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

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

“**Investment Securities**” means any of the following securities:

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

(b) obligations of the Federal National Mortgage Association, 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, Farm Service Agency and Federal Home Loan Mortgage Corporation;

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

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

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

(f) Any other investment approved in writing by the Owner of the Bonds.

**“Issuer”** means the City of Raymore, Missouri, a constitutional charter city organized and existing under the laws of the State of Missouri, and its successors and assigns.



“**Lease**” means the Lease Agreement dated as of December \_\_, 2021, between the Issuer, as Lessor, and the Tenant, as Lessee, as from time to time amended and supplemented by Supplemental Leases in accordance with the provisions thereof and of **Article XII** of this Indenture.

“**Leasehold Deed of Trust**” means the Leasehold Deed of Trust, Security Agreement, Assignment of Leases and Rents and Fixture Filing dated as of the date hereof granted by Tenant for the benefit of Western-Southern Life Assurance Company, an Ohio corporation.

“**Lender**” means any financial institution or lender providing financing to Tenant and its successors or assigns secured by a Mortgage (as defined in the Lease) from Tenant to Lender with respect to the Project.

“**Maturity Date**” means December 1, 2041.

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

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

“**Owner**” shall have the same meaning as Bondowner.

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

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

“**Performance Agreement**” means the Development and Performance Agreement dated as of December 23, 2019, between the Issuer and the Tenant (as assignee of VTRE Development, LLC), as amended and supplemented from time to time.

“**Permitted Encumbrances**” means, as of any particular time (a) liens for ad valorem taxes, special assessments and other governmental charges not then delinquent, (b) the Indenture, the Lease, the Fee Deed of Trust, the Leasehold Deed of Trust, the Mortgage and the Performance Agreement, (c) liens or security interests granted to the Lender, all as now existing or hereafter granted, including any subsequent or additional security instruments relating to any future financings or refinancings, (d) such

exceptions to title set forth in the title policy included in the transcript of proceedings relating to the Bonds, (e) any sublease, license or easement agreement between the Tenant and a subtenant allowing the use by such party of portions of the Project Site and/or the Project, so long as such use does not impair the use or operation of the Project, and provided that no such agreement shall release the Tenant from its obligations under the Lease or the Performance Agreement, (f) any other lien, encumbrance, lease, easements, restrictions or covenants consented to by the Tenant and/or the Owner of 100% of the principal amount of the Bonds.

**“PILOTS”** means the payments in lieu of taxes to be paid by the Tenant to the City pursuant to the Performance Agreement.

**“Project”** means the project referred to in the recitals of this Indenture, including the Project Site, the Project Improvements and the Project Equipment, and all additions, modifications, improvements, replacements and substitutions made to the Project pursuant to the Lease as they may at any time exist.

**“Project Costs”** means all costs of acquisition, purchase, construction, improvement, equipping and remodeling of the Project, including the following:

(a) all costs and expenses necessary or incident to the acquisition of the Project Site and any Project Improvements and Project Equipment located thereon at the execution of this Lease and which the Tenant conveys to the Issuer;

(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 to the commencement of acquisition, purchase, construction, improvement, equipping and remodeling, preparation of plans, drawings and specifications and supervision of construction and renovation, as well as for the performance of all other duties of architects, appraisers, surveyors and engineers in relation to the acquisition, purchase, construction, improvement, equipping and remodeling of the Project or the issuance of the Bonds;

(c) all costs and expenses of every nature incurred in acquisition, purchase, construction, improvement and remodeling of the Project Improvements and otherwise improving the Project Site and purchasing and installing the Project Equipment, including without limitation the actual cost of labor, materials, machinery, furnishings and equipment as payable to contractors, builders and materialmen in connection with the acquisition, purchase, construction, improvement, equipping and remodeling of the Project;

(d) interest accruing on the Bonds during the period of the acquisition, purchase, construction, improvement, equipping and remodeling of the Project;

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

(f) reasonable expenses of administration, supervision and inspection properly chargeable to the Project, underwriting expenses, 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 acquisition, purchase, construction, improvement, equipping and remodeling 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; (2) the acquisition, purchase, construction, improvement, equipping and remodeling of the Project; and (3) the financing thereof; and

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

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

**“Project Fund”** means “City of Raymore, Missouri, Project Fund – Kansas City Property Partners, LLC” created in **Section 501** of this Indenture.

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

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

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

**“Refunding Bonds”** shall have the meaning set forth in **Section 209** hereof.

**“State”** means the State of Missouri.

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

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

“**Tenant**” means Kansas City Property Partners, LLC, a Florida limited liability company, and its successors or assigns.

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

“**Trustee**” means Security Bank of Kansas City, a state banking corporation duly organized and validly existing under the laws of the State of Kansas and authorized to accept and execute trusts of the character herein set forth under the laws of the State of Missouri, and its successor or successors and any other corporation which at the time may be substituted in its place pursuant to and at the time serving as Trustee under this Indenture.

**Section 102. Rules of Interpretation.**

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

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

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

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

**ARTICLE II**

**THE BONDS**

**Section 201. Title and Amount of Bonds** . No Bonds may be issued under this Indenture except in accordance with the provisions of this Article. The Bonds authorized to be issued under this Indenture shall be designated as “City of Raymore, Missouri Taxable Industrial Revenue Bond (Kansas City Property Partners, LLC Project), Series 2021.” The maximum total principal amount of Bonds that may be issued hereunder is hereby expressly limited to \$44,000,000, plus the principal amount of any Additional Bonds.

**Section 202. Nature of Obligation** . The Bonds and the interest thereon shall be special obligations of the Issuer payable solely out of the rents, revenues and receipts derived by the Issuer from the Project and not from any other fund or source of the Issuer, and are secured by a pledge and

assignment of the Trust Estate to the Trustee in favor of the Owners of the Bonds, as provided in this Indenture. The Bonds and the interest thereon shall not constitute general obligations of the Issuer or the State of Missouri, and neither the Issuer 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.

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

(a) The Bonds shall be issuable in the form of one fully registered Bond without coupons in the denomination of \$0.01 or any multiple thereof up to the maximum principal denomination of \$44,000,000. The Bond shall be substantially in the form hereinafter set forth in **Article IV** of this Indenture.

(b) The Bond shall be dated by the Trustee as of the date of initial delivery thereof as provided herein. If the Bond is at any time thereafter transferred, any Bond replacing such Bond shall be dated as of the date of authentication thereof.

**Section 204. Method and Place of Payment of Bond .**

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

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

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

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

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

(f) The Trustee covenants and agrees that, except as otherwise herein provided, it will not sell, convey, mortgage, encumber or otherwise dispose of the Bonds.

**Section 205. Execution and Authentication of Bonds .**

(a) The Bond shall be executed on behalf of the Issuer 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 Issuer affixed thereto or imprinted thereon. In case any officer whose signature or facsimile thereof appears on the Bond shall cease to be such officer before the delivery of such Bond, such signature or facsimile thereof shall nevertheless be valid and sufficient for all purposes, the same as if such person had remained in office until delivery. Any Bond may be signed by such persons as at the actual time of the execution of such Bond shall be the proper officers to sign such Bond although at the date of such Bond such persons may not have been such officers.

(b) The Bond shall have endorsed thereon a Certificate of Authentication substantially in the form set forth in **Section 401** hereof, which shall be manually executed by the Trustee. No Bond shall be entitled to any security or benefit under this Indenture or shall be valid or obligatory for any purposes unless and until such Certificate of Authentication shall have been duly executed by the Trustee. Such 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 officer or employee of the Trustee.

**Section 206. Registration, Transfer and Exchange of Bonds .**

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

(b) The Bond may be transferred only upon the books kept for the registration and transfer of Bonds upon surrender thereof to the Trustee duly endorsed for transfer or accompanied by an assignment duly executed by the registered owner or such owner's attorney or legal representative, in such form as shall be satisfactory to the Trustee. The Bond has not been registered under the Securities Act of 1933, as amended, or any state securities law, and the Bond may not be transferred unless (i) the Issuer consents in writing to such transfer, and (ii) and the Issuer and the Trustee are furnished a written legal opinion from counsel acceptable to the Trustee, the Issuer and the Tenant, to the effect that such transfer is exempt from



the registration requirements of the Securities Act of 1933, as amended, and any applicable state securities law. The Bond may be transferred to the Lender or to any successor to the Tenant or any entity owned or under common ownership with the Tenant, as Lessee under the Lease without the necessity of obtaining the Issuer's consent or such an opinion. In connection with any such transfer of the Bond the Trustee shall receive an executed representation letter signed by the proposed assignee containing substantially the same representations contained in the representation letter delivered to the Trustee from the Owner upon the initial issuance of the Bond. Upon any such transfer, the Issuer shall execute and the Trustee shall authenticate and deliver in exchange for such Bond a new fully registered Bond or Bonds, registered in the name of the transferee, of any denomination or denominations authorized by this Indenture, in an aggregate principal amount equal to the Outstanding principal amount of such Bond, of the same maturity and bearing interest at the same rate.

(c) In all cases in which Bonds are exchanged or transferred hereunder the provisions of any legend restrictions on the Bonds shall be complied with and the Issuer shall execute and the Trustee shall authenticate and deliver at the earliest practicable time Bonds in accordance with the provisions of this Indenture. All Bonds surrendered in any such exchange or transfer shall forthwith be cancelled by the Trustee. The Issuer 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 Issuer nor the Trustee shall be required to make any such exchange or transfer of Bonds during the 15 days immediately preceding an interest 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) In the event any registered owner fails to provide a correct taxpayer identification number to the Trustee, the Trustee may impose a charge against such registered owner sufficient to pay any governmental charge required to be paid as a result of such failure. In compliance with Section 3406 of the Internal Revenue Code, such amount may be deducted by the Trustee from amounts otherwise payable to such registered owner hereunder or under the Bonds.

(e) Notwithstanding anything to the contrary in this Indenture, no Bond shall be transferred in a principal amount less than \$100,000 unless the Cumulative Outstanding Principal Amount of all Bonds Outstanding of the series of which such bond is a part is less than \$100,000.

**Section 207. Persons Deemed Owners of Bonds** . As to any Bond, the person in whose name the same shall be registered as shown on the bond registration books required by **Section 206** hereof shall be deemed and regarded as the absolute owner thereof for all purposes, and 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 registered 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) There shall be issued and secured by this Indenture a series of Bonds in the aggregate maximum principal amount of not to exceed \$44,000,000 for the purpose of providing funds for paying the costs of the Project, which Bonds shall be designated “City of Raymore, Missouri Taxable Industrial Revenue Bond (Kansas City Property Partners, LLC Project), Series 2021.” The Bonds shall be dated as provided in **Section 203(b)** hereof, shall become due on the Maturity Date (subject to prior redemption as hereinafter provided in **Article III**) and shall bear interest as specified in **Section 208(e)** hereof, payable on the dates specified in **Section 208(e)** hereof.

(b) The Trustee is hereby designated as the Issuer’s Paying Agent for the payment of the principal of and interest on the Bonds. The Owners of a majority in principal amount of the Bonds then Outstanding may designate a different Paying Agent upon written notice to the Issuer and the Trustee.

(c) The Bond shall be executed without material variance from the form and in manner set forth in **Article IV** hereof and delivered to the Trustee for authentication, but prior to or simultaneously with the authentication and delivery of the Bond by the Trustee, there shall be filed with the Trustee the following:

(1) An original or certified copy of the ordinance passed by the governing body of the Issuer on \_\_\_\_\_, 2021, authorizing the issuance of the Bonds and the execution of this Indenture and the Lease;

(2) An original executed counterpart of this Indenture;

(3) Original executed counterparts of the Lease;

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

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

(6) Evidence of insurance coverage as required by **Article VII** of the Lease.

(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 (a portion of which in an amount equal to the acquisition price of the Project Site may be deemed to have been paid in accordance with the closing memorandum circulated with respect to the Bonds), 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 Tenant shall submit a requisition certificate in accordance with **Section 4.4** of the Lease, in an amount equal to the Closing Price, and the Trustee shall authenticate and endorse the Bonds in an amount equal to the Closing Price and then either hold the Bonds in trust or if so directed in writing deliver the Bonds to the Tenant (or another purchaser designated by the Tenant).

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

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

(f) The Bond shall bear interest at the rate of **2.00%** per annum on the Cumulative Outstanding Principal Amount of the Bond, and such interest shall be payable in arrears on each December 1 until the Maturity Date or upon earlier redemption prior to said date in accordance with **Article III**, and, if the Bond is not paid in full on the Maturity Date, continuing thereafter until the said Cumulative Outstanding Principal Amount is paid in full; provided, however, in no event shall the interest rate on the Bond exceed the maximum permitted amount under Section 108.170 of the Revised Statutes of Missouri. Interest shall be calculated on the basis of a year of 360 days consisting of twelve months of 30 days each. Principal shall be payable at maturity unless redeemed prior to said date in accordance with **Article III**.

(g) Interest only shall be payable on December 1, 2021. Starting with December 1, 2022 and on each December 1 thereafter while any Bonds are Outstanding, both principal and interest shall be payable on each Payment Date. The interest payable on each Payment Date shall be the amount of interest accrued but unpaid on the Cumulative Outstanding Principal Amount on such date. The amount of principal payable on each Payment Date on and after December 1, 2022 shall be determined by dividing the Cumulative Outstanding Principal Amount as of the November 15th immediately preceding such payment date by the number of remaining Payment Dates to and including December 1, 2041. The payment of each such annual installment shall be applied first to accrued interest and then to principal. Any partial prepayment of Bonds under this Indenture shall reduce the Cumulative Outstanding Principal Amount in an amount equal to the principal so prepaid. Absent manifest error, the Trustee's calculation of the Cumulative Outstanding Principal Amount and the principal and interest due on the Bonds on any

Payment Date shall be determinative. The calculation of the Cumulative Outstanding Principal Amount and the amount of principal payable on any particular Payment Date shall be made without giving effect to any partial optional redemption of the Bonds made during the period beginning on the November 15th immediately preceding such Payment Date and ending on such Payment Date.

