



CITY COUNCIL Regular Meeting

September 16, 2024

6:00 PM, Council Chambers - 111 E. Maple Ave.

To view a Council meeting agenda, visit <https://independencemo.portal.civicclerk.com/> and select 'Most Recent Council Agenda'.

INVOCATION

1. Sergio Quintero will give the Invocation in Spanish

THE PLEDGE OF ALLEGIANCE

ROLL CALL

CITIZEN REQUESTS

PRESENTATION

1. The Susan P. Block Award will be presented to Michelle Sumstad by Kelly Freeland, Past President of the Junior Service League, 2022-2023, and Chair of the Susan P. Block Distinguished Public Service Award Committee.

PROCLAMATIONS

1. A Proclamation for Sons of the Revolution, Constitution Week

CONSENT AGENDA

Reports and Recommendations of the City Manager

1. Council action is requested to issue a purchase order for \$459,968.00 with Lenco Armored Vehicles for the Police Department.
2. Council action is requested to expend \$800,000.00 with Davenport Construction for

Street Cut Repairs for the Water Division of the Municipal Services Department for fiscal year 2024-2025.

3. Council action is requested to authorize the City Manager to approve a construction contract with Hettinger Construction, Inc., for an amount not to exceed \$993,006 authorizing future minor change orders not to exceed \$99,300 and/or time extensions as part of the 24 Highway Main Replacement (Cysler Ave. to River Blvd.) Project (No. C24-191-409749).
4. Council action is requested to authorize the City Manager to approve purchase order change order #1 to the construction contract with Wiedenmann Construction, Inc. for a new contract total not to exceed \$950,186.21, authorizing future minor change orders and/or time extensions not to exceed \$95,018.62 to complete emergency repairs to additional stormwater structures throughout the City as part of the Emergency Stormwater Project (No. 131802) and Emergency Transportation Project (No. 112203).
5. Council action is requested to authorize the City Manager to execute a Power Generation Option to Lease agreement with UET Ventures, LLC, substantially similar to the attached agreement, for the purposes of engineering, permitting, acquiring and installing power generation facilities and equipment at the retired Independence Power & Light Blue Valley Power Plant site.
6. Council action is requested for approval to revise the premiums for the City's Self-Insured Cigna Health Plan.
7. Council action is requested to include the Cigna Omada Complete and Cigna Pathwell Bone/Joint as optional programs with the 2025 Cigna Healthcare plan.
8. Council action is requested on the change in ownership for a Retail Selling of Intoxicating Liquor of all kinds in the original package for KC Quick 6 located at 15800 E. 23rd St. S.

RESOLUTIONS

1. 24-765 A Resolution declaring the Council's intent to adopt the 2024 International Plumbing Code, the 2024 International Existing Building Code, the 2024 International Mechanical Code, the 2024 International Residential Code, the 2024 International Fire Code, the 2024 International Building Code, the 2024 International Fuel Gas Code and the 2020 National Electrical Code (NFPA 70).
2. 24-766 A Resolution amending Resolution 7020, appointing Councilmembers to certain Boards and Commissions as Councilmember Liaisons.
3. 24-767 A Resolution for Directing the City Manager to Modify Provisions in the City's

Design and Construction Manual Regarding Traffic Calming (*Requested by Councilmember Stewart*)

4. 24-768 A Resolution rescinding City Council non-ordinance action item number three that was approved by the City Council at the April 5, 2023, regular meeting directing an evaluation of Independence Power and Light and calling for a public vote on the future ownership of Independence Power & Light no later than November 2025. (*Requested by Councilmembers Fears and Stewart*)

REGULAR AGENDA

PUBLIC HEARING(S)

1. A public hearing for the Taxable Industrial Development Revenue Bonds for the Arabella Apartment Project. **Full Public Hearing.**
2. A public hearing for the amendment to the Noland Road Community Improvement District. **Full Public Hearing.**
3. A public hearing on proposed property tax rates to be set by the City of Independence for the fiscal year beginning July 1, 2024, based on the current assessed valuation by Jackson and Clay Counties. **Full Public Hearing.**

ORDINANCES

1. 24-089 **2R** An ordinance levying a tax on all real property subject to taxation on January 1, 2024, within the corporate limits of the City of Independence, Missouri, for general revenue and public health and recreation purposes, and for The Independence Square Special Benefit District; said levies and assessments being separate and distinct, all for the fiscal year commencing on the 1st day of July, 2024, and ending on the 30th day of June, 2025. **2R**
2. 24-090 **2R** An Ordinance Amending Independence City Code Section 16-01-002 "License Tax" **2R**

FIRST READING(S)

1. 24-091 **1R** An ordinance approving a plan for an industrial development project for the Arabella Apartment Project; authorizing the City of Independence, Missouri to issue its Taxable Industrial Development Revenue bonds in a principal amount not to exceed \$39,200,000; and authorizing certain documents and actions in connection therewith. **1R**
2. 24-092 **1R** An ordinance approving petitions to add property to the Noland Road Community Improvement District. **1R**

