
TRUST INDENTURE

Dated as of July 15, 2018

Between

**BOKF, N.A.,
As Trustee**

AND

CITY OF KEARNEY, MISSOURI

**Authorizing
\$7,865,000
CITY OF KEARNEY, MISSOURI
CERTIFICATES OF PARTICIPATION
SERIES 2018**

TRUST INDENTURE

Table of Contents

	<u>Page</u>
Parties	1
Recitals	1
Granting Clauses	2

ARTICLE I

DEFINITIONS

Section 101.	Definitions of Words and Terms	3
Section 102.	Rules of Construction	10

ARTICLE II

THE CERTIFICATES

Section 201.	Title and Amount of Certificates	10
Section 202.	Limited Obligations.....	11
Section 203.	Denomination, Numbering and Dating of Certificates.....	11
Section 204.	Method and Place of Payment of Certificates	11
Section 205.	Execution of Certificates	12
Section 206.	Registration, Transfer and Exchange of Certificates	12
Section 207.	Persons Deemed Registered Owners of Certificates	13
Section 208.	Authorization of Series 2018 Certificates.....	13
Section 209.	Authorization of Additional Certificates	15
Section 210.	Mutilated, Lost, Stolen or Destroyed Certificates	17
Section 211.	Cancellation and Destruction of Certificates Upon Payment	18
Section 212.	Certificates Issued in Book-Entry Form	18

ARTICLE III

PREPAYMENT OF CERTIFICATES

Section 301.	Prepayment of Certificates Generally.....	19
Section 302.	Prepayment of Series 2018 Certificates.....	19
Section 303.	Selection of Certificates to Be Prepaid	20
Section 304.	Trustee's Duty to Prepay Certificates	20
Section 305.	Notice and Effect of Call for Prepayment	20
Section 306.	Revised Schedule of Rental Payments and Option Purchase Price	22

ARTICLE IV

FORM OF CERTIFICATES

Section 401.	Forms Generally	22
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ARTICLE V

**CREATION OF FUNDS; CUSTODY AND APPLICATION OF
CERTIFICATE PROCEEDS**

Section 501.	Creation of Funds	22
Section 502.	Allocation of Certificate Proceeds.....	23
Section 503.	Deposits into the Project Fund.....	23
Section 504.	Disbursements from the Project Fund.	23
Section 505.	Disposition upon Completion of the Project	23
Section 506.	Disposition upon Acceleration.....	24

ARTICLE VI

REVENUES AND FUNDS

Section 601.	Deposits into the Certificate Fund	24
Section 602.	Application of Moneys in the Certificate Fund.	25
Section 603.	Payments Due on Days Other than Business Days	25
Section 604.	Nonpresentment of Certificates	25

ARTICLE VII

SECURITY FOR DEPOSITS AND INVESTMENT OF MONEYS

Section 701.	Moneys to Be Held in Trust.....	26
Section 702.	Investment of Moneys in Funds	26

ARTICLE VIII

DEFAULT AND REMEDIES

Section 801.	Events of Default.....	27
Section 802.	Acceleration of Maturity	27
Section 803.	Surrender of Possession of Facilities; Rights and Duties of Trustee in Possession.....	28
Section 804.	Appointment of Receivers	28
Section 805.	Exercise of Remedies by the Trustee.....	28
Section 806.	Limitation on Exercise of Remedies by Registered Owners	29
Section 807.	Right of Registered Owners to Direct Proceedings.....	29
Section 808.	Application of Moneys in Event of Default or Event of Nonappropriation.....	29

Section 809.	Remedies Cumulative.....	30
Section 810.	Waivers of Event of Default or Event of Nonappropriation.....	31

ARTICLE IX

THE TRUSTEE

Section 901.	Acceptance of the Trusts.....	31
Section 902.	Fees, Charges and Expenses of the Trustee.....	33
Section 903.	Notices to Registered Owners.....	34
Section 904.	Intervention by the Trustee.....	34
Section 905.	Successor Trustee upon Merger, Consolidation or Sale.....	34
Section 906.	Resignation of the Trustee.....	34
Section 907.	Removal of the Trustee.....	35
Section 908.	Appointment of Successor Trustee.....	35
Section 909.	Vesting of Trusts in Successor Trustee.....	35
Section 910.	Right of Trustee to Pay Taxes and Other Charges.....	35
Section 911.	Trust Estate May Be Vested in Co-Trustee.....	36
Section 912.	Annual Accounting.....	36
Section 913.	Performance of Duties under the Lease.....	37

ARTICLE X

SUPPLEMENTAL INDENTURES

Section 1001.	Supplemental Indentures Not Requiring Consent of Registered Owners.....	37
Section 1002.	Supplemental Indentures Requiring Consent of Registered Owners.....	37
Section 1003.	Opinion of Counsel.....	38

ARTICLE XI

AMENDMENTS TO THE BASE LEASE OR THE LEASE

Section 1101.	Amendments to the Base Lease or the Lease Not Requiring Consent of Registered Owners.....	38
Section 1102.	Amendments to the Base Lease or the Lease Requiring Consent of Registered Owners.....	38
Section 1103.	Opinion of Counsel.....	38

ARTICLE XII

SATISFACTION AND DISCHARGE OF THIS INDENTURE

Section 1201.	Satisfaction and Discharge of this Indenture.....	39
Section 1202.	Certificates Deemed to Be Paid.....	39

ARTICLE XIII

MISCELLANEOUS PROVISIONS

Section 1301.	Consents and Other Instruments by Registered Owners	40
Section 1302.	Limitation of Rights under this Indenture	40
Section 1303.	Notices	41
Section 1304.	Suspension of Mail Service	41
Section 1305.	Severability	41
Section 1306.	Execution in Counterparts	42
Section 1307.	Governing Law	42
Section 1308.	Electronic Storage of Documents	42
	Signatures	S-1
	Schedule 1: The Project Site	
	Schedule 2: The Project	
	Exhibit A: Form of Certificate of Participation	

TRUST INDENTURE

THIS TRUST INDENTURE, dated as of July 15, 2018 (the “Indenture”), between **BOKF, N.A.**, a national banking association duly organized and existing under and by virtue of the laws of the United States of America with a corporate trust office located in Kansas City, Missouri, as Trustee (the “Trustee”), and the **CITY OF KEARNEY, MISSOURI**, a fourth-class city duly organized and existing under the laws of the State of Missouri (the “City”), and

WITNESSETH:

WHEREAS, the City is authorized pursuant to the Revised Statutes of Missouri, as amended, to sell or lease any existing sites owned by the City, together with any existing buildings and facilities thereon, in order to provide for the acquisition, construction, improvement, extension, repair, remodeling, renovation, furnishing and equipping of buildings and facilities thereon, and then lease or purchase such sites, buildings and facilities; and

WHEREAS, pursuant to an Ordinance adopted by the City on July 2, 2018, the City has been authorized to (a) enter into a Base Lease with the Trustee, dated as of the date hereof (the “Base Lease”), pursuant to which the City shall grant a leasehold interest to the Trustee for a maximum Base Lease Term ending on March 31, 2060, in certain real estate described in **Schedule 1** attached to this Indenture and any existing building and improvements located thereon (the “Project Site”), and (b) to enter into an annually renewable Lease Agreement with the Trustee, dated as of the date hereof (the “Lease”), under which the City will (i) provide for projects (the “Project”) more specifically described in **Schedule 2** attached to this Indenture to be constructed and installed on certain land (the “Project Site” and all additions, modifications, improvements, replacements and substitutions made thereon and thereto and any additional facilities financed with the Series 2018 Certificates or any Additional Certificates (as hereinafter defined) being collectively referred to as the “Facilities”) and other property of the City, and (ii) lease the Facilities from the Trustee for an initial term ending March 31, 2019 (the “Initial Term”), with successive one-year renewal options (the “Renewal Terms”) exercisable by the City subject to annual budget appropriations, except that the final Renewal Term may be for a period of less than one year as provided in the Lease; and

WHEREAS, in order to provide funds to pay the costs of the Project, the Trustee will, pursuant to this Indenture, execute and deliver the City of Kearney, Missouri, Certificates of Participation, Series 2018 in the aggregate principal amount of \$7,865,000 (the “Series 2018 Certificates”), and is authorized to execute and deliver Additional Certificates (such Additional Certificates together with the Series 2018 Certificates being collectively referred to as the “Certificates”), evidencing proportionate interests of the owners thereof in Rental Payments (as defined herein) payable pursuant to the Lease; and

WHEREAS, the City is authorized (i) to execute and deliver this Indenture for the purpose of providing for the delivery and security for the Certificates and for the purpose of providing funds to pay the costs of the Project, (ii) to enter into the Lease, and (iii) to provide for completion of the Project; and

WHEREAS, all things necessary to make the Certificates, when executed by the Trustee and delivered as provided in this Indenture, the valid and legally binding evidences of proportionate interests in the right to receive the Rental Payments, and for this Indenture to constitute a valid and legally binding pledge and assignment of the Trust Estate herein made for the payment of the Principal Component, premium, if any, and Interest Component of the Rental Payments represented by the Certificates, have been done and performed, and the execution and delivery of this Indenture and the execution and delivery of the Certificates, subject to the terms of this Indenture, have in all respects been duly authorized.

NOW, THEREFORE, THIS INDENTURE WITNESSETH:

GRANTING CLAUSES

That the City, in consideration of the premises, the acceptance by the Trustee of the trusts hereby created, the purchase and acceptance of the Certificates by the Registered Owners thereof, and the sum of one dollar duly paid to the City by the Trustee, and of other good and valuable consideration, the receipt of which is hereby acknowledged, and in order to secure the payment of the Principal Component, premium, if any, and Interest Component of the Rental Payments represented by the Certificates Outstanding under this Indenture from time to time according to their tenor and effect, and to secure the performance and observance by the City of all the covenants, agreements and conditions herein and in the Base Lease and the Lease contained, does hereby transfer in trust, pledge, assign and grant a security interest unto the Trustee and its successors and assigns forever in, the property described below (said property being herein called the “**Trust Estate**”), to wit:

(a) all right, title and interest of the City in, to and under the Base Lease and the Lease, including all Rental Payments and other payments, revenues and receipts derived by the Trustee under and pursuant to and subject to the provisions of the Lease (except for the rights of the Trustee to receive money for its own account and to indemnify under the Lease and any amounts required under Section 148(f) of the Code to be paid to the United States); and

(b) all money 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 or on behalf of the City, 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 of this Indenture.

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 Registered Owners from time to time of the Certificates Outstanding under this Indenture, without preference, priority or distinction as to lien or otherwise of any Certificate over any other Certificate except as expressly provided in or permitted by this Indenture;

PROVIDED, HOWEVER, that if the City shall well and truly pay, or cause to be paid, the Principal Component, premium, if any, and Interest Component of the Rental Payments represented by all the Certificates, at the times and in the manner mentioned in the Certificates according to the true intent and meaning thereof, or shall provide for the payment thereof (as provided in **Article XII** of this Indenture), 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 of this Indenture, then upon such final payment this Indenture and the rights hereby granted shall cease, determine and be void; otherwise, this Indenture shall be and remain in full force and effect.

THIS INDENTURE FURTHER WITNESSETH, and it is hereby expressly declared, covenanted and agreed by and between the parties hereto, that all Certificates delivered hereunder are to be authenticated and delivered and that all of the Trust Estate is to be held and applied under, upon and

subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed, and the City does hereby agree and covenant with the Trustee and with the respective Registered Owners from time to time of the Certificates, as follows:

ARTICLE I

DEFINITIONS

Section 101. Definitions of Words and Terms. In addition to the words and terms defined elsewhere in this Indenture and in the Lease, the following words and terms as used in this Indenture and in the Lease shall have the following meanings:

“Additional Certificates” means any additional parity Certificates delivered pursuant to **Section 209** of this Indenture.

“Additional Payments” means the additional payments described in **Section 5.2** of the Lease.

“Authorized City Representative” means the Mayor or the City Administrator or such other person at the time designated, by written certificate furnished to the Trustee, as the person or persons authorized to act on behalf of the City. Such certificate shall contain the specimen signature of such person or persons, shall be signed on behalf of the City by the Mayor and may designate an alternate or alternates.

“Base Lease” means the Base Lease dated as of July 15, 2018, between the City and the Trustee, as from time to time amended and supplemented in accordance with the provisions thereof and of **Article XII** of this Indenture.

“Business Day” means any day other than (a) a Saturday or Sunday or legal holiday or a day on which banks located in the city in which the corporate trust office of the Trustee is required or authorized by law to remain closed or (b) a day on which the Securities Depository is closed.

“Cede & Co.” means Cede & Co., as nominee name of The Depository Trust Company, New York, New York, and any successor nominee of the Securities Depository with respect to the Certificates.

“Certificate Fund” means the “Certificate Fund” created in **Section 501** of this Indenture.

“Certificate Payment Date” means any date on which any amount representing the Principal Component or the Interest Component with respect to any Certificate is payable.

“Certificate Register” means the registration books kept by the Trustee to evidence the registration, transfer and exchange of Certificates.

“Certificate Registrar” means the Trustee when acting as such under this Indenture.

“Certificates” means the Series 2018 Certificates issued under this Indenture and any Additional Certificates delivered pursuant to this Indenture.

“City” means the City of Kearney, Missouri, a fourth-class city duly organized and existing under the laws of the State and its successors and assigns.

“Code” means the Internal Revenue Code of 1986, as amended, and the applicable regulations of the United States Treasury Department promulgated thereunder.

“Completion Certificate” means the certificate delivered to the Trustee pursuant to **Section 4.4** of the Lease and **Section 505** of this Indenture evidencing substantial completion of the Project, and acceptance of the Project by the City.

“Completion Date” means the date of completion of the acquisition, construction, improvement, furnishing and equipping of the Project established as such pursuant to **Section 4.4** of the Lease.

“Construction Contracts” means all architect’s and general contractor’s contracts and all prime subcontractor’s contracts and purchase orders for any equipment that have been or will be entered into by the City and that will incorporate the Plans and Specifications related to the Project.

“Construction Period” means the period from the beginning of construction of the Project to the Completion Date.

“Contractor” means any contractor for the Project selected by the City, and its successors and assigns.

“Counsel” means an attorney duly admitted to practice law before the highest court of any state and, without limitation, may include legal counsel for the City or the Trustee.

“Defaulted Interest” means interest on any Certificate that is payable but not paid on the date due.

“Defeasance Obligations” means any of the following obligations:

- (a) Cash.
- (b) U.S. Treasury Certificates, Notes and Bonds.
- (c) Direct obligations of the Treasury that have been stripped by the Treasury itself.
- (d) The interest component of Resolution Funding Corporation (REFCORP) strips that have been stripped by request to the Federal Reserve Bank of New York in book-entry form.
- (e) Pre-refunded municipal bonds pre-refunded with cash or United States Government Obligations.

“Event of Default” means (a) with respect to this Indenture, any Event of Default as described in **Section 901** of this Indenture, and (b) with respect to the Lease, any Event of Default as described in **Section 12.1** of the Lease.

“Event of Nonappropriation” means a nonrenewal of the Lease by the City determined by the failure of the City to appropriate and budget, or the election of the City not to so appropriate and budget, on or before the date required by the laws of the State during the Initial Term or any Renewal Term, moneys sufficient to pay the Rental Payments and reasonably expected Additional Payments due and payable during the next Renewal Term.

“Facilities” means the Project Site, the Project and all additions, modifications, improvements, replacements and substitutions made thereon and thereto, and any additional facilities financed with the Certificates on the Project Site or other property of the City made pursuant to the Lease, as they may at any time exist.

“Fiscal Year” means the fiscal year adopted by the City for accounting purposes, which as of the execution of this Indenture commences on April 1 of each year and ends on March 31 of the following year.

“Full Insurable Value” means the actual replacement cost of the Facilities less physical depreciation and exclusive of land, excavations, footings, foundations and parking lots.

“Indenture” means this Trust Indenture dated as of July 15, 2018, as amended and supplemented from time to time by Supplemental Indentures in accordance with the provisions of **Article X** of this Indenture.

“Initial Term” means the initial term of the Lease, which begins on the effective date of the Lease and ends on the last day of the Fiscal Year in which such effective date occurs.

“Interest Component” means the Interest Component of Rental Payments as provided by **Section 5.1** of the Lease and as set forth on **Schedule 4** in the Lease.

“Lease” means the Lease Agreement dated as of July 15, 2018, between the Trustee, as lessor, and the City, as lessee, as from time to time amended and supplemented in accordance with the provisions thereof and of **Article X** of this Indenture.

“Lease Term” means the period from the effective date of the Lease until the expiration thereof which includes the Initial Term and any Renewal Term or Terms as provided in the Lease.

“Lessee” means the City when acting as the lessee under the Lease.

“Lessor” means the Trustee when acting as the lessor under the Lease.

“Mandatory Prepayment Date” means any mandatory prepayment date established pursuant to this Indenture.

“Maximum Lease Term” means the Initial Term and all Renewal Terms through the Renewal Term ending March 31, 2034 (unless otherwise provided in a Supplemental Lease).

“Moody’s” means Moody’s Investors Service, Inc., a corporation organized and existing under the laws of the State of Delaware, and its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “Moody’s” shall be deemed to refer to any other nationally recognized securities rating agency designated by the City by notice to the Trustee.

“Net Proceeds” means the gross proceeds from any insurance or condemnation award with respect to the Facilities, less the payment of all expenses (including attorneys’ fees and expenses, Trustee’s fees, costs, charges and expenses, including any extraordinary expenses of the Trustee) incurred in the collection of such gross proceeds.

“Opinion of Counsel” means a written opinion of counsel to the City or the Trustee.

“Option Purchase Price” means the price as specified in **Schedule 4** attached to the Lease which the City may elect to pay to the Trustee to purchase the Facilities from the Trustee on the Optional Prepayment Date immediately following such Optional Purchase Date prior to the scheduled payment of all sums to be paid for the Facilities, all as is more particularly specified in **Schedule 4** attached to the Lease and as such **Schedule 4** may be revised hereafter in accordance with **Section 306** of this Indenture. In the event of a partial prepayment of the Certificates as provided in this Indenture, the Option Purchase Price is required to be recalculated by the Trustee and provided to and binding upon the City as more fully set forth in this Indenture or any Supplemental Indenture and in the Lease.

“Optional Prepayment Date” means any optional prepayment date established pursuant to this Indenture.

“Optional Purchase Date” means any date during the Lease Term as specified in the Lease upon which the City, pursuant to the Lease, may elect to purchase the Facilities for the then applicable Option Purchase Price.

“Outstanding” means, when used with reference to Certificates, as of any particular date of determination, all Certificates theretofore authenticated and delivered under this Indenture, except the following Certificates:

- (a) Certificates theretofore canceled by the Trustee or delivered to the Trustee for cancellation;
- (b) Certificates paid or deemed to be paid in accordance with the provisions of **Article XIII** of this Indenture;
- (c) Certificates alleged to have been mutilated, destroyed, lost or stolen which have been paid as provided in **Section 210** of this Indenture;
- (d) Certificates in exchange for or in lieu of which other Certificates have been authenticated and delivered pursuant to this Indenture; and
- (e) for purposes of any consent or other action to be taken by the Registered Owners of a specified percentage of Certificates under this Indenture or the Lease, Certificates held by or for the account of the City or any person controlling, controlled by or under common control of the City.

“Participants” means those financial institutions for whom the Securities Depository effects book-entry transfers and pledges of securities deposited with the Securities Depository, as such listing of Participants exists at the time of such reference.

“Paying Agent” means the Trustee and any other bank or trust company designated pursuant to this Indenture as paying agent for any series of Certificates and at which the principal, premium, if any, and interest on any such Certificates shall be payable.

“Permitted Encumbrances” means, as of any particular time (a) liens for ad valorem taxes and special assessments not then delinquent or if delinquent are being contested in accordance with the Lease, (b) this Indenture, (c) the Lease, (d) the Base Lease, (e) any and all Uniform Commercial Code Financing Statements executed to perfect any security interest created in connection with the delivery of the Certificates, (f) utility, access and other easements and rights-of-way, street dedications, mineral rights,

restrictions, exceptions and encumbrances that the City certifies in writing will not materially interfere with or impair the operations being conducted on the Project Site or easements granted to the Trustee, (g) such minor defects, irregularities, encumbrances, easements, mechanic's liens, rights-of-way and clouds on title as normally exist with respect to properties similar in character to the Facilities and as do not in the aggregate materially impair the property affected thereby for the purpose for which it was acquired or is held by the Trustee or the City, and (h) items affecting the Project Site that are agreed to in writing by the Trustee (in reliance upon the written direction of the Registered Owners of not less than a majority in aggregate Principal Components of the Certificates Outstanding) and the City.

“Permitted Investments” means any of the following securities and obligations, if and to the extent the same are at the time legal for investment by the City:

- (a) United States Government Obligations.
- (b) bonds, notes or other obligations of the State of Missouri, or any political subdivision of the State of Missouri, that at the time of their purchase are rated in either of the two highest rating categories by a nationally recognized rating service.
- (c) repurchase agreements with any bank, bank holding company, savings and loan association, trust company, or other financial institution organized under the laws of the United States or any state, that are continuously and fully secured by any one or more of the securities described in clause (a), (b) or (d) and have a market value at all times at least equal to the principal amount of such repurchase agreement and are held in a custodial or trust account for the benefit of the City.
- (d) obligations of Government National Mortgage Association, the Federal Financing Bank, the Federal Intermediate Credit Corporation, Federal Banks for Cooperatives, Federal Land Banks, Federal Home Loan Banks and Farm Service Agency.
- (e) certificates of deposit or time deposits, whether negotiable or nonnegotiable, issued by any bank or trust company organized under the laws of the United States or any state, provided that such certificates of deposit or time deposits 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 (d) above, inclusive, which shall have a market value at all times at least equal to the principal amount of such certificates of deposit or time deposits.
- (f) any other securities or investments that are lawful for the investment of moneys held in such funds or accounts under the laws of the State of Missouri.

“Person” means any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization, or government or any agency or political subdivision thereof.

“Plans and Specifications” means the plans and specifications prepared for and showing the Project, as amended by the City from time to time prior to the Completion Date, the same being duly certified by the Authorized City Representative, which plans and specifications are on file at the principal office of the City and shall be available for reasonable inspection by the Trustee and its duly appointed representatives.

“Prime Rate” means that rate of interest which has most recently been established by BOKF, N.A., at its office in Kansas City, Missouri, as its prime rate, such Prime Rate to be adjusted on the effective date of any change thereof as announced from time to time by BOKF, N.A.

“Principal Component” means the Principal Component of Rental Payments as provided for by **Section 5.1** of the Lease and as set forth on **Schedule 4** attached to the Lease.

“Project” means the acquisition, construction, improvement, furnishing and equipping of the improvements described in **Schedule 2** attached to this Indenture or any Supplemental Indenture, pursuant to **Article IV** of the Lease, paid for in whole or in part from the proceeds of Certificates, and all replacements thereof and substitutions therefor made pursuant to the Lease, and all additions, alterations, modifications and improvements thereof made pursuant to the Lease, including, upon the delivery of Additional Certificates, including Project Additions financed with Additional Certificates.

“Project Additions” means all additions, improvements, extensions, alterations, expansions or modifications of the Facilities or any part thereof financed with the proceeds of Additional Certificates delivered pursuant to **Section 209** of this Indenture.

“Project Costs” means all costs of acquisition, construction, improvement, furnishing and equipping of the Project, including the following:

(a) 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 construction, preparation of plans, drawings and specifications and supervision of construction, as well as for the performance of all other duties of architects, appraisers, surveyors and engineers in relation to the construction of the Project or the delivery of the Certificates;

(b) all costs and expenses of every nature incurred with respect to the Project, including the actual cost of labor and materials, as payable to contractors, builders, suppliers, vendors and materialmen in connection with the acquisition, construction, improvement, furnishing and equipping of the Project;

(c) the cost of insurance policies referred to in **Article VI** of the Lease and any insurance or performance and payment bonds maintained during the Construction Period in accordance with the Lease;

(d) 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 and the Paying Agent to the extent that said fees and expenses are necessary or incident to the delivery and sale of the Certificates or the acquisition, construction, improvement, furnishing and equipping of the Project;

(e) all other items of expense not elsewhere specified in this definition as may be necessary or incident to: (i) the authorization, delivery and sale of the Certificates; (ii) the acquisition, construction, improvement, furnishing and equipping of the Project; and (iii) the financing thereof (including capitalized interest, if any); and

(f) reimbursement to the City 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 as permitted by the Code.

“Project Fund” means the **“Project Fund”** created in **Section 501** of this Indenture.

“Project Site” means the real estate described in **Schedule 1**.

“Purchaser” means the original purchaser of each series of the Certificates.

“Record Date” means the 15th day (whether or not a Business Day) of the calendar month next preceding the month in which each Certificate Payment Date occurs.

“Registered Owner,” “Owner” or **“Certificate Owner”** when used with respect to any Certificate means the Person in whose name such Certificate is registered on the Certificate Register.

“Renewal Term” means the optional renewal terms of the Lease, each being a duration of one year and a term co-extensive with the City’s Fiscal Year.

“Rental Payment Date” means during the Lease Term, any day on or prior to each Certificate Payment Date, and any other date on which any Rental Payments are payable pursuant to the Lease.

“Rental Payments” means the payments described in **Section 5.1** of the Lease.

“Replacement Certificates” means Certificates delivered to the beneficial owners of the Certificates in accordance with **Section 212(b)** of this Indenture.

“S&P” or **“Standard & Poor’s”** means Standard & Poor’s Ratings Services, a separately identifiable business unit within Standard & Poor’s Financial Services LLC, a Delaware limited liability company wholly owned by the McGraw-Hill Companies, Inc., a corporation organized and existing under the laws of the State of New York, its successors and assigns, and if such entity shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “S&P” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Trustee.

“Securities Depository” means, initially, The Depository Trust Company, New York, New York, and its successors and assigns.

“Special Record Date” means the date fixed by the Trustee pursuant to **Section 204(d)** of this Indenture for the payment of Defaulted Interest.

“Special Counsel” means Gilmore & Bell, P.C., or any other attorney or firm of attorneys (which is mutually acceptable to the City and the Trustee) of nationally recognized standing in matters pertaining to the tax-exempt nature of interest on obligations issued by states and their political subdivisions, duly admitted to the practice of law before the highest court of any state of the United States of America.

“State” means the State of Missouri.

“Supplemental Indenture” means any indenture supplemental or amendatory to this Trust Indenture entered into by the City and the Trustee pursuant to **Article X** of this Indenture.

“Supplemental Lease” means any agreement supplemental or amendatory to the Lease entered into by the City and the Trustee pursuant to **Article XI** of this Indenture.

“Tax Compliance Agreement” means the Tax Compliance Agreement between the City and the Trustee, entered into in connection with the delivery of each series of Certificates for which the interest component of Rental Payments paid by the City and distributed to the registered owners of the Certificates is excluded from gross income for federal income tax purposes, as from time to time amended in accordance with the provisions thereof.

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

“Trustee” means BOKF, N.A., in Kansas City, Missouri, in its capacity as trustee hereunder, 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.

“United States Government Obligations” means bonds, notes, certificates of indebtedness, treasury bills or other securities constituting direct obligations of, or obligations the principal of and interest on which are fully and unconditionally guaranteed as to full and timely payment by, the United States of America, including evidences of a direct ownership interest in future interest or principal payments on obligations issued or guaranteed by the United States of America (including the interest component of obligations of the Resolution Funding Corporation), or securities which represent an undivided interest in such obligations, and such obligations are held in a custodial or trust account for the benefit of the City.

Section 102. Rules of Construction.

(a) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. 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) All references in this Indenture to a particular article, section, other subdivision, exhibit, schedule or appendix shall be construed to be a reference to the specified article, section or other subdivision or exhibit, schedule or appendix hereto unless the context or use clearly indicates another or different meaning or interest. The words “herein,” “hereof,” “hereunder” and other words of similar import refer to this Indenture as a whole as this Indenture may be amended and not to any particular Article, Section or subdivision.