(h) The Series 2021 Bond 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, upon any change, send a revised copy of the Table of Cumulative Outstanding Principal Amount via facsimile or other electronic means to the Owner, the Tenant (if not the Owner), the Lender and the Issuer. Absent manifest error, the amounts shown on the Table of Cumulative Outstanding Principal Amount as noted by the Trustee shall be conclusive evidence of the principal amount Outstanding or paid on the Bonds.

(i) The Trustee shall keep and maintain a record of the amount deposited or deemed to be deposited into the Project Fund pursuant to the terms of this Indenture as "Principal Amount Advanced" and shall enter the aggregate principal amount of the Bonds then Outstanding on its records as the "Cumulative Outstanding Principal Amount." On each date upon which a portion of the Cumulative Outstanding Principal Amount is paid to the Owners (or is deemed to be paid by exercise of the Tenant of its right to set-off payments pursuant to **Section 204(e)** hereof and **Section 5.1** of the Lease), pursuant to the provisions of this Indenture, the Trustee shall enter on its records the principal amount paid on the Bonds as "Principal Amount Redeemed," and shall enter the then Outstanding principal amount of the Bonds as "Cumulative Outstanding Principal Amount." If the Tenant is the sole Owner of the Bonds, then the Trustee may conclusively rely on the absence of any notice from the Tenant to the contrary as evidence that the Tenant has exercised its right to set-off its obligation to the Issuer as lessee under the Lease against the Issuer's obligations to the Tenant as the bondholder under this Indenture pursuant to **Section 204(e)** hereof and **Section 5.1** of the Lease. 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 A** hereto. If any moneys are deposited by the Trustee into the Project Fund, then the Trustee shall provide a statement of receipts and disbursements with respect thereto to the Issuer and the Tenant on a monthly basis. After the Project has been completed and the certificate of payment of all costs is filed as provided in **Section 504** hereof, the Trustee, to the extent it has not already done so pursuant to this Section or **Section 1012** hereof, shall file a final statement of receipts and disbursements with respect thereto with the Issuer and the Tenant.

**Section 209. Authorization of Additional Bonds .**

(a) Additional Bonds may be issued under and equally and ratably secured by this Indenture on a parity with the Bonds, and any other Additional Bonds which remain Outstanding after the issuance of such Additional Bonds, at any time or from time to time, upon compliance with the conditions hereinafter provided in this Section, for the purpose of providing funds for (i) refunding all or part of the Bonds then Outstanding of any series, including the payment of any premium thereon and interest to accrue to the designated redemption dated and any expenses in connection with such refunding, (ii) to provide funds to pay the costs of completing the Project, (iii) to provide funds to pay all or any part of the costs of repairing, replacing or restoring the Project in the event of damage, destruction or condemnation

thereto or thereof, and (iv) to provide funds to pay all or any part of the costs of acquisition, purchase, construction, improvement, equipping and remodeling to the Project as the Tenant may deem necessary or desirable. Additional Bonds issued for purposes described in clause (i) above shall also be referred to as “Refunding Bonds.”

(b) Before any Additional Bonds shall be issued under the provisions of this Section, the Issuer shall (i) pass an ordinance authorizing the issuance of such Additional Bonds, fixing the amount thereof and describing the Bonds to be refunded, authorizing the Issuer to enter into a Supplemental Indenture for the purpose of issuing such Additional Bonds and, if required, authorizing the Issuer to enter into a Supplemental Lease with the Tenant, and (ii) except in the case of Refunding Bonds, for which consent shall not be required, obtain the written consent to the issuance of the proposed Additional Bonds from the Lender and the Owners of 100% of the Bonds Outstanding as reflected on the bond registration books maintained by the Trustee immediately preceding the issuance of such Additional Bonds.

(c) Such Additional Bonds shall be dated, shall be stated to mature in such year or years, shall bear interest at such rate or rates not exceeding the maximum rate then permitted by law, and shall be redeemable at such times and prices, all as may be provided by the Supplemental Indenture authorizing the issuance of such Additional Bonds. Except as to any difference in the date, the maturity or maturities, the rate or rates of interest or the provisions for redemptions, such Additional Bonds shall be on a parity with and shall be entitled to the same benefit and security of this Indenture as the Bonds, and any other Additional Bonds which remain Outstanding after the issuance of such Additional Bonds.

(d) Except as provided in this Section, the Issuer will not otherwise issue any obligations on a parity with the Bonds, but the Issuer may, at the written request of the Tenant, issue other obligations specifically subordinate and junior to the Bonds, without the written consent of all or any of the Owners.

**Section 210. Mutilated, Lost, Stolen or Destroyed Bonds .** In the event any Bond shall become mutilated, or be lost, stolen or destroyed, the Issuer 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 Issuer and the Trustee evidence of such loss, theft or destruction satisfactory to the Issuer and the Trustee, together with indemnity satisfactory to them. In the event any such Bond shall have matured, instead of issuing a substitute Bond, the Issuer and the Trustee may require the payment of an amount sufficient to reimburse the Issuer 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 211. Cancellation and Destruction of Bonds Upon Payment .**

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

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

### ARTICLE III

#### REDEMPTION OF BONDS

**Section 301. Redemption of Bonds Generally** . The Bonds shall be subject to redemption prior to maturity in accordance with the terms and provisions set forth in this Article. Additional Bonds shall be subject to redemption prior to maturity in accordance with the terms and provisions contained in this Article and as may be specified in the Supplemental Indenture authorizing such Additional Bonds.

**Section 302. Redemption of Bonds** . The Bonds shall be subject to redemption and payment in whole or in part, as follows:

(a) At any time prior to the stated maturity thereof, by the Issuer, at the option of and upon instructions from the Tenant, at a price equal to the par value thereof, plus accrued interest thereon, without premium or penalty, to the date of payment.

(b) At any time prior to the stated maturity thereof, to the extent amounts are deposited into the Bond Fund in accordance with **Section 602** hereof, at a price equal to the par value thereof, plus accrued interest thereon, without premium or penalty, to the date of payment.

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

(d) The Bonds are subject to mandatory redemption, in whole, in the case of the cessation of operations of the Project as provided in **Section 8.07** of the Performance Agreement. Upon such event, the Issuer shall give notice to the Tenant specifying the date on which the condition or conditions described in this subsection first occurred and the date (not less than nine months after the date so specified or less than two months from the mailing date of the notice) upon which the Tenant must redeem all Outstanding Bonds. Such notice shall not be given by the Issuer during any period of time allowed under **Section 9.1** or **9.2** of the Lease for the repair, restoration, replacement, substitution or rebuilding of damage to, destruction of or with respect to condemnation of the Project.

(e) In connection with a redemption under paragraphs (a), (b), (c) or (d) of this Section, at its option, the Tenant may, with the consent of the Lender (if any), deliver to the Trustee for cancellation any



Bonds owned by the Tenant and not previously paid, and the Tenant shall receive a credit against the amounts payable by the Tenant for the redemption of such Bonds in an amount equal to the principal amount of the Bonds so tendered for cancellation, plus accrued interest.

(f) If only a portion of the Bonds are to be redeemed, (1) Bonds aggregating at least 10% of the maximum aggregate principal amount of Bonds authorized hereunder shall not be subject to redemption and payment before the stated maturity thereof, and (2) the Trustee shall keep a record of the amount of Bonds to remain Outstanding following such redemption.

**Section 303. Effect of Call for Redemption .** Prior to or on the date fixed for redemption, funds or non-callable Government Securities 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.

**Section 304. Notice of Redemption .** If the Bonds are to be called for redemption as provided in **Section 301** hereof, the Tenant shall deliver written notice to the Issuer and the Trustee that it has elected to redeem all or a portion of the Bonds at least 40 days (10 days if the Tenant is the Owner) prior to the scheduled redemption date. The Trustee shall then deliver written notice to the Owners at least 30 days (five days if the Tenant is the Owner) prior to the scheduled redemption date by facsimile and by first-class mail stating the date upon which the Bonds will be redeemed and paid, unless such notice period is waived by the Owners in writing.

## ARTICLE IV

### FORM OF BONDS

**Section 401. Form Generally .** The Bond and the Trustee's Certificate of Authentication to be endorsed thereon shall be issued in substantially the forms set forth in **Exhibit A** attached hereto. Additional Bonds and the Trustee's Certificate of Authentication to be endorsed thereon shall be in substantially the form set forth in this Article, with such necessary or appropriate variations, omissions and insertions as are permitted or required by this Indenture or any Supplemental Indenture. 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 Issuer:

(a) “City of Raymore, Missouri, Project Fund – Kansas City Property Partners, LLC” (herein called the “Project Fund”);

(b) “City of Raymore, Missouri, Costs of Issuance Fund – Kansas City Property Partners, LLC” (herein called the “Costs of Issuance Fund”); and

(c) “City of Raymore, Missouri, Bond Fund – Kansas City Property Partners, 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)** and **(e)** hereof), excluding amounts required to be paid into the Bond Fund pursuant to **Section 601** hereof and any amounts directed to be deposited into the Costs of Issuance Fund by a closing memorandum circulated in connection with the Bonds, shall be deposited (or deemed to be deposited) by the Trustee into the Project Fund. Any money received by the Trustee from any other source for the purpose of purchasing, constructing, improving and equipping the Project shall pursuant to any directions from the Person depositing such moneys also be deposited into the Project Fund.

### **Section 503. Disbursements from the Project Fund .**

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

(b) If, pursuant to **Section 208(d)** and **(e)** hereof, the Trustee is deemed to have deposited into the Project Fund the amount specified in the requisition certificates submitted by the Tenant 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 Tenant in satisfaction of the requisition certificate.

(c) In paying any requisition under this Section, the Trustee may rely as to the completeness and accuracy of all statements in such requisition certificate if such requisition certificate is signed by the Authorized Tenant Representative. If the Issuer 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 Issuer. The Issuer hereby authorizes and directs the Trustee to make disbursements in the manner and as provided for by the aforesaid provisions of the Lease. The Trustee shall keep and maintain

adequate records pertaining to the Project Fund and all disbursements therefrom, and shall provide a statement of receipts and disbursements with respect thereto to the Tenant on a monthly basis. After the Project has been completed and a certificate of payment of all costs filed as provided in **Section 504** hereof, the Trustee shall file a final statement of receipts and disbursements with respect thereto with the Issuer and the Tenant.

**Section 504. Completion of the Project** . The completion 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 any actual balance (as opposed to amounts resulting from deemed deposits) remaining in the Project Fund shall without further authorization be deposited in the Bond Fund.

**Section 505. Disposition Upon Acceleration.** If the principal of the Bonds shall have become due and payable pursuant to **Section 902** of this Indenture, upon the date of payment by the Trustee of any moneys due as hereinafter provided in **Article IX** provided, any balance remaining in the Project Fund shall without further authorization be deposited in the Bond Fund by the Trustee with advice to the Issuer and to the Tenant of such action.

**Section 506. Deposits into and Disbursements from the Costs of Issuance Fund** . Money deposited by the Tenant in the Costs of Issuance Fund shall be used solely to pay costs of issuing the Bonds or refunded to the Tenant as hereinafter provided. The Trustee shall without further authorization disburse from the Costs of Issuance Fund, to the extent available, money sufficient to pay the amounts shown in a closing memorandum provided to the Trustee on or before the date of delivery of the Bonds, which shall have attached thereto the statements, invoices and related items described in said closing memorandum. The Trustee may rely conclusively on the amounts due as shown in the closing memorandum and will not be required to make any independent inspection or investigation in connection therewith. Any of such money not used to pay costs of issuance by the date that is six months after the issuance of the Bonds shall be refunded to the Tenant.

## ARTICLE VI

### REVENUES AND FUNDS

**Section 601. Deposits Into the Bond Fund** . The Trustee shall deposit into the Bond Fund, as and when received, (a) all rent payments payable by the Tenant to the Issuer specified in **Section 5.1** of the Lease and amounts due under **Section 5.2** of the Lease; (b) any amount in the Project Fund to be transferred to the Bond Fund pursuant to **Section 504** hereof upon completion of the Project; (c) subject to the terms and conditions of the Fee Deed of Trust, the Leasehold Deed of Trust and the other documents executed in favor of the Lender, the balance of any Net Proceeds (as defined in the Lease) of condemnation awards or insurance received by the Trustee pursuant to **Article IX** of the Lease; and (d) all other moneys received by the Trustee under and pursuant to any of the provisions of the Lease when accompanied by directions from the person depositing such moneys that such moneys are to be paid into the Bond Fund, including, without limitation, amounts payable into the Bond Fund by the Issuer pursuant to **Section 801** hereof.

**Section 602. Application of Moneys in the Bond Fund .**

(a) Except as provided in **Section 602(d)** and **Section 908** hereof or in **Section 4.6(a)** of the Lease, moneys in the Bond Fund shall be expended solely for the payment of the principal of and the interest on the Bonds as the same mature and become due or upon the redemption thereof prior to maturity; provided, however, that any amounts received by the Trustee as Additional Rent under **Section 5.2** of the Lease and deposited to the Bond Fund as provided in **Section 602** above, shall be expended by the Trustee for such items of Additional Rent as they are received or due without further authorization from the Issuer.

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

(c) Whenever the amount in the Bond Fund from any source whatsoever is sufficient to redeem all of the Bonds Outstanding and to pay interest to accrue thereon prior to such redemption, the Issuer covenants and agrees, upon request of the Tenant, 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 Tenant. The Trustee may use any moneys in the Bond Fund to redeem a part of the Bonds Outstanding in accordance with and to the extent permitted by **Article III** hereof so long as the Tenant 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 Issuer 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 Tenant upon the expiration or sooner termination of the Lease.