3. 24-093 **1R** An ordinance vacating an existing general utility easement, electric easement, and sanitary sewer easement, all part of 18785 E 39th Street South lying in, on, and across tracts 4&5, of Independence Center a subdivision in Independence, Jackson County, Missouri. **1R**
4. 24-094 **1R** An ordinance approving a rezoning from District R-6 (Single-Family Residential) to District R-6/PUD (Single-Family Residential/Planned Unit Development) and approving a preliminary development plan for the property at 2710 S. Westport Road, in Independence, Missouri. **1R**
5. 24-095 **1R** An ordinance adopting amendments to the Fiscal Year 2023-2024 budget, which was approved by Ordinance No. 19453. **1R**

INFORMATION ONLY

1. Notification of an amendment to the MARC Nutrition Site Grant FY25 Funding
2. ***Please Note:*** *In accordance with RSMo. 610.021, the City Council may convene in an Executive Session during or after the meeting, in the Council Chambers and move to Conference Room D for the closed meeting, on matters of litigation, legal action, and/or attorney client communications, as permitted by Sec. 610.021(1), on matters of personnel, as permitted by Sec. 610.021(3) and personnel records, as permitted by 610.021(13), on matters of contracts, as permitted by 610.021(12), on matters of real estate, as permitted by 610.021(2) and/or matters of labor negotiations, as permitted by 610.021(9).*

COUNCILMEMBER COMMENTS

ADJOURNMENT

City of Independence

AGENDA ITEM COVER SHEET

Agenda Title:

Council action is requested to issue a purchase order for \$459,968.00 with Lenco Armored Vehicles for the Police Department.

Recommendations:

Council approval to issue a purchase order.

Background:

The Police Department is currently in need of a new armored Bearcat. The current Bearcat has been in use since 2005 and constantly needs repairs or maintenance. The department requested a new Bearcat in its 2024/25 fiscal year budget proposal, and it was approved as a Capital Improvement Project to be funded from the Public Safety Sales Tax revenue. This purchase has also been discussed with and approved by the Public Safety Tax Oversight Committee.

The Police Department is requesting to purchase the vehicle from Lenco Armored Vehicles in Pittsfield, Massachusetts. This vendor has been a long-established provider of specialty armored vehicles to public safety agencies throughout the country. Lenco is the designer and manufacturer of the Lenco Bearcat, and is the only authorized dealer of the Bearcat or its variants. However, this vendor also has numerous cooperative contracts in place for their specialty vehicles, to include H-GAC, OMNIA, Sourcewell, and TIPS.

Lenco Armored Vehicles has provided a detailed quote based on the Houston-Galveston Area Council (H-GAC) Cooperative Contract #AM10-23. Their quote includes a commercial chassis warranty through Ford Motor Company and service available at nearly 160+ authorized Ford Service Centers across the United States, plus a 3 year Lenco warranty.

Per section 8.06.004, Paragraph 4 of the City Code states competitive bidding is not required when purchases are made through a cooperative contract established by a government purchasing entity or cooperative. The cooperative bids used have been established pursuant to RSMo. 70.220 or generally accepted governmental purchasing practices through the competitive bidding process.

Approval of this item shall authorize change orders up to a total of ten (10) percent of the authorized amount, provided appropriations are available.

Emergency Justification:**Fiscal Impact:**

The fiscal impact to the City is \$459,968 for fiscal year 2024-25 from the Public Safety Sales Tax revenue. The Bearcat is included in the 2024-2025 Adopted Budget on page 248, Police Improvements Fund, account number 0527052-5404, project string 522501-C.

Council Action:

Department / Contact	Police Department /
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REVIEWERS

Dennea Leap
Jason Petersen
Meagan Borth
Zachary Walker
Susanne Holland

ATTACHMENTS:

1. Lenco Bearcate Quote for Independence PD
2. Lenco Government Cooperative Contracts 6.18.24
3. H-GAC Executed Contract - Lenco Industries, Inc.-2



Protecting Our Nation's Defenders™

10 Betnr Industrial Drive - Pittsfield, MA 01201

PH: 413-443-7359 - FAX: 413-445-7865

Quotation 103849

Customer Code: IN001

Quotation Date: 08/08/24

Lenco Tax ID#: 04-2719777

Page #: 1 of 2

Bill To

Independence Police Department
223 North Memorial Drive
Independence, MO 64050 USA

Ship To

Customer Pick-Up
10 Betnr Industrial Dr
Pittsfield, MA 01201 USA

Payment Terms	Shipping Terms	Ship Via
Payment Upon Pick-Up	FOB: Origin	Customer Pickup
Estimated Completion	Lenco Contact	Inspection & Acceptance
14-18 months ARO (Est.)	Jim Massery	At Lenco's Facility, Pittsfield, MA