(c) The section and article headings are for convenience only and in no way define, limit or describe the scope or intent of any of the provisions of this Indenture.

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

ARTICLE II

THE CERTIFICATES

Section 201. Title and Amount of Certificates. No Certificates may be delivered under this Indenture except in accordance with the provisions of this Article. The Certificates authorized to be

delivered under this Indenture shall be designated as “City of Kearney, Missouri Certificates of Participation,” with such further appropriate particular designation added to or incorporated in such title for the Certificates of any particular series as may be set forth in the provisions of this Indenture or any Supplemental Indenture authorizing such series. The initial series of Certificates will be authorized pursuant to **Section 208** of this Indenture. Additional Certificates may be delivered as provided in **Section 209** of this Indenture.

Section 202. Limited Obligations.

(a) Each Certificate shall evidence the undivided interest of the Registered Owner thereof in the rights to receive Rental Payments from the City under the Lease. The Certificates are limited obligations and are payable solely out of the Rental Payments and other payments, revenues and receipts derived under the Lease (including, in certain circumstances, Certificate proceeds and income from the temporary investment thereof and Net Proceeds), and are secured by a pledge and assignment of the Trust Estate by the Trustee in favor of the Registered Owners of the Certificates, as provided in this Indenture. Neither the Certificates nor the Rental Payments payable pursuant to the Lease shall constitute a debt or liability of the City beyond the Lease Term in effect at any time and shall not constitute a general obligation or indebtedness of the City within the meaning of any constitutional or statutory debt limitation or restriction.

(b) No provision, covenant or agreement contained in this Indenture or the Certificates, or any obligation herein or therein imposed upon the City, or any breach thereof, shall constitute or give rise to or impose upon the City a pecuniary liability or a charge upon the general credit of the City. No officer, employee, agent or board member of the Trustee or the City, nor any person executing the Certificates shall be personally liable with respect to the Certificates by reason of the delivery thereof.

Section 203. Denomination, Numbering and Dating of Certificates. Certificates shall be delivered in the form of fully registered Certificates without coupons in the denomination of \$5,000 or any integral multiple thereof. The Series 2018 Certificates shall be dated and numbered as provided in **Section 208** of this Indenture. Certificates of each series of Additional Certificates shall be dated and numbered as provided in the Supplemental Indenture authorizing such series of Additional Certificates.

Section 204. Method and Place of Payment of Certificates.

(a) The Principal Component, premium, if any, and Interest Component of the Rental Payments represented by the Certificates shall be payable in any coin or currency which, on the respective dates of payment thereof, is legal tender for payment of debts due the United States of America.

(b) Amounts representing the Principal Component and premium, if any, payable with respect to the Certificates shall be payable at maturity or upon earlier prepayment by check or draft to the persons in whose names such Certificates are registered on the Certificate Register at the maturity or prepayment date thereof, upon the presentation and surrender of such Certificates at the corporate trust office of the Trustee or of any Paying Agent named in the Certificates or at such other office as the Trustee may indicate.

(c) Amounts representing the Interest Component payable with respect to each Certificate on any Certificate Payment Date shall be paid to the person in whose name such Certificate is registered at the close of business on the Record Date for such interest by check or draft mailed by the Paying Agent to such Registered Owner at the address shown on the Certificate Register. Upon the request and at the expense of any Registered Owner of Certificates representing at least \$500,000 in Principal Component, payments with respect to the Certificates shall be made by electronic transfer to the bank (which shall be

in the continental United States) for credit to the ABA routing number and the account name and account number designated to the Trustee by such Registered Owner no later than five Business Days preceding the Record Date.

(d) Defaulted Interest with respect to any Certificate shall cease to be payable to the Owner of such Certificate on the relevant Record Date and shall be payable to the Owner in whose name such Certificate is registered at the close of business on the Special Record Date for the payment of such Defaulted Interest, which Special Record Date shall be fixed in the following manner. The City shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each Certificate and the date of the proposed payment (which date shall be such as will enable the Trustee to comply with the next sentence), and shall deposit with the Trustee at the time of such notice an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment; money deposited with the Trustee shall be held in trust for the benefit of the Owners of the Certificates entitled to such Defaulted Interest as provided in this Section. Following receipt of such funds the Trustee shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 nor less than 10 days prior to the date of the proposed payment and not less than 10 days after the receipt by the Trustee of the notice of the proposed payment (unless the Trustee agrees to a shorter period). The Trustee shall, at the expense of the City, cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first-class postage prepaid, to each Owner of a Certificate entitled to such notice at the address of such Owner as it appears on the Certificate Register not less than 10 days prior to such Special Record Date.

Section 205. Execution of Certificates.

(a) Each Certificate shall be executed by the manual signature of an authorized signatory of the Trustee. In case any person whose signature appears on any Certificate shall cease to be an authorized signatory before the delivery of such Certificate, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such person had remained in office until delivery. Any Certificate may be signed by a person who at the actual time of the execution of such Certificate shall be a person authorized to sign such Certificate although at the date of such Certificate such person may not have been so authorized.

(b) No Certificate shall be entitled to any security or benefit under this Indenture or shall be valid or obligatory for any purpose unless and until such Certificate shall have been duly executed by the Trustee. Such execution shall be conclusive evidence that such Certificate has been duly executed and delivered under this Indenture. Any Certificate shall be deemed to have been duly executed if signed by any authorized signatory of the Trustee, but it shall not be necessary that the same signatory sign all of the Certificates of any series.

Section 206. Registration, Transfer and Exchange of Certificates.

(a) The Trustee is hereby appointed Certificate Registrar and as such shall keep a Certificate Register for the registration and for the transfer of Certificates as provided in this Indenture. Each Certificate when delivered shall be registered in the name of the Registered Owner thereof on the Certificate Register.

(b) Any Certificate may be transferred only upon the Certificate Register upon surrender thereof to the Trustee duly endorsed for transfer or accompanied by an assignment duly executed by the Registered Owner or his attorney or legal representative in a form satisfactory to the Trustee. Upon any such transfer, the Trustee shall execute and deliver in exchange for such Certificate one or more new fully

registered Certificates, registered in the name of the designated transferee, of any authorized denomination and of like series, maturity and aggregate stated principal amount.

(c) Any Certificate, upon surrender thereof to the Trustee, together with an assignment duly executed by the Registered Owner or his attorney or legal representative in a form satisfactory to the Trustee, may, at the option of the Registered Owner thereof, be exchanged for one or more Certificates of any authorized denomination and of like series, maturity and aggregate stated principal amount.

(d) When any Certificate is surrendered for exchange or transfer hereunder, the Trustee shall execute and deliver one or more new Certificates at the earliest practicable time in accordance with the provisions of this Indenture. All Certificates surrendered in any such exchange or transfer shall forthwith be canceled by the Trustee. The Trustee may make a charge to the Registered Owner requesting the same for every such exchange or transfer of Certificates sufficient to reimburse it for any tax 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 Certificate shall be delivered. The fees and charges of the Trustee for making any transfer or exchange hereunder and the expense of any certificate printing necessary to effect such transfer or exchange shall be paid by the City as Additional Payments. In the event any Registered Owner fails to provide a correct taxpayer identification number to the Trustee, the Trustee may make 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 Code, such amount may be deducted by the Trustee from amounts otherwise payable to such Registered Owner hereunder or with respect to the Certificates.

(e) At reasonable times and under reasonable regulations established by the Trustee, the Certificate Register may be inspected and copied by the City or the Owners (or a designated representative thereof) of 10% or more in principal amount of Certificates then Outstanding, such ownership and the authority of any such designated representative to be evidenced to the satisfaction of the Trustee.

(f) The Trustee shall not be required to register the transfer of or exchange any Certificate after notice calling such Certificate or portion thereof for prepayment has been given or during the period of fifteen days next preceding the first mailing of such notice of prepayment.

Section 207. Persons Deemed Registered Owners of Certificates. The person in whose name any Certificate shall be registered as shown on the Certificate Register shall be deemed and regarded as the absolute Registered Owner thereof for all purposes, and payment of any amount representing principal, premium, if any, or interest with respect to such Certificate shall be made only to or upon the order of the Registered Owner thereof or his legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability represented by such Certificate to the extent of the sum or sums so paid.

Section 208. Authorization of Series 2018 Certificates.

(a) There shall be initially delivered and secured by this Indenture a series of Certificates in the aggregate principal amount of \$7,865,000 for the purpose of providing funds to pay Project Costs, which series of Certificates shall be designated "City of Kearney, Missouri Certificates of Participation, Series 2018" (herein called the "**Series 2018 Certificates**"). The Series 2018 Certificates shall be substantially in the form set forth in **Exhibit A** attached hereto. The Series 2018 Certificates shall be numbered from 1 consecutively upward, with the number on each Series 2018 Certificate preceded by the letter "**R**". The Series 2018 Certificates shall be dated the date of their issuance, shall mature on October 1 in the following years and stated principal amounts (subject to prior prepayment as hereinafter provided

in **Article III**), and shall evidence interests in the right to receive a proportionate share of the Rental Payments (determined by reference to such stated principal amounts with interest thereon at the following respective rates per annum):

SERIAL CERTIFICATES

<u>Maturity</u> <u>October 1</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>
2019	\$20,000	%
2020	485,000	
2021	140,000	
2022	145,000	
2023	150,000	
2024	150,000	
2025	155,000	
2026	335,000	
2027	840,000	
2028	865,000	
2029	\$895,000	%
2030	880,000	
2031	905,000	
2032	935,000	
2033	965,000	

Interest Components with respect to the Series 2018 Certificates shall be computed on the basis of a 360-day year of twelve 30-day months from the date thereof or from the most recent Certificate Payment Date to which interest has been paid or duly provided for and shall be payable semiannually on April 1 and October 1 in each year, beginning on October 1, 2018.

(b) The Trustee is hereby designated as the Paying Agent for the payment of the Principal Component, premium, if any, and Interest Component of the Rental Payments represented by the Series 2018 Certificates.

(c) The Series 2018 Certificates shall be delivered to the Trustee for execution substantially in the form set forth in **Article IV** together with the following items:

- (1) An original or certified copy of the ordinance adopted by the Board of Aldermen of the City approving the delivery of the Series 2018 Certificates and authorizing the execution of the Base Lease, the Lease, this Indenture and the Tax Compliance Agreement;
- (2) An original executed counterpart of this Indenture;
- (3) An original executed counterpart of the Lease;
- (4) An original executed counterpart of the Base Lease;
- (5) An original executed counterpart of the Tax Compliance Agreement;
- (6) A request and authorization to the Trustee on behalf of the City, executed by an Authorized City Representative, to execute the Certificates and to deliver the Certificates to or

upon the order of the Purchaser upon payment of the purchase price thereof. The Trustee shall be entitled to conclusively rely upon such request and authorization as to the name of the purchaser and the amount of such purchase price;

(7) An opinion of Special Counsel to the effect that the Series 2018 Certificates represent valid and legally binding, undivided interests in the rights to receive Rental Payments from the City under the Lease, and that the Interest Component of the Rental Payments is excludable from gross income for federal income tax purposes;

(8) An ALTA owner's title insurance policy, or commitment therefor, in form and substance acceptable to the Purchaser, satisfying the requirements of **Section 3.7** of the Base Lease; and

(9) Such other certificates, statements, receipts, opinions and documents as the Trustee, the Purchaser or Special Counsel shall reasonably require for the delivery of the Series 2018 Certificates.

(d) When the documents specified in subsection (c) of this Section have been filed with the Trustee, and when the Series 2018 Certificates shall have been executed as required by this Indenture, the Trustee shall deliver the Series 2018 Certificates to or upon the order of the Purchaser upon payment of the purchase price of the Series 2018 Certificates. The net proceeds of the sale of the Series 2018 Certificates, including accrued interest and premium thereon, if any, shall be deposited and applied in accordance with **Article V** hereof.

Section 209. Authorization of Additional Certificates.

(a) Additional Certificates may be delivered under and be equally and ratably secured by this Indenture on a parity with the Series 2018 Certificates and any other Additional Certificates Outstanding, at any time and from time to time, upon compliance with the provisions of this Section, for any of the following purposes:

(1) To provide funds to pay the costs of completing the Project, the total of such costs to be evidenced by a certificate signed by an Authorized City Representative;

(2) 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, but only to the extent that such costs exceed the Net Proceeds of the insurance or condemnation awards out of which such costs are to be paid pursuant to **Article VIII** of the Lease;

(3) To provide funds to pay all or any part of the costs of acquisition, construction, furnishing and equipping of Project Additions or other facilities, all as the City may deem necessary or desirable;

(4) To provide funds for refunding all or any portion of the Certificates of any series then Outstanding, including the payment of any premium thereon and interest to accrue to the designated repayment date and any expenses in connection with such refunding; or

(5) Any other lawful purpose for the benefit of the City.

The principal amount of any Additional Certificates may include an amount sufficient to pay the costs and expenses of delivery, a funding of a reserve account, if required, and such capitalized amounts as are permitted by law.

(b) Before any Additional Certificates shall be delivered under the provisions of this Section, the City shall adopt an ordinance (i) authorizing or approving the delivery of such Additional Certificates and fixing the amount and terms thereof and describing the purpose or purposes for which such Additional Certificates are being delivered or describing the Certificates to be refunded, (ii) authorizing or approving the execution of a Supplemental Indenture for the purpose of delivering such Additional Certificates, (iii) authorizing the execution of an amendment to the Lease to provide for Rental Payments at least sufficient to pay the Principal Component, premium, if any, and Interest Component of the Rental Payments represented by the Certificates then to be Outstanding (including the Additional Certificates to be delivered) as the same become due, (iv) authorizing the execution of an amendment to the Base Lease, if appropriate, to extend the term thereof and to add real property subject to the terms thereof, and (v) for such other matters as are appropriate because of the delivery of the Additional Certificates proposed to be delivered which, in the judgment of the City, are not to the prejudice of the City or the Registered Owners of the Certificates previously delivered.

(c) Additional Certificates shall be dated and numbered, shall be stated to mature in such year or years, shall provide for amounts representing Interest Components at such rate or rates not exceeding the maximum rate then permitted by law, and shall be prepayable at such times and prices, as may be provided by the Supplemental Indenture authorizing the delivery of such Additional Certificates. Except as to any difference in date, maturity, interest rate or prepayment provisions, such Additional Certificates shall be on a parity with and shall be entitled to the same benefit and security of this Indenture as the Series 2018 Certificates and any other Additional Certificates Outstanding after the delivery of such Additional Certificates. If such Additional Certificates are to be secured by a reserve fund, such fund shall be fully funded to any reserve requirement set at the time of delivery of such Additional Certificates.

(d) Such Additional Certificates shall be executed substantially in the form and manner set forth in this Article and **Article IV** of this Indenture, upon filing the following items with the Trustee:

(1) An original or certified copy of the Ordinance adopted by the Board of Aldermen of the City approving the delivery of such Additional Certificates pursuant to such Supplemental Indenture and authorizing the execution of any amendment of the Lease and/or the Base Lease;

(2) An original executed counterpart of the Supplemental Indenture providing for the delivery of the Additional Certificates;

(3) An original executed counterpart of the amendment to the Base Lease, if required, and the Lease, if required, which amendment to the Lease shall clearly establish that the City has agreed that the Additional Certificates shall constitute Certificates for the purpose of computing the required Rental Payments;

(4) A request and authorization to the Trustee, on behalf of the City, executed by an Authorized City Representative, to execute the Additional Certificates and to deliver said Additional Certificates to or upon the order of the purchaser thereof upon payment of the purchase price thereof. The Trustee shall be entitled to rely conclusively upon such request and authorization as to the name of the purchaser and the amount of such purchase price;

(5) An opinion of Special Counsel to the effect that the delivery of such Additional Certificates represent valid and legally binding proportionate interests in the rights to receive Rental Payments from the City under the Lease and, except with respect to those Certificates delivered with Interest Components which are includable in gross income for federal income tax purposes, that the delivery of such Additional Certificates will not cause the Interest Component of the Rental Payments represented by any Certificates then Outstanding (including such Additional Certificates) to become includable in gross income for federal income tax purposes;

(6) In the case of Additional Certificates being delivered to refund Outstanding Certificates, such additional documents as shall be reasonably required by the Trustee to evidence that provision has been duly made in accordance with the provisions of **Article XII** of this Indenture for the payment of all of the Certificates to be refunded;

(7) Additional Certificates may be delivery without notice to or the consent of the Registered Owners of the Certificates (a) if the Additional Certificates are being issued to refund Certificates providing present value debt service savings for the City or (b) for Additional Certificates issued in the principal amount, together with other Certificates then Outstanding, not to exceed [\$10,000,000].

(8) The Opinions of Counsel required by **Section 1003** and **Section 1103** of this Indenture; and

(9) Such other certificates, statements, receipts, opinions and documents as the City, the Trustee or Special Counsel shall reasonably require for the delivery of such Additional Certificates.

(e) When the documents described in subsection (d) of this Section shall have been filed with the Trustee, and when such Additional Certificates shall have been executed as required by this Indenture, the Trustee shall deliver such Additional Certificates to or upon the order of the purchaser thereof upon payment of the purchase price of such Additional Certificates. The proceeds of the sale of such Additional Certificates, except Additional Certificates delivered to refund Outstanding Certificates, including any accrued interest and premium thereon, shall be deposited in accordance with the provisions of this Indenture and as provided by the Supplemental Indenture authorizing the delivery of such Additional Certificates. The proceeds of all Additional Certificates delivered to refund Outstanding Certificates shall be deposited by the Trustee, together with other available funds, after payment or making provision for payment of all expenses incident to such financing, to the credit of a special trust fund, to be held in trust for the sole and exclusive purpose of paying the Principal Component, premium, if any, and Interest Component of the Rental Payments represented by the Certificates to be refunded, as provided in **Section 1302** of this Indenture and in the Supplemental Indenture authorizing the delivery of such Additional Certificates.

Section 210. Mutilated, Lost, Stolen or Destroyed Certificates. In the event any Certificate is mutilated, lost, stolen or destroyed, the Trustee shall execute and deliver a new Certificate of like series, date and tenor as the Certificate mutilated, lost, stolen or destroyed; provided that, in the case of any mutilated Certificate, such mutilated Certificate shall first be surrendered to the Trustee, and in the case of any lost, stolen or destroyed Certificate, there shall be first furnished to the Trustee evidence satisfactory to the Trustee of such loss, theft or destruction, together with indemnity satisfactory to Trustee. In the event any such Certificate shall have matured or has been designated for prepayment, such Certificate may be paid without surrender thereof or delivery of a new Certificate. Upon the delivery of any substitute Certificate, the Trustee may require the payment of an amount sufficient to

reimburse 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 Certificates Upon Payment. All Certificates which have been paid or prepaid 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 canceled by the Trustee immediately upon such payment, prepayment or purchase and the surrender thereof to the Trustee. All Certificates canceled under any of the provisions of this Indenture shall be destroyed by the Trustee. The Trustee shall execute a certificate describing the Certificates so destroyed and shall file an executed counterpart of such certificate with the City.

Section 212. Certificates Delivered in Book-Entry Form.

(a) In such case, the Certificates shall initially be registered to Cede & Co., the nominee for the Securities Depository, and no Beneficial Owner will receive certificates representing their respective interests in the Certificates, except in the event the Certificate Registrar delivers Replacement Certificates as provided in subsection (b) of this Section. It is anticipated that during the term of the Certificates, the Securities Depository will make book-entry transfers among its Participants and receive and transmit payment of principal of, premium, if any, and interest on, the Certificates to the Participants until and unless the Certificate Registrar authenticates and delivers Replacement Certificates to the Beneficial Owners as described in subsection (b).

(b) (1) If the City determines (A) that the Securities Depository is unable to properly discharge its responsibilities, or (B) that the Securities Depository is no longer qualified to act as a securities depository and registered clearing agency under the Securities and Exchange Act of 1934, as amended, or (C) that the continuation of a book-entry system to the exclusion of any Certificates being delivered to any Owner other than Cede & Co. is no longer in the best interests of the Beneficial Owners of the Certificates, or (2) if the Certificate Registrar receives written notice from Participants having interests in not less than 50% of the Certificates Outstanding, as shown on the records of the Securities Depository (and certified to such effect by the Securities Depository), that the continuation of a book-entry system to the exclusion of any Certificates being delivered to any Owner other than Cede & Co. is no longer in the best interests of the Beneficial Owners of the Certificates, then the Certificate Registrar shall notify the Owners of such determination or such notice and of the availability of certificates to Owners requesting the same, and the Certificate Registrar shall register in the name of and authenticate and deliver Replacement Certificates to the Beneficial Owners or their nominees in Principal Components representing the interest of each, making such adjustments as it may find necessary or appropriate as to accrued Interest Components and previous calls for prepayment; provided, that in the case of a determination under (1)(A) or (1)(B) of this subsection (b), the City, with the consent of the Certificate Registrar, may select a successor securities depository in accordance with **Section 212(c)** below to effect book-entry transfers. In such event, all references to the Securities Depository herein shall relate to the period of time when at least one Certificate is registered in the name of the Securities Depository or its nominee. Upon the delivery of Replacement Certificates, all references herein to obligations imposed upon or to be performed by the Securities Depository shall be deemed to be imposed upon and performed by the Certificate Registrar, to the extent applicable with respect to such Replacement Certificates. If the Securities Depository resigns and the City, the Certificate Registrar or Owners are unable to locate a qualified successor of the Securities Depository in accordance with **Section 212(c)**, then the Certificate Registrar shall authenticate and cause delivery of Replacement Certificates to Owners, as provided herein. The Certificate Registrar may rely on information from the Securities Depository and its Participants as to the names and addresses of and the amounts held by the Beneficial Owners of the Certificates. The cost of printing, registration, authentication and delivery of Replacement Certificates shall be paid for by the City.

(c) In the event the Securities Depository resigns, is unable to properly discharge its responsibilities, or is no longer qualified to act as a securities depository and registered clearing agency under the Securities and Exchange Act of 1934, as amended, the City may appoint a successor Securities Depository provided the Certificate Registrar and the City receive written evidence with respect to the ability of the successor Securities Depository to discharge its responsibilities. Any such successor Securities Depository shall be a securities depository which is a registered clearing agency under the Securities and Exchange Act of 1934, as amended, or other applicable statute or regulation that operates a securities depository upon reasonable and customary terms. The Certificate Registrar upon its receipt of a Certificate or Certificates for cancellation shall cause the delivery of Certificates to the successor Securities Depository in appropriate denominations and form as provided herein.

ARTICLE III

PREPAYMENT OF CERTIFICATES

Section 301. Prepayment of Certificates Generally. The Series 2018 Certificates shall be subject to prepayment prior to maturity in accordance with the terms and provisions set forth in this Article. Additional Certificates shall be subject to prepayment 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 Certificates.

Section 302. Prepayment of Series 2018 Certificates.

(a) **Optional Prepayment.** Series 2018 Certificates or portions thereof maturing on October 1, 20__, and thereafter, shall be subject to prepayment prior to maturity, upon instructions from the City, on and after October 1, 20__, in whole or in part at any time, at a prepayment price of 100% of the principal amount to be prepaid, plus accrued interest to the prepayment date.

(b) **Extraordinary Optional Prepayment.** The Certificates shall be subject to prepayment prior to the stated maturity thereof, upon instructions from the City, in whole or in part on any date, at a prepayment price equal to 100% of the principal amount of the Certificates to be prepaid plus interest accrued thereon to the prepayment date, upon the occurrence of any of the following conditions or events:

(1) if title to, or the use for a limited period of, all or substantially all of the Facilities is condemned by any authority having the power of eminent domain (other than the City or any entity controlled by or otherwise affiliated with the City);

(2) if title to all or substantially all of the Facilities is found to be deficient or nonexistent to the extent that the efficient utilization of the Facilities by the City is impaired;

(3) if all or substantially all of the Facilities is damaged or destroyed by fire or other casualty; or

(4) if as a result of changes in the constitution of the State, or of legislative or administrative action by the State or any political subdivision thereof, or by the United States, or by reason of any action instituted in any court, the Base Lease, the Lease or this Indenture shall become void or unenforceable, or impossible of performance without unreasonable delay, or in any other way, by reason of such change of circumstances, unreasonable burdens or excessive liabilities are imposed on the City with respect to the Base Lease, the Lease or this Indenture.

Section 303. Selection of Certificates to Be Prepaid.

(a) Certificates shall be prepaid only in the principal amount of \$5,000 or any integral multiple thereof. When less than all of the Outstanding Certificates of any series are to be prepaid prior to maturity (other than by mandatory sinking fund prepayment, if any), the City shall designate which maturities of such series of the Certificates shall be prepaid. Certificates to be prepaid of less than a full maturity shall be selected by the Trustee in \$5,000 units of face value by lot or in such other equitable manner as the Trustee may determine.

(b) In the case of a partial prepayment of Certificates when Certificates of denominations greater than \$5,000 units of face value are then Outstanding, then for all purposes in connection with such prepayment, each \$5,000 unit of face value shall be treated as though it were a separate Certificate. If it is determined that one or more, but not all, of the \$5,000 units of face value represented by any Certificate is selected for prepayment, then upon notice of intention to prepay such \$5,000 unit or units, the Registered Owner of such Certificate or his duly authorized agent shall forthwith present and surrender such Certificate to the Trustee (1) for payment of the prepayment price (including amounts representing premium, if any, and Interest Components to the date fixed for prepayment) of the \$5,000 unit or units of face value called for prepayment, and (2) for exchange, without charge to the Registered Owner thereof, for a new Certificate or Certificates of the aggregate principal amount of the unprepaid portion of the principal amount of such Certificate. If the Registered Owner of any such Certificate of a denomination greater than \$5,000 fails to present such Certificate to the Trustee for payment and exchange as aforesaid, such Certificate shall, nevertheless, become due and payable on the prepayment date to the extent of the \$5,000 unit or units of face value called for prepayment (and to that extent only).

Section 304. Trustee's Duty to Prepay Certificates.

(a) The Trustee shall call Certificates for prepayment and payment as herein provided and shall give notice of prepayment as provided in **Section 305** upon receipt by the Trustee at least 45 days prior to the prepayment date of a written request of the City. Such request shall specify the principal amount of Certificates of each maturity to be called for prepayment, the applicable prepayment price or prices and the above-mentioned provision or provisions pursuant to which such Certificates are to be called for prepayment. The Trustee shall be entitled to rely conclusively on such written request in exercising its duty to give notice of the call for such prepayment as provided in **Section 305**.

(b) Reference is hereby made to **Section 5.6** of the Lease, wherein the City is given the right to direct the Trustee to prepay Certificates under certain circumstances under the foregoing provisions of this Article. The Trustee shall comply with any direction of the City given pursuant to said **Section 5.6** of the Lease upon satisfaction of the conditions specified therein precedent to the City's right to direct such a prepayment.

Section 305. Notice and Effect of Call for Prepayment. Official notice of any prepayment shall be given by the Trustee by mailing a copy of an official prepayment notice at least 20 days prior to the date fixed for prepayment by first class mail to the Purchaser of the Certificates and the Registered Owner of the Certificate or Certificates to be prepaid, unless waived by any Registered Owner thereof, at the address shown on the Certificate Register as of the date of the notice.

All official notices of prepayment shall be dated and shall state:

- (1) the prepayment date,

- (2) the prepayment price,
- (3) if less than all Outstanding Certificates are to be prepaid, the identification number, series, maturity date (and, in the case of partial prepayment of any Certificates, the respective principal amounts) of the Certificates to be prepaid,
- (4) that on the prepayment date the prepayment price will become due and payable upon each such Certificate or portion thereof called for prepayment, and that interest thereon shall cease to accrue from and after said date, and
- (5) the place where such Certificates are to be surrendered for payment of the prepayment price, which place of payment shall be the corporate trust office of the Trustee or such other office as the Trustee shall designate.