**Section 603. Payments Due on Saturdays, Sundays and Holidays .** 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 shall be a Saturday, a Sunday or a legal holiday or a day on which banking institutions in the Issuer of payment are authorized by law to close, 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 not a Saturday, a Sunday or a legal holiday or a day upon which banking institutions are authorized by law to close 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 .** In the event any Bond shall not be 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 Issuer to the Owner thereof for the payment of such Bond shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Trustee to hold such fund or funds, without liability for interest thereon, for the benefit of the Owner of such Bond who shall thereafter be restricted exclusively to such fund or funds for any claim of whatever nature on his part under this Indenture or on, or with respect to, said Bond. If any Bond shall not be presented for payment within one year following the date when such Bond becomes due, whether by maturity or otherwise, the Trustee shall repay to the Tenant the funds theretofore held by it for payment of such Bond, without liability for interest thereon, and such Bond shall, subject to the defense of any applicable statute of limitation, thereafter be an unsecured obligation of the Tenant, and the Owner thereof shall be entitled to look only to the Tenant for payment, and then only to the extent of the amount so repaid, and the Tenant 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, the Costs of Issuance 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 or any moneys received hereunder except such as may be agreed upon.

**Section 702. Investment of Moneys in Project Fund and Bond Fund** . Moneys held in the Project Fund, the Costs of Issuance Fund and the Bond Fund shall, pursuant to written direction of the Tenant, signed by the Authorized Tenant Representative, be separately invested and reinvested by the Trustee in Investment Securities which mature or are subject to redemption by the owner prior to the date such funds will be needed. In the event the Tenant fails to provide written directions concerning investment of moneys held in the Project Fund, the Costs of Issuance Fund or the Bond Fund, the Trustee shall invest in such Investment Securities specified in paragraph (e) of the definition of Investment Securities, provided they mature or are subject to redemption prior to the date such funds will be needed. Any such Investment Securities shall be held by or under the control of the Trustee and shall be deemed at all times a part of the fund in which such moneys are originally held, and the interest accruing thereon and any profit realized from such Investment Securities shall be credited to such fund, and any loss resulting from such Investment Securities shall be charged to such fund. After the Trustee has notice pursuant to **Section 1001(h)** of this Indenture of the existence of an Event of Default, the Trustee shall direct the investment of moneys in the Bond Fund, the Costs of Issuance 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 years after the payment of all of the Outstanding Bonds.

## ARTICLE VIII

### GENERAL COVENANTS AND PROVISIONS

**Section 801. Payment of Principal and Interest** . The Issuer covenants and agrees that it will, but solely from the rents, revenues and receipts derived from the Project 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, and to this end the Issuer covenants and agrees that it will use its best efforts to cause the Project to be continuously and sufficiently leased as a revenue and income-providing undertaking, and that, should there be a default under the Lease with the result that the right of possession of the Project is returned to the Issuer, the Issuer shall fully cooperate with the Trustee and with the Bondowners to the end of fully protecting the rights and security of the Bondowners and shall diligently proceed in good faith and use its best efforts to secure another tenant for the Project to the end that at all times sufficient rents, revenues and receipts will be derived from the Project promptly to meet and pay the principal of and the interest on the Bonds as they become due and payable. Nothing herein shall be construed as requiring the Issuer 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 Issuer covenants that it is duly authorized under the Constitution and laws of the State of Missouri to execute this Indenture, to issue the Bonds and to pledge and assign the Trust Estate in the manner and to the extent herein set forth; that all action on its part for the execution and delivery of this Indenture and the issuance of the Bonds has been duly and effectively taken; that the Bonds in the hands of the Owners thereof are and will be valid and enforceable obligations of the Issuer according to the import thereof.

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

**Section 804. Instruments of Further Assurance** . The Issuer covenants that it will do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, such Supplemental Indentures and such further acts, instruments, financing statements and other documents as the Trustee may reasonably require for the better pledging and assigning unto the Trustee the property and



revenues herein described to the payment of the principal of and interest, if any, on the Bonds. The Issuer 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. Payment of Taxes and Charges** . The Issuer represents that pursuant to the provisions of **Section 5.2** of the Lease, the Tenant has agreed to pay, as the same respectively become due, all taxes, assessments and other governmental charges at any time lawfully levied or assessed upon or against the Project or any part thereof.

**Section 806. Insurance** . The Issuer represents that pursuant to the provisions of **Article VII** of the Lease, the Tenant has agreed at its own expense to keep the Project constantly insured to the extent provided for therein.

**Section 807. Maintenance and Repair** . The Issuer represents that pursuant to the provisions of **Section 6.1** of the Lease, the Tenant has agreed at its own expense to cause the Project to be maintained and kept in good condition, repair and working order, and that pursuant to **Section 8.3** of the Lease the Tenant may, at its own expense, make from time to time additions, changes and alterations to the Project under the terms and conditions set forth therein.

**Section 808. Recordings and Filings** . The Issuer will cause this Indenture and all Supplemental Indentures, the Lease and all Supplemental Leases and all appropriate financing statements and 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 of the Bonds and the rights of the Trustee hereunder. The Trustee shall file UCC continuation statements, as needed.

**Section 809. Inspection of Project Books** . The Issuer 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 810. Enforcement of Rights Under the Lease** . The Issuer covenants and agrees that it shall enforce all of its rights and all of the obligations of the Tenant (at the expense of the Tenant) under the Lease to the extent necessary to preserve the Project in good order and repair, and to protect the rights of the Trustee and the Bondowners hereunder with respect to the pledge and assignment of the rents, revenues and receipts coming due under the Lease; provided that, the Issuer and the Trustee, as its assignee, shall refrain from enforcing any right or obligation (except for rights of the Issuer and the Trustee to receive payments owing to either of them for their own account or for their rights of indemnification or to be protected from liabilities by insurance policies required by the Lease) if so directed in writing by the Owners of 100% of the Outstanding Bonds. The Issuer agrees that the Trustee, as assignee of the rentals and other amounts to be received by the Issuer and paid by the Tenant under the Lease, or in its name or in the name of the Issuer, may enforce all rights of the Issuer to receive such rentals and other amounts and all obligations of the Tenant to pay such rentals and other amounts under and pursuant to the Lease for and on behalf of the Bondowners, whether or not the Issuer is in default hereunder.

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

**Section 811. Subordination of Indenture to the Lease** . This Indenture and the rights and privileges hereunder of the Trustee and the Owners of the Bonds are specifically made subject and subordinate to the rights and privileges of the Tenant (as long as no default by the Tenant under the Lease is continuing beyond any applicable grace period) set forth in the Lease. So long as not otherwise provided in this Indenture, the Tenant shall be suffered and permitted to possess, use and enjoy the Project and appurtenances so as to carry out its obligations under the Lease. Nothing contained in this Section shall be interpreted as eliminating, modifying or affecting in any manner the rights, privileges or immunities granted to the Trustee in **Article X** hereof.

## ARTICLE IX

### DEFAULT AND REMEDIES

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

(a) Default in the due and punctual payment of the principal on any Bond, whether at the stated maturity or accelerated maturity thereof, or at the date fixed for redemption thereof for a period of 5 days following written notice to the Issuer, the Lender and the Tenant by the Trustee or by the Owners of 25% in aggregate principal amount of the Bonds Outstanding;

(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 the date fixed for redemption thereof for a period of 5 days following written notice to the Issuer, the Lender and the Tenant by the Trustee or by the Owners of 25% in aggregate principal amount of the Bonds Outstanding; or

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

(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 actual notice of such default by registered or certified mail has been given by the Issuer, the Trustee or by the Owners of 25% in aggregate principal amount of all Bonds Outstanding to the Tenant, the Lender and the Issuer, and the Tenant, Lender or the Issuer (as the case may be) has had 30 days after receipt of such notice to correct said default or cause said default to be corrected and has not corrected said default or caused said default to be corrected within such period; provided, however, (i) 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 Tenant, Lender or the Issuer (as the case may be) within such period and diligently pursued until the default is corrected, and (ii) no Event of Default (except for defaults related to Sections 7.2, 7.3, 10.5, 12.1(c), 12.1(d) and 12.1(e) of the Lease) shall be declared without the consent of the Lender and the Owners of the Bonds. Nothing herein shall constitute an obligation of the Lender to cure any defaults hereunder.

**Section 902. Acceleration of Maturity in Event of Default .** If an Event of Default has occurred and is continuing, the Trustee may with the consent of the Lender, and upon the written request of the Owners of not less than 25% in aggregate principal amount of Bonds then Outstanding or the Lender, shall, by notice in writing delivered to the Issuer, the Lender and the Tenant, declare the principal of all Bonds then Outstanding and the interest accrued thereon immediately due and payable, and such principal and interest shall thereupon become and be immediately due and payable.

**Section 903. Surrender of Possession of Trust Estate; Rights and Duties of Trustee in Possession .** If an Event of Default has occurred and is continuing, the Issuer, 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 Issuer pertaining thereto, and including the rights and the position of the Issuer under the Lease, and to hold, operate and manage the same, and from time to time make all needful repairs and improvements as shall be deemed wise by the Trustee; the Trustee may lease the Project or any part thereof, in the name and for account of the Issuer, 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, his agents and counsel, and (b) any reasonable charges of the Trustee hereunder, and (c) any taxes and assessments and other charges prior to the lien of this Indenture, which the Trustee may deem it wise to pay, and (d) all expenses of such repairs and improvements, and the Trustee shall apply the remainder of the moneys so received in accordance with the provisions of **Section 908** hereof. Whenever all that is due upon the Bonds shall have been paid and all defaults made good, the Trustee shall surrender possession of the Trust Estate to the Issuer, 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 Issuer and the Tenant a summarized statement of receipts and expenditures in connection therewith.

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

**Section 905. Exercise of Remedies by the Trustee .**

(a) Upon the occurrence of an Event of Default, the Trustee may pursue any available remedy at law or in equity by suit, action, mandamus or other proceeding to enforce the payment of the

principal of and interest on the Bonds then Outstanding, and to enforce and compel the performance of the duties and obligations of the Issuer as herein set forth.

(b) If an Event of Default has occurred and is continuing, and if requested to do so by the Owners of 25% in aggregate principal amount of Bonds then Outstanding and indemnified as provided in subsection (l) of **Section 1001** hereof, the Trustee shall be obligated to exercise such one or more of the rights and powers conferred by this Article as the Trustee, being advised by counsel, shall deem most expedient in the interests of the Bondowners.

(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 of the Bonds, and any recovery of judgment shall, subject to the provisions of **Section 908** hereof, be for the equal benefit of all the Owners of the Outstanding Bonds and coupons.

**Section 906. Limitation on Exercise of Remedies by Bondowners .** No Owner of any Bond 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 subsection (h) of **Section 1001** 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, shall have offered it reasonable opportunity either to proceed and to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name, and shall have offered to the Trustee indemnity as provided in subsection (l) of **Section 1001**, 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 of the Bonds shall have any right in any manner whatsoever to affect, disturb or prejudice this Indenture by their action or to enforce any right hereunder except in the manner herein provided, and that all proceedings at law or equity shall be instituted, had and maintained in the manner herein provided and for the equal benefit of the Owners of all Bonds then Outstanding. Nothing in this Indenture contained shall, however, affect or impair the right of any Bondowner to payment of the principal of and interest on any Bond at and after the maturity thereof or the obligation of the Issuer 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 Bondowners to Direct Proceedings .**

(a) Anything in this Indenture to the contrary notwithstanding, the Owners of a majority in aggregate principal amount of Bonds then Outstanding shall have the right, at any time, by an instrument or instruments in writing executed and delivered to the Trustee, to direct the time, method and place of

conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture, or for the appointment of a receiver or any other proceedings hereunder; provided that such direction shall not be otherwise than in accordance with the provisions of law and of this Indenture, including **Section 1001(l)** hereof; and, provided further, that the Trustee shall have the right to decline to follow any such directions if the Trustee shall in good faith determine that the proceedings so directed would involve the Trustee in personal liability.

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

**Section 908. Application of Moneys in Event of Default** .

(a) All moneys received by the Trustee pursuant to any right given or action taken under the provisions of this Article shall, after payment of the cost and expenses of the proceedings resulting in the collection of such moneys and of the fees, expenses, liabilities and advances incurred or made by the Trustee, be deposited in the Bond Fund and all moneys so deposited in the Bond Fund shall be applied as follows:

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

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

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

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

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

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

(c) Whenever all of the Bonds and interest thereon, if any, have been paid under the provisions of this Section, and all fees, expenses and charges of the Issuer and the Paying Agent have been paid, any balance remaining in the Bond Fund shall be paid to the Tenant as provided in **Section 606** hereof.

**Section 909. Remedies Cumulative .** No remedy by the terms of this Indenture conferred upon or reserved to the Trustee or to the Bondowners 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 Bondowners 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 shall have been determined adversely, then and in every such case the Issuer, the Tenant, the Trustee and the Bondowners shall be restored to their former positions and rights hereunder, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

**Section 910. Waivers of Events of Default .** The Trustee may in its discretion waive any Event of Default hereunder and its consequences and rescind any declaration of maturity of principal of and interest, if any, on Bonds, and shall do so upon the written request of the Owners of at least 50% in aggregate principal amount of all the Bonds then Outstanding, provided, however, that there shall not be waived without the consent of the Owners of all the Bonds Outstanding (a) any Event of Default in the payment of the principal of any Outstanding Bonds when due (whether at the date of maturity or redemption specified therein), or (b) any Event of Default in the payment when due of the interest on any such Bonds, unless prior to such waiver or rescission, all arrears of interest, or all arrears of payments of principal when due, as the case may be, and all reasonable fees, charges, costs and expenses of the Trustee and the Issuer, in connection with such default, shall have been paid or provided for. In case of any such waiver or rescission, or in case any proceeding taken by the Trustee on account of any such default shall have been discontinued or abandoned or determined adversely, then and in every such case the Issuer, the Tenant, the Trustee and the Bondowners shall be restored to their former positions, rights and obligations



hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other default, or impair any right consequent thereon.

## ARTICLE X

### THE TRUSTEE

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

(a) The Trustee, prior to the occurrence of an Event of Default and after the curing of all Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. If any Event of Default shall have occurred and be continuing, subject to **Section 1001(1)** below, the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and shall use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of its own affairs.

(b) The Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or through agents, attorneys or receivers and shall not be responsible for any misconduct or negligence on the part of any agent, attorney or receiver appointed or chosen by it with due care, and the Trustee shall be entitled to act upon and may conclusively rely upon the opinion or advice of counsel, who may be counsel to the Issuer or to the Tenant, 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.

(c) Except as provided in the Lease and particularly **Section 10.8** thereof, 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 for the recording or rerecording, filing or refiling of this Indenture or any security agreement in connection therewith, or for insuring the Project or collecting any insurance moneys, or for the validity of the execution by the Issuer of this Indenture or of any Supplemental Indentures or instruments of further assurance, or for the sufficiency of the security of the Bonds. The Trustee shall not be responsible or liable for any loss suffered in connection with any investment of funds made by it in accordance with **Article VII** hereof.

(d) The Trustee shall not be accountable for the use of any Bonds authenticated and delivered hereunder. The Trustee, in its individual or any other capacity, may become the owner or pledgee of Bonds with the same rights which it would have if it were not Trustee.

(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 the Owner of any Bond, shall be conclusive and binding upon all future Owners of the same Bond and upon Bonds issued in exchange therefor or upon transfer or in place thereof.

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

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

(h) The Trustee shall not be required to take notice or be deemed to have notice of any default or Event of Default hereunder except failure by the Issuer to cause to be made any of the payments to the Trustee required to be made in **Article VI** hereof, unless the Trustee shall be specifically notified in writing of such default or Event of Default by the Issuer 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 Tenant's reasonable and standard security procedures, the Trustee and its duly authorized agents, attorneys, experts, engineers, accountants and representatives shall have the right, but shall not be required, to inspect any and all of the Project, and all books, papers and records of the Issuer 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 Tenant as confidential.

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

(k) The Trustee shall have the right, but shall not be required, to demand, in respect of the authentication of any Bonds, the withdrawal of any cash, the release of any property, or any

action whatsoever within the purview of this Indenture, any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required, as a condition of such action by the Trustee deemed desirable for the purpose of establishing the right of the Issuer to the authentication of any Bonds, the withdrawal of any cash, or the taking of any other action by the Trustee.

(l) Before taking any action under this Indenture, the Trustee may require that satisfactory indemnity be furnished to it for the reimbursement of all costs and expenses to which it may be put and to protect it against all liability which it may incur in or by reason of such action, except liability which is adjudicated to have resulted from its negligence or willful misconduct by reason of any action so taken.

(m) Notwithstanding any other provision of this Indenture to the contrary, any provision 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 may elect not to proceed in accordance with the directions of the Bondowners without incurring any liability to the Bondowners if, in the opinion of the Trustee, such direction may result in environmental or other liability to the Trustee, in its individual capacity, for which the Trustee has not received indemnity pursuant to this section from the Bondowners, and the Trustee may rely conclusively upon an opinion of counsel in determining whether any action directed by the Bondowners may result in such liability.

(o) The Trustee may inform the Bondowners of environmental hazards that the Trustee has reason to believe exist, and the Trustee has the right to take no further action and, in such event no fiduciary duty exists which imposes any obligation for further action with respect to the Trust Estate or any portion thereof if the Trustee, in its individual capacity, determines that any such action would materially and adversely subject the Trustee to environmental or other liability for which the Trustee has not received indemnity pursuant to this section.

**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 and necessarily made or incurred by the Trustee in connection with such ordinary services and, in the event that it should become necessary that the Trustee perform extraordinary services, it shall be entitled to reasonable extra compensation therefor and to reimbursement for reasonable and necessary extraordinary expenses in connection therewith; provided that if such extraordinary services or extraordinary expenses are occasioned by the neglect or 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 Tenant has agreed to pay to the Trustee all reasonable fees, charges and expenses of the Trustee under this Indenture. The Trustee agrees that the Issuer shall have no liability for any reasonable fees, charges and expenses of the Trustee, and the Trustee agrees to look only to the Tenant 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 prior to payment on account of principal of or interest on any Bond, upon all moneys in its possession under any provisions hereof for the foregoing reasonable advances, fees, costs and expenses incurred.

**Section 1003. Notice to Bondowners and Lender if Default Occurs** . If an Event of Default occurs of which the Trustee is by subsection (h) of **Section 1001** hereof required to take notice or if notice of an Event of Default is given as in said subsection (h) provided, then the Trustee shall give written notice thereof to the Lender and 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 principal office of the Trustee.

**Section 1004. Intervention by the Trustee** . In any judicial proceeding to which the Issuer is a party and which, in the opinion of the Trustee and its counsel, has a substantial bearing on the interests of Owners of the Bonds, the Trustee may intervene on behalf of Bondowners and, shall do so if requested in writing by the Lender or 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 Tenant, 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 Issuer, the Tenant and the Bondowners, and such resignation shall take effect at the end of such 30 days, or upon the earlier appointment of a successor Trustee by the Bondowners or by the Issuer; provided, however, that in no event shall the resignation of the Trustee or any successor trustee become effective until such time as a successor trustee has been appointed and has accepted the appointment. If no successor has been appointed and accepted the appointment within 30 days after the giving of such notice of resignation, the Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee.

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

**Section 1008. Appointment of Successor Trustee** . In case the Trustee hereunder shall resign or be removed, or shall otherwise become incapable of acting hereunder, or in case it shall be taken under the control of any public officer or officers or of a receiver appointed by a court, a successor Trustee reasonably acceptable to the Issuer and the Tenant may be appointed by the Owners of a majority

in aggregate principal amount of Bonds then Outstanding, by an instrument or concurrent instruments in writing; provided, nevertheless, that in case of such vacancy, the Issuer, 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 by the Bondowners in the manner above provided. Any such temporary Trustee so appointed by the Issuer shall hold such appointment no longer than 90 days without Tenant approval and shall immediately and without further acts be superseded by the successor Trustee so appointed by such Bondowners. Every such Trustee appointed pursuant to the provisions of this Section shall be a trust company or bank in good standing and qualified to accept such trust having a reported capital, surplus and undivided profits of not less than **\$50,000,000**. Should no temporary or successor Trustee be appointed within thirty days following the date of the instrument of resignation or removal, any Bondowner or the resigning or removed Trustee may petition a court of competent jurisdiction for the appointment of a successor.

**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 Issuer and the Tenant 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; but such predecessor shall, nevertheless, on the written request of the Issuer, 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, and thereupon the obligations and duties of the predecessor Trustee hereunder shall cease and terminate. Should any instrument in writing from the Issuer be required by any 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 Issuer.

**Section 1010. Right of Trustee to Pay Taxes and Other Charges .** In case any tax, assessment or governmental or other charge upon, or insurance premium with respect to, any part of the Project is not paid as required herein or in the Lease, the Trustee may pay such tax, assessment or governmental charge or insurance premium, without prejudice, however, to any rights of the Trustee or the Bondowners 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 prime rate of the Trustee, plus 2%, shall become an additional obligation secured by this Indenture, and the same shall be given a preference in payment over any payment of principal of or interest on the Bonds, and shall be paid out of the proceeds of rents, revenues and receipts collected from the Project, if not otherwise caused to be paid; but the Trustee shall be under no obligation to make any such payment unless it shall have been requested to do so by the Owners of at least 25% of the aggregate principal amount of Bonds then Outstanding and shall have been provided adequate funds for the purpose of such payment.

**Section 1011. Trust Estate May be Vested in Co-trustee .**

(a) It is the purpose of this Indenture that there shall be no violation of any law of any jurisdiction (including particularly the State of Missouri) denying or restricting the right of banking corporations or associations to transact business as trustee in such jurisdiction. It is recognized that in

case of litigation under this Indenture or the Lease, and in particular in case of the enforcement of either this Indenture or the Lease upon the occurrence of an Event of Default or if the Trustee deems that by reason of any present or future law of any jurisdiction it may not 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) In the event that 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 Tenant), 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 Issuer be required by the co-trustee or separate trustee so appointed by the Trustee for more fully and certainly vesting in and confirming to such co-trustee such properties, rights, powers, trusts, duties and obligations, any and all such deeds, conveyances and instruments in writing shall, on request, be executed, acknowledged and delivered by the Issuer.

(d) In case 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. Annual Accounting** . The Trustee shall render an annual accounting to the Issuer, the Tenant and to any Bondowner requesting the same and, upon the request of the Tenant or the Bondowner, a monthly accounting to the Tenant and the Bondowner, showing in reasonable detail all financial transactions relating to the Trust Estate during the accounting period and the balance in any funds or accounts created by this Indenture as of the beginning and close of such accounting period.

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

## ARTICLE XI

### SUPPLEMENTAL INDENTURES

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



- (a) To cure any ambiguity or formal defect or omission in this Indenture, or to make any other change not prejudicial to the Bondowners (in making such determination, the Trustee may rely conclusively upon an opinion of counsel);
- (b) To more precisely identify the Project or to add additional property thereto; or
- (c) To issue Refunding Bonds as provided in **Section 209** hereof.

**Section 1102. Supplemental Indentures Requiring Consent of Bondowners .**

(a) Exclusive of Supplemental Indentures covered by **Section 1101** hereof and subject to the terms and provisions contained in this Section, and not otherwise, the Owners of not less than 50% in aggregate principal amount of the Bonds then Outstanding shall have the right, from time to time, anything contained in this Indenture to the contrary notwithstanding, to consent to and approve the execution by the Issuer and the Trustee of such other Supplemental Indenture or Supplemental Indentures as shall be deemed necessary and desirable by the Issuer and the Trustee 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 Issuer shall request the Trustee to enter into any such Supplemental Indenture for any of the purposes of this Section, the Trustee shall cause notice of the proposed execution of such Supplemental Indenture to be mailed to each Bondowner as shown on the bond registration books required by **Section 206** hereof. Such notice shall briefly set forth the nature of the proposed Supplemental Indenture and shall state that copies thereof are on file at the principal corporate trust office of the Trustee for inspection by all Bondowners. If within 60 days or such longer period as may be prescribed by the Issuer following the mailing of such notice and except as provided in (a) above, 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 Indenture shall have consented to and approved the execution thereof as herein provided, no Owner of any Bond 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 Issuer from executing the same or from taking any action pursuant to the provisions thereof.

**Section 1103. Tenant's and Lender's Consent to Supplemental Indentures .** Anything herein to the contrary notwithstanding, a Supplemental Indenture under this Article which affects any rights of the Tenant shall not become effective unless and until the Tenant and the Lender shall have consented in writing to the execution and delivery of such Supplemental Indenture, provided that receipt by the Trustee of a Supplemental Lease executed by the Tenant in connection with the issuance of Additional Bonds under **Section 209** hereof shall be deemed to be the consent of the Tenant to the

execution of a Supplemental Indenture pursuant to **Section 209** hereof, respectively. In this regard, the Trustee shall cause notice of the proposed execution and delivery of any such Supplemental Indenture (other than a Supplemental Indenture proposed to be executed and delivered pursuant to **Section 209** hereof) together with a copy of the proposed Supplemental Indenture to be mailed to the Tenant and the Lender at least 15 days prior to the proposed date of execution and delivery of any such Supplemental Indenture.

**Section 1104. Opinion of Counsel** . Prior to or contemporaneously with the execution of any Supplemental Indenture by the Trustee, the Trustee shall receive an opinion of counsel nationally recognized on the subject of municipal bonds to the effect that the provisions of such Supplemental Indenture are authorized under this Indenture and the Act and will, upon execution and delivery thereof be valid and binding upon the Issuer in accordance with its terms.

## ARTICLE XII

### SUPPLEMENTAL LEASES

**Section 1201. Supplemental Leases Not Requiring Consent of Bondowners** . The Issuer and the Trustee shall, with the consent of the Lender but without the consent of or notice to the Bondowners, consent to the execution of any Supplemental Lease or Supplemental Leases by the Issuer and the Tenant 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, (d) in connection with the issuance of Refunding Bonds under **Section 209** hereof, (e) in connection with any other change therein which, in the judgment of the Trustee, is not to the material prejudice of the Trustee or the Bondowners (in making such determination, the Trustee may rely upon an opinion of counsel).

**Section 1202. Supplemental Leases Requiring Consent of Bondowners** . Except for Supplemental Leases as provided for in **Section 1201** hereof, neither the Issuer nor the Trustee shall consent to the execution of any Supplemental Lease or Supplemental Leases by the Issuer or the Tenant without the mailing of notice and the obtaining of the written approval or consent of the Lender and the Owners of not less than 50% in aggregate principal amount of the Bonds at the time Outstanding given and obtained as provided in **Section 1102** hereof. If at any time the Issuer and the Tenant shall request the consent of the Trustee to any such proposed Supplemental Lease, the Trustee shall cause notice of such proposed Supplemental Lease to be mailed in the same manner as provided in **Section 1102** hereof with respect to Supplemental Indentures. Such notice shall briefly set forth the nature of such proposed Supplemental Lease and shall state that copies of the same are on file in the principal office of the Trustee for inspection by all Bondowners. The Trustee shall not be obligated to consent to any Supplemental Lease which, in the judgment of the Trustee, is prejudicial to the rights of the Trustee.

**Section 1203. Opinions of Counsel.** Prior to or contemporaneously with the consent by the Trustee of execution of any Supplemental Lease, the Trustee shall receive an opinion of counsel nationally recognized on the subject of municipal bonds to the effect that the provisions of such Supplemental Lease are authorized under this Indenture, the Lease and the Act and will, upon execution

and delivery thereof, be valid and binding upon the Issuer in accordance with its terms and an opinion of counsel to the Tenant stating that such Supplemental Lease will, upon execution and delivery thereof, be valid and binding upon the Tenant.