With respect to optional prepayments, such notice may be conditioned upon moneys being on deposit with the Trustee on or prior to the prepayment date in an amount sufficient to pay the prepayment price on the prepayment date. If such notice is conditional and either the Trustee receives written notice from the City that moneys sufficient to pay the prepayment price will not be on deposit on the prepayment date, or such moneys are not received on the prepayment date, then such notice shall be of no force and effect, the Trustee shall not prepay such Certificates and the Trustee shall give notice, in the same manner in which the notice of prepayment was given, that such moneys were not or will not be so received and that such Certificates will not be prepaid.

The failure of any Owner of Certificates to receive notice given as provided in this Section, or any defect therein, shall not affect the validity of any proceedings for the prepayment of any Certificates.

On or prior to any prepayment date, funds shall be on deposit with the Trustee which are sufficient to pay the prepayment price of all the Certificates or portions of Certificates that are to be prepaid on that date in addition to any amounts therein required for regularly scheduled payments of amounts representing Principal and Interest Components with respect to the Certificates.

Official notice of prepayment having been given as aforesaid, the Certificates or portions of Certificates so to be prepaid shall, on the prepayment date, become due and payable at the prepayment price therein specified, and from and after such date (unless the City shall default in the payment of the prepayment price), the Registered Owners of such Certificates or portion of Certificates shall no longer be entitled to receive any additional Interest Component of the Rental Payments. Upon surrender of such Certificates for prepayment in accordance with said notice, such Certificates shall be paid by the Trustee at the prepayment price. Installments of Interest Components due on or prior to the prepayment date shall be payable as herein provided for payment of Interest Components. Upon surrender for any partial prepayment of any Certificate, there shall be prepared for the Registered Owner a new Certificate or Certificates of the same maturity in the amount of the unpaid principal. All Certificates which have been prepaid shall be canceled and destroyed by the Trustee and shall not be redelivered.

Upon the happening of the above conditions, and notice having been given as provided above, the Registered Owners of such Certificates or portion of the Principal Component with respect to the Certificates thus called for prepayment shall no longer be entitled to receive any additional Interest Component of the Rental Payments after the specified prepayment date, and such Certificates or portion of the Principal Component with respect to the Certificates thus called for prepayment 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.

Any defect in any notice or the failure of any parties to receive any notice of prepayment shall not cause any Certificate called for prepayment to remain Outstanding.

For so long as the Securities Depository is effecting book-entry transfers of the Certificates, the Certificate Registrar shall provide the notices specified in this Section to the Securities Depository. It is expected that the Securities Depository shall, in turn, notify its Participants and that the Participants, in turn, will notify or cause to be notified the beneficial owners. Any failure on the part of the Securities Depository or a Participant, or failure on the part of a nominee of a beneficial owner of a Certificate (having been mailed notice from the Certificate Registrar, the Securities Depository, a Participant or otherwise) to notify the beneficial owner of the Certificate so affected, shall not affect the validity of the prepayment of such Certificate.

Section 306. Revised Schedule of Rental Payments and Option Purchase Price. Upon partial prepayment of Certificates, the Trustee shall provide the City with a revised schedule of Rental Payments and a revised schedule setting forth the Option Purchase Price which schedule shall take into account such prepayment or delivery and shall be and become for all purposes thereafter included in **Schedule 4** to the Lease; provided, however, that nothing herein shall be construed to authorize or permit a revision of the Optional Purchase Dates from those originally provided in the Lease.

ARTICLE IV

FORM OF CERTIFICATES

Section 401. Forms Generally. The Certificates shall be in substantially the form set forth in **Exhibit A** to this Indenture. Any Additional Certificates shall also be in substantially the form set forth in **Exhibit A**, with such necessary or appropriate variations, omissions and insertions as are permitted or required by this Indenture or any Supplemental Indenture. The Certificates 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 requirement of law with respect thereto.

ARTICLE V

CREATION OF FUNDS; CUSTODY AND APPLICATION OF CERTIFICATE PROCEEDS

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

- (a) Certificate Fund; and
- (b) Project Fund.

Within each Fund created hereunder, a separate account shall be created for each series of Certificates. The Trustee is authorized to segregate moneys within such accounts, as instructed by the City, as necessary, on a book-entry basis or in such other manner as the Trustee may deem necessary or convenient.

Section 502. Allocation of Certificate Proceeds. The net proceeds received from the sale of the Series 2018 Certificates, shall be deposited or applied simultaneously with the delivery of the Series 2018 Certificates, in the Project Fund.

Section 503. Deposits into the Project Fund. The following moneys shall be paid over to and deposited by the Trustee in the applicable subaccount of the Project Fund, as and when received:

(a) The proceeds from the sale of the Series 2018 Certificates, to the extent required by **Section 502** hereof.

(b) The proceeds from the sale of Additional Certificates (except Additional Certificates delivered to refund Outstanding Certificates), to the extent provided in the Supplemental Indenture authorizing such Additional Certificates;

(c) The Net Proceeds of casualty insurance, title insurance or condemnation awards required to be deposited into the Project Fund pursuant to the Lease;

(d) All payment and performance and labor and material bond payments and any and all payments from any contractors or other suppliers by way of breach of contract, refunds or adjustments required to be deposited into the Project Fund pursuant to the Lease; and

(e) Except as otherwise provided herein or in the Lease, any other moneys received by or to be paid to the Trustee from any other source for the acquisition, construction, improvement, furnishing and equipping of the Project, to the extent directed in writing by the Authorized City Representative to be deposited into the Project Fund.

Section 504. Disbursements from the Project Fund.

(a) So long as no Event of Default or Event of Nonappropriation has occurred and is continuing, the money in the Project Fund shall be disbursed by the Trustee for the payment of remaining Project Costs upon receipt of requisition certificates in substantially the form attached to the Lease as **Schedule 3**, and signed by an Authorized City Representative. All disbursements of Project Fund moneys shall, at the option of the City, be made either directly to the appropriate payees or to the City for reimbursement of Project Costs. The Trustee hereby covenants and agrees to disburse such money in accordance with the provisions of this Section. In making disbursements for Project Costs, the Trustee may conclusively rely as to the completeness and accuracy of all statements in such requisition certificate without inquiry or investigation if such requisition certificate is signed by the Authorized City Representative. It is understood that the Trustee shall not make any inspections of the Project nor any improvements thereon, make any provision to obtain completion certificates, mechanic's or materialmen's lien releases or otherwise supervise any phase of the acquisition, construction, improvement, furnishing or equipping of the Project. The receipt of a requisition signed by the Authorized City Representative shall constitute unto the Trustee an irrevocable determination that all conditions precedent to the payment of the specified amounts from the Project Fund have been completed.

(b) The Trustee shall keep and maintain adequate records pertaining to the Project Fund (and the subaccounts therein), earnings thereon and all disbursements therefrom, and after the Project has been completed and a certificate of payment of all costs filed as provided in **Section 505** below, the Trustee shall file with the City a final statement of receipts and disbursements with respect thereto.

Section 505. Disposition upon Completion of the Project. The completion of the Project and payment of all costs and expenses incidental thereto shall be evidenced by the filing with the Trustee

by the Authorized City Representative of the Completion Certificate required by **Section 4.4** of the Lease. As soon thereafter as practicable, any balance remaining in the Project Fund (other than amounts retained by the Trustee as specified in said certificate) shall without further authorization be deposited in the applicable subaccount of the Certificate Fund and applied by the Trustee as directed by the City solely (i) to pay amounts representing Principal Component or premium, if any, with respect to the Certificates upon the payment or prepayment thereof at the earliest date permissible under the terms of this Indenture, or (ii) at the option of the City, to purchase Certificates at such earlier date or dates as the City may elect. The balance remaining in the Project Fund and transferred to the Certificate Fund shall be invested in accordance with the written direction of the City. Any investment direction of the City shall be in compliance with the Tax Compliance Agreement. Any earnings on such investments may be applied to pay amounts representing Principal Components, premium, if any, or Interest Components with respect to the Certificates. Any Certificates purchased by the Trustee pursuant to this provision with moneys from the Certificate Fund will be deemed canceled. From time to time as the proper disposition of the amounts retained by the Trustee and specified in said certificate shall be determined, to the extent that such amounts are not paid out by the Trustee pursuant to **Section 504** of this Indenture, the City shall so notify the Trustee by one or more certificates as aforesaid and amounts from time to time no longer to be so retained by the Trustee shall be so deposited in the applicable subaccount of the Certificate Fund and applied by the Trustee as aforesaid.

Section 506. Disposition upon Acceleration. If the Certificates shall have become due and payable pursuant to **Section 802** of this Indenture, upon the date of payment by the Trustee of any money due as hereinafter provided in **Article IX** of this Indenture, any balance remaining in the Project Fund shall without further authorization be deposited in the applicable subaccount of the Certificate Fund by the Trustee with written notice to the City of such action.

ARTICLE VI

REVENUES AND FUNDS

Section 601. Deposits into the Certificate Fund. The Trustee shall deposit into the applicable subaccount of the Certificate Fund, as and when received, the following moneys:

- (a) All Rental Payments payable by the City to the Trustee specified in the Lease;
- (b) Any amount remaining in the Project Fund to be transferred to the Certificate Fund pursuant to **Section 505** of this Indenture upon completion of the Project and any amount remaining in the Project Fund to be transferred to the Certificate Fund pursuant to **Section 506** of this Indenture upon acceleration of the maturity of the Certificates;
- (c) The balance of any Net Proceeds of insurance or condemnation awards received by the Trustee pursuant to **Article VIII** of the Lease;
- (d) All interest and other income derived from investments of moneys required to be transferred to the Certificate Fund as provided in **Section 702** of this Indenture; and
- (e) All other moneys received by the Trustee when accompanied by directions from the person depositing such moneys that such moneys are to be paid into the Certificate Fund.

Section 602. Application of Moneys in the Certificate Fund.

(a) Except as provided in this Section and in **Section 807** of this Indenture, moneys in the Certificate Fund shall be expended solely for (1) the payment of the Principal Component, premium, if any, and Interest Component of the Rental Payments represented by the Certificates as the same mature and become due or upon the prepayment thereof, or (2) to purchase Certificates for cancellation prior to maturity.

(b) The Trustee is hereby authorized and directed to withdraw sufficient moneys from the applicable subaccount of the Certificate Fund to pay the Principal Component, premium, if any, and Interest Component of the Rental Payments represented by the Certificates as the same become due and payable and to make said moneys available to the Paying Agent for the purpose of paying such amounts.

(c) The Trustee, upon written direction of the City, shall use any moneys in the Certificate Fund (1) to prepay all or part of the Certificates Outstanding and the Interest Component of Rental Payments to accrue with respect thereto prior to such prepayment, in accordance with and to the extent permitted by **Article III** of this Indenture so long as the City 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 Certificates theretofore matured or called for prepayment, and (2) to pay past due interest in all cases when such Certificates have not been presented for payment. The City may cause such excess moneys in the Certificate Fund or such part thereof or other moneys of the City, as the City may direct, to be applied by the Trustee to purchase Certificates in the open market for the purpose of cancellation, at prices not exceeding the principal amount thereof plus interest accrued with respect thereto to the date of delivery for cancellation.

(d) After payment or provision for payment in full of the Principal Component, premium, if any, and Interest Component of the Rental Payments represented by the Certificates, and the fees, charges and expenses of the Trustee and any Paying Agent and any other amounts required to be paid under this Indenture and the Lease, all amounts remaining in the Certificate Fund shall be paid to the City.

Section 603. Payments Due on Days Other than Business Days. In any case where any amount representing Principal Component, premium, if any, or Interest Component with respect to any Certificate is payable on a day other than a Business Day, then such amounts with respect to the Certificates need not be made on such date but may be made on the next succeeding Business Day with the same force and effect as if made when due, and no interest shall accrue for the period after such date.

Section 604. Nonpresentment of Certificates. In the event that any Certificate is not presented for payment when the Principal Component and premium, if any, with respect thereto becomes due, whether at maturity, upon prepayment or otherwise, or at the date fixed for prepayment thereof, if funds sufficient to pay such Certificate shall have been made available to the Trustee, all liability of the City to the Registered Owner thereof for the payment of such Certificate shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Trustee to hold such funds, without liability for Interest Components with respect thereto, for the benefit of such Registered Owner of such Certificate, who shall thereafter be restricted exclusively to such funds for any claim of whatever nature on his part under this Indenture with respect to such Certificate. If any Certificate is not presented for payment within one year following the date when such Certificate becomes due, whether by maturity, upon prepayment or otherwise, the Trustee upon the request of the City shall repay to the City without liability for interest thereon the funds theretofore held by the Trustee for payment of such Certificate, and such Certificate shall, subject to the defense of any applicable statute of limitation, thereafter be an unsecured obligation of the City, and the Registered Owner thereof shall be entitled to look only to the

City for payment, and then only to the extent of the amount so repaid, and the City 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 MONEYS

Section 701. Moneys to Be Held in Trust. All moneys deposited with or paid to the Trustee for the account of any 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 so provided, shall constitute part of the Trust Estate and be subject to the lien of this Indenture. Neither the Trustee nor any Paying Agent shall be under any liability for interest on any moneys except as provided herein.

Section 702. Investment of Moneys in Funds.

(a) Money in the Funds held by the Trustee hereunder shall, pursuant to the City's direction given by the Authorized City Representative, confirmed in writing, and subject to the Tax Compliance Agreement, be separately invested and reinvested by the Trustee in Permitted Investments which mature or are subject to prepayment by the holder prior to the date when such money will be needed or, if such written directions are not received, then the Trustee shall hold such moneys in uninvested cash. After the Trustee has notice pursuant to **Section 901(h)** of this Indenture of the existence of an Event of Default or an Event of Nonappropriation, the Trustee shall direct the investment of money in the Funds held by it hereunder. The Trustee shall sell and reduce to cash a sufficient amount of such Permitted Investments whenever the cash balance in any Fund is insufficient for the purposes of such Fund. 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. The Trustee shall be entitled to rely on any written investment direction of an Authorized City Representative as to the suitability and legality of such directed investment and, if the Interest Component of Rental Payments is excluded from gross income for federal income tax purposes, that such written investment direction complies with the requirements of the Tax Compliance Agreement.

(b) Any Permitted Investments shall be held by or under the control of the Trustee and will be deemed at all times to be a part of the Fund in which such money is originally held. The interest earnings and any profit realized from Permitted Investments in any Fund hereunder shall be credited to the applicable subaccount of the Certificate Fund. However, prior to the Completion Date, the City may, in its sole discretion, direct the Trustee in writing to deposit all interest earnings and profit realized from Permitted Investments to the applicable subaccount of the Project Fund. Any loss resulting from Permitted Investments shall be charged to the applicable Fund.

(c) In determining the balance in any Fund, investments in such Funds shall be valued at the lower of their original cost or their fair market value as of the most recent Record Date, or as frequently as deemed necessary.

(d) Although the City recognizes that it may obtain a broker confirmation or written statement containing comparable information at no additional cost, the City hereby agrees that confirmations of Investment Securities are not required to be issued by the Trustee for each month in which a monthly statement is rendered. No statement need be rendered for any fund or account if no activity occurred in such fund or account during such month.

ARTICLE VIII

DEFAULT AND REMEDIES

Section 801. Events of Default. If any of the following events occur, it is hereby defined as and declared to be and to constitute an Event of Default under this Indenture:

(a) Default in the due and punctual payment of any amount representing Interest Components with respect to any Certificate;

(b) Default in the due and punctual payment of any amount representing Principal Components or premium, if any, with respect to any Certificate, whether at maturity, upon prepayment or otherwise;

(c) Default in the performance or observance of any other of the covenants, agreements or conditions on the part of the City in this Indenture or in the Certificates contained (other than a default described in (a) or (b) above) or in any other document or instrument that secures or otherwise relates to the obligations hereby secured, and the continuance thereof for a period of 30 days after written notice thereof shall have been given to the City by the Trustee, or to the Trustee (which notice of default the Trustee shall be required to accept) and the City by the Registered Owners of not less than 25% in aggregate principal amount of Certificates then Outstanding; provided, however, if any default shall be such that it cannot be corrected within such 30-day period, it shall not constitute an Event of Default if corrective action is instituted by the City within such period and diligently pursued until the default is corrected, so long as said default is corrected within 60 days after written notice thereof was first given as hereinabove provided unless the Trustee otherwise consents; or

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

Section 802. Acceleration of Maturity.

(a) If an Event of Default or an Event of Nonappropriation shall have occurred and be continuing, (1) the Trustee may, and (2) the Trustee shall, at the written direction of the Registered Owners of not less than 25% in aggregate principal amount of Certificates then Outstanding, by notice in writing delivered to the City, declare the Rental Payments and Additional Payments payable during the current Renewal Term immediately due and payable, and such Rental Payments and Additional Payments shall thereupon become and be immediately due and payable, anything in this Indenture or in the Certificates to the contrary notwithstanding.

(b) If, at any time after such declaration, but before the Certificates shall have matured by their terms, all overdue installments representing Principal and Interest Components with respect to the Certificates, together with the reasonable and proper costs, charges, fees and expenses of the Trustee, and all other sums then payable by the City under this Indenture either has been paid or provision satisfactory to the Trustee for such payment has been made, then and in every such case the Trustee shall, upon the written request of the Registered Owners of not less than a majority in aggregate Principal Components of the Certificates Outstanding, rescind such declaration and annul such default in its entirety. In such event, the Trustee shall rescind any declaration of acceleration of installments of Rental Payments made pursuant to **Section 12.2** of the Lease.

(c) In case of any rescission, then and in every such case the City, the Trustee and the Registered Owners shall be restored to their former position and rights hereunder respectively, but no

such rescission shall extend to any subsequent or other default or Event of Default or Event of Nonappropriation or impair any right consequent thereon.

Section 803. Surrender of Possession of Facilities; Rights and Duties of Trustee in Possession. If an Event of Default or an Event of Nonappropriation shall have occurred and be continuing, the City, upon written 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 the Facilities, together with the books, records and accounts of the City pertaining thereto, and the Trustee may exercise all rights under the Lease and/or the Base Lease, and to hold, operate and manage the Facilities, and the right from time to time to make all needful repairs and improvements as shall be deemed wise by the Trustee; and the Trustee may lease the Facilities or any part thereof, and collect, receive and sequester the payments, 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 (i) reasonable compensation to the Trustee, its agents and counsel, (ii) any charges of the Trustee hereunder, (iii) any taxes and assessments and other charges prior to the lien of this Indenture or the leasehold interest granted by the Base Lease, which the Trustee may deem it wise to pay, and (iv) 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 808** of this Indenture. Whenever all amounts with respect to the Principal Component, premium, if any, and Interest Component of the Rental Payments represented by the Certificates shall have been paid and all defaults made good, the Trustee shall surrender possession of the Facilities to the City, its successors or assigns, the same right of entry, however, to exist upon any subsequent Event of Default or Event of Nonappropriation. While in possession of such property, the Trustee shall render annually to the City a summarized statement of receipts and expenditures in connection therewith.

Section 804. Appointment of Receivers. If an Event of Default or an Event of Nonappropriation shall have occurred and be continuing, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights and remedies of the Trustee and of the Registered Owners under this Indenture, the Trustee shall be entitled, as a matter of right, to the appointment of a receiver or receivers of the Trust Estate, or any part thereof, pending such proceedings, with such powers as the court making such appointment shall confer.

Section 805. Exercise of Remedies by the Trustee.

(a) If an Event of Default or Event of Nonappropriation has occurred and is continuing, (1) the Trustee may, and (2) the Trustee shall, upon the written request of the Registered Owners of not less than 25% in aggregate principal amount of Certificates then Outstanding, and upon being indemnified as provided in **Section 901(I)** of this Indenture, pursue and exercise any available remedy at law or in equity by suit, action, mandamus or other proceeding or exercise such one or more of the rights and remedies conferred by this Indenture, the Lease and the Base Lease as the Trustee, being advised by Counsel, shall deem most expedient in the interests of the Registered Owners, to enforce the payment of the Principal Component, premium, if any, and Interest Component of the Rental Payments represented by the Certificates then Outstanding and to enforce and compel the performance of the duties and obligations of the City under the Lease.

(b) All rights of action under this Indenture or under any of the Certificates may be enforced by the Trustee without the possession of any of the Certificates 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 Registered

Owners of the Certificates, and any recovery of judgment shall, subject to the provisions of **Section 808** of this Indenture, be for the equal benefit of all the Registered Owners of the Outstanding Certificates.

Section 806. Limitation on Exercise of Remedies by Registered Owners. No Registered Owner shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of this Indenture or for the execution of any trust hereunder or for the appointment of a receiver or any other remedy hereunder, unless (a) an Event of Default or Event of Nonappropriation has occurred of which the Trustee has been notified or is deemed to have notice as provided in **Section 901(h)** of this Indenture, (b) the Registered Owners of not less than 25% in aggregate principal amount of Certificates then Outstanding shall have made written request to the Trustee and have furnished the Trustee reasonable opportunity either to proceed to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name, and have furnished to the Trustee indemnity as provided in **Section 901(l)** of this Indenture, and (c) the Trustee thereafter fails or refuses to exercise the powers and remedies herein granted or to institute such action, suit or proceeding in its own name. No one or more Registered Owners shall have any right in any manner whatsoever to affect, disturb or prejudice this Indenture by its, his or their action or to enforce any right hereunder except in the manner herein provided. All proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the equal benefit of the Registered Owners of all Certificates then Outstanding. Nothing in this Indenture contained shall, however, affect or impair the right of any Registered Owner to payment of amounts representing Principal and Interest Components of the Rental Payments represented by any Certificate at and after the maturity thereof or the obligation of the City to provide for payment of the Principal Component, premium, if any, and Interest Component of the Rental Payments represented by any Certificate delivered hereunder to the respective Registered Owners thereof at the time, place, from the source and in the manner herein and in the Certificates expressed.

Section 807. Right of Registered Owners to Direct Proceedings. Anything in this Indenture to the contrary notwithstanding, the Registered Owners of not less than a majority in aggregate Principal Components with respect to the Certificates then Outstanding shall have the right at any time, upon an Event of Default or an Event of Nonappropriation, 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 to the extent not inconsistent with this Section.

Section 808. Application of Moneys in Event of Default or Event of Nonappropriation.

(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 costs, fees, charges, and expenses of the proceedings resulting in the collection of such moneys and of the fees, expenses, liabilities and advances incurred or made by the Trustee, including any attorneys' fees and expenses, be deposited in the applicable subaccount of the Certificate Fund. All moneys so deposited in the Certificate Fund shall be applied as follows:

(1) Unless any of the Principal Components with respect to any Certificates 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 amounts representing Interest Components then due and payable with respect to any Certificates, in the order in which such interest installments 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 Interest Component installment, to the persons entitled thereto, without any discrimination or privilege; and

Second -- To the payment to the persons entitled thereto of the unpaid amounts representing Principal Components with respect to any of the Certificates which have become due and payable (other than Certificates called for prepayment 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 amounts representing Principal Components due with respect to Certificates on any particular date, then to the payment, ratably, according to the amount of Principal Components due on such date, to the persons entitled thereto without any discrimination or privilege.

(2) If any of the Principal Component of the Rental Payments represented by the Outstanding Certificates has become due or been declared due and payable, all such moneys shall be applied to the payment of the amounts then due and unpaid with respect to such Certificates, without preference or priority of Principal Component over Interest Component or of Interest Component over Principal Component or of any installment of Interest Component over any other installment of Interest Component or of any Certificate over any other Certificate, ratably, according to the amounts due respectively for the Principal Component and Interest Component, to the persons entitled thereto, without any discrimination or privilege.

(3) If the Principal Component of the Rental Payments represented by any of the Outstanding Certificates has been declared due and payable, and if such declaration thereafter has been rescinded and annulled under the provisions of **Section 802** of this Indenture, then, subject to the provisions of subsection (a)(2) above of this Section in the event that the Principal Component with respect to any of the Outstanding Certificates later becomes due or is declared due and payable, the moneys shall be applied in accordance with the provisions of subsection (a)(1) of this Section.

(b) Whenever moneys are to be applied pursuant to the provisions of this Section, such moneys shall be applied at such times and from time to time as the Trustee shall determine, having due regard to the amount of such moneys available and which may become available for such application in the future. Whenever the Trustee shall apply such moneys, it shall fix the date (which shall be a Certificate Payment Date unless the Trustee shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such date shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the deposit with it of any such moneys and of the fixing of any such date, and shall not be required to make payment to the Registered Owner of any unpaid Certificate until such Certificate shall be presented to the Trustee for appropriate endorsement or for cancellation if fully paid.

(c) Whenever all amounts representing Principal and Interest Components with respect to all Outstanding Certificates have been paid under the provisions of this Section, and all expenses and charges of the Trustee and the Paying Agents have been paid, any balance remaining in the Certificate Fund shall be paid to the City.

Section 809. Remedies Cumulative. No remedy herein conferred upon or reserved to the Trustee or to the Registered Owners is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Trustee or the Registered Owners hereunder or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right, power or remedy accruing upon any Event of Default or Event of Nonappropriation shall impair any such right, power or remedy or shall be construed to be a waiver of

any such Event of Default or Event of Nonappropriation or acquiescence therein; and every such right, power or remedy may be exercised from time to time and as often as may be deemed expedient. No waiver of any Event of Default or Event of Nonappropriation hereunder, whether by the Trustee or the Registered Owners, shall extend to or shall affect any subsequent Event of Default or Event of Nonappropriation or shall impair any rights or remedies consequent thereon.

Section 810. Waivers of Event of Default or Event of Nonappropriation. Subject to the provisions of **Section 802** of this Indenture, the Trustee may waive any Event of Default or any Event of Nonappropriation hereunder and its consequences and rescind any declaration of maturity of Rental Payments and Additional Payments, and shall do so upon the written request of the Owners of at least a majority in aggregate principal amount of all Certificates then Outstanding. In case of any such waiver or rescission, or in case any proceedings taken by the Trustee under this Indenture on account of any such Event of Default or Event of Nonappropriation are discontinued or abandoned for any reason, or are determined adversely, then and in every such case the Trustee and the Registered Owners shall be restored to their former positions, rights and obligations hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other Event of Default, or impair any right consequent thereon, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been undertaken.

ARTICLE IX

THE TRUSTEE

Section 901. Acceptance of the Trusts. The Trustee hereby accepts the trusts imposed upon it by this Indenture, and agrees to perform said trusts as a prudent person, 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 or an Event of Nonappropriation and after the curing of all Events of Default or Events of Nonappropriation 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 or an Event of Nonappropriation shall have occurred and be continuing, 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 its exercise as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs in exercising any rights or remedies or performing any of its duties hereunder.

(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. The Trustee shall be entitled to act or refrain from acting upon the opinion or advice of Counsel 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 by it taken or omitted to be taken in good faith in reliance upon such opinion or advice of Counsel.

(c) The Trustee shall file continuation statements to the extent required by the Uniform Commercial Code of the State. The Trustee shall not be responsible for any recital herein or in the Certificates, or for the recording or re-recording, filing or re-filing of this Indenture or any financing statements (other than continuation statements) in connection therewith, or for insuring the Facilities or collecting any insurance moneys, or for the validity of the execution by the City of this Indenture or of

any Supplemental Indentures or instruments of further assurance, or for the sufficiency of the security for the Certificates. The Trustee shall not be responsible or liable for any loss suffered in connection with any investment of moneys made by it in accordance with **Article VII** of this Indenture.

(d) The Trustee shall not be accountable for the use of any Certificates executed and delivered as provided hereunder. The Trustee, in its individual or any other capacity, may become the Registered Owner or pledgee of Certificates 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 Ordinance, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, affidavit, letter, telegram or other paper or document specified by this Indenture and believed by the Trustee 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 authorized consent of any Person who, at the time of making such request or giving such authority or consent is the Registered Owner of any Certificate, shall be conclusive and binding upon all future Registered Owners of the same Certificate and upon Certificates delivered in exchange therefor or upon transfer or in substitution 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 an Authorized City 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 **Section 901(h)** of this Indenture or of which by said Section the Trustee is deemed to have notice, the Trustee may also 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 Event of Default hereunder except failure by the City to cause to be made any of the payments to the Trustee required to be made in **Article VI** of this Indenture and **Article V** of the Lease, unless the Trustee shall be specifically notified in writing of such Event of Default by the Registered Owners of at least 10% in aggregate Principal Components with respect to all Certificates then Outstanding, which notice of Event of Default the Trustee shall be required to accept.