### **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 shall have been paid in accordance with their terms or provision has been made for such payment, as provided in **Section 1302** hereof, and provision shall also be made for paying all other sums payable hereunder, including the reasonable fees and expenses of the Trustee, the Issuer and Paying Agent to the date of retirement of the Bonds, then the right, title and interest of the Trustee in respect hereof shall thereupon cease, determine and be void, and thereupon the Trustee shall, upon receipt by the Trustee of an opinion of counsel stating that all conditions precedent to satisfaction and discharge of this Indenture have been complied with, cancel, discharge and release this Indenture and shall execute, acknowledge and deliver to the Issuer such instruments of satisfaction and discharge or release as shall be reasonably requested to evidence such release and the satisfaction and discharge of this Indenture, and shall assign and deliver to the Issuer 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 Tenant under **Section 606** hereof and except funds or securities in which such funds are invested held by the Trustee for the payment of the principal of and interest on the Bonds.

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

##### **Section 1302. Bonds Deemed to be Paid .**

(a) Bonds shall be deemed to be paid within the meaning of this Article when payment of the principal of and interest thereon to the due date thereof (whether such due date be by reason of maturity or upon redemption as provided in this Indenture, or otherwise), either (1) shall have been made or caused to be made in accordance with the terms thereof, or (2) shall have been provided for by depositing with the Trustee in trust and irrevocably set aside exclusively for such payment (i) moneys sufficient to make such payment or (ii) non-callable Government Securities maturing as to principal and interest in such amount and at such times as will insure the availability of sufficient moneys to make such payment, and, in the case of Bonds which do not mature or will not be redeemed within ninety days of the deposit of cash or non-callable Government Securities, a verification report of a firm of independent certified public accountants as to the adequacy of the amounts so deposited to fully pay the Bonds deemed to be paid. At such time as a Bond shall be deemed to be paid hereunder, as aforesaid, it shall no longer be secured by or

entitled to the benefits of this Indenture, except for the purposes of such payment from such moneys or Government Securities.

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

(c) Notwithstanding any provision of any other section of this Indenture which may be contrary to the provisions of this Section, all moneys or Government Securities set aside and held in trust pursuant to the provisions of this Section for the payment of Bonds and coupons shall be applied to and used solely for the payment of the particular Bonds and coupons, if any, 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 Bondowners** . Any consent, request, direction, approval, objection or other instrument required by this Indenture to be signed and executed by the Bondowners may be in any number of concurrent writings of similar tenor and may be signed or executed by such Bondowners 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, if made in the following manner, shall be sufficient for any of the purposes of this Indenture, and shall be conclusive in favor of the Trustee with regard to any action taken, suffered or omitted under any such instrument, namely:

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

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

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 Tenant or any affiliate of the Tenant 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. 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 that the pledgee is not the Tenant or any affiliate of the Tenant.

**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, the Tenant, the Lender and the Owners of the Bonds, if any, any right, remedy or claim under or in respect to this Indenture, this Indenture and all of the covenants, conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the parties hereto, the Tenant, the Lender and the Owners of the Bonds, as herein provided.

**Section 1403. Notices** . It shall be sufficient service of any notice, request, complaint, demand or other paper required by this Indenture to be given or filed with the Issuer, the Trustee, the Tenant, the Lender or Bondowners if the same shall be duly mailed by registered or certified mail, postage prepaid, return receipt requested, (provided that notice to the Trustee shall in no case be deemed effective until received) addressed:

(a) To the Issuer:

City of Raymore, Missouri  
100 Municipal Circle  
Raymore, Missouri 64083  
Attention: City Manager

(b) To the Tenant:

Kansas City Property Partners, LLC  
c/o Southern Glazers Wine and Spirits, LLC  
14911 Quorum, Suite 150  
Dallas, Texas 75254  
Attention: General Counsel – Real Estate

(c) To the Trustee:

Security Bank of Kansas City  
701 Minnesota Avenue  
Kansas City, Kansas 66101  
Attention: Corporate Trust Department

(d) To the Lender:

Western-Southern Life Assurance Company  
400 Broadway  
Cincinnati, Ohio 45202  
Attention: Sarah Herron/Michael Barnett

With a copy to:

Pircher, Nichols & Meeks  
1901 Avenue of the Stars, Suite 1200  
Los Angeles, California 90067  
Attention: Real Estate Notices (DLP/4317.145)

(e) To the Bondowners if the same shall be duly mailed by first-class mail addressed to each of the Owners of Bonds at the time Outstanding as shown by the bond registration books required by **Section 206** hereof to be kept at the principal corporate trust office of the Trustee.

All notices given by certified or registered mail as aforesaid shall be deemed fully given as of the date they are so mailed, 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 Issuer or the Trustee to the other shall also be given to the Tenant. The Issuer, the Tenant, 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 1404. Severability** . If any provision of this Indenture shall be held or deemed to be invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever.

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

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

**Section 1407. Electronic Storage** . The parties agree that the transactions described herein may be conducted and related documents may be received, sent 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 1408. Rights of Lender.** The Issuer and the Trustee agree that in addition to any other rights to assign the Bonds as set forth herein, the Tenant may collaterally assign its interest in the Bonds to the Lender for the purpose of securing the Tenant'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 Tenant, the



Issuer and the Trustee agree, at the expense of the Tenant, 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 Issuer and the Trustee deem appropriate.

**Section 1409. Issuer Consent.** Pursuant to the Ordinance, the Mayor or the City Manager are authorized to execute all documents on behalf of the Issuer (including documents pertaining to the transfer of property or the financing or refinancing of the Project by the Tenant) as may be required to carry out and comply with the intent of the Ordinance, this Indenture and the Lease. The Mayor or the City Manager are also authorized, unless expressly prohibited herein, to grant on behalf of the Issuer 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, and provided further, that the Mayor or the City Manager may seek the input or a decision from the City Council on any matter.

**IN WITNESS WHEREOF**, the City of Raymore, Missouri, has caused this Indenture to be signed in its name and behalf by its Mayor and the seal of the Issuer to be hereunto affixed and attested by its City Clerk, and to evidence its acceptance of the trusts hereby created, Security Bank of Kansas City has caused this Indenture to be signed in its name and behalf by its duly authorized officer and its official seal to be hereunto affixed and attested by its Secretary or Assistant Secretary, all as of the date first above written.

**CITY OF RAYMORE, MISSOURI**

By \_\_\_\_\_  
Title: Mayor

[SEAL]

ATTEST:

By \_\_\_\_\_  
Title: City Clerk

**SECURITY BANK OF KANSAS CITY, as**  
Trustee

By \_\_\_\_\_

Title:



**EXHIBIT A**  
**(FORM OF BOND)**

This Bond has not been registered under the Securities Act of 1933, as amended, or any state securities laws, and this Bond may not be transferred unless (i) the Issuer consents in writing to such transfer, and (ii) the Issuer and the Trustee are furnished a written legal opinion from counsel acceptable to the Issuer, the Trustee and the Tenant, to the effect that such transfer is exempt from the registration requirements of the Securities Act of 1933, as amended, and any applicable state securities laws. This Bond may be transferred to any successor of the Tenant or any entity owned by or under common ownership with the Tenant without the necessity of obtaining the Issuer's consent or such an opinion.

**No. 1** **Not to Exceed** **\$44,000,000**

**UNITED STATES OF AMERICA**  
**STATE OF MISSOURI**  
**COUNTY OF CASS**

**CITY OF RAYMORE, MISSOURI**

**TAXABLE INDUSTRIAL REVENUE BOND**  
**(KANSAS CITY PROPERTY PARTNERS, LLC PROJECT)**  
**SERIES 2021**

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Dated Date</u>
2.00%	December 1, 2041	December __, 2021

THE CITY OF RAYMORE, MISSOURI, a constitutional charter city organized and existing under the laws of the State of Missouri (the "Issuer"), for value received, promises to pay, but solely from the source hereinafter referred to, to

**KANSAS CITY PROPERTY PARTNERS, LLC**

or registered assigns, on December 1, 2041, the maximum principal amount of not to exceed

\_\_\_\_\_ **DOLLARS**

or such lesser amount as may be outstanding hereunder as reflected in the bond registration books maintained by the Trustee. The Issuer agrees to pay such principal amount to the Owner in any coin or currency of the United States of America which on the date of payment thereof is legal tender for the payment of public and private debts (or by book entry as provided in the Indenture and Lease), and in like manner to pay to the Owner hereof, either by check or draft mailed to the Owner at a stated address as it

appears on the bond registration books of the City kept by the Trustee under the within mentioned Indenture or, in certain situations authorized in the Indenture, by internal bank transfer (or by book entry as provided in the Indenture and Lease), or by wire transfer to an account in a commercial bank or savings institution located in the continental United States. This Bond shall bear interest on the Cumulative Outstanding Principal Amount (as hereafter defined) at the per annum Interest Rate stated above, payable in arrears on each December 1. Interest shall be calculated on the basis of a year of 360 days consisting of twelve months of 30 days each. Interest only shall be payable on December 1, 2021. Starting with December 1, 2022 and on each December 1 thereafter while this Bond is Outstanding, both principal and interest shall be payable on each Payment Date. The interest payable on each Payment Date shall be the amount of interest accrued but unpaid on the Cumulative Outstanding Principal Amount on such date. The amount of principal payable on each Payment Date on and after December 1, 2022 shall be determined by dividing the Cumulative Outstanding Principal Amount as of the November 15th immediately preceding such payment date by the number of remaining Payment Dates to and including December 1, 2041. The payment of each such annual installment shall be applied first to accrued interest and then to principal. Any partial prepayment of Bonds under the Indenture shall reduce the Cumulative Outstanding Principal Amount in an amount equal to the principal so prepaid. Absent manifest error, the Trustee's calculation of the Cumulative Outstanding Principal Amount and the principal and interest due on the Bonds on any Payment Date shall be determinative. In no event shall the interest rate on the Bond exceed the maximum permitted amount under Section 108.170 of the Revised Statutes of Missouri.

As used herein, the term "Cumulative Outstanding Principal Amount" means an amount equal to the aggregate of all amounts paid into the Project Fund in accordance with the terms of the hereinafter defined Indenture, as reflected in the bond registration books maintained by the Trustee.

The Trustee shall keep and maintain a record of the amounts deposited or deemed designated into the Project Fund pursuant to the terms of the Indenture as "Principal Amount Deposited into Project Fund" and shall enter the aggregate principal amount of this Bond then outstanding on its records as the "Cumulative Outstanding Principal Amount" on its records maintained for this Bond. On each date upon which a portion of the Cumulative Outstanding Principal Amount is paid to the registered owner hereof, pursuant to the redemption provisions of the Indenture, the Trustee shall enter on its records the principal amount paid on the Bond as "Principal Amount Paid Pursuant to Optional Redemption Provisions," and shall enter the then outstanding principal amount of this Bond as "Cumulative Outstanding Principal Amount" on its records. Unless the Bond is held by the Trustee, the registered owner may from time to time enter the respective amounts deposited or deemed deposited into the Project Fund pursuant to the terms of the Indenture under the column headed "Principal Amount Deposited Into Project Fund" on the attached Table of Cumulative Outstanding Principal Amount (the "Table") and may enter the aggregate principal amount of this Bond then outstanding under the column headed "Cumulative Outstanding Principal Amount" on the attached Table. On each date upon which a portion of the Cumulative Outstanding Principal Amount is paid to the registered owner hereof pursuant to the redemption provisions of the Indenture, unless the Bond is held by the Trustee, the registered owner may enter the principal amount paid on this Bond under the column headed "Principal Amount Paid Pursuant to Optional Redemption Provisions" on the Table and may enter the then outstanding principal amount of this Bond under the column headed "Cumulative Outstanding Principal Amount" on the Table. However, the records maintained by the Trustee as to amounts deposited into the Project Fund or principal amounts



paid on this Bond shall be the official records of the Cumulative Outstanding Principal Amount for all purposes.

THIS BOND is a duly authorized Bond of the Issuer designated "City of Raymore, Missouri Taxable Industrial Revenue Bonds (Kansas City Property Partners, LLC Project), Series 2021," in the maximum aggregate principal amount of not to exceed \$44,000,000 (the "Bonds"), to be issued for the purpose of providing funds to pay the cost of acquiring, constructing and equipping an industrial distribution warehouse and commercial facility and associated site works and infrastructure, consisting of one building approximately 567,495 square feet, including land, buildings, structures, improvements and fixtures (the "Project"), to be leased to Kansas City Property Partners, LLC, a Florida limited liability company (the "Tenant"), under the terms of a Lease Agreement dated as of December \_\_, 2021 (said Lease Agreement, as amended and supplemented from time to time in accordance with the provisions thereof, being herein called the "Lease"), between the Issuer and the Tenant, all pursuant to the authority of and in full compliance with the provisions, restrictions and limitations and Article VI, Section 27(b) of the Missouri Constitution and Sections 100.010 through 100.200, inclusive, of the Revised Statutes of Missouri, as amended, and pursuant to proceedings duly had by the governing body of the Issuer.

THE BONDS are issued under and are equally and ratably secured and entitled to the protection given by a Trust Indenture dated as of December \_\_, 2021 (said Trust Indenture, as amended and supplemented from time to time in accordance with the provisions thereof, being herein called the "Indenture"), between the Issuer and Security Bank of Kansas City, as trustee (the "Trustee"). Subject to the terms and conditions set forth therein, the Indenture permits the Issuer to issue Additional Bonds (as defined therein) secured by the Indenture on a parity with the Bonds. 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 Issuer, the Trustee and the owners of the Bonds, and the terms upon which the Bonds are issued and secured.

THIS BOND shall be subject to redemption and payment as provided in the Indenture.

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

THE BONDS are special obligations of the Issuer payable solely out of the rents, revenues and receipts derived by the Issuer from the Project and not from any other fund or source of the Issuer, 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 Issuer under and pursuant to the Lease, all as provided in the Indenture. The Bonds do not constitute general obligations of the Issuer or the State of Missouri, and neither the Issuer 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 Tenant

directly to the Trustee for the account of the Issuer and deposited in a special account created by the Issuer and designated the “City of Raymore, Missouri, Taxable Industrial Revenue Bond Fund –Kansas City Property Partners, LLC Project, Series 2021.”

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

SUBJECT TO the requirements for transfer set forth above in the legend contained on the face of this Bond, this Bond is transferable, as provided in the Indenture, only upon the books of the Issuer kept for that purpose at the above-mentioned office of the Trustee by the registered owner hereof in person or by such person’s duly authorized attorney, upon surrender of this Bond together with a written instrument of transfer satisfactory to the Trustee duly executed by the registered owner or such person’s duly authorized attorney, and thereupon a new fully registered Bond or Bonds, without coupons, and in the same aggregate principal amounts, shall be issued to the transferee in exchange therefor as provided in the Indenture, and upon payment of the charges therein prescribed. The Issuer, 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 without coupons in the denomination of \$0.01 or any multiple thereof up to the maximum principal denomination of \$44,000,000.

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

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

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

**CITY OF RAYMORE, MISSOURI**

By \_\_\_\_\_  
Mayor

(SEAL)

ATTEST:

By \_\_\_\_\_  
City Clerk

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**TABLE OF CUMULATIVE OUTSTANDING PRINCIPAL AMOUNT**

<u>Date</u>	Principal Amount Deposited or Deemed Deposited Into <u>Project Fund</u>	Principal Amount Paid Pursuant to Redemption <u>Provisions</u>	Cumulative Outstanding Principal <u>Amount</u>	Notation Made <u>By</u>
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(FORM OF ASSIGNMENT)  
(NOTE RESTRICTIONS ON TRANSFERS)

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

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—  
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: \_\_\_\_\_.

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—  
NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular and must be guaranteed by an eligible guarantor.

Medallion Signature Guarantee:

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CERTIFICATE OF AUTHENTICATION

This Bond is the Taxable Industrial Revenue Bond (Kansas City Property Partners, LLC Project), Series 2021, described in the Trust Indenture. The effective date of registration of this Bond is set forth below.

**SECURITY BANK OF KANSAS CITY, as  
Trustee**

\_\_\_\_\_  
Date

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



**EXHIBIT B**

**PROJECT EQUIPMENT**

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

None

## **EXHIBIT C**

### **PROJECT IMPROVEMENTS**

All buildings, structures, improvements and fixtures located on or to be acquired or purchased for the construction, improvement, equipping or remodeling of the Project Site pursuant to **Article IV** of the Lease and paid for in whole or in part from the proceeds of Bonds and all additions, alterations, modifications and improvements thereof made pursuant to this Lease.

**EXHIBIT D**

**PROJECT SITE**

All of the following property located in Cass County, Missouri:

Lot 1 of the Raymore Commerce Center, First Plat Subdivision, Cass County, Missouri.

**Space Above for Recorder's Use Only**

**DOCUMENT COVER SHEET**

TITLE OF DOCUMENT: Landlord Estoppel Certificate and Agreement Regarding Lease

DATE OF DOCUMENT: December \_\_\_\_, 2021

GRANTOR: CITY OF RAYMORE, MISSOURI

Mailing Address: 100 Municipal Circle  
Raymore, Missouri 64083

KANSAS CITY PROPERTY PARTNERS, LLC

Mailing Address: c/o Southern Glazers Wine and Spirits, LLC  
14911 Quorum, Suite 150  
Dallas, Texas 75254

GRANTEE: WESTERN-SOUTHERN LIFE ASSURANCE COMPANY

Mailing Address: 400 Broadway  
Cincinnati, Ohio 45202

LEGAL DESCRIPTION: See Exhibit A

REFERENCE BOOK & PAGE: None

**LANDLORD ESTOPPEL CERTIFICATE AND  
AGREEMENT REGARDING LEASE**

December \_\_\_\_, 2021

Western-Southern Life Assurance Company  
400 Broadway  
Cincinnati, Ohio 45202

**Re:** Loan made or to be made by Western-Southern Life Assurance Company (“**Lender**”) to Kansas City Property Partners, LLC, a Florida limited liability company (“**Borrower**”)

**BACKGROUND**

A. The City of Raymore, Missouri, a constitutional charter city duly organized and validly existing under the laws of the State of Missouri (the “**City**”) is or will be the owner of the fee simple interest in that property (the “**Property**”) described on **Exhibit A** hereto.

B. Pursuant to that certain Lease Agreement dated as of December \_\_\_\_, 2021 (as the same may from time to time hereafter be amended, restated, supplemented or renewed, subject to the provisions hereof, the “**Lease**”), the City, as landlord, has leased or agreed to lease the Property to Borrower, as tenant. Capitalized terms not defined herein shall have the meanings ascribed to them in the Lease.

C. Lender has agreed to make a loan to Borrower in the maximum principal amount of \$44,000,000 (the “**Loan**”), said Loan to be made on the terms and subject to the conditions set forth in that certain Promissory Note executed by Borrower to the order of Lender and such other documents executed in connection with the Loan or otherwise evidencing or securing the Loan (collectively, as amended, modified, supplemented or restated from time to time, the “**Loan Documents**”).

D. In connection with the Loan, Borrower has entered into that certain Fee Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing in favor of the trustee named therein for the benefit of Lender, dated as of December \_\_\_\_, 2021, and recorded or to be recorded in the Recorder of Deeds Office for the County of Cass, State of Missouri (as amended, modified, renewed or restated from time to time, the “**Fee Deed of Trust**”), conveying the Borrower’s fee title interest in the Property to secure the payment of the indebtedness described in the Fee Deed of Trust.

E. In connection with the Loan, Borrower has or will enter into that certain Leasehold Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing in favor of the trustee named therein for the benefit of Lender, dated as of December \_\_\_\_, 2021, and recorded or to be recorded in the Recorder of Deeds Office for the County of Cass, State of Missouri (as amended, modified, renewed or restated from time to time, the “**Leasehold Deed of Trust**” and together with the Fee Deed of Trust, collectively, the “**Deeds of Trust**”), conveying the Borrower’s leasehold title interest in the Property to secure the payment of the indebtedness described in the Leasehold Deed of Trust.

**AGREEMENT**

1. **Representations and Warranties.** The undersigned hereby represents to Lender to the best of its knowledge, but without an independent investigation, that as of the date hereof:

- a. The Lease is in full force and effect; the Lease constitutes the entire agreement between the parties with respect to the subject matter thereof; and the Lease has not been modified, amended or changed in any manner whatsoever;
- b. The present tenant under the Lease is Kansas City Property Partners, LLC;
- c. The term of the Lease has commenced and the expiration date of the Lease will occur on December 1, 2041, subject to earlier termination as more particularly set forth therein;
- d. Basic Rent payments by Borrower are due and payable under the Lease on or before December 1st of each year that the Bonds are outstanding (each such date being a Payment Date);
- e. The Basic Rent payable by Borrower under the Lease on each Payment Date is an amount that, when added to any collected funds then on deposit in the Bond Fund and available for the payment of principal on the Bonds and the interest thereon on such Payment Date, is equal to the amount payable on such Payment Date as principal on the Bonds and the interest thereon;
- f. To the City's knowledge, Borrower has complied in all material respects with the terms, covenants or conditions of the Lease and is not in default under any of the terms, covenants or conditions of the Lease on the part of Borrower to be observed or performed, and to the City's knowledge, no event has occurred which with the passage of time or the giving of notice, or both, would constitute an Event of Default by Borrower under the Lease;
- g. Neither the City nor, to the City's knowledge, Borrower has commenced any action or has given or received any notice for the purpose of declaring an Event of Default under the Lease or terminating the Lease; and
- h. All Basic Rent, Additional Rent and other sums due and payable under the Lease have been paid in full through the date hereof.

2. **Lease Agreements.** The City hereby agrees to the following, notwithstanding anything to the contrary set forth in the Lease:

- a. Execution of this letter by the undersigned constitutes notice to the City as required pursuant to Sections 10.4(a), (b), (c) and (d) of the Lease to the making of the above-referenced Loan, to the encumbrance of Borrower's interest in the Property by the Leasehold Deed of Trust, and the execution of any other financing document in favor of Lender (under which the Borrower has granted rights in the Lease to the Lender) (each a "**Financing Document**") in connection therewith.
- b. The City shall send copies of all notices and other written communications which are sent by the City to Borrower pursuant to the Lease, simultaneously to Lender at the address set forth below, and/or to Lender's successors and assigns at the address set forth below, or such other



- address as Lender may notify the City in writing.
- c. There shall be no cancellation, termination, modification, surrender or amendment of the Lease without the prior written consent of Lender unless an Event of Default has occurred thereunder, in which case there shall be no cancellation, termination modification, surrender or amendment of the Lease unless each of the following conditions have been satisfied:
- i. the City has given Lender written notice of the subject Event of Default in accordance with Section 10.4(d)(iii) of the Lease, at the address set forth below, or such other address as Lender may notify the City in writing;
  - ii. Lender shall be given the same period of time which Borrower has, plus fifteen (15) additional days as set forth in Section 10.4(d)(iv) of the Lease, after the service on Lender of the written notice described in clause (c)(i) above, within which to remedy or cause to be remedied any monetary (including payment) or non-monetary Event of Default under the Lease (including, without limitation, those Events of Default described in Sections 12.1(a), (b) and (e) of the Lease) which is the basis for such notice, and the City shall accept such performance by Lender as timely performance by Borrower. Lender's election to cure or not cure any Event of Default shall be made in Lender's sole and subjective discretion and nothing in this document or otherwise shall in any way be construed as obligating Lender to undertake any cure; and
  - iii. if the Event of Default is a non-monetary Event of Default which cannot be cured by Lender without first obtaining possession of the Property, then the City shall not terminate the Lease by reason of such Event of Default if (1) Lender, within the grace period set forth in clause (b)(ii) above, shall have commenced and thereafter diligently pursues the foreclosure (or power of sale) remedies granted under the Leasehold Deed of Trust, or otherwise take possession of the Property in lieu of such foreclosure, by receivership or otherwise, and diligently pursues obtaining possession of the Property, and (2) Lender or the purchaser at any such foreclosure or trustee's sale cures such Event of Default within thirty (30) days following the completion of such foreclosure or trustee's sale (provided, however, the Lender or any successor owner shall not be required to cure any Event of Default under Section 12(c) of the Lease, relating to the bankruptcy or insolvency of Borrower).
- d. If the Lease is terminated, cancelled or surrendered as a result of any rejection of the Lease in any bankruptcy, reorganization or insolvency proceeding, or upon the occurrence of any other Event of Default under the Lease, then the City shall, upon written request by Lender, given within thirty (30) days after such termination, cancellation or surrender, execute and deliver a new lease of the Property to Lender (or its designee) for the remainder of the term of the Lease at the same Basic Rent and with the same agreements, covenants and conditions (except for any covenants or conditions which have been fulfilled and satisfied prior to termination) as are contained in the Lease and with equal priority to the extent not inconsistent with any such bankruptcy, reorganization or insolvency proceeding. The lien of the Leasehold Deed of Trust shall attach to all of the City's rights and remedies at any time arising under or pursuant to Section 365(h) of the United States Federal Bankruptcy Code.

- The City shall not, without Lender's prior written consent, elect to treat the Lease as terminated or surrendered under said section of the Bankruptcy Code or any similar provision of any state law. Any such election made without Lender's prior written consent shall be void and unenforceable as against Lender and Lender's successors and assigns.
- e. If the terms of any Deed of Trust or any Financing Document evidencing and/or securing the Loan pertaining to any one or more of the disbursement, application or use of insurance proceeds or the disbursement, application or use of condemnation proceeds conflict with the terms of the Lease, the provisions in the applicable Deed of Trust or such Financing Document, as applicable, shall control.
  - f. The City acknowledges that Borrower has granted to Lender or Lender's assignee a power of attorney to exercise certain rights for Borrower under the Lease, including, but not limited to, the exercise of any option to purchase, and the City agrees that if Lender acts under such power of attorney, such action, and the obligations thereunder, shall be deemed the action and obligations of Borrower, as principal.
  - g. Borrower shall not be permitted to prepay the Basic Rent, as described in Section 5.4 of the Lease, without Lender's prior written consent, which consent may be granted or denied in Lender's sole and absolute discretion.

**3. Exercise of Remedies: Subordination, Non-Disturbance and Attornment.**

- a. Lender may exercise any rights granted under the Leasehold Deed of Trust, and/or the Fee Deed of Trust, including, without limitation, the sale and assignment of Borrower's interest in the Property pursuant to the foreclosure (or power of sale) remedies granted therein, the assignment of such Borrower's leasehold interest in the Property to Lender, or its designee in lieu of such foreclosure, or the appointment of a receiver for the Property and Borrower's rights under the Lease, all without the necessity of any consent or approval from the City, provided, however, that Lender shall provide written notice to the City of such foreclosure or appointment.
- b. Neither Lender nor any other person to whom the City shall attorn shall be liable for any act or omission of Borrower or be bound by any amendment or modification to the Lease after the date hereof entered into without the prior written consent of Lender, or be subject to any offsets or defenses which the City might then have against Borrower. Lender and any other person to whom the City shall attorn shall be discharged from all liability under the Lease which accrues or arises after Lender or such other person assigns or otherwise transfers its interest in the Lease as part of the sale or other disposition of the Property.

**4. Miscellaneous.**

- a. The City hereby consents to the recordation of this Agreement if deemed necessary by Lender; provided, however, the City shall not be responsible for any costs or expenses involving such recordation.
- b. The terms and provisions of this instrument shall run with the land and the Property. Lender, its successors and assigns and any and all future holders of any deed of trust encumbering all

or a portion of the Property shall have the right to rely upon and enforce the representations, warranties, covenants and agreements of the City set forth herein. This instrument shall inure to the benefit of all such parties.