(i) At any and all reasonable times 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 books, papers and records of the City pertaining to the Project and the Certificates, and to take such memoranda from and in regard thereto as may be desired.

(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 with respect to the Facilities.

(k) The Trustee shall have the right, but shall not be required, to demand, with respect to the execution of any Certificates, 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 to the withdrawal of any cash, the release of any property, or the taking of any other action by the Trustee.

(l) Before taking any action under this Indenture, other than the making of payments to Registered Owners of Principal and Interest Components of the Rental Payments represented by the Certificates or accelerating the maturity of Certificates pursuant to **Section 802** of 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) The Trustee may elect not to proceed in accordance with the directions of the Owners of the Certificates without incurring any liability to the Certificate Owners 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, and the Trustee may rely conclusively upon an Opinion of Counsel in determining whether any action so directed may result in such liability.

(n) The Trustee may inform the Certificate Owners 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.

(o) 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 interrupted to include any action of the Trustee whether it is deemed to be in its capacity as Trustee, Certificate Registrar or Paying Agent.

(p) The Trustee shall not be responsible for and makes no representation as to the legality, effectiveness or sufficiency of any security document or for the creation, perfection, priority or protection of any lien securing the Certificates. The Trustee shall not be responsible for filing or for the sufficiency or accuracy of any financing statements initially filed to perfect security interests granted under this Indenture. The Trustee shall file continuation statements with respect to each U.C.C. financing statement filed at the time of the issuance of the Certificates; provided that a copy of the filed initial financing statement is timely delivered to the Trustee. In addition, unless the Trustee shall have been notified in writing by the City that any such initial filing or description of collateral was or has become defective, the Trustee shall be fully protected in (a) relying on such initial filing and descriptions in filing any financing or continuation statements or modifications thereto pursuant to this Section and (b) filing any continuation statements in the same filing offices as the initial filings were made. The City shall be responsible for the customary fees charged by the Trustee for the preparation and filing of continuation statements and for the reasonable costs incurred by the Trustee in the preparation and filing of all continuation statements hereunder.

Section 902. Fees, Charges and Expenses of the Trustee. The Trustee shall be entitled to payment of 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 for the Trustee to perform extraordinary services, the Trustee shall be entitled to reasonable additional 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 negligence or willful misconduct of the Trustee it shall not be entitled to compensation or reimbursement therefor. The Trustee shall be entitled to payment and reimbursement for the reasonable fees and charges of the Trustee as Paying Agent for the Certificates. Pursuant to the provisions of **Section 5.2** of the Lease, the City has agreed to pay, as Additional Payments, to the Trustee all fees, charges and expenses of the Trustee under this Indenture. Upon the occurrence of an Event of Default or an Event of Nonappropriation and during its continuance, the Trustee shall have a lien with right of payment prior to payment on account of amounts representing Principal Components, premium, if any, or Interest Components with respect to any Certificate, upon all moneys in its possession under any provisions of this Indenture for the foregoing advances, fees, costs and expenses incurred and unpaid.

Section 903. Notices to Registered Owners. If a default occurs of which the Trustee is by **Section 901(h)** of this Indenture required to take notice, or if notice of default is given as provided in said Section, or if the Trustee has actual knowledge that there has been a failure to renew or a deficiency in the insurance coverages required by the Lease, then the Trustee shall, immediately after knowledge of such default, give written notice thereof to the Registered Owners of all Certificates then Outstanding, as shown by the Certificate Register.

Section 904. Intervention by the Trustee. In any judicial proceeding to which the City is a party and which, in the opinion of the Trustee and its counsel, has a substantial bearing on the interests of the Registered Owners, the Trustee may intervene on behalf of Registered Owners and shall do so if requested in writing by the Registered Owners of at least 25% of the aggregate principal amount of Certificates then Outstanding if provided with indemnity pursuant to **Section 901(I)** of this Indenture.

Section 905. Successor Trustee upon Merger, Consolidation or Sale. Any corporation or association into which the Trustee may be merged or converted or with or into which it may be consolidated, or to which it may sell or transfer its corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any merger, conversion, sale, consolidation or transfer to which it is a party, shall be and become successor Trustee hereunder and shall be vested with all the trusts, powers, rights, obligations, duties, remedies, immunities and privileges hereunder as was its predecessor, without the execution or filing of any instrument or any further act on the part of any of the parties hereto.

Section 906. Resignation of the Trustee. The Trustee and any successor Trustee may at any time resign from the trusts hereby created by giving 30 days' written notice to the City and the Registered Owners whose names and addresses are on file with the Trustee, and such resignation shall take effect upon the earlier of (i) the end of such 30 days or (ii) the appointment of a successor Trustee by the City or by the Owners of at least a majority in aggregate stated Principal Components represented by the Certificates then Outstanding in accordance with **Section 908** of this Indenture; provided, however, that in no event shall the resignation of a Trustee or successor Trustee become effective until such time as a successor Trustee has been appointed and has accepted the appointment in accordance with **Section 909** of this Indenture. If at any time the Trustee shall cease to be eligible to act as trustee in accordance with the provisions of this Indenture, the Trustee shall immediately resign in the manner provided in this Section. In the event that the City or the Registered Owners of at least a majority in aggregate Principal Components represented by the Certificates then Outstanding fail to appoint a successor Trustee within 30 days after notice of resignation has been given by the Trustee, the Trustee shall have the right to petition a court to appoint a successor Trustee.

Section 907. Removal of the Trustee. The Trustee may be removed at any time for any breach of trust or by an instrument or concurrent instruments in writing delivered (a) to the Trustee and the City and signed by the Registered Owners of not less than a majority in aggregate Principal Components represented by the Certificates then Outstanding, or (b) to the Trustee and the Registered Owners and signed by the City (so long as no Event of Default or Event of Nonappropriation shall have occurred and being continuing). In no event shall the removal of a Trustee or successor Trustee become effective until such time as a successor Trustee has been appointed and has accepted such appointment. In the event that the City or the Registered Owners of at least a majority in aggregate Principal Components represented by the Certificates then Outstanding fail to appoint a successor Trustee within 30 days after said instrument or concurrent instruments removing the Trustee are delivered to the Trustee, the Trustee shall have the right to petition a court to appoint a successor Trustee.

Section 908. Appointment of Successor Trustee. In case the Trustee shall resign or be removed, or shall otherwise become incapable of acting, 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 may be appointed by the Registered Owners of a majority in aggregate principal amount of Certificates then Outstanding by an instrument or concurrent instruments in writing; provided, nevertheless, that in case of such vacancy and so long as no Event of Default or Event of Nonappropriation hereunder shall have occurred and be continuing, the City, by an instrument executed and signed by its Mayor and attested by its City Clerk under its seal, may appoint a temporary Trustee to fill such vacancy until a successor Trustee shall be appointed by the Registered Owners or the City in the manner above provided; and any such temporary Trustee so appointed by the City shall immediately and without further act be superseded by the successor Trustee so appointed by such Registered Owners. Every such Trustee appointed pursuant to the provisions of this Section shall warrant at the time of accepting such trust and exercising the powers of the Trustee hereunder that (i) it is a trust company or bank in good standing located in or incorporated under the laws of one of the states of the United States of America, (ii) it is duly authorized to exercise trust powers and is qualified to accept such trust, (iii) it is subject to examination by a federal or state authority, (iv) it shall maintain a reported capital and surplus of not less than \$75,000,000. If such institution publishes reports of conditions at least annually pursuant to law or regulation, then for the purposes of this Section, the capital and surplus of such institution shall be deemed to be its capital and surplus as set forth in its most recent report of condition so published.

Section 909. Vesting of Trusts in Successor Trustee. Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the City 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 City, and upon receipt of the payment of its outstanding fees and expenses, 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; and every predecessor Trustee shall deliver to its successor all securities and moneys held by such predecessor as Trustee hereunder and the duties and obligations of the predecessor Trustee hereunder shall thereafter cease and terminate. Should any instrument in writing from the City be required by any predecessor or successor Trustee for more fully and certainly vesting in such successor the trusts, powers, rights, obligations, duties, remedies, immunities and privileges hereby vested in the predecessor, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the City.

Section 910. 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 Facilities 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 Registered Owners hereunder arising in consequence of such failure; and any amount at any time so paid under this Section, with interest thereon from the date of payment at a rate per annum equal to the Prime Rate in effect at the time 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 amounts representing Principal Components, premium, if any, or Interest Components with respect to the Certificates, and shall be paid out of the proceeds of payments, revenues and receipts collected from the Facilities, 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 Registered Owners of at least 25% of the aggregate principal amount of Certificates then Outstanding and shall have been provided adequate funds for the purpose of such payment.

Section 911. Trust Estate May Be Vested in Co-Trustee.

(a) It is the intent of this Indenture that there shall be no violation of any law of any jurisdiction (including particularly the State) denying or restricting the right of banking corporations or associations or trust companies to transact business as trustee in such jurisdiction. It is recognized that in case of litigation under this Indenture, the Lease or the Base Lease, and in particular in case of the enforcement of one or more of the same on default, or in case the Trustee deems that by reason of any present or future law of any jurisdiction the Trustee may not exercise any of the powers, rights or remedies herein granted to it, or to take any other action which may be desirable or necessary in connection therewith, it may be necessary or desirable for the Trustee to 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) Any co-trustee appointed pursuant to this Section must comply with clause (iii) of **Section 908** of this Indenture; relating to the size of such co-trustee.

(c) In the event that the Trustee appoints an additional individual or institution as a co-trustee or separate trustee, 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.

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

(e) 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 912. Annual Accounting. The Trustee shall render an accounting at least annually to the City and to any Registered Owner requesting the same, showing in reasonable detail all financial transactions relating to the Trust Estate during the accounting period and the balance in any Funds created by this Indenture as of the beginning and close of such accounting period.

Section 913. 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 X

SUPPLEMENTAL INDENTURES

Section 1001. Supplemental Indentures Not Requiring Consent of Registered Owners. The City and the Trustee may from time to time, subject to the provisions of **Section 1302** of this Indenture, without the consent of or notice to any of the Registered Owners, enter into a Supplemental Indenture or Supplemental Indentures not inconsistent with the terms and provisions of this Indenture, for any one or more of the following purposes:

- (a) To cure any ambiguity or formal defect or omission in this Indenture or make any other change which in the judgment of the Trustee is not prejudicial to the Trustee or materially adverse to the security of the Registered Owners (provided the Trustee is entitled to receive and rely upon an opinion of counsel in exercising such judgment);
- (b) To grant to or confer upon the Trustee for the benefit of the Registered Owners any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Registered Owners or the Trustee or either of them;
- (c) To more precisely identify the Facilities or the Trust Estate or to add property thereto;
- (d) To subject to this Indenture additional revenues, properties or collateral;
- (e) To comply with the arbitrage rebate requirements of Section 148(f) of the Code; and
- (f) To deliver Additional Certificates as provided in **Section 209** of this Indenture.

Section 1002. Supplemental Indentures Requiring Consent of Registered Owners.

(a) Exclusive of Supplemental Indentures covered by **Section 1001** above and subject to the terms and provisions contained in this Section and **Section 1302** of this Indenture, with the prior written consent of the Registered Owners of not less than a majority in aggregate Principal Components represented by the Certificates then Outstanding, the City and the Trustee shall have the right, from time to time, anything contained in this Indenture to the contrary notwithstanding, to execute such other Supplemental Indenture or Supplemental Indentures as shall be deemed necessary and desirable by the City for the purpose of modifying, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Indenture or in any Supplemental Indenture; provided, however, that nothing in this Section contained shall permit or be construed as permitting without the consent of the Registered Owners of 100% in aggregate Principal Components represented by the Certificates then Outstanding (1) an extension of the maturity or mandatory prepayment date of any installment representing Principal or Interest Components with respect to any Certificate delivered hereunder, (2) a reduction in the Principal Component represented by any Certificate or the rate of interest with respect thereto, (3) a privilege or priority of any Certificate or Certificates over any other Certificate or Certificates, (4) a reduction in the aggregate Principal Components represented by the Certificates or (5) a change to the optional, extraordinary optional or special mandatory prepayment provisions in this Indenture.

(b) If at any time the City requests the Trustee to enter into any such Supplemental Indenture for any of the purposes of this Section, the Trustee shall cause notice of the proposed execution of such Supplemental Indenture to be mailed to each Registered Owner as shown on the Certificate Register. Such notice shall briefly set forth the nature of the proposed Supplemental Indenture and shall state that copies thereof are on file at the corporate trust office of the Trustee for inspection. If within 60 days or such longer period as may be prescribed by the City following the mailing of such notice, the requisite percentage of Registered Owners shall have consented to and approved the execution thereof as herein provided, no Registered Owner of any Certificate shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the City from executing the same or from taking any action pursuant to the provisions thereof.

Section 1003. Opinion of Counsel. Before the City and the Trustee enter into any Supplemental Indenture pursuant to this Article, there shall have been delivered to the City and the Trustee an Opinion of Special Counsel stating that such Supplemental Indenture is authorized or permitted by this Indenture, will upon the execution and delivery thereof be valid and binding upon the City in accordance with its terms, and will not adversely affect the validity of the Certificates or the exclusion from federal gross income of interest on any Certificates that have been issued.

ARTICLE XI

AMENDMENTS TO THE BASE LEASE OR THE LEASE

Section 1101. Amendments to the Base Lease or the Lease Not Requiring Consent of Registered Owners. The City and the Trustee shall, without the consent of or notice to any of the Registered Owners, enter into any amendment, change or modification of the Base Lease or the Lease as may be required (a) by the provisions of the Base Lease, the Lease or this Indenture, (b) for the purpose of curing any ambiguity or formal defect or omission in the Base Lease, the Lease or in connection with any other change therein which, in the judgment of the Trustee, is not to the prejudice of the Trustee or materially adverse to the security for the Registered Owners (provided the Trustee is entitled to receive and rely upon an opinion of counsel in exercising such judgment), (c) so as to more precisely identify the Facilities or add property thereto, or (d) in connection with the delivery of Additional Certificates under **Section 209** of this Indenture.

Section 1102. Amendments to the Base Lease or the Lease Requiring Consent of Registered Owners. Except for the amendments, changes or modifications as specified in **Section 1101** of this Indenture, neither the City nor the Trustee shall execute any other amendment, change or modification of the Base Lease or the Lease without the giving of notice and the obtaining of the written approval or consent of the Registered Owners of not less than a majority in aggregate Principal Components represented by the Certificates at the time Outstanding given and obtained as provided in **Section 1002** of this Indenture. The Trustee shall cause notice of such proposed amendment, change or modification to be given in the same manner as provided in **Section 1002** of this Indenture with respect to Supplemental Indentures. Such notice shall briefly set forth the nature of such proposed amendment, change or modification and shall state that copies of the same are on file at the corporate trust office of the Trustee or such other office as the Trustee shall designate for inspection by all Certificate Owners.

Section 1103. Opinion of Counsel. Before the City and the Trustee consent to any amendment, change or modification of the Base Lease or the Lease, there shall have been delivered to the City and the Trustee an Opinion of Special Counsel stating that the amendment, change or modification of the Base Lease or the Lease is authorized or permitted by this Indenture and the instrument amended,

changed or modified, will upon the execution and delivery thereof be valid and binding upon the City in accordance with its terms, and will not adversely affect the validity of the Certificates or the exclusion from federal gross income of interest on any Certificates that have been issued.

ARTICLE XII

SATISFACTION AND DISCHARGE OF THIS INDENTURE

Section 1201. Satisfaction and Discharge of this Indenture.

(a) When the Principal Components, premium, if any, and Interest Components with respect to all the Certificates shall have been paid in accordance with their terms or provision has been made for such payment, as provided in **Section 1202** of this Indenture, and provision has also been made for paying all other sums payable hereunder, including the fees, costs, charges and expenses of the Trustee and the Paying Agent to the date of retirement of the Certificates and all sums payable under the Lease, then the right, title and interest of the Trustee under this Indenture shall thereupon cease, determine and be void, and thereupon the Trustee shall cancel, discharge and release this Indenture and shall execute, acknowledge and deliver to the City such instruments of satisfaction and discharge or release as shall be requisite to evidence such release and the satisfaction and discharge of this Indenture, and shall assign and deliver to the City any property at the time subject to this Indenture which may then be in the Trustee's possession, except funds or securities in which such moneys are invested and held by the Trustee for the payment of the Principal Component, premium, if any, and Interest Component of the Rental Payments represented by the Certificates.

(b) The City is hereby authorized to accept a certificate of the Trustee stating that all amounts with respect to the Principal Component, premium, if any, and Interest Component of the Rental Payments represented by the Certificates due and payable upon all of the Certificates then Outstanding has been paid or provision for such payment has been made in accordance with **Section 1202** of this Indenture as evidence of satisfaction of this Indenture.

Section 1202. Certificates Deemed to Be Paid.

(a) Certificates or any portion thereof shall be deemed to be paid within the meaning of this Article when payment of the Principal Component, premium, if any, and Interest Component of the Rental Payments represented by the Certificates being paid to the due date thereof (whether such due date is by reason of maturity or upon prepayment as provided in this Indenture, or otherwise), either (1) shall have been made or caused to be made in accordance with the terms hereof, or (2) provision therefor shall have been made by depositing with the Trustee or other duly authorized escrow agent, in trust and irrevocably setting aside exclusively for such payment, (i) moneys sufficient to make such payment or (ii) Defeasance Obligations maturing as to principal and interest, without reinvestment, in such amount and at such times as will ensure the availability of sufficient moneys to make such payment. At such time as a Certificate shall be deemed to be paid hereunder as aforesaid, such Certificate shall no longer be secured by or be entitled to the benefits of this Indenture, except for the purposes of any such payment from such moneys or Defeasance Obligations.

(b) Notwithstanding the foregoing, in the case of any Certificate which by its terms may be prepaid prior to the stated maturity thereof, no deposit under clause (2) of subsection (a) above shall be deemed a payment of such Certificates as aforesaid until, as to all such Certificates which are to be prepaid prior to their respective stated maturities, (1) proper notice of such prepayment 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 and (2) in the case of Certificates which do not mature or will not be prepaid within 90 days of the deposit referred to in (a) above, there shall have been delivered to the Trustee a verification report of an independent certified public accounting firm as to the adequacy of the trust funds to fully pay the Certificates deemed to be paid.

(c) Notwithstanding any provision of any other Section of this Indenture which may be contrary to the provisions of this Section, all moneys or Defeasance Obligations set aside and held in trust pursuant to the provisions of this Section for the payment of Certificates (including premium, if any) and Interest Components with respect thereto shall be applied to and be used solely for the payment of the particular Certificates (including premium, if any) and Interest Components with respect thereto to which such moneys and Defeasance Obligations have been so set aside in trust.

(d) Provision for payment of the Certificates Outstanding hereunder may not be made as aforesaid nor may this Indenture be discharged if under any circumstances the Interest Component of the Rental Payments represented by such Certificates is thereby made subject to federal income taxation. In determining the foregoing, the Trustee may rely upon an opinion of Special Counsel to the effect that so providing for the payment of any Certificates will not cause the Interest Component of the Rental Payments to be includable in gross income for federal income tax purposes.

ARTICLE XIII

MISCELLANEOUS PROVISIONS

Section 1301. Consents and Other Instruments by Registered Owners.

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

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

(2) The fact of ownership of Certificates, the amount or amounts, numbers and other identification of Certificates, and the date of holding the same shall be proved by the Certificate Register maintained by the Trustee.

(b) In determining whether the Registered Owners of the requisite principal amount of Certificates Outstanding have given any request, demand, authorization, direction, notice, consent or waiver under this Indenture, Certificates owned by the City shall be disregarded and deemed not to be Outstanding under this Indenture.

Section 1302. 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

Certificates is intended or shall be construed to give any person, other than the parties hereto, or the Registered Owners of the Certificates, any right, remedy or claim under or with respect to this Indenture, this Indenture and all of the covenants, conditions and provisions of this Indenture being intended to be and being for the sole and exclusive benefit of the parties hereto, and the Registered Owners of the Certificates as herein provided.

Section 1303. Notices. Any notice, request, complaint, demand or other communication required or desired to be given or filed under this Indenture shall be in writing and shall be deemed duly given or filed if the same shall be duly mailed by first class, registered or certified mail (unless otherwise provided herein), postage prepaid, addressed as follows provided that any of the foregoing given to the Trustee shall be effective only upon receipt:

(a) To the City:

City of Kearney, Missouri
100 E. Washington
Kearney, MO 64060
Attention: City Administrator

(b) To the Trustee:

BOKF, N.A., as Trustee
2405 Grand Boulevard, Suite 840
Kansas City, Missouri 64108
Attention: Corporate Trust Department

(c) To the Purchaser:

(d) To the Registered Owners if the same shall be duly mailed by first class mail (unless otherwise provided for herein) addressed to each of the Registered Owners of Certificates at the time Outstanding as shown by the Certificate Register.

All notices given by first class, certified or registered mail as aforesaid shall be deemed duly given as of the date they are so mailed. The Trustee and the City 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 1304. Suspension of Mail Service. If, because of the suspension of regular mail service or for any other reason, it is impossible or impractical to mail any notice in the manner herein provided, then such publication in lieu thereof as shall be made with the approval of the Trustee shall constitute a sufficient notice.

Section 1305. 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 of this Indenture 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 1306. 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 1307. Governing Law. This Indenture shall be governed exclusively by and be construed in accordance with applicable laws of the State.

Section 1308. Electronic Storage of Documents. The City and the Trustee agree that the transaction described herein may be conducted and related documents may be sent, received or stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the **CITY OF KEARNEY, MISSOURI** has caused this Indenture to be signed in its name and behalf and attested by its duly authorized officers, and to evidence its acceptance of the trusts hereby created, **BOKF, N.A.** has caused this Indenture to be signed in its name and behalf and attested by its duly authorized officers, all as of the date first above written.

CITY OF KEARNEY, MISSOURI

By: _____

Name: Dan Holt

Title: Mayor

(Seal)

ATTEST:

Name: Jim Eldridge

Title: City Clerk

**BOKF, N.A.,
as Trustee**

By: _____
Name:
Title:

ATTEST:

By _____
Name:
Title:

SCHEDULE 1 TO TRUST INDENTURE

THE PROJECT SITE

SCHEDULE 2 TO TRUST INDENTURE

THE PROJECT

EXHIBIT A TO TRUST INDENTURE

(FORM OF CERTIFICATE OF PARTICIPATION)

No. R- _____

\$ _____

EXCEPT AS OTHERWISE PROVIDED IN THIS INDENTURE (DESCRIBED HEREIN), THIS GLOBAL CERTIFICATE MAY BE TRANSFERRED, IN WHOLE BUT NOT IN PART, ONLY TO ANOTHER NOMINEE OF THE SECURITIES DEPOSITORY (DESCRIBED HEREIN) OR TO A SUCCESSOR SECURITIES DEPOSITORY OR TO A NOMINEE OF A SUCCESSOR SECURITIES DEPOSITORY.

UNITED STATES OF AMERICA

STATE OF MISSOURI

CERTIFICATE OF PARTICIPATION
CITY OF KEARNEY, MISSOURI
SERIES 2018

Interest Rate Maturity Date Dated Date CUSIP Number

Registered Owner: _____

Principal Amount: _____ DOLLARS

THIS CERTIFIES THAT the Registered Owner shown above, or registered assignee, is the owner of an undivided interest in the right to receive Rental Payments (hereinafter described) from City of Kearney, Missouri, as lessee (the “City”), under an annually renewable Lease Agreement dated as of July 15, 2018, as amended and supplemented from time to time in accordance with the provisions thereof (the “Lease”), between the City, as lessor and BOKF, N.A., Kansas City, Missouri, as Trustee (the “Trustee”). Payments under the Lease and this Certificate are secured by a pledge and assignment by the City of all of the City’s rights and interest under the Lease and the Base Lease dated as of July 15, 2018, as amended and supplemented from time to time in accordance with the provisions thereof (the “Base Lease”), between the City and the Trustee, pursuant to a Trust Indenture dated as of July 15, 2018 (said Trust Indenture, as amended and supplemented from time to time in accordance with the provisions thereof, being herein called the “Indenture”), between the Trustee and the City. Under the Lease and this Indenture, the Registered Owner shown above, or registered assigns, is entitled to receive, but solely from Rental Payments to be made by the City under the Lease, upon the presentation and surrender of this Certificate, the Principal Amount shown above on the Maturity Date shown above, except as the provisions hereinafter set forth with respect to prepayment prior to maturity may become applicable hereto, and in like manner to receive interest on said Principal Amount at the Interest Rate per annum shown above (computed on the basis of a 360-day year of twelve 30-day months) from the Dated Date shown above or from the most recent interest payment date to which interest has been paid or duly provided for, payable semiannually on April 1 and October 1 in each year, beginning October 1, 2018, until said Principal Amount is paid.

The Principal Component, premium, if any, and Interest Component of the Rental Payments represented by this Certificate 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 the payment of public and private debts. Amounts representing the Principal Component and premium, if any, with respect to this Certificate shall be payable to the Registered Owner at the maturity or prepayment date hereof upon presentation and surrender of this Certificate at the payment office of the Trustee, or such other office designated by the Trustee. The Interest Components payable with respect to this Certificate on any interest payment date shall be paid by check or draft mailed by the Trustee to the person in whose name this Certificate is registered at the close of business on the Record Date for such interest, which shall be the fifteenth day (whether or not a Business Day) of the calendar month preceding the month in which such interest payment date occurs. Upon the request and at the expense of any Registered Owner of Certificate representing at least \$500,000 in Principal Component payments with respect to the Certificates shall be made by electronic transfer to the bank for credit to the ABA routing number and the account name and account number designated to the Trustee by such Registered Owner no later than the five (5) Business Days preceding the Record Date.

This Certificate is one of a series of Certificates of Participation consisting of \$7,865,000 principal amount of City of Kearney, Missouri Certificates of Participation, Series 2018 (the “**Series 2018 Certificates**”), which evidence the proportionate interests of the Registered Owners thereof in the right to receive certain Rental Payments from the City under the Lease. The Certificates have been delivered and sold for the purpose of providing funds to pay the costs of a project located on certain real property (the “**Project Site**,” the Project Site and all additions, modifications, improvements, replacements and substitutions made thereon and thereto and any additional facilities financed with Additional Certificates on the Project Site being collectively referred to as the “**Facilities**”), to be leased to the City, and at certain other sites within the City, under the terms of the Lease.

Subject to the terms of this Indenture, the Trustee may deliver Additional Certificates on a parity with the Series 2018 Certificates (together with Additional Certificates, the “**Certificates**”). Reference is hereby made to this Indenture for a description of the provisions, among others, with respect to the nature and extent of the security for the Series 2018 Certificates, the rights, duties and obligations of the Trustee and the owners of the Series 2018 Certificates, and the terms upon which the Series 2018 Certificates are delivered and secured. Capitalized terms not otherwise defined herein shall have the meanings set forth in this Indenture.

The Series 2018 Certificates, including portions thereof, maturing in the year ___ and thereafter shall be subject to prepayment prior to maturity upon instructions from the City, on and after October 1, 20__, as a whole or in part at any time, at a prepayment price of 100% of the principal component of the Rental Payments represented by the Series 2018 Certificates being prepaid, plus the interest component of the Rental Payments accrued to the prepayment date.

The Certificates are also subject to prepayment prior to maturity upon instructions from the City, in whole or in part on any date at a prepayment price of 100% of the principal amount thereof, plus accrued interest thereon to the prepayment date upon the occurrence of certain extraordinary events described in this Indenture.

In the event any of the Certificates are called for prepayment as aforesaid, notice thereof identifying the Certificates to be prepaid will be given by mailing a copy of the prepayment notice at least 20 days prior to the prepayment date to the Registered Owner of each Certificate to be prepaid at the address shown on the Certificate Register maintained by the Trustee. Any notice of prepayment shall state the date and place of prepayment, the series, maturities and numbers of the Certificates or portions

of Certificates to be prepaid (and in the case of the prepayment of a portion of any Certificate the principal amount thereof being prepaid), the prepayment price and that the Registered Owner will no longer be entitled to receive any additional Interest Component of the Rental Payments from and after the prepayment date. The Registered Owners of such Certificates or portion of the Principal Component with respect to the Certificates thus called for prepayment shall no longer be entitled to receive any additional Interest Component of the Rental Payments after the specified prepayment date, and such Certificates or portion of the Principal Component with respect to the Certificates thus called for prepayment 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.

Each Certificate shall evidence the undivided interest of the Registered Owner thereof in the rights of the Trustee to receive Rental Payments from the City under the Lease. The Certificates are payable solely out of the Rental Payments and other payments, revenues and receipts derived from the City under the Lease (including, in certain circumstances, Certificate proceeds and income from the temporary investment thereof and Net Proceeds). The Certificates and the interest with respect thereto are secured by a pledge and assignment of the Trust Estate by the Trustee in favor of the Registered Owners of the Certificates, as provided in this Indenture. The Certificates shall not constitute a liability or obligation of the City beyond the Lease Term in effect at any time. The Certificates shall not constitute a general obligation or indebtedness of the City within the meaning of any constitutional or statutory debt limitation or restriction.

NO PROVISION, COVENANT OR AGREEMENT CONTAINED HEREIN OR IN THIS INDENTURE OR IN THE LEASE, OR ANY OBLIGATION HEREIN OR THEREIN IMPOSED ON THE TRUSTEE OR THE BREACH THEREOF, SHALL (1) CONSTITUTE OR GIVE RISE TO OR IMPOSE UPON THE TRUSTEE A PECUNIARY LIABILITY OR A CHARGE UPON THE GENERAL CREDIT OF THE TRUSTEE, OR (2) IMPOSE ANY PERSONAL LIABILITY ON ANY DIRECTOR, OFFICER, AGENT, OR EMPLOYEE OF THE TRUSTEE.

Pursuant to the provisions of the Lease, Rental Payments sufficient for the prompt payment when due of the Principal Component, premium, if any, and Interest Component of the Rental Payments represented by the Certificates are to be made by the City directly to the Trustee and deposited in a special trust account created by this Indenture and designated “**Certificate Fund.**”

The Registered Owner of this Certificate shall have no right to enforce the provisions of this Indenture or to institute any action to enforce the covenants therein, or to take any action with respect to any Event of Default or any Event of Nonappropriation under this Indenture (as defined therein), or to institute, appear in or defend any suit or other proceeding with respect thereto, except as provided in this Indenture. In certain events, on the conditions, in the manner and with the effect set forth in this Indenture, amounts representing Principal Components with respect to all of the Certificates delivered under this Indenture and then Outstanding may become or may be declared due and payable before the stated maturity thereof, together with interest accrued thereon. This Indenture may be modified, amended or supplemented only to the extent and under the circumstances permitted by, and subject to the terms and conditions of, this Indenture.

The Certificates are delivered in the form of fully registered Certificates without coupons in the denominations of \$5,000 or any integral multiple thereof.

The Certificates are being delivered by means of a book-entry system with no physical distribution of bond certificates to be made except as provided in this Indenture. One certificate with respect to each date on which the Certificates are stated to mature or with respect to each form of Certificates, registered in the nominee name of the Securities Depository, is being delivered. The book-

entry system will evidence positions held in the Certificates by the Securities Depository's participants, beneficial ownership of the Certificates in authorized denominations pursuant to this Indenture being evidenced in the records of such participants. Transfers of ownership shall be effected on the records of the Securities Depository and its participants pursuant to rules and procedures established by the Securities Depository and its participants. The City and the Trustee will recognize the Securities Depository nominee, while the registered owner of this Certificate, as the owner of this Certificate for all purposes, including (i) payments representing Principal Components, premium, if any, and Interest Components with respect to this Certificate, (ii) notices and (iii) voting. Transfer of amounts representing Principal and Interest Components and any premium payments to participants of the Securities Depository, and transfer of amounts representing Principal and Interest Components and any premium payments to beneficial owners of the Certificates by participants of the Securities Depository will be the responsibility of such participants and other nominees of such beneficial owners. The City and the Trustee will not be responsible or liable for such transfers of payments or for maintaining, supervising or reviewing the records maintained by the Securities Depository, the Securities Depository nominee, its participants or persons acting through such participants. While the Securities Depository nominee is the owner of this Certificate, notwithstanding the provision hereinabove contained, payments of the Principal Component, premium, if any, and Interest Component of the Rental Payments represented by this Certificate shall be made in accordance with existing arrangements among the City, the Trustee and the Securities Depository.

EXCEPT AS OTHERWISE PROVIDED IN THIS INDENTURE, THIS GLOBAL CERTIFICATE MAY BE TRANSFERRED, IN WHOLE BUT NOT IN PART, ONLY TO ANOTHER NOMINEE OF THE SECURITIES DEPOSITORY OR TO A SUCCESSOR SECURITIES DEPOSITORY OR TO A NOMINEE OF A SUCCESSOR SECURITIES DEPOSITORY.

This Certificate may be transferred or exchanged, as provided in this Indenture, only upon the registration books kept for that purpose at the above-mentioned office of the Trustee, upon surrender of this Certificate together with a written instrument of transfer or authorization for exchange satisfactory to the Trustee and duly executed by the Registered Owner or his duly authorized attorney, and thereupon a new Certificate or Certificates, in any authorized denomination of the same maturity and in the same aggregate principal amount shall be delivered by the Trustee to the transferee in exchange therefor as provided in this Indenture, and upon payment of the charges therein prescribed. The Trustee and any Paying Agent may deem and treat the Person in whose name this Certificate is registered on the Certificate Register as the absolute owner hereof for the purpose of receiving payment of, or on account of, amounts representing the Principal Component, premium, if any, and Interest Component due with respect hereto and for all other purposes.

Subject to the conditions and upon the payment of the charges provided in this Indenture, the owner of any Certificate or Certificates may surrender the same (together with a written instrument of transfer satisfactory to the Trustee duly executed by the Registered Owner or his duly authorized attorney) in exchange for an equal aggregate principal amount of Certificates of any other authorized denominations.

This Certificate shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under this Indenture until it has been executed by the Trustee.

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

IN WITNESS WHEREOF, BOKF, N.A., has caused this Certificate to be executed in its name by the manual signature of its authorized signatory and has caused this Certificate to be dated as of the Dated Date shown above.

BOKF, N.A.,
Trustee and Paying Agent

By _____
Authorized Signatory

(FORM OF ASSIGNMENT)

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

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

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

Dated: _____

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within Certificate in every particular and must be guaranteed by an eligible guarantor.

Medallion Signature Guarantee:

LEGAL OPINION

The following is a true and correct copy of the approving legal opinion of Gilmore & Bell, P.C., Special Counsel, which was dated and issued as of the date of original execution and delivery of the Certificates:

GILMORE & BELL, P.C.
2405 Grand Boulevard, Suite 1100
Kansas City, Missouri 64108

[APPROVING LEGAL OPINION OF SPECIAL COUNSEL]

BASE LEASE

Grantor:	City of Kearney, Missouri 100 E. Washington Kearney, Missouri 64060
Grantee:	BOKF, N.A. 2405 Grand Boulevard, Suite 840 Kansas City, Missouri 64108 Attention: Corporate Trust Department
Real Property Legal Description:	See Schedule 1
Dated as of:	July 15, 2018

BASE LEASE

THIS BASE LEASE (the “**Base Lease**”) dated as of July 15, 2018, by and between **CITY OF KEARNEY, MISSOURI**, a fourth-class city and political subdivision duly organized and existing under the laws of the State of Missouri, as Site Lessor (the “**City**”), and the **BOKF, N.A.**, a national banking association duly organized and existing under and by virtue of the laws of the United States of America with a corporate trust office located in Kansas City, Missouri, in its capacity as Trustee (together with its successors, the “**Trustee**”) under the Trust Indenture dated as of July 15, 2018, between the City and the Trustee, as Site Lessee.

WITNESSETH:

WHEREAS, the City owns fee simple title to the real estate described on **Schedule 1** attached hereto and all buildings and improvements thereon (the “**Project Site**”), and desires to finance or be reimbursed for the costs of projects (the “**Project**”) more specifically described in **Schedule 2** attached hereto (the Project Site and all additions, modifications, improvements, replacements and substitutions made thereon and thereto and any additional facilities financed with the Certificates being collectively referred to as the “**Facilities**”); and

WHEREAS, the City desires to lease the Project Site to the Trustee upon the terms and conditions herein set forth in order to provide for the financing of the Project; and

WHEREAS, the City proposes (a) to enter into a Trust Indenture of even date herewith (the “**Indenture**”), between the City and the Trustee, under which the Trustee will execute and deliver \$7,865,000 principal amount of City of Kearney, Missouri Certificates of Participation, Series 2018 (the “**Series 2018 Certificates**”), evidencing proportionate interests of the owners thereof in Rental Payments to be made by the City, as Lessee, pursuant to a Lease Agreement of even date herewith (the “**Lease**”), with the Trustee, as Lessor, to provide funds for the purposes described therein, and (b) to lease the Facilities from the Trustee pursuant to the Lease;

WHEREAS, it is expected that the City and the Trustee will amend the Indenture in connection with the execution and delivery of Additional Certificates (as hereinafter defined; the Series 2018 Certificates and the Additional Certificates being collectively referred to as the “**Certificates**”) to provide additional funds for capital projects of the City;

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements herein set forth, the City and the Trustee do hereby covenant and agree as follows:

ARTICLE I

DEFINITIONS, RULES OF CONSTRUCTION

Section 1.1. Definitions of Words and Terms. In addition to words and terms defined herein or the Lease, capitalized words and terms as used in this Base Lease shall have the meanings given to such words and terms in the Indenture (which definitions are hereby incorporated by reference).

Section 1.2. Rules of Construction. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall

otherwise indicate, the words importing the singular number shall include the plural and vice versa, and words importing person shall include firms, associations and corporations, including public bodies, as well as natural persons. Accounting terms used herein and not otherwise specifically defined shall have the meaning ascribed such terms by accounting principles generally accepted in the United States of America as from time to time in effect. The table of contents hereto and the headings and captions herein are not a part of this document. Whenever an item or items are listed after the word "including," such listing is not intended to be a listing that excludes items not listed.

ARTICLE II

REPRESENTATIONS

Section 2.1. Representations of the City. The City represents, warrants and covenants to the Trustee as follows:

(a) The City is a fourth-class city and political subdivision duly organized and existing under the laws of the State of Missouri.

(b) The City has full power and authority to enter into this Base Lease and the transactions contemplated by this Base Lease and the Lease and to carry out its obligations hereunder and thereunder, and by proper action has duly authorized the execution and delivery of this Base Lease and the Lease by its duly authorized officers.

(c) The execution and delivery of this Base Lease and the Lease, the consummation of the transactions contemplated hereby and thereby, and the performance of or compliance with the terms and conditions of this Base Lease and the Lease by the City will not conflict with or result in a breach of any of the terms, conditions or provisions of, or constitute a default under, any mortgage, deed of trust, lease or any other restriction or any agreement or instrument to which the City is a party or by which it or any of its property is bound, or any order, rule or regulation applicable to the City or any of its property of any court or governmental body, 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 City under the terms of any instrument or agreement to which the City is a party.

(d) The City has good and marketable fee simple title to the Project Site at the time of execution and delivery of the Series 2018 Certificates free and clear of any liens or encumbrances, except for Permitted Encumbrances, and such real estate will thereby be exempt from property and any other taxes levied by the State of Missouri or any political subdivision thereof or by the City.

(e) The lease of the Project Site by the City to the Trustee, as provided in this Base Lease, will enhance and expand the use of public facilities owned by the City and as a result thereof will serve all of the aforesaid purposes and is therefore necessary, desirable and in the public interest.

(f) The Facilities will comply in all material respects with all presently applicable building and zoning, health, environmental and safety ordinances and laws and all other applicable laws, rules and regulations.

ARTICLE III

LEASE OF THE PROJECT SITE

Section 3.1. Lease of Project Site. The City hereby demises and leases the Project Site to the Trustee, and the Trustee hereby leases the Project Site from the City, subject to Permitted Encumbrances, on the terms and conditions herein set forth.

Section 3.2. Base Lease Term. The term of this Base Lease shall commence as of the date of the delivery hereof and shall end on March 31, 2060, unless such term is sooner terminated as hereinafter provided.

Section 3.3. Quiet Enjoyment.

(a) Subject to the Lease, the Trustee at all times during the term of this Base Lease shall peaceably and quietly have and enjoy the Project Site, subject to Permitted Encumbrances. The Trustee shall use the Project Site solely for the purpose of financing the costs of acquiring, constructing, improving, furnishing and equipping the Project for the City pursuant to the Lease; provided, that in the event of default by the City under the Lease, the Trustee may exercise the remedies provided in the Lease and this Base Lease.

(b) In the event that title to, or the temporary use of, all or a portion of the Facilities is challenged or threatened by means of competent legal or equitable action, the City covenants that it shall cooperate with the Trustee and shall take all reasonable actions, including where appropriate the lawful exercise of the City's power of eminent domain, in order to quiet title to the Facilities in the City.

Section 3.4. No Merger. Subject to **Section 5.1** hereof, no union of the interests of the City and the Trustee herein shall result in a merger of this Base Lease and the Lease or of this Base Lease and the fee title to the Project Site.

Section 3.5. Assignments, Subleases and Mortgage.

(a) Simultaneously with the delivery of this Base Lease, the Trustee is subleasing the Facilities to the City pursuant to the Lease, but subject to the Indenture and the reservation of certain rights under this Base Lease.

(b) The Trustee may not mortgage or otherwise assign its rights under this Base Lease or sublet the Facilities without the written consent of the City except (a) the sublease and lease of the Facilities pursuant to the Lease, (b) the assignment pursuant to the Indenture of its rights under this Base Lease and the Lease, (c) if the Lease is terminated for any reason and this Base Lease is not otherwise terminated as provided herein, or (d) if an Event of Default or an Event of Nonappropriation under the Lease has occurred.

(c) Except with respect to Permitted Encumbrances and as otherwise provided herein, in the Lease or in the Indenture, neither the Trustee nor the City shall, directly or indirectly, create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Facilities. Whenever and as often as any mechanics' or other lien is filed against the Facilities, or any part thereof, the City shall discharge the same of record within 60 days after the date of filing. Notice is hereby given that the Trustee shall not be liable for any labor or materials furnished to the City or to anyone claiming by, through or under the City upon credit, and that no mechanics' or other lien shall attach to or affect the reversionary or other estate of the Trustee in and to the Facilities or any part thereof.

Section 3.6. Eminent Domain. In the event the whole or any part of the Project Site or the Project is taken by eminent domain proceedings, the interest of the Trustee shall be recognized. The proceeds of said condemnation shall be applied as provided in **Article VIII** of the Lease. The Trustee and the City have reached an agreement on the terms of the acquisition of the Facilities at City's option, and to the use of the Project, all as set forth in the Lease. Any acquisition of the Facilities or rights to their use by the City (whether pursuant to the exercise of eminent domain powers or otherwise) shall be pursuant to and in accordance with the Lease, including payment of Rental Payments and the applicable Option Purchase Price as set forth in the Lease. If the City allows the Lease to expire without exercising its option to purchase (whether by failure to exercise its option to extend the Lease for a Renewal Term, failure to exercise its option to purchase at the conclusion of the Maximum Lease Term or failure to cure an Event of Default under the Lease), that action shall constitute an irrevocable determination by the City that the Facilities are not required by it for any public purpose for the term of this Base Lease.

Section 3.7. Title Insurance. The City shall concurrently with the execution of this Base Lease obtain title insurance on the Project Site in the form of an extended ALTA owner's policy. All encumbrances, and endorsements and restrictions to the policies must be acceptable to the Purchaser. The policies may not permit the title insurer to purchase any Certificates in lieu of providing payment under the policy unless, upon purchase, such Certificates are canceled, or to settle claims with any person other than the Trustee, acting with the consent of the Purchaser. The Net Proceeds of such title insurance policy shall be applied in accordance with the provisions of the Indenture and the Lease.

ARTICLE IV

RENTAL PROVISIONS

Section 4.1. Rent and Other Considerations. As and for rental hereunder and in consideration for the leasing of the Facilities to the Trustee hereunder, the Trustee shall:

(a) Cause the Series 2018 Certificates and any Additional Certificates to be delivered to the purchasers thereof having such terms as set forth in the Indenture; and

(b) Cause the proceeds of the sale of the Series 2018 Certificates and any Additional Certificates to be deposited as provided in the Indenture.

Section 4.2. Disbursement from Project Fund. The City will authorize and direct the Trustee to disburse moneys in the Project Fund for the payment, or for reimbursement to the City for payment, of the Project Costs upon the terms and conditions specified in the Indenture and in the Lease.

Section 4.3. Additional Certificates. The Trustee may deliver Additional Certificates for the purposes and upon the terms and conditions provided in the Indenture. If the City is not in default hereunder, the Trustee agrees, on request of the City, from time to time, to use its best efforts to deliver the amount of Additional Certificates specified by the City (within the limits and under the conditions specified herein and in the Indenture), provided that (a) the terms, purchase price and disposition of proceeds of the sale of such Additional Certificates have been approved in writing by the City; (b) the Trustee and the City shall have entered into an amendment to the Lease, if necessary, and this Base Lease, if necessary, to provide for the lease of any additional improvements and extensions to the property of the City and the payment by the City of Rental Payments necessary to pay the Principal Component, premium, if any, and Interest Component of the Rental Payments represented by the Additional Certificates; and (c) the City shall have otherwise complied with the provisions of the Indenture with respect to the issuance of such Additional Certificates.

ARTICLE V

TERMINATION

Section 5.1. Termination. This Base Lease shall terminate upon the completion of the Base Lease term specified in **Section 3.2** hereof; provided, however, in the event (i) the City pays all Rental Payments and Additional Payments required by the Lease during the Maximum Lease Term, or exercises the option to purchase the remaining Base Lease term of the Trustee hereunder and pays the then applicable Purchase Price as provided in the Lease, and (ii) the Indenture has been discharged in accordance with its terms, then this Base Lease shall be considered assigned to the City and terminated through merger of the leasehold interest with the fee interest if the City is the owner of the fee interest and elects to terminate the leasehold interest so acquired from the Trustee. The Trustee agrees, upon such assignment and termination of the Base Lease term, to quit and surrender the Facilities as they then exist to the City free and clear of encumbrances, except Permitted Encumbrances.

Section 5.2. Default by the City. If an Event of Default or an Event of Nonappropriation under the Lease occurs for any reason, or if the City terminates the Lease and fails to purchase the Trustee's interest in the Facilities as provided in the Lease, the Trustee, or its assignee, shall have the right to possession of the Facilities for the remainder of the Base Lease term and shall have the right to sublease the same or sell its interest in this Base Lease upon whatever terms and conditions it deems prudent. In the event the Trustee takes possession of the Facilities, the Trustee shall obtain, but solely to the extent of funds available to it for such use under the Indenture, the same insurance coverage with respect to the Facilities as the City is required to obtain under the Lease for the remainder of the Base Lease term and will furnish the City with evidence thereof. In the event that the Trustee shall receive a payment for the sale of its interest or total rental payments for subleasing that are, after the payment of the Trustee's expenses in connection therewith including fees and expenses of the Trustee, in excess of the purchase price applicable at the time of termination or default plus interest thereon at the interest rate per annum borne by the Certificates (which must be an amount sufficient to pay the Principal Component, premium, if any, and Interest Component with respect to the Certificates, or to provide for the payment thereof as provided in **Article XIII** of the Indenture, with amounts so received to be credited first to such Interest Component and then to Principal Component), then such excess shall be paid to the City by the Trustee, its assigns or its sublessee.

Section 5.3. Default by the Trustee. Notwithstanding any default by the Trustee hereunder, the City shall not have the right to exclude the Trustee from the Facilities or to take possession thereof (except pursuant to the Lease) or to terminate this Base Lease prior to the termination of the Base Lease term; except that if, upon exercise of the option to purchase the Trustee's interest in the Facilities under the Lease granted to the City in the Lease and after the payment of the purchase price specified therein and the other sums payable under the Lease, the Trustee fails to convey its interest therein to the City pursuant to said option, then the City shall have the right to terminate this Base Lease, such termination to be effective 30 days after delivery of written notice of such termination to the Trustee. However, in the event of any default by the Trustee hereunder, the City may maintain an action for damages or, if permitted in equity, for specific performance. In no event shall the Trustee be liable for consequential or punitive damages.

ARTICLE VI

MISCELLANEOUS PROVISIONS

Section 6.1. Amendments, Changes and Modifications. This Base Lease may not be effectively amended, changed, modified, altered or terminated, except as provided in the Indenture.

Section 6.2. Notices. Any notice, request, complaint, demand or other communication required by this Base Lease to be given to or filed with the City or the Trustee shall be in writing and shall be given or filed in the manner and at the addresses specified in the Indenture.

Section 6.3. Waiver of Personal Liability. All liabilities under this Base Lease on the part of the Trustee are corporate liabilities of the Trustee, and, to the extent permitted by law, the City hereby releases each and every incorporator, member, director and officer of the Trustee of and from any personal or individual liability under this Base Lease. No incorporator, member, director or officer of the Trustee shall at any time or under any circumstances be individually or personally liable under this Base Lease for anything done or omitted to be done by the Trustee hereunder.

Section 6.4. Binding Effect. This Base Lease shall inure to the benefit of and shall be binding upon the City, the Trustee and their respective successors and assigns.

Section 6.5. Severability. In the event any provision of this Base Lease shall be determined to be invalid or unenforceable, the validity and effect of the other provisions hereof shall not be affected thereby.

Section 6.6. Execution in Counterparts. This Base Lease may be executed simultaneously in two or more counterparts, each of which shall be deemed to be an original and all of which together shall constitute but one and the same instrument.

Section 6.7. Applicable Law. This Base Lease shall be governed by and construed in accordance with the laws of the State of Missouri.

Section 6.8. Electronic Storage of Documents. The Trustee and the City agree that the transaction described herein may be conducted and related documents may be sent, received or stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions or original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Base 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 KEARNEY, MISSOURI, as Site Lessor

(SEAL)

By: _____
Name: Dan Holt
Title: Mayor

ATTEST:

Name: Jim Eldridge
Title: City Clerk

ACKNOWLEDGMENT

STATE OF MISSOURI)
) SS.
COUNTY OF _____)

On this ____ day of _____ 2018, before me, the undersigned, a Notary Public, appeared Dan Holt, to me personally known, who, being by me duly sworn, did say that he is the Mayor of the **CITY OF KEARNEY, MISSOURI**, a fourth-class city and political subdivision duly organized and existing under the laws of the State of Missouri, and that the seal affixed to the foregoing instrument is the corporate seal of said City, and that said instrument was signed and sealed in behalf of said City by authority of its Board of Aldermen, and said officer acknowledged said instrument to be executed for the purposes therein stated and as the free act and deed of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

Printed Name: _____
Notary Public in and for said State
Commissioned in _____ County

BOKF, N.A.,
as Site Lessee

(SEAL)

By: _____
Name:
Title:

ATTEST:

Name:
Title:

ACKNOWLEDGMENT

STATE OF MISSOURI)
) SS.
COUNTY OF _____)

On this ____ day of _____, 2018, before me, the undersigned, a Notary Public, appeared _____, who being before me duly sworn did say that [s]he is a Vice President of **BOKF, N.A.**, a national banking association, and that said officer being authorized so to do executed the foregoing instrument for the purposes therein contained by signing the name of the bank as such officer.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

Printed Name: _____
Notary Public in and for said State
Commissioned in _____ County

**SCHEDULE 1
TO BASE LEASE**

THE PROJECT SITE

**SCHEDULE 2
TO BASE LEASE**

THE PROJECT

LEASE AGREEMENT

Dated as of July 15, 2018

Between

**BOKF, N.A.,
as Lessor**

and

**CITY OF KEARNEY, MISSOURI,
as Lessee**

LEASE AGREEMENT

Table of Contents

	<u>Page</u>
Parties.....	1
Recitals.....	1

ARTICLE I

DEFINITIONS

Section 1.1. Definitions of Words and Terms	2
Section 1.2. Rules of Construction	2

ARTICLE II

REPRESENTATIONS

Section 2.1. Representations by the Lessee	2
--	---

ARTICLE III

GRANTING PROVISIONS

Section 3.1. Lease of Facilities	3
Section 3.2. Lease Term	3
Section 3.3. Termination of the Lease Term	4
Section 3.4. Possession and Use of the Facilities	5
Section 3.5. Right of Access to the Facilities	6

ARTICLE IV

**EXECUTION AND DELIVERY OF CERTIFICATES; CONSTRUCTION OF
THE PROJECT**

Section 4.1. Execution and Delivery of Certificates	6
Section 4.2. Acquisition, Construction, Improvement and Equipping of the Project.....	6
Section 4.3. Payment for Project Costs	7
Section 4.4. Establishment of Completion Date.....	7
Section 4.5. Project Documents.....	7
Section 4.6. Changes or Amendments to Project Documents	8
Section 4.7. Title to Portions of the Project.....	8
Section 4.8. Machinery and Equipment Purchased by the Lessee	9
Section 4.9. Investment of Moneys in Funds	9

ARTICLE V

PAYMENTS

Section 5.1.	Rental Payments	9
Section 5.2.	Additional Payments	10
Section 5.3.	Obligations Absolute and Unconditional.....	11
Section 5.4.	Rental Payments to Constitute a Current Expense of the Lessee	11
Section 5.5.	Event of Nonappropriation	12
Section 5.6.	Prepayment of Certificates	12
Section 5.7.	Security Interest.....	13

ARTICLE VI

MAINTENANCE, TAXES AND INSURANCE

Section 6.1.	Maintenance, Repairs and Utilities.....	13
Section 6.2.	Taxes, Assessments and Other Governmental Charges	13
Section 6.3.	Property and Casualty Insurance	14
Section 6.4.	Public Liability Insurance.....	15
Section 6.5.	Workers' Compensation Insurance	15
Section 6.6.	Blanket Insurance, Self-Insurance and Modifications.....	15
Section 6.7.	Advances	16
Section 6.8.	Release and Indemnification Covenants.....	16
Section 6.9.	Hazardous Materials.....	16

ARTICLE VII

**ADDITIONS, MODIFICATIONS AND IMPROVEMENTS TO THE
FACILITIES; LIENS**

Section 7.1.	Additions, Modifications and Improvements to the Facilities.....	17
Section 7.2.	Additional Improvements on the Project Site.....	18
Section 7.3.	Permits and Authorizations.....	18
Section 7.4.	Liens	18

ARTICLE VIII

DAMAGE, DESTRUCTION AND CONDEMNATION

Section 8.1.	Damage and Destruction	19
Section 8.2.	Condemnation or Deficiency of Title.	20

ARTICLE IX

SPECIAL COVENANTS

Section 9.1.	Disclaimer of Warranties	20
Section 9.2.	Vendor's Warranties.....	21
Section 9.3.	Surrender of Possession.....	21

Section 9.4.	Granting of Easements.....	21
Section 9.5.	Authorized City Representative.....	22

ARTICLE X

ASSIGNMENT AND SUBLEASING

Section 10.1.	Assignment by Lessor	22
Section 10.2.	Assignment and Sublease by Lessee	22
Section 10.3.	Restrictions on Sale or Mortgage of the Facilities by the Lessee.....	22

ARTICLE XI

**OPTION AND OBLIGATION TO PURCHASE THE LESSOR’S INTEREST
IN THE FACILITIES**

Section 11.1.	Option to Purchase the Lessor’s Interest in the Facilities.....	23
Section 11.2.	Determination of Fair Purchase Price; Acquisition of the Lessor’s Interest in the Facilities.....	23
Section 11.3.	Conveyance of the Lessor’s Interest in the Facilities	24
Section 11.4.	Relative Position of Option and Indenture	24
Section 11.5.	Obligation to Purchase the Lessor’s Interest in the Facilities.....	24

ARTICLE XII

DEFAULT AND REMEDIES

Section 12.1.	Events of Default.....	24
Section 12.2.	Remedies on the Occurrence of an Event of Default or an Event of Nonappropriation.....	25
Section 12.3.	No Remedy Exclusive	26
Section 12.4.	Attorneys’ Fees and Expenses	26
Section 12.5.	Waiver of Appraisalment, Valuation, Stay, Extension and Redemption Laws	26

ARTICLE XIII

AMENDMENTS, CHANGES AND MODIFICATIONS

Section 13.1.	Amendments, Changes and Modifications.....	26
---------------	--	----

ARTICLE XIV

MISCELLANEOUS PROVISIONS

Section 14.1.	Notices.....	26
Section 14.2.	Lessor and Lessee Shall Not Unreasonably Withhold Consents and Approvals.....	27
Section 14.3.	Limited Liability of Lessor.....	27

Section 14.4.	Net Lease	27
Section 14.5.	No Merger.....	27
Section 14.6.	Payments Due on Holidays.....	27
Section 14.7.	Binding Effect.....	27
Section 14.8.	Severability.....	28
Section 14.9.	Execution in Counterparts	28
Section 14.10.	Governing Law	28
Section 14.11.	Electronic Storage of Documents	28
	Signatures and Acknowledgments	S-1
	Schedule 1: The Project Site	
	Schedule 2: The Project	
	Schedule 3: Form of Requisition Certificate	
	Schedule 4: Form of Schedule of Rental Payments and Purchase Price	

LEASE AGREEMENT

THIS LEASE AGREEMENT, dated as of July 15, 2018 (the “**Lease**”), between the **BOKF, N.A.**, a national banking association duly organized and existing under and by virtue of the laws of the United States of America with a corporate trust office located in Kansas City, Missouri, in its capacity as Trustee under the hereinafter referred to Indenture (the “**Lessor**”), and **CITY OF KEARNEY, MISSOURI**, a fourth-class city duly organized and existing under the laws of the State of Missouri (the “**Lessee**”).