- c. Any notice, demand or other communication required or permitted hereunder shall be in writing and shall be deemed to have been given if and when received if personally delivered, on the first business day after being deposited with a nationally recognized overnight courier service (Federal Express, DHL, etc.) prepaid and specifying the overnight delivery and addressed to the party at its address as provided herein or on the second business day after being deposited in United States registered or certified mail, postage prepaid, and addressed to a party at its address set forth below:

To City: City of Raymore, Missouri  
100 Municipal Circle  
Raymore, Missouri 64083  
Attention: City Manager

With copy to: Gilmore & Bell, P.C.  
2405 Grand Blvd, Suite 1100  
Kansas City, Missouri 64108  
Attn: E. Sid Douglas III

To Lender: Western-Southern Life Assurance Company  
400 Broadway  
Cincinnati, Ohio 45202  
Attn: Sarah Herron/Michael Barnett

With copy to: Pircher, Nichols & Meeks LLP  
1901 Avenue of the Stars, Suite 1200  
Los Angeles, California 90067  
Attention: Real Estate Notices (DLP/4317.145)

To Borrower: Kansas City Property Partners, LLC  
1600 NW 163<sup>rd</sup> Street  
Miami, FL 33169

With copy to: Southern Glazers Wine and Spirits, LLC  
14911 Quorum, Suite 150  
Dallas, Texas 75254  
Attn: General Counsel – Real Estate

- d. In the event of any conflict between the provisions of this document and those of any Loan Document, as between Borrower and Lender, such Loan Document shall govern and control.

5. **Anti-Discrimination Against Israel Act.** Pursuant to Section 34.600 of the Revised Statutes of Missouri, the Borrower 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.

[SIGNATURE PAGE TO FOLLOW]







Acknowledged and Agreed to by:

BORROWER:

**KANSAS CITY PROPERTY PARTNERS,  
LLC**, a Florida limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF FLORIDA            )  
  ) SS.  
COUNTY OF MIAMI-DADE )

The foregoing instrument was subscribed, sworn to and acknowledged before me by means of  physical presence or  online notarization this \_\_\_ day of December, 2021, by \_\_\_\_\_, as Manager of Kansas City Property Partners, LLC, a Florida limited liability company, on behalf of said company.

\_\_\_\_\_  
Notary Public

(Seal)

**[SIGNATURE PAGE FOR  
LANDLORD ESTOPPEL CERTIFICATE AND AGREEMENT REGARDING LEASE]**

**EXHIBIT A**

**Legal Description**

All of the following property located in Cass County, Missouri:

Lot 1 of the Raymore Commerce Center, First Plat Subdivision, Cass County, Missouri.

## CITY AGREEMENT AND CONSENT TO COLLATERAL ASSIGNMENT

THIS CITY AGREEMENT AND CONSENT TO COLLATERAL ASSIGNMENT (this "**Consent**"), dated as of December \_\_, 2021, is made and entered into by and among the **CITY OF RAYMORE, MISSOURI**, a constitutional charter city duly organized and validly existing under the laws of the State of Missouri (the "**City**"), **WESTERN-SOUTHERN LIFE ASSURANCE COMPANY**, an Ohio corporation ("**Lender**"), and **KANSAS CITY PROPERTY PARTNERS, LLC**, a Florida limited liability company ("**Borrower**").

### RECITALS

**WHEREAS**, pursuant to Article VI, Section 27(b) of the Missouri Constitution, Sections 100.010 through 100.200, inclusive, of the Revised Statutes of Missouri (the "**Act**"), the governing body of the City passed Ordinance \_\_\_\_\_ (the "**Ordinance**") on \_\_\_\_\_, 2021, authorizing the City to, among other things (a) acquire certain real property located in the City of Raymore, Missouri, more particularly described on **Exhibit A**, attached hereto and incorporated herein (the "**Property**"), and (b) issue its Taxable Industrial Revenue Bonds (Kansas City Property Partners, LLC Project), Series 2021, in the maximum principal amount of \$44,000,000 (the "**Bonds**"), for the purpose of acquiring the Property and constructing, installing and equipping an approximately 567,495 square foot industrial distribution warehouse and commercial facility, including land, buildings, structures, improvements, and fixtures, at the Property (the "**Project Improvements**"); and

**WHEREAS**, pursuant to the Ordinance, the City is authorized to execute and deliver a Trust Indenture by and between the City and Security Bank of Kansas City, as trustee (as amended, modified, supplemented or restated from time to time, the "**Indenture**") dated as of December \_\_, 2021, for the purpose of, *inter alia*, issuing and securing the Bonds, and to enter into a Lease Agreement with Borrower (as amended, modified, supplemented or restated from time to time, the "**Lease**"), under which the City, as lessor, will lease the Property and Project Improvements to Borrower, as lessee, in consideration of rentals that will be sufficient to pay the principal of and interest on the Bonds, as more particularly described in the Lease; and

**WHEREAS**, the City has issued the Bonds to the Borrower pursuant to the provisions of Article VI, Section 27(b) of the Missouri Constitution, as amended, and the Act, under the Indenture to finance the acquisition and construction of the Property and Project Improvements; and

**WHEREAS**, Lender has agreed to make a loan to Borrower in the maximum principal amount of \$44,000,000 (the "**Loan**"), said Loan to be made on the terms and subject to the conditions set forth in that certain Promissory Note executed by Borrower to the order of Lender and such other documents executed in connection with the Loan or otherwise evidencing or securing the Loan (collectively, as amended, modified, supplemented or restated from time to time, the "**Loan Documents**"); and

**WHEREAS**, as security for the Loan, Borrower has executed, among other documents, a Fee Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing, dated as of December \_\_, 2021, for the benefit of Lender (as amended, modified, supplemented or restated from time to time, the "**Fee Deed of Trust**"), covering Borrower's fee title interest in the Property, and that certain Leasehold Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing, dated as of even date herewith, for the benefit of Lender (as amended, modified, supplemented or

restated from time to time, the “**Leasehold Deed of Trust**” and together with the Fee Deed of Trust, the “**Deeds of Trust**”), covering Borrower’s leasehold title interest in the Property under the Lease; and

**WHEREAS**, as a condition to the Lender’s agreement to provide the Loan to Borrower, and as additional collateral security for the Loan, Borrower has executed and delivered to Lender an Assignment, Pledge and Security Agreement dated of even date herewith (the “**Pledge Agreement**”), wherein Borrower pledges, collaterally assigns and grants to Lender a first priority lien against and security interest in and to the Bonds now or hereafter issued by the City to and acquired by Borrower, and the proceeds thereof, as security for the Borrower’s obligations under the Loan Documents, and in furtherance thereof, Borrower has also executed that certain Assignment of Bond Documents dated as of even date herewith (as amended, modified, supplemented or restated from time to time, the “**Collateral Assignment**”), assigning Borrower’s right, title interest in the documents, instruments and agreements described therein, each as amended or modified from time to time (collectively, the “**Chapter 100 Documents**”), to Lender as additional collateral for the Loan; and

**WHEREAS**, Lender requires the City to consent to the Collateral Assignment, the Pledge Agreement and the Deeds of Trust, and to make the other agreements, representations and warranties herein, in order for Lender to approve the issuance of the Bonds and the transfer of the Property to the City.

#### **AGREEMENT**

**NOW THEREFORE**, in consideration of the foregoing recitals and the agreements, promises and covenants herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties to this Consent hereby agree as follows:

1. **Consent to Deeds of Trust and Collateral Assignment.** The City hereby acknowledges and consents to the Deeds of Trust and the collateral assignment by Borrower to Lender of all Chapter 100 Documents in which Borrower may now or hereafter have an interest, as security for the Borrower’s obligations to the Lender, pursuant to the terms and conditions of the Deeds of Trust, the Collateral Assignment and each of the other Loan Documents.

2. **Consent to Pledge of Bonds.** The City hereby acknowledges and consents to the collateral assignment by Borrower to Lender of the Bonds as security for the Loan and Borrower’s other obligations under the Loan Documents, pursuant to the terms and conditions of the Pledge Agreement and each of the other Loan Documents.

3. **Attornment.** The City covenants and agrees to make full and complete attornment (without the necessity of any other or further attornment or instrument) to, and to accept performance of the Borrower’s obligations under the Chapter 100 Documents, from (a) Lender (or an affiliate or designee of the Lender organized to hold title to the Property), its successors and assigns, (b) the purchaser or grantee of the Property at foreclosure or under sale under the Leasehold Deed of Trust or by deed or assignment in lieu thereof, or (c) any receiver which Lender requests be appointed for the Property (each such party described in subparts (a) through (c) of this sentence being referred to herein as a “**Successor Owner**”). Such attornment shall be for the balance of the term of each of the Chapter 100 Documents, including any extensions thereof, and shall be upon the same terms, covenants and conditions as provided in the Chapter 100 Documents, so as to establish direct privity of estate and contract between the City and the Successor Owner, with the same force and effect as though the Chapter 100 Documents were made

directly between the City and the person to whom the City shall attorn as aforesaid, provided, however, that (i) no Successor Owner shall be bound by any amendment or modification of the Chapter 100 Documents after the date of this Consent without the written consent of the Lender and Successor Owner in contravention of the provisions hereof, and (ii) the City's attornment shall not be deemed a waiver of any default by the Borrower (but shall be subject to Lender's cure rights as provided herein). Without limiting the foregoing, it is hereby acknowledged and agreed that Lender shall have the right to sell, lease, assign, transfer, convey or otherwise dispose of the Property or any portion thereof, and the Borrower's rights under the Chapter 100 Documents to a third party, whether pursuant to judicial or non-judicial foreclosure sale under one or more of the Deeds of Trust or Collateral Assignment, deed or assignment in lieu thereof or otherwise, without the City's consent; provided, however, that Lender shall provide written notice to the City of any such transfer; and provided further, than any Successor Owner shall have the financial capability to fulfill the obligations of the Borrower under the Chapter 100 Documents and the Performance Agreement (as defined in the Chapter 100 Documents) and possess the management experience to operate the Property and the Project Improvements in order for the benefits of the Chapter 100 Documents to be assumed by the Successor Owner. If Lender conveys an interest in the Property and/or assigns the Borrower's rights under the Chapter 100 Documents as aforesaid, then Lender shall be discharged from all liability under the Chapter 100 Documents arising from any action or non-action after Lender assigns or otherwise transfers its interest in the Chapter 100 Documents as part of any such sale of the Property.

4. **Amendment of Chapter 100 Documents.** The City agrees that, so long as the Loan shall remain outstanding and unpaid, the City shall not, without the prior written consent of Lender, which consent shall not be unreasonably withheld, conditioned, or delayed, (a) amend or modify any of the Chapter 100 Documents, (b) cancel or terminate any of the Chapter 100 Documents in contravention of the terms thereof and of the provisions of this Consent, or (c) assign its interest in any of the Chapter 100 Documents, other than pursuant to the terms of the Chapter 100 Documents and this Consent. The City agrees that, so long as the Loan shall remain outstanding and unpaid, the City shall provide written notice to Lender not less than ten (10) days prior to a total prepayment of the Bonds prior to their stated maturity.

5. **Lender's Right to Cure Borrower Default.** If any breach or default on the part of the Borrower occurs under the Chapter 100 Documents, then the City shall give Lender written notice thereof at the same time the City gives written notice thereof to the Borrower setting forth the nature of the default, the specific action or actions necessary to cure such default and the period during which the Borrower must cure the default pursuant to the applicable Chapter 100 Documents. If the Borrower fails to cure the same within any applicable cure or grace period (any such uncured breach or default being referred to herein as a "**Borrower Default**"), then (a) the City shall give Lender written notice thereof, (b) the City shall have the right to take any action permitted under the Chapter 100 Documents, subject, however, to Lender's rights to cure the same as provided in Section 10.4 of the Lease. Lender shall have the right, but not the obligation, to cure or cause the cure of such Borrower Default prior to the exercise by the City of any rights or remedies available under any of the Chapter 100 Documents or applicable law, on the following terms and subject to the following conditions:

5.1 If the Borrower Default involves the failure to make any payment due by the Borrower under the Chapter 100 Documents and the City has given Lender notice of such failure simultaneously with the City's notice thereof to Borrower, then, if Lender desires to exercise such cure right, Lender shall make such payment to the City within fifteen (15) days after the expiration of the Borrower's cure or grace period applicable to such failure, subject to possible delays resulting from any injunction, or by reason of any applicable law, or by reason of any

action by any court having jurisdiction over any bankruptcy, reorganization or insolvency proceeding involving the Borrower. If Lender fails to exercise such cure right as aforesaid, then Lender shall have no liability therefor and the City shall have the unrestricted right to exercise any rights or remedies available to the City under the Chapter 100 Documents as a result of such Borrower Default.

5.2 If the Borrower Default involves the failure to observe or perform a covenant or obligation under the Chapter 100 Documents and the City has given Lender notice of such failure simultaneously with the City's notice thereof to Borrower, then, if Lender desires to exercise such cure right, Lender shall give the City written notice of Lender's intention to cure such Borrower Default within fifteen (15) days after the expiration of the Borrower's cure or grace period applicable to such failure, subject to possible delays resulting from any injunction, or by reason of any applicable law, or by reason of any action by any court having jurisdiction over any bankruptcy, reorganization or insolvency proceeding involving the Borrower. If Lender fails to exercise such cure right as aforesaid, then Lender shall have no liability therefor and the City shall have the unrestricted right to exercise any rights or remedies available to the City under the Chapter 100 Documents as a result of such Borrower Default.

5.3 If Lender exercises its cure right as provided in Section 5.2 above, then Lender shall cause such Borrower Default to be cured within thirty (30) days after Lender gives written notice to the City of Lender's exercise of such cure right; provided, however, that if the Borrower Default is of such a nature that it is not reasonably capable of cure within said thirty (30) day period, then Lender shall have a reasonable time after the expiration of said thirty (30) day period within which to cure such default provided that Lender is proceeding with reasonable diligence to cause such default to be cured; and provided, further, that if it is reasonably necessary for Lender to obtain possession of the Property (either through receivership, foreclosure or deed in lieu thereof, all at the option of Lender) in order to cure such default, then the pursuit of such remedies by Lender with reasonable diligence shall be deemed to satisfy the foregoing requirement that Lender proceed with reasonable diligence with respect to the cure of such default.