WITNESSETH:

WHEREAS, the Lessee is authorized pursuant to the Revised Statutes of Missouri, as amended, to sell or lease any existing sites owned by the Lessee, together with any existing buildings and facilities thereon, in order to provide for the acquisition, construction, improvement, extension, repair, remodeling, renovation, furnishing and equipping buildings and facilities thereon, and then lease back or purchase such sites, buildings and facilities; and

WHEREAS, pursuant to an Ordinance adopted by the Lessee on July 2, 2018, the Lessee has been authorized (a) enter into a Base Lease with the Lessor, dated as of the date hereof (the “**Base Lease**”), pursuant to which the Lessee shall grant a leasehold interest to the Lessor for a maximum Base Lease Term ending on March 31, 2060, in certain real estate described in **Schedule 1** attached hereto and any existing building and improvements located thereon (the “**Project Site**”), and (b) to enter into this annually renewable Lease with the Lessor under which the Lessee will (i) provide for projects (the “**Project**”) more specifically described in **Schedule 2** attached to this Lease (the Project Site and all additions, modifications, improvements, replacements and substitutions made thereon and thereto and any additional facilities financed with the Series 2018 Certificates or any Additional Certificates (as hereinafter defined) being collectively referred to as the “**Facilities**”), and (ii) lease the Facilities from the Lessor for an initial term ending March 31, 2019 (the “**Initial Term**”), with successive one-year renewal options (the “**Renewal Terms**”) exercisable by the Lessee subject to annual budget appropriations, except that the final Renewal Term may be for a period of less than one year as provided in this Lease; and

WHEREAS, in order to provide funds to pay the costs of the Project, the Lessor will, pursuant to a Trust Indenture, dated as of the date hereof (the “**Indenture**”), sell a series of City of Kearney, Missouri Certificates of Participation, Series 2018, in the aggregate principal amount of \$7,865,000 (the “**Series 2018 Certificates**”), and is authorized to sell one or more additional series of City of Kearney, Missouri Certificates of Participation for other purposes authorized by the Indenture (such additional Certificate of Participation together with the Series 2018 Certificates being collectively referred to as the “**Certificates**”), evidencing proportionate interests of the owners thereof in Rental Payments (as defined in the Indenture) payable pursuant to this Lease; and

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements herein set forth, the Lessor and the Lessee do hereby covenant and agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1. Definitions of Words and Terms. In addition to any words and terms defined elsewhere in this Lease, capitalized words and terms used in this Lease shall have the meanings given to such words and terms in **Section 101** of the Indenture (which definitions are hereby incorporated by reference).

Section 1.2. Rules of Construction.

(a) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. 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 public bodies, as well as natural persons.

(b) All references in this Lease to a particular article, section, other subdivision, exhibit, schedule or appendix shall be construed to be a reference to the specified article, section or other subdivision or exhibit, schedule or appendix hereto unless the context or use clearly indicates another or different meaning or interest. The words “herein,” “hereof,” “hereunder” and other words of similar import refer to this Lease as a whole and not to any particular Article, Section or other subdivision.

(c) The section and article headings herein are for convenience only and in no way define, limit or describe the scope or intent of any of the provisions hereof.

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

ARTICLE II

REPRESENTATIONS

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

(a) The Lessee a fourth class city duly organized and existing under the laws of the State.

(b) The Lessee has lawful power and authority to enter into this Lease, the Indenture and the Base Lease and to carry out its obligations under this Lease, the Indenture and the Base Lease and by proper action of its Board of Aldermen has been duly authorized to execute and deliver this Lease, the Indenture and the Base Lease, acting by and through its duly authorized officers.

(c) The execution and delivery of this Lease, the Indenture and the Base Lease, the consummation of the transactions contemplated thereby, and the performance of or compliance with the terms and conditions of this Lease, the Indenture and the Base Lease by the Lessee will not conflict with or result in a breach of any of the terms, conditions or provisions of, or constitute a default under, any mortgage, deed of trust, lease or any other restriction or any agreement or instrument to which the Lessee is a party or by which it or any of its property is bound, or any order, rule or regulation applicable to the Lessee or any of its property of any court or governmental body, 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 Lessee under the terms of any instrument or agreement to which the Lessee is a party.

(d) The acquisition, construction, improving, furnishing and equipping of the Project and the leasing of the Facilities by the Lessor to the Lessee will advance the purposes of the Act, and the Project upon completion thereof will constitute essential governmental property to the Lessee.

(e) The Facilities and all other property of the Lessee will comply in all material respects with all presently applicable building and zoning, health, environmental and safety ordinances and laws and all other applicable laws, rules and regulations.

(f) This Lease, the Indenture and the Base Lease constitute legal, valid and binding obligations of the Lessee enforceable in accordance with their terms, except to the extent limited by bankruptcy, insolvency, reorganization or other laws affecting creditors' rights generally.

(g) To the knowledge of the Lessee, there is no litigation or proceeding pending or threatened against the Lessee or any other person affecting the right of the Lessee to execute this Lease, the Indenture or the Base Lease or the ability of the Lessee to make the payments required under this Lease or to otherwise comply with the obligations contained in this Lease, the Indenture or the Base Lease, or to consummate the transactions contemplated in this Lease, the Base Lease or the Indenture, or that otherwise materially and adversely affect the financial condition of the Lessee.

(h) No member of the governing body of the Lessee or any other officer of the Lessee has any significant conflicting interest, financial, employment or otherwise, in the Lessee, the Facilities or in the transactions contemplated hereby.

(i) The execution and delivery of this Lease, the Indenture and the Base Lease by the Lessee will not conflict with or result in a breach of any of the terms of, or constitute a default under, any indenture, mortgage, deed of trust, lease or other agreement or instrument to which the Lessee is a party or by which it or any of its property is bound or any of the rules or regulations applicable to the Lessee or its property of any court or other governmental body.

(j) The Lessee is a governmental unit under the laws of the State with general taxing powers, and 95% or more of the net proceeds of the Certificates will be used for local governmental activities of the Lessee.

ARTICLE III

GRANTING PROVISIONS

Section 3.1. Lease of Facilities. The Lessor rents, leases and lets the Facilities to the Lessee, and the Lessee rents, leases and hires the Facilities from the Lessor, for the rentals and upon and subject to the terms and conditions contained in this Lease.

Section 3.2. Lease Term.

(a) This Lease shall become effective upon its delivery, and subject to earlier termination pursuant to the provisions of this Lease, shall have an Initial Term terminating on the last day of the Lessee's current Fiscal Year.

(b) The Lease Term may be extended, solely at the option of the Lessee, at the end of the Initial Term or any Renewal Term for an additional Renewal Term up to the Maximum Lease Term.

(c) At the end of the Initial Term and at the end of each Renewal Term, the Lessee shall be deemed to have exercised its option to continue this Lease for the next Renewal Term, unless the Lessee delivers written notice to the Lessor no later than March 31 of each year stating the Lessee's intention to not extend the Lease Term. The Lessee's option to renew or not to renew this Lease shall be conclusively determined by whether or not the Board of Aldermen of the Lessee has, on or before the March 31 immediately preceding the end of the Initial Term or any Renewal Term then in effect, budgeted and appropriated, specifically with respect to this Lease, moneys sufficient to pay all the Rental Payments and reasonably estimated Additional Payments for the ensuing Renewal Term. The City Administrator of the Lessee (or any other officer at any time charged with the responsibility of preparing budget proposals) is hereby directed to include in the budget proposal submitted to the Board of Aldermen, in any year in which this Lease shall be in effect, items for all payments required for the next ensuing Renewal Term under this Lease; it being the intention of the Board of Aldermen that the decision to renew or not to renew this Lease shall be made solely by the Board of Aldermen and not by any other official of the Lessee. The Lessee shall in any event, whether or not this Lease is to be renewed, furnish to the Lessor and the Purchaser copies of its annual budget promptly after the budget is adopted, but in any case no later than 30 days later than the end of each Fiscal Year.

(d) The Lessee's option to renew or not to renew this Lease may not be exercised at any time during which an Event of Default has occurred and is then continuing under any of the terms of this Lease; provided, however, that if such Event of Default (money payments excepted) is of such nature that the same is curable but not within the period allowed for curing such Event of Default, then the right of the Lessee to exercise the option hereby granted shall not be suspended if the Lessee shall have promptly commenced within such period to comply with the provisions of this Lease which shall have been breached by it and if so long as the Lessee shall, with diligence and continuity, proceed to cure such Event of Default.

(e) The Lessee intends, subject to the provisions above respecting the failure of the Lessee to budget or appropriate funds to make Rental Payments and Additional Payments, to continue this Lease Term and to pay the Rental Payments and Additional Payments under this Lease. The Lessee reasonably believes that legally available funds in an amount sufficient to make all Rental Payments and Additional Payments during the Initial Term and each Renewal Term can be obtained. The Lessee further intends to do all things lawfully within its power to obtain and maintain funds from which the Rental Payments and Additional Payments may be made, including making provision for such Rental Payments and Additional Payments to the extent necessary in each proposed annual budget submitted for approval in accordance with applicable procedures of the Lessee and to exhaust all available reviews and appeals in the event such portion of the budget is not approved. Notwithstanding the foregoing, the decision to budget and appropriate funds or to continue the Lease Term is to be made in accordance with the Lessee's normal procedures for such decisions.

(f) The terms and conditions during any Renewal Term shall be the same as the terms and conditions during the Initial Term, except that the Rental Payments and the Option Purchase Price shall be as provided in the schedules set forth in **Schedule 4** to this Lease, as such schedules may be revised as provided in the Indenture.

Section 3.3. Termination of the Lease Term. The Lease Term will terminate, and all of the Lessee's right, title and interest in and to this Lease (except to the extent of any conveyance pursuant to **Article XI** of this Lease) and its obligations thereunder shall terminate without penalty upon the earliest to occur of any of the following events:

(a) the expiration of the Initial Term or any Renewal Term and the nonrenewal of the Lease Term resulting from an Event of Nonappropriation pursuant to **Section 5.5** of this Lease (which is not thereafter waived by the Lessor as herein provided);

(b) the exercise by the Lessee of the option to purchase the Facilities pursuant to **Section 11.1** of this Lease;

(c) an Event of Default and the Lessor's election to terminate this Lease as provided in **Article XII** of this Lease;

(d) the payment by the Lessee of all Rental Payments and Additional Payments authorized or required to be paid by the Lessee under this Lease during the Maximum Lease Term; or

(e) March 31, 2034 (unless otherwise provided in a Supplemental Lease).

Section 3.4. Possession and Use of the Facilities.

(a) The Lessor covenants and agrees that as long as the Lessee shall not be in default under this Lease, the Lessee shall have sole and exclusive possession of the Facilities (subject to the Lessor's right of access pursuant to **Section 3.5** of this Lease) and shall and may peaceably and quietly have, hold and enjoy the Facilities during the Lease Term. The Lessor covenants and agrees that it will not take any action, except as expressly set forth in this Lease and the Indenture, to prevent the Lessee from having quiet and peaceable possession and enjoyment of the Facilities during the Lease Term and will, at the request and expense of the Lessee, cooperate with the Lessee in order that the Lessee may have quiet and peaceable possession and enjoyment of the Facilities and will defend the Lessee's enjoyment and possession thereof against all parties.

(b) Subject to the provisions of this Section, the Lessee shall have the right to use the Facilities for any lawful purpose allowed by law. The Lessee shall comply in all material respects with all statutes, laws, ordinances, orders, judgments, decrees, regulations, directions and requirements of all federal, state, local and other governments or governmental authorities (including without limitation all environmental laws), now or hereafter applicable to the Facilities and the other property of the Lessee or to any adjoining public ways, as to the manner of use or the condition of the Facilities or of adjoining public ways. The Lessee shall also comply with the mandatory requirements, rules and regulations of all insurers under the policies required to be carried by the provisions of **Article VI** of this Lease. The Lessee 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 Lessee to comply with the provisions of this Section. Notwithstanding any provision contained in this Section, however, the Lessee 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 Lessee may refrain from complying therewith unless the Lessor shall notify the Lessee that, in the opinion of Counsel, by noncompliance the interest of the Lessor in the Facilities will be materially endangered or the Facilities or any part thereof will be subject to loss or forfeiture, in which event the Lessee shall promptly comply therewith or provide the Lessor with full security against any such loss or forfeiture, in form satisfactory to the Lessor.

Section 3.5. Right of Access to the Facilities. The Lessee agrees that the Lessor and its duly authorized agents shall have the right at reasonable times during business hours, subject to the Lessee's usual safety and security requirements, to examine and inspect the Facilities without interference or prejudice to the Lessee's operations. The Lessee further agrees that the Lessor and its duly authorized agents shall have such rights of access to the Facilities (a) as may be reasonably necessary to effect the completion of the acquisition, construction, furnishing and equipping of the Project specified in **Section 4.2** of this Lease, (b) maintaining and performing such work in and about the Facilities made necessary by reason of the Lessee's default under any of the provisions of this Lease, and (c) exhibiting the Facilities to prospective purchasers, lessees or trustees subsequent to an Event of Default or Event of Nonappropriation.

ARTICLE IV

EXECUTION AND DELIVERY OF CERTIFICATES; CONSTRUCTION OF THE PROJECT

Section 4.1. Execution and Delivery of Certificates.

(a) In order to provide funds to finance Project Costs or to reimburse the Lessee for Project Costs, the Lessor will, concurrently with the delivery of this Lease, execute and deliver the Certificates under the Indenture, each Certificate evidencing the undivided interest of the Registered Owner thereof in the rights to receive Rental Payments and other payments under this Lease. The proceeds of the sale of the Certificates shall be paid to the Lessor as provided in the Indenture to be used and applied as hereinafter provided in this Article and in the Indenture.

(b) The Lessee may authorize the execution and delivery of Additional Certificates from time to time upon the terms and conditions provided in **Section 209** of the Indenture.

(c) If the Lessee is not in default under this Lease, the Lessor will, at the request of the Lessee, from time to time, execute and deliver the amount of Additional Certificates specified by the Lessee; provided that the terms and provisions of such Additional Certificates, 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 Lessee, and provided further that the Lessee shall have entered into an amendment to this Lease to provide for additional Rental Payments represented by the Additional Certificates when due, and the Lessee shall have otherwise complied with the provisions of the Indenture with respect to the execution and sale of such Additional Certificates. The terms and provisions of any Additional Certificates shall be set forth in the Supplemental Indenture authorizing such Additional Certificates.

Section 4.2. Acquisition, Construction, Improvement and Equipping of the Project.

(a) The Lessee will acquire, construct, improve, furnish and equip the Project in accordance with the Construction Contracts and the Plans and Specifications. The Lessee may make minor changes in and to the Construction Contracts and the Plans and Specifications incorporated therein, but major changes may only be made with the approval of the Lessor. The Lessee agrees that it will use its best efforts to cause the acquisition, construction, improvement, furnishing and equipping of the Project to be completed as soon as practicable with all reasonable dispatch.

(b) The Lessee shall ensure that the Project conforms to all applicable health, safety, environmental and building codes, regulations and standards.

Section 4.3. Payment for Project Costs.

(a) All Project Costs shall be paid by the Lessor from moneys in the Project Fund upon receipt by the Lessor of requisition certificates in substantially the form attached hereto as **Schedule 3** to this Lease in accordance with **Section 504** of the Indenture.

(b) If the Project Fund shall be insufficient to pay fully all Project Costs and to complete fully the Project free of liens or claims, the Lessee shall pay, but only from legally available funds, the full amount of any such deficiency by making payments directly to the Construction Contractors and to the suppliers of materials and services as the same shall become due, and the Lessee shall save the Lessor whole and harmless from any obligation to pay such deficiency.

Section 4.4. Establishment of Completion Date.

(a) The Completion Date shall be evidenced by delivery to the Lessor of the Completion Certificate signed by the Authorized City Representative stating (i) that the acquisition, construction, improvement, furnishing and equipping of the Project has been completed in accordance with the Plans and Specifications, (ii) that all Project Costs 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 Lessee, and (iii) amounts to be retained by the Lessor with respect to item (ii) 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.

(b) Upon receipt of the Completion Certificate, any remaining moneys then in the Project Fund shall be applied by the Lessor as provided in **Section 505** of the Indenture.

(c) If an Event of Nonappropriation or an Event of Default shall occur prior to the delivery of the Completion Certificate pursuant to **Section 505** of the Indenture, or, in the event that the Project is not substantially completed, as evidenced by delivery of the Completion Certificate on or prior to the date that is three years after the date the Certificates are issued, the moneys remaining in the Project Fund may be utilized by the Lessor to complete construction of the Project or, upon termination of the term of this Lease, may be disbursed as provided in the Indenture.

(d) The Lessee hereby covenants, to the extent permitted by law, to use other available funds, but only to the extent contemplated by the Construction Contracts or from lawfully available moneys specifically appropriated for that purpose, to the extent necessary to complete the design and construction of the Project as herein required, or to make certain design changes in the Project to the extent necessary to complete the Project with moneys then available for such purposes in the Project Fund.

Section 4.5. Project Documents. The Lessee, at its own cost and expense, will deliver to the Lessor, upon request, copies of the following documents (which shall be collectively referred to herein as the "Project Documents"):

(a) **Plans and Specifications.** All available preliminary and final Plans and Specifications (the Lessee agrees to deliver to the Lessor the final versions of such preliminary Plans and Specifications as such final versions become available and in any event by such time as work is commenced on the portion of the Project to which such Plans and Specifications relate).

(b) Construction Contracts. All architect's and general contractor's contracts for the Project and all prime subcontractor's contracts and purchase orders for any equipment included in the Project deemed necessary by the Lessor.

(c) Performance and Payment Bonds. Performance, labor and material payment bonds with respect to the Construction Contracts in the full amount of the contract price under the Construction Contracts, made by the Construction Contractor thereunder as the principal and a surety company or companies licensed and qualified to do business in the State as surety. Any and all moneys received by the Lessee or the Lessor under such bonds or from the Construction Contractor or other suppliers of machinery or equipment by way of breach of contract, refunds or adjustments shall become a part of and be deposited in the Project Fund.

If, at any time during the acquisition, construction, furnishing and equipping of the Project, the surety on such bond shall be disqualified from doing business within the State, or shall otherwise become incapable of performing its obligations under such bond, an alternate surety shall be selected, licensed and qualified to do business in the State as surety. In the event of any change order resulting in an increase in the Project Costs in accordance with the Construction Contracts, the amounts of such bond pertaining thereto shall be increased to include the cost of such additional work or materials or fixtures to be incorporated in the Project.

Neither the Project Documents nor any change or amendment thereto shall (i) cause the Project to be used for any purpose prohibited hereby or by the Constitution and laws of the State; (ii) result in a material reduction in the value of the Project; or (iii) adversely affect the ability of the Lessee to meet its obligations under this Lease.

Section 4.6. Changes or Amendments to Project Documents. The Lessee may make, authorize or permit such changes or amendments in the Project Documents as it may reasonably determine to be necessary or desirable; provided, however, that no such change or amendment shall be made to the Project Documents that would cause a material change in the cost, scope, nature, or function of the Project, unless the Lessee files with the Lessor (1) a certificate of an Authorized City Representative to the effect that such change or amendment will not result in the Project being used for any purpose prohibited by this Lease or otherwise result in the Lessee failing to comply with any provisions of this Lease, and (2) for those Certificates with Interest Components of the Rental Payments which are excludable from gross income for federal income tax purposes, an Opinion of Special Counsel to the effect that such change or amendment will not result in the Interest Component of the Rental Payments for such Certificates becoming includable in gross income for federal income tax purposes. In the case of any change that would render materially inaccurate the description of the Project in **Schedule 2** to this Lease and to the Indenture, there shall be delivered to the Lessor a revised **Schedule 2** containing a description of the Project that reflects the change in the Project Documents, the accuracy of which shall have been certified by the Lessee.

Section 4.7. Title to Portions of the Project. Title to the personal property included in the Project and any and all additions and modifications to or replacements of any such portion of the Project shall be held in the name of the Lessee, subject to rights of the Lessor under this Lease and the Indenture. If an Event of Default occurs as set forth in **Section 12.1** of this Lease or if an Event of Nonappropriation shall occur, title to the personal property included in the Project shall, at the option of the Lessor, thereafter immediately and without any action by the Lessee vest in the Lessor, and the Lessee will, upon the Lessor's request, reasonably surrender possession of the Facilities to the Lessor. It is the intent of the parties hereto that any transfer of title to the Lessor pursuant to this Section shall occur automatically without the necessity of any bill of sale, certificate of title or other instrument or conveyance. The Lessee irrevocably designates, makes, constitutes and appoints the Lessor as the Lessee's true and lawful

attorney (and agent in fact) with power, at such time of termination or times thereafter as Lessor in its sole and absolute discretion may determine, in the Lessee's or Lessor's name, to endorse the name of the Lessee upon any bill of sale, document, instrument, invoice, freight bill, bill of lading or similar document relating to the personal property included in the Project in order to vest title in the Lessor.

Section 4.8. Machinery and Equipment Purchased by the Lessee. The Lessee may from time to time at its own expense install machinery, equipment and other tangible property at the Facilities. Any item of machinery or equipment the entire purchase price of which is paid by the Lessee with the Lessee's own funds, and no part of the purchase price of which is paid from funds deposited pursuant to the terms of this Lease in the Project Fund nor from any other funds deposited with the Lessor pursuant to the Indenture, shall be and remain the property of the Lessee and shall not constitute part of the Facilities; provided, however, that title to any such machinery, equipment and other tangible property which becomes permanently affixed to real property shall be, subject to this Lease, and shall be included under the terms of this Lease in the event that the Facilities would be damaged or impaired by the removal of such machinery, equipment or other tangible property.

Section 4.9. Investment of Moneys in Funds. Any moneys held as a part of the Funds held by the Lessor under the Indenture shall, at the written direction of the Authorized City Representative, be invested or reinvested by the Lessor, to the extent permitted by law, in Permitted Investments in accordance with the provisions of **Section 702** of the Indenture.

ARTICLE V

PAYMENTS

Section 5.1. Rental Payments.

(a) The Lessee covenants and agrees to make Rental Payments, exclusively from legally available funds, in lawful money of the United States of America, to the Lessor at its corporate trust office or such other office as the Lessor shall designate during the Initial Term and each Renewal Term, in the amounts and on or before each Certificate Payment Date set forth in **Schedule 4** hereto (or on any other date a Rental Payment is due with respect to the Facilities whether at stated maturity, upon prepayment or declaration of acceleration or otherwise), in funds which will be immediately available to the Lessor in the applicable subaccount of the Certificate Fund on the due dates. Each Rental Payment shall be in consideration for the use of the Facilities by the Lessee for the period from the effective date of this Lease or the immediately preceding Rental Payment Date. All Rental Payments provided for in this Section shall be paid by the Lessee directly to the Lessor and shall be deposited in accordance with the provisions of the Indenture into the applicable subaccount of the Certificate Fund. The amounts deposited in the Certificate Fund shall be used and applied by the Lessor in the manner and for the purposes set forth in the Indenture.

(b) There shall be credited against Rental Payments any amount held in the Certificate Fund on each Rental Payment Date, including the portion of the proceeds of the sale of the Certificates which is deposited in the Certificate Fund.

(c) A portion of each Rental Payment is to be paid as, and represents the payment of, interest on an obligation of the Lessee (the "**Interest Component**"), and **Schedule 4** attached hereto sets forth the Interest Component of each Rental Payment during the Lease Term. The Rental Payments and Option Purchase Price are to be recalculated by the Lessor and the Lessee understands that the Rental Payment Schedule on **Schedule 4** shall be revised from time to time in the event of a partial prepayment of

Certificates (other than any mandatory prepayments pursuant to the Indenture). The Lessee hereby agrees to pay the Rental Payments in accordance with the Rental Payment Schedule attached as **Schedule 4** as it may be revised from time to time by such amounts as are necessary to reflect the prepayment of the Principal Component represented by certain Certificates. Each Rental Payment shall be applied first as a payment of the Interest Component and then as a payment of the Principal Component and reduction of the Option Purchase Price as shown on **Schedule 4**.

(d) If the Lessee fails to make any portion of the Rental Payments which are due under this Lease, the Lessee will immediately quit and vacate the Facilities, and the Rental Payments (except for Rental Payments which have been theretofore appropriated and then available for such purpose) shall thereupon cease, it being understood between the parties that neither the Lessee nor any agency or political subdivision thereof is obligated to make any Rental Payments which are due to the Lessor or the Option Purchase Price under this Lease except as provided herein. Should the Lessee fail to pay any portion of the required Rental Payments or Additional Payments and then fail to immediately quit and vacate the Facilities, the Lessor in accordance with the Indenture may immediately bring legal action to evict the Lessee from the Facilities (and the Lessee shall, to the extent permitted by law, pay as damages for its failure to quit and vacate the Facilities upon termination of the then current term of this Lease in violation of the terms of this Lease an amount equal to the Rental Payments and Additional Payments otherwise payable during such term prorated on a daily basis) and commence proceedings to exercise available rights and remedies under this Lease or the Base Lease. No judgment may be entered against the Lessee for failure to make any Rental Payments, Additional Payments or the Option Purchase Price under this Lease, except to the extent that the Lessee has theretofore incurred liability to make any such payments through its actual use and occupancy of the Facilities, or through its exercise of an option that renews this Lease for an additional Renewal Term for which moneys have been appropriated, or is otherwise obligated to make such payments pursuant to this Lease.

Section 5.2. Additional Payments. The Lessee shall pay as Additional Payments the following amounts:

(a) All fees, charges and expenses reasonably incurred, including agent and counsel fees and expenses, of the Lessor and the Paying Agent incurred under the Indenture and this Lease, and in connection with the performance of the Lessor's obligations under this Lease, the Base Lease or the Indenture, as and when the same become due.

(b) All costs incident to the payment of the Principal Component, premium, if any, and Interest Component represented by the Certificates as the same become due and payable, including all costs and expenses in connection with the call, prepayment and payment of Certificates.

(c) All expenses incurred in connection with the enforcement of any rights under this Lease, the Base Lease or the Indenture by the Lessor or the Registered Owners.

(d) All arbitrage rebate required to be paid to the United States, if any, as provided in the Indenture and the Tax Compliance Agreement.

(e) All other payments of whatever nature which the Lessee has agreed to pay or assume under the provisions of this Lease, the Indenture or the Base Lease.

The Lessee shall designate in writing to the Lessor an address to which all applicable statements, invoices and requisitions for Additional Payments are to be mailed. Each Additional Payment shall be paid in lawful money of the United States of America, at the appropriate office as designated by the respective payees entitled to receive such Additional Payment.

If the Lessee fails to pay any Additional Payments required by this Lease, the Lessor may (but shall be under no obligation to) pay such Additional Payments, which Additional Payments, together with interest thereon at the Prime Rate plus 2%, are to be reimbursed to the Lessor, by the Lessee upon demand therefor, subject to the availability of sufficient legally available funds for such purpose.

Section 5.3. Obligations Absolute and Unconditional.

(a) The Lessee hereby agrees that its obligation to pay the Rental Payments from legally available funds appropriated for such purpose shall be absolute and unconditional without notice or demand, and without abatement, deduction, set-off, counterclaim, recoupment, diminution or defense whatsoever, whether now existing or hereafter arising, and notwithstanding any damage to, loss, theft or destruction of the Facilities or any part thereof, any failure of consideration, the taking by eminent domain of title to or of the right of temporary use of all or any part of the Facilities, legal curtailment of the Lessee's use thereof, the eviction or constructive eviction of the Lessee, 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 Lessee's legal organization or status, or any default of the Lessor hereunder, and regardless of the invalidity of any action of the Lessor, and regardless of the invalidity of any portion of this Lease. Notwithstanding any dispute between the Lessee and the Lessor under this Lease, the Lessee shall pay all Rental Payments and Additional Payments when due and shall not withhold payment of any Rental Payments and Additional Payments pending the final ordinance of such dispute.

(b) Nothing in this Lease shall be construed to release the Lessor from the performance of any agreement on its part herein contained or as a waiver by the Lessee of any rights or claims which the Lessee may have against the Lessor under this Lease or otherwise, but any recovery upon such rights and claims shall be had from the Lessor separately, it being the intent of this Lease that the Lessee shall (except as provided in subsection (a) above) be unconditionally and absolutely obligated to perform fully all of its obligations, agreements and covenants under this Lease (including the obligation to make Rental Payments and to make Additional Payments) for the benefit of the Registered Owners of the Certificates. The Lessee may, however, at its own cost and expense and in its own name or in the name of the Lessor, prosecute or defend any action or proceeding or take any other action involving third persons which the Lessee deems reasonably necessary in order to secure or protect its right of possession, occupancy and use of the Facilities, and in such event the Lessor hereby agrees, so long as the Lessee is not in default under this Lease, to cooperate fully with the Lessee and to take all action necessary to effect the substitution of the Lessee for the Lessor in any such action or proceeding if the Lessee shall so request.

Section 5.4. Rental Payments to Constitute a Current Expense of the Lessee.

(a) The Lessee acknowledges and agrees that the Rental Payments and Additional Payments under this Lease shall constitute currently budgeted expenditures of the Lessee, and shall not in any way be construed to be a general obligation or debt of the Lessee in contravention of any applicable constitutional or statutory limitation or requirement concerning the creation of indebtedness by the Lessee, nor shall anything contained herein constitute a pledge of the general credit, tax revenues, funds or moneys of the Lessee, except as expressly provided herein. The Lessee's obligations to pay Rental Payments and Additional Payments under this Lease shall be from year to year only, and shall not constitute a mandatory payment obligation of the Lessee in any ensuing Fiscal Year beyond the then current Fiscal Year, except to the extent of funds pledged to or encumbered for the payment of such obligations. No provision of this Lease shall be construed or interpreted as creating a liability or general obligation or other indebtedness of the Lessee within the meaning of any constitutional or statutory debt limitation or restriction. No provision of this Lease shall be construed or interpreted as creating a delegation of governmental powers nor as a donation by or a lending of the credit of the Lessee within the

meaning of the Constitution of the State. Neither this Lease nor the delivery of the Certificates shall directly or indirectly obligate the Lessee to levy or pledge any form of taxation or make any appropriation or make any payments beyond those appropriated for the Lessee's then current Fiscal Year, but in each Fiscal Year Rental Payments shall be payable solely from the amounts budgeted or appropriated therefor out of the income and revenue provided for such year, plus any unencumbered balances from previous years, except to the extent of funds pledged to or encumbered for the payment of the Lessee's obligations to pay Rental Payments and Additional Payments under this Lease; provided, however, that nothing herein shall be construed to limit the rights of the Registered Owners or the Lessor to receive any amounts which may be realized from the Trust Estate pursuant to the Indenture. The Lessee shall be under no obligation whatsoever to exercise its option to purchase the Facilities under **Article XI** of this Lease. No provision of this Lease shall be construed to pledge or to create a lien on any class or source of Lessee moneys, except as expressly provided herein, nor shall any provision of this Lease restrict the future issuance of any bonds or obligations payable from any class or source of moneys of the Lessee except as expressly provided herein. Failure of the Lessee to budget and appropriate said moneys on or before March 31 during any year shall be deemed a conclusive determination of non-availability of funds for the purpose of this Lease.

(b) The parties hereto acknowledge and agree that upon the expiration or termination of the Initial Term and any Renewal Term and failure by the Lessee to renew this Lease, the Lessee shall be wholly discharged from any liability to make Rental Payments or Additional Payments under this Lease other than Rental Payments or Additional Payments incurred prior to the expiration or termination of such Initial Term or Renewal Term.

Section 5.5. Event of Nonappropriation.

(a) In the event that the Board of Aldermen of the Lessee shall not budget and appropriate, specifically with respect to this Lease, on or before the end of each Fiscal Year, moneys sufficient to pay all Rental Payments and the reasonably estimated Additional Payments coming due for the then current Renewal Term, an Event of Nonappropriation shall be deemed to have occurred. In the event that during the Initial Term or any Renewal Term, any Additional Payments shall become due which were not included in the Lessee's current budget, or which exceeded the amounts which were included therefor in the Lessee's current budget, then, in the event that moneys are not specifically budgeted and appropriated to pay such Additional Payments within 30 days subsequent to the date upon which such Additional Payments are due, an Event of Nonappropriation shall be deemed to have occurred.

(b) If an Event of Nonappropriation occurs, the Lessee shall not be obligated to make payment of the Rental Payments or Additional Payments or any other payments provided for herein (other than **Section 6.8** of this Lease or from funds pledged to or encumbered for the payment of such obligations) which accrue after the last day of the Initial Term or Renewal Term during which such Event of Nonappropriation shall occur.

Section 5.6. Prepayment of Certificates. If the Lessee is not in default in making Rental Payments or Additional Payments under this Lease, the Lessor, at the written direction of the Lessee, at any time when the aggregate moneys in the funds held under the Indenture are sufficient for such purposes, shall (i) if the Outstanding Certificates are then subject to prepayment under the provisions of **Article III** of the Indenture, take all steps that may be necessary under the applicable prepayment provisions of the Indenture to prepay all or such part of the Principal Component of Rental Payments represented by the then Outstanding Certificates as may be specified by the Lessee, on such date as may be specified by the Lessee, (ii) cause such moneys in the Certificate Fund or such part thereof as the Lessee shall direct, to be applied by the Lessor for the purchase of Certificates in the open market for the purpose of cancellation at prices not exceeding the Principal Components represented by such Certificates

plus accrued interest thereon to the date of delivery for cancellation, or (iii) a combination of (i) and (ii) as provided in such direction. Unless otherwise stated therein, such notice by the Lessee shall be revocable by the Lessee at any time prior to the time at which the Certificates are to be prepaid or are deemed to be paid in accordance with **Article XI** of the Indenture. Any prepayment of the Principal Component of the Rental Payments in accordance with this Section shall be applied to reduce the Option Purchase Price and shall be credited as a payment of Rental Payments from such maturities as are selected by the Lessee.

Section 5.7. Security Interest.

(a) To secure the payment of all of Lessee's obligations under this Lease, the Lessee grants to Lessor a security interest constituting a first lien on the personal property relating to the Facilities and on all additions, attachments, accessions and substitutions thereto, and on any proceeds therefrom. The Lessee agrees to execute such additional documents, including financing statements, affidavits, notices and similar instruments, in form satisfactory to the Lessor, which the Lessor deems necessary or appropriate to establish and maintain its security interest and, upon assignment, the security interest of the Registered Owners or any other assignee of the Lessor in the personal property relating to the Facilities.

(b) The Lessee agrees 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 Lessor in the Facilities. The Lessee shall file or cause to be filed all such instruments required to be so filed and shall continue or cause to be continued the liens of such instruments for so long as the Certificates shall be Outstanding.

ARTICLE VI

MAINTENANCE, TAXES AND INSURANCE

Section 6.1. Maintenance, Repairs and Utilities.

(a) The Lessee covenants and agrees that throughout the Lease Term and at its own expense it will maintain, preserve and keep the Facilities and all parts thereof in good repair, working order and condition, and will from time to time make all repairs, replacements and improvements necessary to keep the Facilities and all parts thereof in safe condition and free from filth, nuisance or conditions unreasonably increasing the danger of fire or other casualty. The Lessor shall have no responsibility for any of these repairs, replacements or improvements.

(b) The Lessee shall contract in its own name and pay for all utilities and utility services used by the Lessee in, on or about the Facilities, and the Lessee, shall, at its sole cost and expense, procure any and all permits, licenses or authorizations necessary in connection therewith.

Section 6.2. Taxes, Assessments and Other Governmental Charges.

(a) The parties to this Lease contemplate that the Facilities will be used for a governmental or proprietary purpose of the Lessee and, therefore, that the Facilities will be exempt from all taxes presently assessed and levied with respect to real or personal property. In the event that the use, possession or acquisition of the Facilities is found to be subject to taxation in any form, the Lessee will pay during the Lease Term, as the same respectively become due, all taxes and governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the Facilities and any facilities, equipment or other property acquired by the Lessee in substitution for, as a renewal or replacement of, or a modification, improvement or addition to the Facilities as well as all gas,

water, steam, electricity, heat, power, telephone, utility and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Facilities; provided that, with respect to any governmental charge that may lawfully be paid in installments over a period of years, the Lessee shall be obligated to pay only such installments as are accrued during such time as this Lease is in effect.

(b) The Lessee shall have the right, in its own name or in the Lessor's name, to contest the validity or amount of any tax, assessment or other governmental charge which the Lessee is required to bear, pay and discharge pursuant to the terms of this Article by appropriate legal proceedings instituted at least 10 days before the contested tax, assessment or other governmental charge becomes delinquent if and provided that the Lessee (1) before instituting any such contest, gives the Lessor written notice of the Lessee's intention to do so, (2) diligently prosecutes any such contest, (3) at all times effectively stays or prevents any official or judicial sale therefor, under execution or otherwise, (4) promptly pays any final judgment enforcing the tax, assessment or other governmental charge so contested, and (5) thereafter promptly procures record release or satisfaction thereof. The Lessor agrees to cooperate with the Lessee in connection with any and all administrative or judicial proceedings related to any tax, assessment or other governmental charge. The Lessee shall hold the Lessor whole and harmless from any costs and expenses the Lessor may incur in relation to any of the above.

Section 6.3. Property and Casualty Insurance.

(a) The Lessee shall, at its sole cost and expense, maintain or cause to be maintained at all times throughout the Lease Term, property and casualty insurance, or shall demonstrate pursuant to **Section 6.6** of this Lease, that adequate self-insurance is provided, to keep the Facilities insofar as the same may be of an insurable nature constantly insured against loss or damage by fire, lightning and all other risks covered by the all risk extended coverage insurance endorsement then in use in the State in an amount equal to the Full Insurable Value of the Facilities (subject to reasonable loss deductible clauses not to exceed \$25,000); provided, however, that during the Construction Period, if the Contractor under the Construction Contracts maintains in full force and effect a policy or policies of Builder's Risk-Completed Value Form Insurance insuring the Project against fire, lightning and all other risks covered by the extended coverage endorsement then in use in the State to the Full Insurable Value of the Facilities (subject to reasonable loss deductible clauses not to exceed \$25,000) then the Lessee shall not be required to maintain insurance required by this subsection (a) for such Construction Period with respect to the Project while the Project is so covered by such other insurance. The Full Insurable Value of the Facilities shall be determined once in every three Fiscal Years, commencing with the year ending March 31, 2021, by an architect, contractor, appraiser, appraisal company or one of the insurers, to be selected and paid by the Lessee and a report of such determination shall be filed with the Lessee and the Lessor within 180 days after the end of such third Fiscal Year. The insurance required pursuant to this Section shall be maintained at the Lessee's sole cost and expense. Such insurance may be maintained with the Missouri Intergovernmental Risk Management Association or other generally recognized responsible insurance entity or entities authorized to do business in the State as may be selected by the Lessee. All such policies of insurance or certificates evidencing such coverage, and all renewals thereof, shall name the Lessee and the Lessor as insureds and loss payees as their respective interests may appear, 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 Lessee and the Lessor.

(b) The Net Proceeds of property and casualty insurance carried pursuant to this Section or self-insurance program of the Lessee shall be applied as provided in **Section 8.1** of this Lease.

Section 6.4. Public Liability Insurance.

(a) The Lessee 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), or shall demonstrate, pursuant to **Section 6.6** of this Lease, that adequate self-insurance is provided, under which the Lessee and the Lessor shall be named as insureds, properly protecting and indemnifying the Lessee and the Lessor, in amounts equal to Lessee's customary insurance practice for bodily injury (including death) but in no event less than the limitation on awards for liability in effect from time to time under Section 537.610, RSMo, and for property damage arising out of or in any way relating to the condition or the operation of the Facilities (subject to reasonable loss deductible clauses not to exceed \$25,000). Each insurance policy provided for in this Section or certificates evidencing such coverage shall contain a provision to the effect that the insurance company may not cancel or materially modify the policy without first giving at least 30 days advance written notice to the Lessee and the Lessor.

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

Section 6.5. Workers' Compensation Insurance. The Lessee shall maintain or cause to be maintained workers' compensation insurance required by the laws of the State covering all of its employees, or shall demonstrate, pursuant to **Section 6.6** of this Lease, that adequate self-insurance is provided, and shall require any other person or entity working for or on behalf of the Lessee to carry such coverage.

Section 6.6. Blanket Insurance, Self-Insurance and Modifications.

(a) The Lessee may satisfy any of the insurance requirements set forth in this Article by using blanket policies of insurance which cover not only the Facilities but other properties, provided that the Lessee complies with each and all of the requirements and specifications of this Article respecting insurance.

(b) The Lessee represents that it currently maintains insurance that meets the requirements set forth in this Article. Without the consent of the Registered Owners, the Lessee may, upon the recommendation of an insurance consultant that the Lessee will be adequately insured, make modifications to the insurance coverage, including for the Lessee to be self-insured, in whole or in part, for any such coverage, taking into account the cost and availability of insurance and the effect of the terms and rates of such insurance upon the Lessee's costs and charges for its services.

(c) In accordance with Section 427.120 of the Revised Statutes of Missouri, as amended, unless the Lessee provides evidence of the insurance coverage required by this Lease, the Lessor may purchase insurance at the Lessee's expense to protect the Lessor's interests under this Lease. This insurance may, but need not, protect the Lessee's interests. The coverage that the Lessor may purchase may not pay any claim that the Lessee may make or any claim that may be made against the Lessee in connection with the Facilities. The Lessee may later cancel any insurance purchased by the Lessor, but only after providing evidence that the Lessee has obtained insurance as required by this Lease. If the Lessor purchases insurance for the Facilities, the Lessee will be responsible for the costs of that insurance, including the insurance premium, interest and any other charges the Lessor may impose in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The Lessee shall pay the costs of the insurance as an Additional Payment under **Section 5.2(e)**

of this Lease. The costs of the insurance may be more than the cost of insurance the Lessee may be able to obtain on its own.

(d) As soon as practicable after the execution of the Indenture, and within **90** days after the close of each fiscal year thereafter the Lessee will file with the Lessor a written certificate of the Authorized City Representative certifying that the Lessee is in compliance with the insurance requirements set forth in the **Sections 6.3** through **6.6**. The Lessor has no duty or obligation to monitor the Lessee's compliance with the requirements of these Sections.

Section 6.7. Advances. In the event the Lessee shall fail to maintain the full insurance coverage required by this Lease or shall fail to keep the Facilities in good repair and operating condition, the Lessor may (but shall be under no obligation to) purchase the required policies of insurance and pay the premiums on the same or may make such repairs or replacements as are necessary and provide for payment thereof; and all amounts so advanced therefor by Lessor shall become additional rent for the then current Initial Term or Renewal Term, which amounts, together with interest thereon at the rate of 10% per annum, the Lessee agrees to pay as Additional Payments hereunder.

Section 6.8. Release and Indemnification Covenants. To the extent permitted by law and without waiving any rights of sovereign immunity, the Lessee shall indemnify, protect and hold the Lessor and their officers, agents, and employees and any person who controls the Lessor harmless from and against any and all liability, losses, claims and damages whatsoever, and expenses in connection therewith, including, without limitation, counsel fees and expenses arising out of or as the result of the entering into this Lease, the ownership, use, operation or condition of the Facilities or any part thereof, or any accident in connection with the operation, use or condition of the Facilities or any part thereof resulting in damage to property or injury to or death of any person. To the extent permitted by law and without waiving any rights of sovereign immunity, the Lessee shall indemnify and save the Lessor and their officers, agents and employees and any person who controls the Lessor harmless against any loss, liability or expense, including reasonable attorneys' fees, resulting from all claims by or on behalf of any person, firm or corporation arising from the conduct or management of, or from any work or thing done on, the Facilities, and against and from all claims arising after the date of this Lease, from (a) any condition of the Facilities caused by the Lessee, (b) any breach or default on the part of the Lessee in the performance of any of its obligations under this Lease, the Base Lease or the Indenture (including without limitation its obligations related to environmental matters), (c) any contract entered by the Lessee in connection with the Project, (d) any act of negligence of the Lessee or of any of its agents, contractors, servants, employees or licensees, and (e) any act of negligence of any assignee or sublessee of the Lessee, or of any agents, contractors, servants, employees or licensees of any assignee or lessee of the Lessee. To the extent permitted by law and without waiving any rights of sovereign immunity, the Lessee shall indemnify and save the Lessor and their officers, agents and employees and any person who controls the Lessor harmless from and against all costs and expenses (except those which have arisen from the willful misconduct or negligence of the Lessor) incurred in or in connection with any action or proceeding brought thereon, and upon notice from the Lessor, the Lessee shall defend them or either of them in any such action or proceeding. The indemnifications arising under this paragraph shall continue in full force and effect notwithstanding the full payment of all obligations under this Lease or the termination of the Lease Term for any reason. The Lessee agrees not to withhold or abate any portion of the payments required pursuant to this Lease by reason of any defects, malfunctions, breakdowns of infirmities of the Facilities or any part thereof.

Section 6.9. Hazardous Materials. The Lessee shall not cause or permit the Facilities or any other property of the Lessee to be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process Hazardous Materials (hereinafter defined), except in compliance with all applicable federal, state and local laws or regulations, nor shall the Lessee cause or permit, as a

result of any intentional or unintentional act or omission of the Lessee or any tenant or subtenant, a release of Hazardous Materials onto the Facilities or any other property of the Lessee, except in compliance with all applicable federal, state and local laws or regulations. The Lessee shall comply with and ensure compliance by all tenants and subtenants with all applicable federal, state and local laws, ordinances, rules and regulations, wherever and by whomever triggered, and shall obtain and comply with, and ensure that all tenants and subtenants obtain and comply with, any and all approvals, registrations or permits required thereunder. The Lessee shall (a) conduct and complete all investigations, studies, sampling and testing, and all remedial, removal, and other actions necessary to clean up and remove all Hazardous Materials, on, from, or affecting the Facilities or any other property of the Lessee (i) in accordance with all applicable federal, state and local laws, ordinances, rules, regulations, and policies and (ii) in accordance with the orders and directives of all federal, state and local governmental authorities, and (b) to the extent permitted by law and without waiving any rights of sovereign immunity, defend, indemnify, and hold harmless the Lessor from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs, or expenses of whatever kind or nature, known or unknown, contingent or otherwise, arising out of or in any way related to, (i) the presence, disposal, release, or threatened release of any Hazardous Materials which are on, from, or affecting the soil, water, vegetation, buildings, personal property, persons, animals, or otherwise; (ii) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Materials, and/or (iii) any violation of laws, orders, regulations, requirements or demands of government authorities, which are based upon or in any way related to any such Hazardous Materials including, without limitation, attorney and consultant fees, investigation and laboratory fees, court costs, and litigation expenses. In the event that the Lessor elects to control, operate, sell or otherwise claim property rights in the Facilities as a remedy hereunder or in the event this Lease is terminated, the Lessee shall deliver the Facilities free of any and all Hazardous Materials so that the conditions of the Facilities shall conform with all applicable federal, state and local laws, ordinances, rules or regulations affecting the Facilities. Prior to any such delivery of the Facilities, the Lessee shall pay the Lessor, from its own funds, any amounts then required to be paid under (b) above. Notwithstanding anything in this Lease to the contrary, the agreements in the preceding two sentences and in (b) above shall survive termination of this Lease. For purposes of this paragraph, "Hazardous Materials" includes, without limit, any flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and amended (42 U.S.C. Sections 9601, et. seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C Sections 1801 et. seq.), and in the regulations adopted and publications promulgated pursuant thereto, or any other federal, state or local environmental law, ordinance, rule, or regulation.

ARTICLE VII

ADDITIONS, MODIFICATIONS AND IMPROVEMENTS TO THE FACILITIES; LIENS

Section 7.1. Additions, Modifications and Improvements to the Facilities.

(a) The Lessee 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 Facilities as the Lessee from time to time may deem necessary or desirable for its purposes; provided, however, the Lessee shall not make any additions, modifications or improvements which will in any way damage the Facilities or substantially reduce the value of the Facilities. All additions, modifications and improvements made by the Lessee pursuant to the authority of this Section shall (i) be made in a workmanlike manner and in strict compliance with all laws and ordinances applicable thereto, (ii) when commenced, be prosecuted to completion with due diligence, and (iii) when completed, be deemed a part of the Facilities except as otherwise provided in **Section 4.8** of this Lease.

(b) No addition, modification or improvement to the Facilities made pursuant to this Section shall entitle the Lessee to any reimbursement of any Rental Payments or Additional Payments from the Lessor or the Registered Owners, nor shall the Lessee be entitled to any abatement or diminution in Rental Payments or Additional Payments under this Lease, except such diminution as results from prepayment of the Principal Component of Rental Payments represented by the Certificates pursuant to **Article III** of the Indenture.

Section 7.2. Additional Improvements on the Project Site. The Lessee 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 Lessee 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 Lessee pursuant to the authority of this Section shall become a part of the Facilities and subject to the terms and conditions contained in this Lease and the Base Lease. The Lessee covenants and agrees (a) to make any repairs and restorations required to be made to the Facilities 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 from the Project Site in a good workmanlike manner, or repair, replace or restore any of said additional buildings and improvements as may from time to time be damaged by fire or other casualty.

Section 7.3. Permits and Authorizations. The Lessee shall not do or permit others under its control to do any work on the Project related to any repair, rebuilding, restoration, replacement, modification, improvement or addition to the Project, or any part thereof, unless all requisite municipal and other governmental permits and authorizations shall have been first procured and payment therefor made. 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 VI** of this Lease.

Section 7.4. Liens.

(a) The Lessee shall not do or suffer anything to be done whereby the Facilities, or any part thereof, may be encumbered by any mechanics' or materialmen's or other similar lien, other than Permitted Encumbrances. Whenever and as often as any mechanics' or materialmen's or other similar lien is filed against the Facilities, 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 Facilities, the Lessee shall discharge the same of record within 60 days after the date of filing. Notice is hereby given that the Lessor shall not be liable for any labor or materials furnished to the Lessee or to anyone claiming by, through or under the Lessee upon credit, and that no mechanics' or materialmen's or other similar lien for any such labor, services or materials shall attach to or affect the reversionary or other estate of the Lessor in and to the Facilities or any part thereof.

(b) The Lessee, notwithstanding subsection (a) above, shall have the right (except as hereinafter provided) to contest any such mechanics' or materialmen's or other similar lien if and provided that the Lessee (i) within said 60-day period stated above notifies the Lessor in writing of the Lessee's intention to do so, (ii) diligently prosecutes such contest, (iii) at all times effectively stays or prevents any official or judicial sale of the Facilities, or any part thereof or interest therein, under execution or otherwise, (iv) promptly pays or otherwise satisfies any final judgment adjudging or enforcing such contested lien claim, and (v) thereafter promptly procures record release or satisfaction

thereof. If the Lessor shall notify the Lessee that, in the opinion of Counsel, by nonpayment of such items, the Lessor's title or interest in the Facilities will be endangered, or the Facilities or any part thereof will be subject to loss or forfeiture, then the Lessee shall promptly pay or cause to be satisfied and discharged all such unpaid items (provided, however, that such payment shall not constitute a waiver of the right to continue to contest such items). The Lessee shall hold the Lessor whole and harmless from any loss, costs or expenses the Lessor may incur in relation to any such contest. The Lessor will cooperate fully with the Lessee in any such contest.

ARTICLE VIII

DAMAGE, DESTRUCTION AND CONDEMNATION

Section 8.1. Damage and Destruction.

(a) If during the Lease Term, the Facilities are damaged or destroyed, in whole or in part, by fire or other casualty, to such extent that the claim for loss (including any deductible amount pertaining thereto) resulting from such damage or destruction is greater than \$100,000, the Lessee shall promptly notify the Lessor in writing as to the nature and extent of such damage or loss and whether it is practicable and desirable to rebuild, repair, restore or replace such damage or loss.

(b) If the Lessee shall determine that such rebuilding, repairing, restoring or replacing is practicable and desirable, the Lessee shall proceed promptly with and complete with reasonable dispatch such rebuilding, repairing, restoring or replacing of the property damaged or destroyed so as to place said Facilities in substantially the same condition as existed prior to the event causing such damage or destruction, with such changes, alterations and modifications (including the substitution and addition of other property) as may be desired by the Lessee and as will not impair the utility of the Facilities. The Lessee and the Lessor will cause the Net Proceeds of any insurance claim to be applied to the prompt repair, restoration, modification or improvement of the Facilities. Any balance of the Net Proceeds remaining after such work has been completed shall be deposited into the applicable subaccount of the Certificate Fund. If the Net Proceeds of casualty insurance required by **Section 6.3** of this Lease and received with respect to any such damage or loss to the Project exceeds \$100,000, such Net Proceeds shall be paid to the Lessor and shall be deposited into a separate account to be established in the applicable subaccount of the Project Fund and shall be used and applied in accordance with the disbursement requirements of **Section 504** of the Indenture for the purpose of paying the cost of such rebuilding, repairing, restoring or replacing such damage or loss. Any amount remaining in the applicable subaccount of the Project Fund after completion of such rebuilding, repairing, restoring or replacing shall be deposited into the applicable subaccount of the Certificate Fund which completion shall be evidenced by a certificate signed by an Authorized City Representative and filed with the Lessor. If said Net Proceeds are not sufficient to pay in full the costs of such replacement, repair, rebuilding or restoration, the Lessee shall nonetheless complete the work thereof and shall, subject to **Sections 3.2** and **5.4** of this Lease pay that portion of the costs thereof in excess of the amount of said Net Proceeds.