6. **Exercise of Lender Remedies for Borrower Default.** If Lender (or its successors or affiliates) exercises Lender's rights under the Collateral Assignment or the other Loan Documents and assumes in writing Borrower's obligations under the Chapter 100 Documents, then Lender (or its successors or affiliates) shall be liable for the obligations of the Borrower under the Chapter 100 Documents only for the period of time that Lender (or its successors or affiliates) remains the holder of such rights. Lender (or its successors or affiliates) shall not be liable for any default or other action of the Borrower prior to the exercise of such rights by Lender (or its successors or affiliates), nor shall Lender (or its successors or affiliates) have any obligations under the Chapter 100 Documents for any obligations which accrue or arise after its rights thereunder have been assigned or otherwise disposed of thereafter.

7. **Bankruptcy.** If any of the Chapter 100 Documents are terminated as a result of any rejection of any of the Chapter 100 Documents in any bankruptcy, reorganization or insolvency proceeding, then the City shall, upon written request by Lender, given within thirty (30) days after such termination, execute and deliver to Lender new Chapter 100 Documents, each of which shall have the same provisions as provided in the current Chapter 100 Documents and with equal priority to the extent not inconsistent with any bankruptcy, reorganization or insolvency proceeding. The City shall not agree to a voluntary termination or surrender of any Chapter 100 Documents without Lender's prior written



consent, which consent shall not be unreasonably withheld, conditioned, or delayed. The City agrees that the obligations of the City herein are specifically enforceable.

8. **Casualty And Condemnation Proceeds.** Notwithstanding anything to the contrary in any of the Chapter 100 Documents, and so long as the Loan remains outstanding, the parties agree that all proceeds from any casualty to or any condemnation (or sale under threat of condemnation) of the Property shall be (a) first, paid to Lender, in accordance with the Loan Documents, for application to the indebtedness owed to Lender (or, if the Loan Documents so provide, the proceeds may be released by Lender to Borrower for restoration and/or repair of the Property, in accordance with the terms and provisions thereof), (b) second, paid to the City to be applied to any outstanding payments in lieu of taxes or any other amounts owed by the Borrower to the City under the Chapter 100 Documents, and (c) finally, paid to the Borrower or any other person entitled thereto.

9. **Representations, Warranties and Covenants of City.** The City represents, warrants and covenants to and for the benefit of Lender that, to the City's actual knowledge:

9.1 True, correct and complete copies of the Chapter 100 Documents have been delivered to Lender, and have not been canceled, modified, assigned, extended or amended. There are no side letters or oral or other agreements which affect any terms of the Chapter 100 Documents or the relationship between the City and the Borrower other than the Performance Agreement and the Memorandum of Understanding for Raymore Industrial Development recorded January 6, 2020 with the Recorder of Deeds for Cass County, Missouri.

9.2 As of the date of this Consent, the Borrower has not engaged in any conduct that would permit the City to terminate the Chapter 100 Documents.

9.3 The Chapter 100 Documents are in full force and effect on the date hereof and represent the valid, binding and enforceable obligations of the City. The City is not in default under the Chapter 100 Documents and has not breached any of the terms of the Chapter 100 Documents. To the City's knowledge, the Borrower is not in default under the Chapter 100 Documents and has complied in all material respects with the terms of the Chapter 100 Documents. As of the date hereof, the City has not notified the Borrower of any breach, nor does it have any claims against the Borrower, nor any offsets or defenses against the performance of Borrower's obligations under the Chapter 100 Documents. No termination of the Borrower's rights under the Chapter 100 Documents shall be valid without prior written notice to Lender of such termination and an opportunity to cure in accordance with the provisions of the Chapter 100 Documents.

9.4 Any amounts required to be paid prior to the date hereof by the Borrower to the City pursuant to the Chapter 100 Documents have been paid in full.

9.5 Except for the Fee Deed of Trust, the City has not subordinated or caused to be subordinated its interest in the Chapter 100 Documents to any deed of trust or other lien except pursuant to that certain Landlord Estoppel Certificate and Agreement Regarding Lease dated of even date herewith. The City has not sold, transferred or assigned the Chapter 100 Documents or otherwise incurred or granted a lien or encumbrance on its interest in the Chapter 100 Documents.

9.6 To the knowledge of the City, there is no litigation or proceeding pending or threatened against or affecting the City which would materially adversely affect the Chapter 100 Documents, the projects described therein, or the ability of the City to perform any of its obligations under the Chapter 100 Documents.

9.7 The City has received no notice of prior sale, transfer or assignment, hypothecation or pledge of the Borrower's interest in the Chapter 100 Documents, except as otherwise set forth herein.

9.8 None of the following events have occurred: (a) the filing of a petition in bankruptcy, insolvency or reorganization, or for the appointment of a receiver or trustee, affecting the City, or (b) the making of an assignment by the City for the benefit of its creditors.

9.9 The City has issued only one Bond, and, unless otherwise consented to in writing by Lender, the City agrees not to issue any Bond apart from that already issued, to evidence the City's obligation to the Borrower under the Chapter 100 Documents, which Bond shall be endorsed from time to time on Schedule 1 thereto to evidence the amount of the City's indebtedness to the Borrower as described in Section 208 of the Indenture.

10. **Representations, Warranties and Covenants of Borrower.** The Borrower represents, warrants and covenants to and for the benefit of Lender that:

10.1 To its knowledge, as of the date of this Consent, the City has not engaged in any conduct that would permit the Borrower to terminate the Chapter 100 Documents.

10.2 The Chapter 100 Documents are in full force and effect on the date hereof and represent the valid, binding and enforceable obligations of the Borrower. The Borrower is not in default under the Chapter 100 Documents and has not breached any of the terms of the Chapter 100 Documents. To the Borrower's knowledge, the City is not in default under the Chapter 100 Documents and has complied in all material respects with the terms of the Chapter 100 Documents. As of the date hereof, the Borrower has not notified the City of any breach, nor does it have any claims against the City, nor any offsets or defenses against the performance of City's obligations under the Chapter 100 Documents.

10.3 Except with respect to the Fee Deed of Trust and/or as otherwise set forth in the Lease or the Indenture, (i) the Borrower has not subordinated or caused to be subordinated its interest in the Chapter 100 Documents to any deed of trust or other lien and (ii) the Borrower has not sold, transferred or assigned the Chapter 100 Documents or otherwise incurred or granted a lien or encumbrance on its interest in the Chapter 100 Documents.

10.4 The Borrower has received no notice of prior sale, transfer or assignment, hypothecation or pledge of the City's interest in the Chapter 100 Documents, except as otherwise set forth herein.

10.5 None of the following events have occurred: (a) the filing of a petition in bankruptcy, insolvency or reorganization, or for the appointment of a receiver or trustee, affecting the Borrower, or (b) the making of an assignment by the Borrower for the benefit of its creditors.

10.6 The Borrower is the owner of the Bond.

11. **Lender Requirements and Consent.** The terms and provisions of this instrument shall run with the land and the Property. Lender, any Successor Borrowers and any and all future holders of any deed of trust encumbering all or a portion of the Property shall have the right to rely upon and enforce the agreements of the City set forth herein. This instrument shall inure to the benefit of all such parties. Without limiting the foregoing, upon the written request of Lender or any other Successor Borrower, the City agrees to enter into an agreement on the same terms and conditions as this Consent with any other lender who will be granted a deed of trust against the Property, if the same is reasonably required to facilitate a sale or refinancing of the Property to the extent permitted by the terms of the Lease. The Lender consents to the transfer of the Property and the Project Improvements to the City pursuant to the Chapter 100 Documents.

12. **Termination.** This Consent shall terminate upon the earlier of (i) the mutual written consent of Lender, the Borrower, and the City; or (ii) written notice from Lender to the City of the payment in full, satisfaction, and discharge of all of the principal and accrued interest on the Loan, and all renewals, replacements, or substitutions thereof.

13. **Miscellaneous.**

13.1 **Waiver.** No waiver of any breach or default hereunder shall constitute or be construed as a waiver by Lender of any subsequent breach or default or of any breach or default of any other provisions of this Consent. Any waiver by Lender must be in writing and will not be construed as a continuing waiver. No waiver will be implied from any delay or failure to take action on account of any default of Borrower.

13.2 **Notices.** Any notice, demand or other communication required or permitted hereunder shall be in writing and shall be deemed to have been given if and when received if personally delivered, on the first business day after being deposited with a nationally recognized overnight courier service prepaid and specifying the overnight delivery and addressed to the party at its address as provided herein or on the second business day after being deposited in United States registered or certified mail, postage prepaid, and addressed to a party at its address set forth below:

To City:	City of Raymore, Missouri 100 Municipal Circle Raymore, Missouri 64083 Attention: City Manager
With copy to:	Gilmore & Bell, P.C. 2405 Grand Blvd, Suite 1100 Kansas City, Missouri 64108 Attn: E. Sid Douglas III
To Lender:	Western-Southern Life Assurance Company 400 Broadway Cincinnati, Ohio 45202

	Attn: General Counsel – Real Estate
With copy to:	Pircher, Nichols & Meeks LLP 1901 Avenue of the Stars, Suite 1200 Los Angeles, California 90067 Attention: David L. Packer, Esq.
To Borrower:	Kansas City Property Partners, LLC 1600 NW 163 <sup>rd</sup> Street Miami, Florida 33169
With copy to:	Southern Glazers Wine and Spirits, LLC 14911 Quorum, Suite 150 Dallas, Texas 75254 Attn: General Counsel – Real Estate
To the Trustee:	Security Bank of Kansas City 701 Minnesota Avenue Kansas City, Kansas 66101 Attn: Corporate Trust Department

or to such other address the party to receive such notice may have theretofore furnished to all other parties by notice in accordance herewith. Except as otherwise specifically required herein, no notice of the exercise of any right or option granted to Lender herein is required to be given.

13.3 Counterparts. This Consent may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same Consent.

13.4 Governing Law. This Consent and the terms, provisions and conditions herewith shall be governed by and construed and enforced in accordance with the internal laws of the State of Missouri (without giving effect to the conflicts of law provisions thereof).

13.5 General. This Consent may not be modified or amended except by written agreement of each of the parties hereto. The headings contained herein have been inserted for convenience of reference only and shall in no way restrict or otherwise modify any of the terms and provisions hereof. If any term, covenant or condition of this Consent, or the application thereof to any person or circumstance, shall to any extent be invalid or unenforceable, the remainder of this Consent, or the application of such term, covenant or condition to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby and each term, covenant and condition of this Consent shall be valid and enforceable to the fullest extent permitted by law. This Consent represents the entire agreement between the parties and all prior negotiations and communications between the parties concerning the subject loan are superseded hereby.

13.6 Capitalized Terms. All capitalized words not otherwise defined herein shall have the meaning ascribed to them in the Lease or the Indenture.

13.7 Conflicts. In the event of any conflict between the provisions of this Consent and the provisions of that certain Landlord Estoppel Certificate and Agreement Regarding Lease executed by the City and dated as of even date herewith (the "**Landlord Estoppel**"), the terms of the Landlord Estoppel shall govern, provided that, in the event of any conflict between the provisions of this Consent and any other Loan Document which relates only to Borrower and Lender, such Loan Document shall govern.

13.8 Anti-Discrimination Against Israel Act. Pursuant to Section 34.600 of the Revised Statutes of Missouri, the Borrower 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.]**  
**[Signature Page(s) to Follow.]**

**SIGNATURE PAGE TO CONSENT**

**IN WITNESS WHEREOF**, the parties hereto have caused this Consent to be duly executed as of the year and date first set forth above.

(SEAL)	CITY:  <b>CITY OF RAYMORE, MISSOURI</b>  By: _____ Name: _____ Title: _____
--------	---

ATTEST:

By: \_\_\_\_\_  
Name: Erica Hill  
Title: City Clerk

**ACKNOWLEDGMENT**

STATE OF MISSOURI        )  
  ) SS.  
COUNTY OF CASS         )

On this \_\_\_ day of December, in the year 2021, before me, \_\_\_\_\_, a Notary Public in and for said state, personally appeared \_\_\_\_\_, the \_\_\_\_\_, of the CITY OF RAYMORE, MISSOURI, a constitutional charter city duly organized and validly existing under the laws of the State of Missouri, known to me to be the person who executed the within City Consent and Agreement in behalf of said city and acknowledged to me that he executed the same for the purposes therein stated.

\_\_\_\_\_  
Notary Public

(Seal)

**SIGNATURES CONTINUED ON FOLLOWING PAGE**



**SIGNATURE PAGE TO CONSENT**

**IN WITNESS WHEREOF**, the parties hereto have caused this Consent to be duly executed as of the year and date first set forth above.

	<p><b>BORROWER:</b></p> <p><b>KANSAS CITY PROPERTY PARTNERS, LLC</b>, a Florida limited liability company</p> <p>By: _____  Name: _____  Title: _____</p>
--	---

STATE OF FLORIDA            )  
  ) SS.  
COUNTY OF MIAMI-DADE )

The foregoing instrument was subscribed, sworn to and acknowledged before me by means of  physical presence or  online notarization this \_\_\_ day of \_\_\_\_\_, 2021, by \_\_\_\_\_, as Manager of Kansas City Property Partners, LLC, a Florida limited liability company, on behalf of said company.

\_\_\_\_\_  
Notary Public

(Seal)

**SIGNATURES CONTINUED ON FOLLOWING PAGE**



**Exhibit A**

**Legal Description**

All of the following property located in Cass County, Missouri:

Lot 1 of the Raymore Commerce Center, First Plat Subdivision, Cass County, Missouri.