(c) If the Lessee shall determine that rebuilding, repairing, restoring or replacing the Facilities is not practicable and desirable, then, in lieu of rebuilding, repairing, restoring or replacing the Facilities, the Lessee shall promptly purchase the Facilities by paying the Option Purchase Price to the Lessor and any Net Proceeds of casualty insurance required by **Section 6.3** of this Lease and received with respect to any such damage or loss to the Facilities shall be applied to such payment. Any balance of the Net Proceeds remaining after paying the Option Purchase Price to the Lessor shall belong to the Lessee. The Lessee agrees that any acquisition of the Facilities or rights to their use by the Lessee shall

be pursuant to and in accordance with this Lease, including payment of Rental Payments and the applicable Option Purchase Price.

(d) The Lessee shall not, by reason of its inability to use all or any part of the Facilities during any period in which the Facilities are damaged or destroyed, or are being repaired, rebuilt, restored or replaced, or by reason of the payment of the costs of such rebuilding, repairing, restoring or replacing, be entitled to any reimbursement from the Lessor or the Registered Owners of the Certificates, or any abatement or diminution of the rentals payable by the Lessee under this Lease or of any other obligations of the Lessee under this Lease except as expressly provided in this Section.

Section 8.2. Condemnation or Deficiency of Title.

(a) Any Net Proceeds of title insurance or other award from a challenge or threat of legal or equitable action related to the title or use of the Facilities shall be deposited with the Lessor and paid into the applicable subaccount of the Certificate Fund and shall be used to prepay Certificates pursuant to the Indenture at the earliest possible date.

(b) If during the Lease Term title to, or the temporary use of, all or part of the Facilities is condemned by any authority having the power of eminent domain, the condemnation proceeds shall be deposited with the Lessor and paid into the applicable subaccount of the Certificate Fund and shall be used by the Lessor to prepay Certificates pursuant to the Indenture. The Lessee agrees that any acquisition of the Facilities or rights to their use by the Lessee (whether pursuant to the exercise of its eminent domain powers or otherwise) shall be pursuant to and in accordance with this Lease, including payment of Rental Payments and the applicable Option Purchase Price. This paragraph shall survive the termination of this Lease for any reason.

(c) The Lessor shall cooperate fully with the Lessee in the handling and conduct of any prospective or pending condemnation proceedings with respect to the Facilities or any part thereof, and shall, to the extent the Lessor may lawfully do so, permit the Lessee to litigate in any such proceeding in the name and on behalf of the Lessor. So long as Lessee shall not be in default under this Lease, in no event will the Lessor voluntarily settle or consent to the settlement of any prospective or pending condemnation proceedings with respect to the Facilities or any part thereof without the written consent of the Lessee.

(d) The Lessee hereby covenants and agrees, to the extent it may lawfully do so, that so long as any of the Certificates remain Outstanding and unpaid, the Lessee will not exercise the power of condemnation with respect to the Facilities. The Lessee further covenants and agrees, to the extent it may lawfully do so, that if for any reason the foregoing covenant is determined to be unenforceable or if the Lessee should fail or refuse to abide by such covenant and condemns the Facilities, the appraised value of the Facilities shall not be less than the greater of (i) if such Certificates are then subject to prepayment, the Principal and Interest Components of the Certificates Outstanding through the date of their prepayment, or (ii) if such Certificates are not then subject to prepayment, the amount necessary to defease such Certificates to the first available prepayment date in accordance with the Indenture.

ARTICLE IX

SPECIAL COVENANTS

Section 9.1. Disclaimer of Warranties. THE LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN,

CONDITION, MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE OR FITNESS FOR USE OF THE FACILITIES, OR ANY OTHER WARRANTY OR REPRESENTATION WITH RESPECT THERETO. In no event shall the Lessor be liable for an incidental, indirect, special or consequential damage in connection with or arising out of this Lease or the existence, furnishing, functioning or Lessee's use of any item or products or services provided for in this Lease; provided, however, that nothing herein shall be construed as relieving the Lessor from its covenants and obligations under this Lease.

Section 9.2. Vendor's Warranties. The Lessor hereby irrevocably appoints the Lessee its agent and attorney-in-fact during the Lease Term, so long as Lessee shall not be in default under this Lease, to assert from time to time whatever claims and rights including warranties of the equipment which the Lessor may have against the vendor of the equipment which is or becomes a part of the Facilities. The Lessee's sole remedy for the breach of such warranty, indemnification or representation shall be against the vendor of such equipment, and not against the Lessor, nor shall such matter have any effect whatsoever on the rights and obligations of the Lessor with respect to this Lease, including the right to receive full and timely payments under this Lease. The Lessee expressly acknowledges that the Lessor has made no representation or warranties whatsoever as to the existence of availability of such warranties of the vendor of such equipment.

Section 9.3. Surrender of Possession. Upon accrual of the Lessor's right of re-entry because of the Lessee's default under this Lease or upon the cancellation or termination of this Lease for any reason other than the Lessee's purchase of the Facilities pursuant to **Article XI** of this Lease, the Lessee shall peacefully surrender possession of the Facilities to the Lessor in good condition and repair, ordinary wear and tear excepted; provided, however, the Lessee shall have the right within 120 days after the termination of this Lease to remove from the Project Site any improvements, furniture, trade fixtures, machinery and equipment owned by the Lessee and not constituting part of the Facilities. All repairs to and restorations of the Facilities which are required to be made because of such removal shall be made by and at the sole cost and expense of the Lessee, and during said 120-day period, the Lessee shall bear the sole responsibility for and bear the sole risk of loss for said buildings, improvements, furniture, trade fixtures, machinery and equipment. All buildings, improvements, furniture, trade fixtures, machinery and equipment owned by the Lessee and which are not so removed from the Facilities prior to the expiration of said 120-day period shall be and become the separate and absolute property of the Lessor.

Section 9.4. Granting of Easements. If no Event of Default or Event of Nonappropriation under this Lease shall have happened and be continuing, the Lessee may at any time or times (a) grant easements, licenses, rights-of-way (including the dedication of public streets and highways) and other rights or privileges in the nature of easements with respect to any property included in the Facilities, or (b) release existing easements, licenses, rights-of-way and other rights or privileges, all with or without consideration and upon such terms and conditions as provided in this Section. The Lessor agrees that it will 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 Lessor of: (1) a copy of the instrument of grant or release or of the agreement or other arrangement, (2) a written application signed by the Authorized City Representative requesting such instrument; and (3) a certificate executed by the Authorized City Representative stating that such grant or release is not detrimental to the proper conduct of the business of the Lessee, will be a Permitted Encumbrance, will not impair the effective use or interfere with the efficient and economical operation of the Facilities, and will not materially adversely affect the security intended to be given by or under the Indenture, the Base Lease or this Lease. If the instrument of grant shall so provide, any such easement or right and the rights of such other parties thereunder shall be superior to the right of the Lessor under this Lease and the Indenture and shall not be affected by any termination of this Lease or by default on the part of the Lessee under this Lease. If no Event of Default or Event of Nonappropriation shall have

happened and be continuing, any payments or other consideration received by the Lessee for any such grant or with respect to or under any such agreement or other arrangement shall be and remain the property of the Lessee, but, in the event of the termination of this Lease subsequent to an Event of Default or an Event of Nonappropriation, all rights of the Lessee then existing with respect to or under such grant shall inure to the benefit of and be exercisable by the Lessor.

Section 9.5. Authorized City Representative. Whenever under the provisions of this Lease the approval of the Lessee is required to take some action at the request of the Lessor, unless otherwise provided, such approval or such request shall be given for the Lessee by the Authorized City Representative and the Lessor shall be authorized to act on any such approval or request.

ARTICLE X

ASSIGNMENT AND SUBLEASING

Section 10.1. Assignment by Lessor. The Lessee agrees that the Lessor may assign and reassign this Lease and the Facilities to a successor Lessor appointed pursuant to **Section 908** of the Indenture.

Section 10.2. Assignment and Sublease by Lessee. The Lessee may not assign its interest in this Lease for any reason. The Lessee may, however, sublease the Facilities as a whole or in part, without the necessity of obtaining the consent of the Lessor, subject, however, to each of the following conditions:

(a) This Lease and the obligations of the Lessee under this Lease, shall, at all times during the Initial Term and any Renewal Term, remain obligations of the Lessee, and the Lessee shall maintain its direct relationship with the Lessor, notwithstanding any sublease;

(b) Before entering into any sublease of the Facilities or any portion thereof, the Lessee shall obtain and file with the Lessor an Opinion of Special Counsel to the effect that such sublease will not cause the Interest Component of the Rental Payments payable pursuant to the Certificates to be included in gross income for federal or Missouri income tax purposes.

(c) The Lessee shall, within 30 days after the delivery thereof, furnish or cause to be furnished to the Lessor a true and complete copy of each such sublease.

The Lessee may grant licenses not to exceed 90 days to use all or any of the Facilities in the normal course of business without the consent of the Lessor.

Section 10.3. Restrictions on Sale or Mortgage of the Facilities by the Lessee. The Lessee agrees that, except as set forth in **Section 10.2** of this Lease or in other provisions of this Lease or the Indenture, it will not sell, convey, mortgage, encumber or otherwise dispose of any part of the Facilities during the Lease Term, nor otherwise create any encumbrance thereon other than Permitted Encumbrances. Except as expressly provided in this Article, the Lessee shall promptly, at its own expense, take such action as may be necessary to duly discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim if the same shall arise at any time. The Lessee shall reimburse the Lessor for any expense incurred by it in order to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim.

ARTICLE XI

OPTION AND OBLIGATION TO PURCHASE THE LESSOR'S INTEREST IN THE FACILITIES

Section 11.1. Option to Purchase the Lessor's Interest in the Facilities. At the option and request of the Lessee, the Lessor's estate and interest in the Facilities will be transferred, conveyed and assigned to the Lessee and this Lease shall terminate:

(a) at any time upon payment, or providing for the payment, by the Lessee of the then applicable Option Purchase Price plus all Rental Payments and Additional Payments payable up to and including the date of purchase; or

(b) at any time upon payment or providing for the payment of all Rental Payments represented by the Certificates, all Additional Payments and the Option Purchase Price (assuming the Lessee renews this Lease until the end of the Lease Term or the Renewal Term in which the Optional Prepayment Date occurs).

To exercise such option the Lessee shall give written notice to the Lessor if any of the Certificates 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 60 days from the date when such notice is mailed, and in case of a prepayment of the Certificates in accordance with the provisions of the Indenture, the Lessee shall make arrangements satisfactory to the Lessor for the giving of the required notice of prepayment.

Payment of the final Rental Payments and Additional Payments shall constitute exercise of the option granted under this Lease without further action by the Lessee.

Section 11.2. Determination of Fair Purchase Price; Acquisition of the Lessor's Interest in the Facilities.

(a) The Lessee hereby agrees and determines that the Rental Payments under this Lease during the Initial Term and any Renewal Term represent the fair value of the use of the Facilities and that the amount required to exercise the Lessee's option to purchase the Lessor's interest in the Facilities pursuant to **Section 11.1** of this Lease represents, as of the purchase date, the fair purchase price of the Facilities. The Lessee hereby determines that the Rental Payments do not exceed a reasonable amount so as to place the Lessee under an economic practical compulsion to renew this Lease or to exercise its option to purchase the Facilities under this Lease. In making such determinations, the Lessee has given consideration to the Project Costs, the uses and purposes for which the Facilities will be employed by the Lessee, the benefit to the Lessee by reason of the acquisition, construction, equipping and installation of the Project and the use and occupancy of the Facilities pursuant to this Lease and Lessee's option to purchase the Facilities.

(b) The Lessee is entering into this Lease to acquire the use of the Facilities during the Lease Term, and with the current intent of acquiring the Lessor's interest in the Facilities in accordance with **Section 11.1(a)** of this Lease, for its public purposes. Any acquisition of the Lessor's interest in the Facilities or rights to their use by the Lessee (whether pursuant to the exercise of eminent domain powers or otherwise) shall be pursuant to and in accordance with this Lease, including payment of Rental Payments and the applicable Option Purchase Price. If the Lessee allows this Lease to expire without exercising its option to purchase (whether by failure to exercise its option to extend this Lease for a Renewal Term, failure to exercise its option to purchase at the conclusion of the Maximum Lease Term or

failure to cure an Event of Default), that action shall constitute an irrevocable determination by the Lessee that the Facilities are not required by it for any public purpose for the term of the Base Lease. This Section shall survive the termination of this Lease for any reason.

Section 11.3. Conveyance of the Lessor's Interest in the Facilities. At the closing of any purchase of the Lessor's interest in the Facilities pursuant to this Article, the Lessor, upon payment by the Lessee and receipt by the Lessor of all amounts payable under this Lease and under the Indenture, shall execute and deliver to the Lessee all necessary documents conveying, transferring and assigning the Lessor's interest in the Facilities to the Lessee in order for the Lessee to have good and marketable legal title to the Facilities, as it then exists, subject to the following: (1) those liens and encumbrances, if any, to which title to the Facilities was subject when leased to the Lessor; (2) those liens and encumbrances created by the Lessee or to the creation or suffering of which the Lessee consented; (3) those liens and encumbrances resulting from the failure of the Lessee to perform or observe any of the agreements on its part contained herein; (4) Permitted Encumbrances other than the Base Lease, this Lease and the Indenture; and (5) if the Facilities are being condemned, the rights and title of any condemning authority.

Section 11.4. Relative Position of Option and Indenture. The option granted to the Lessee in this Article shall be and remain prior and superior to the Indenture and may be exercised whether or not the Lessee is in default under this Lease, provided that such default will not result in nonfulfillment of any condition to the exercise of any such option and further provided that all options herein granted shall terminate upon the termination of this Lease.

Section 11.5. Obligation to Purchase the Lessor's Interest in the Facilities. The Lessee hereby agrees to purchase, and the Lessor hereby agrees to sell, the Lessor's interest in Facilities for the sum of \$1.00 at the expiration of the Lease Term following full payment of the Certificates or provision for payment thereof having been made in accordance with the provisions of the Indenture, together with all other amounts owed by the Lessee pursuant to the Indenture, this Lease or the Base Lease.

ARTICLE XII

DEFAULT 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" under this Lease:

(a) Failure by the Lessee to pay any Rental Payment required to be paid under this Lease at the time specified herein; or

(b) Failure by the Lessee to pay any Additional Payment or to observe or perform any other covenant, agreement, obligation or provision of this Lease on its part to be observed or performed, and such failure shall continue for 30 days after the Lessor has given the Lessee written notice specifying such failure or such longer period (but not to exceed 60 days unless the Lessor shall otherwise consent) as shall be reasonably required to cure such default; provided that (1) the Lessee has commenced such cure within said 30-day period, and (2) the Lessee diligently prosecutes such cure to completion; or

(c) Failure by the Lessee to vacate the Facilities within 30 days after the occurrence of an Event of Nonappropriation; or

(d) An Event of Default under the Indenture shall have occurred and be continuing.

Section 12.2. Remedies on the Occurrence of an Event of Default or an Event of Nonappropriation. If an Event of Default or an Event of Nonappropriation shall have occurred and be continuing, then the Lessor may at the Lessor's election (subject, however, to any restrictions contained in the Indenture against acceleration of the maturity of the Certificates or termination of this Lease), then or at any time thereafter, and while such Event of Default or Event of Nonappropriation shall continue, take any one or more of the following actions:

(a) With or without terminating this Lease take possession of the Facilities, in which event the Lessee shall take all actions necessary to authorize, execute and deliver to the Lessor all documents necessary to vest in the Lessor for the remainder of the Lease Term, all of the Lessee's interest in and to the Facilities, and sell the Lessor's (or its assignee's) interest in this Lease, or lease or sublease the Facilities and collect the rentals therefor, for all or any portion of the remainder of its leasehold term upon such terms and conditions as it may deem satisfactory in its sole discretion, with the Lessee remaining liable, subject to the provisions of **Sections 3.2** and **5.4** of this Lease, for the difference between (i) the Rental Payments and Additional Payments payable by the Lessee under this Lease to the end of the current Lease Term and (ii) the net proceeds or any purchase price, rents or other amounts paid by the new purchaser, lessee or sublessee of such Facilities, and, provided further, that, in such event, if the Lessor shall receive a payment for sale of its interest or total subrentals for sublease that are, after payment of the Lessor's expenses in connection therewith, in excess of the principal amount of Certificates then Outstanding and the interest due and to become due thereon and all other Additional Payments, then such excess shall be paid to the Lessee either by the Lessor, its assigns, or its sublessee; or

(b) By written notice to the Lessee, declare all Rental Payments and Additional Payments payable under this Lease for the remainder of the current Renewal Term to be immediately due and payable and the same shall thereupon become immediately due and payable; or

(c) Give the Lessee written notice of intention to terminate this Lease on a date specified in such notice, which date may be the earlier of 30 days after such notice is given or the end of the current Renewal Term, and if all defaults have not then been cured, on the date so specified, the Lessee's rights to possession of the Facilities shall cease and this Lease shall thereupon be terminated, and the Lessor may re-enter and take possession of the Facilities; or

(d) Exercise any of the rights of a secured party under the Uniform Commercial Code of Missouri, as then in effect, with respect to property which is covered by such Code, including without limitation, the right to take possession of any personal property or fixtures subject to the lien granted pursuant to this Lease and to take such other measures as the Lessor may deem as necessary for the care, protection, preservation and marketing of said personal property and fixtures. The Lessor may require the Lessee to assemble any such personal property or fixtures and make the same available to the Lessor at a place to be designated by the Lessor which is reasonably convenient to the Lessor and the Lessee. It is agreed that a commercially reasonable manner of disposition of personal property includes, without limitation, disposition of the Facilities in the manner provided herein; or

(e) Take whatever action at law or in equity may appear necessary or desirable to collect the Rental Payments and Additional Payments then due and thereafter to become due during the Lease Term and to enforce its rights under this Lease and the performance and observance of any obligation, agreement or covenant of the Lessee under this Lease.

If in accordance with any of the foregoing provisions of this Article the Lessor shall have the right to elect to re-enter and take possession of the Facilities, the Lessor may enter and expel the Lessee and those claiming through or under the Lessee and remove the property and effects of both or either without being

guilty of any manner of trespass and without prejudice to any remedies for arrears of rent or for breach of covenant. The Lessor may take whatever action at law or in equity which may appear necessary or desirable to collect rent then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Lessee under this Lease.

Section 12.3. No Remedy Exclusive. No remedy herein conferred upon or reserved to Lessor is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Lessor to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notices as may be expressly required in this Article.

Section 12.4. Attorneys' Fees and Expenses. If the Lessee should default under any of the provisions of this Lease, or if an Event of Nonappropriation shall have occurred, and the Lessor or the Registered Owners should employ attorneys or incur other expenses for the collection of Rental Payments or Additional Payments or the enforcement of performance of any obligation or agreement on the part of the Lessee, then the Lessee will on demand pay to the Lessor or the Registered Owners the reasonable fees and expenses of such attorneys and such other expenses so incurred.

Section 12.5. Waiver of Appraisal, Valuation, Stay, Extension and Redemption Laws. The Lessee agrees, to the extent permitted by law, that in the case of a termination of the Lease Term by reason of an Event of Nonappropriation or an Event of Default, neither the Lessee nor any one claiming through or under the Lessee, shall or will set up, claim or seek to take advantage of any appraisal, valuation, stay, extension or redemption laws now or hereafter in force in order to prevent or hinder the enforcement of this Lease; and the Lessee, for itself and all who may at any time claim through or under it, hereby waives, to the full extent that it may lawfully do so, the benefit of all such laws.

ARTICLE XIII

AMENDMENTS, CHANGES AND MODIFICATIONS

Section 13.1. Amendments, Changes and Modifications. Except as otherwise provided in this Lease or in the Indenture, subsequent to the initial execution and sale of Certificates and prior to 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 written consent of the Lessor, given in accordance with the provisions of the Indenture.

ARTICLE XIV

MISCELLANEOUS PROVISIONS

Section 14.1. Notices. All notices, certificates or other communications required or desired to be given under this Lease shall be in writing and shall be deemed duly given when mailed by first class, registered or certified mail, postage prepaid, addressed as provided in **Section 1403** of the Indenture, provided, however, that any of the foregoing given to the Lessor shall be effective only upon receipt.

All notices given by first class, certified or registered mail as aforesaid shall be deemed duly given as of the date they are so mailed. The Lessee and the Lessor may from time to time designate, by notice given under this Lease to the other, another address to which subsequent notices, certificates or other communications shall be sent.

Section 14.2. Lessor and Lessee Shall Not Unreasonably Withhold Consents and Approvals. Wherever in this Lease it is provided that the Lessor or the Lessee shall, may or must give its approval or consent, or execute supplemental agreements or schedules, then neither the Lessor nor the Lessee shall unreasonably, arbitrarily or unnecessarily withhold or refuse to give such approvals or consents or refuse to execute such supplemental agreements or schedules.

Section 14.3. Limited Liability of Lessor. No provision, covenant or agreement contained in this Lease, the Indenture or the Certificates, or any obligation herein or therein imposed upon the Lessor, or the breach thereof, shall constitute or give rise to or impose any personal or pecuniary liability upon any director, officer or employee of the Lessor. Except with respect to any action for specific performance or any action in the nature of a prohibitory or mandatory injunction, neither the Lessor nor any director, officer or employee of the Lessor shall be liable to the Lessee or any other person for any action taken by the Lessor or by its officers, servants, agents or employees, or for any failure to take action under this Lease except for its negligence or willful misconduct.

Section 14.4. Net Lease. The parties hereto agree (a) that this Lease shall be deemed and construed to be a "triple net lease," (b) the Lessee shall pay absolutely net during the Lease Term, the Rental Payments, Additional Payments and all other payments required under this Lease, free of any deductions, and without abatement, deduction or setoff (other than credits against Rental Payments expressly provided for in this Lease), (c) that the payments of Rental Payments are designed to provide the Lessor funds adequate in amount to pay all Principal Components, premium, if any, and Interest Components of the Rental Payments represented by the Certificates as the same become due and payable, and (d) that if after the Principal Components, premium, if any, and Interest Components of the Rental Payments represented by the Certificates and all costs incident to the payment of the Certificates have been paid in full the Lessor holds unexpended funds received in accordance with the terms of this Lease, such unexpended funds shall, after payment therefrom of all sums then due and owing by the Lessee under the terms of this Lease, and except as otherwise provided herein and in the Indenture, become the absolute property of and be paid over forthwith to the Lessee.

Section 14.5. No Merger. Subject to **Section 3.3** of this Lease and **Section 5.1** of the Base Lease, no union of the interests of the Lessee and the Lessor herein shall result in a merger of the Base Lease and this Lease or of this Lease and the fee title to the Project Site.

Section 14.6. Payments Due on Holidays. If the date for making any payment or the last day for performance of any act or the exercising of any right, as provided in this Lease, shall be a legal holiday or a day on which banking institutions in the Lessee in which the principal business office of the Lessor or the Lessee is located are authorized by law to remain closed, such payment may be made or act performed or right exercised on the next succeeding day that is not a legal holiday or a day on which such banking institutions are not authorized by law to remain closed with the same force and effect as if done on the date provided in this Lease.

Section 14.7. Binding Effect. This Lease shall be binding upon and shall inure to the benefit of the Lessor and the Lessee and their respective successors and assigns.

Section 14.8. 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 of this Lease shall not be affected thereby.

Section 14.9. 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 14.10. Governing Law. This Lease shall be governed by and construed in accordance with the laws of the State.

Section 14.11. Electronic Storage of Documents. The Lessor and the Lessee agree that the transaction described herein may be conducted and related documents may be sent, received or stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

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.

**BOKF, N.A.,
as Lessor**

(SEAL)

By: _____
Name:
Title:

ATTEST:

Name:
Title:

ACKNOWLEDGMENT

STATE OF MISSOURI)
) **SS.**
COUNTY OF _____)

On this ____ day of _____, 2018, before me, the undersigned, a Notary Public, appeared _____, who being before me duly sworn did say that [s]he is a Vice President of **BOKF, N.A.**, a national banking association, and that said officer being authorized so to do executed the foregoing instrument for the purposes therein contained by signing the name of the bank as such officer.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

Printed Name: _____
Notary Public in and for said State
Commissioned in _____ County

My commission expires:

CITY OF KEARNEY, MISSOURI, as Lessee

(SEAL)

By: _____
Name: Dan Holt
Title: Mayor

ATTEST:

Name: Jim Eldridge
Title: City Clerk

ACKNOWLEDGMENT

STATE OF MISSOURI)
) SS.
COUNTY OF _____)

On this ____ day of _____, 2018, before me, the undersigned, a Notary Public, appeared **Dan Holt**, to me personally known, who, being by me duly sworn, did say that he is the Mayor of the **CITY OF KEARNEY, MISSOURI**, a fourth class city and political subdivision existing under the laws of the State of Missouri, and that the seal affixed to the foregoing instrument is the corporate seal of said City, and that said instrument was signed and sealed in behalf of said City by authority of its Board of Aldermen, and said officer acknowledged said instrument to be executed for the purposes therein stated and as the free act and deed of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

Printed Name: _____
Notary Public in and for said State
Commissioned in _____ County

My commission expires:

SCHEDULE 1 TO LEASE

THE PROJECT SITE

SCHEDULE 2 TO LEASE

THE PROJECT

SCHEDULE 3 TO LEASE
(FORM OF REQUISITION CERTIFICATE)

Requisition No. _____

Date: _____

REQUISITION CERTIFICATE

TO: BOKF, N.A., AS TRUSTEE UNDER THE TRUST INDENTURE DATED AS OF JULY 15, 2018, BETWEEN THE BOKF, N.A. AND THE TRUSTEE.

The undersigned hereby request that a total of \$_____ be paid for Project Costs (as defined in the Trust Indenture) in such amounts, to such payees and for such purposes as set forth on **Exhibit A** attached hereto.

We hereby state and certify that:

(i) the amounts requested are or were necessary and appropriate in connection with the purchase, construction and installation of the Project, have been properly incurred and are a proper charge against the Project Fund, and have been paid, or are justly due to the persons whose names and addresses are stated above, and have not been the basis of any previous requisition from the Project Fund,

(ii) as of this date, except for the amounts specified above, there are no outstanding statements which are due and payable for labor, wages, materials, supplies or services in connection with the purchase, construction and installation of the Project which, if unpaid, might become the basis of a vendors', mechanics', laborers' or materialmen's statutory or similar lien upon the Facilities or any part thereof;

(iii) no part of the several amounts paid or due as stated above has been or is being made the basis for the withdrawal of any moneys from the Project Fund in any previous or pending application for payment made pursuant to the Lease;

(iv) all work has been performed in a good and workmanlike manner; and

(v) no defaults have occurred and are continuing under the Lease.

CITY OF KEARNEY, MISSOURI

By: _____

Title:

EXHIBIT A TO REQUISITION CERTIFICATE

Amount

Payee and Address

Description

SCHEDULE 4 TO LEASE
FORM OF RENTAL PAYMENT SCHEDULE

Rental Payment <u> Date </u>	Principal <u>Component</u>	Interest <u>Component</u>	Option Purchase Price on Certificate Payment Date through but excluding next <u>Certificate Payment Date*</u>
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Rental Payment <u> Date </u>	Principal <u>Component</u>	Interest <u>Component</u>	Option Purchase Price on Certificate Payment Date through but excluding next <u>Certificate Payment Date*</u>
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*The Option Purchase Price in the event of damage, casualty, condemnation or deficiency of title shall be determined as follows:

Rental Payment <u>Date</u>	Option Purchase Price on Rental Payment Date through but excluding next <u>Rental Payment Date*</u>
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