Item:	Product #	Qty	Unit Price	Total
Vehicle configuration	4762			
Lenco BearCat	BC55003-BASE	1	\$228,803.00	\$228,803.00
Options:				
LED Red and Blue	LED_RED_BLUE	1		
Exterior Paint Color: Lusterless Black	LUSTERLESS_BLACK	1		
BearCat G3 4-Wheel Off-Road Upgrade Pkg w/Run-Flats	BC3WOFFRD	1	\$38,454.00	\$38,454.00
Diesel Engine, 6.7L Turbo	BCDLEN	1	\$9,995.00	\$9,995.00
4-Door Configuration	BC4DR	1	\$9,823.00	\$9,823.00
(1) 7" Vertical GunPort Upgrade	BCGP7	8	\$228.00	\$1,824.00
Electric Power Mirrors	BCMIR	1	\$1,508.00	\$1,508.00
360 Camera System	BC360DEG	1	\$4,422.00	\$4,422.00
Color & Thermal Camera w/Controller, Front and Rear Monitors	BCTI	1	\$34,744.00	\$34,744.00
Radio Prep Package, (1) Max (2)	BCINSRA	2	\$502.00	\$1,004.00
Radio Prep Package - Driver Side Rear Wall Only, (Max 1)	BCINSRA-RW	1	\$528.00	\$528.00
Rear A/C - Heating Systems: High Capacity Upgrade	BCHACUP	1	\$7,182.00	\$7,182.00
Hydraulic Ram Upgrade w/Front Mounted Receiver with Ram Post and Plate	BCHYDRAM	1	\$14,975.00	\$14,975.00
Draco Prep Package	BCDRACOPREP	1	\$1,896.00	\$1,896.00
4 Way Ram Camera with 4 Way Monitor and Audio	BCRC	1	\$23,928.00	\$23,928.00
VSP Style Low Profile & Scene Lighting Pkg	BCVSPL	1	\$6,102.00	\$6,102.00
Roof Mounted Remote Control Spot Light - LED	BCSLLED	3	\$1,404.00	\$4,212.00
High Intensity Driving Lights in Front Bumper	BCHIDL	1	\$1,340.00	\$1,340.00
Fender Intersection Lights	BCFIL	1	\$2,986.00	\$2,986.00
Roof Mounted Alley Light	BCRMAL	2	\$2,213.00	\$4,426.00
Take Down Light (Bumper Mounted)	BCTDL	1	\$1,853.00	\$1,853.00
AC-DC Power Inverter w/ Auto Eject	BCINV2000	1	\$6,387.00	\$6,387.00
Police Cupola w/Glass & Barn Doors	BCPCUPOLA	1	\$31,585.00	\$31,585.00
Electric Power Winch - Synthetic Rope - Modular w/ Winch Basket	BCWNCHRMP	1	\$6,095.00	\$6,095.00
Rear Tow Hitch Receiver w/ Winch Power	BCRTOWRWP	1	\$1,886.00	\$1,886.00
Armored Oil Pan Guard	BCAOPG	1	\$1,936.00	\$1,936.00
Ballistic Skip Round Shield	BCBSRS	2	\$2,420.00	\$4,840.00
Intercom System Inside to Outside	BCINT	1	\$2,871.00	\$2,871.00
Bedrock Paint	BCPJ	1	\$4,363.00	\$4,363.00
Configuration Subtotal:				\$459,968.00
Lenco BearCat	NEWCONFIG	1	\$459,968.00	\$459,968.00
Net Total				\$459,968.00



Protecting Our Nation's Defenders™
10 Betnr Industrial Drive - Pittsfield, MA 01201
PH: 413-443-7359 - FAX: 413-445-7865

Quotation 103849

Customer Code: IN001
Quotation Date: 08/08/24
Lenco Tax ID#: 04-2719777
Page #: 2 of 2

Notes: H-GAC - Ambulances, EMS, and Other Special Service Vehicles Contract Number: AM10-23 Current Option Period End Date: September 30, 2027	
WARNING: Information Subject to Export Control Laws The written approval of the Directorate of US Defense Trade Controls and Lenco Industries, Inc. must be obtained before reselling, transferring, transshipping or disposing of a defense article to any end user, end use or destination other than as stated on this Lenco quote or the shipper's export declaration in cases where an exemption is claimed under this subchapter ITAR 123.9(A).	
Acceptance of this quotation or entering into a purchase agreement with Lenco, the purchaser agrees to Lenco's full Terms and Conditions of Sale, available upon request. This quote will be valid for 60 days.	
ACCEPTANCE OF PROPOSAL Authorized Signature: _____ Please sign and return	Authorized Signature: <u>James Massery</u> Jim Massery
Thank you	



Cooperative Purchasing Contracts

Lenco Direct Cooperative Contracts

1. GSA Federal Acquisition Service – Multiple Award Schedule

Contract Number: GS-07F-169DA

Current Option Period End Date: August 22, 2026

Important Links:

[Lenco GSA eLibrary Link](#)

[1122 Program Link](#)

2. H-GAC – Ambulances, EMS, and Other Special Service Vehicles

Contract Number: AM10-23

Current Option Period End Date: September 30, 2027

Important Links:

[HGACBuy Contract Link](#)

3. North Carolina Sheriff's Association (NCSA) – Fire/EMS/Law Enforcement Specialty Vehicles

Contract Number: 25-05-0521

Current Option Period End Date: June 17, 2025

Important Links:

[NCSA Contract Link](#)

4. Howard County, MD Office of Procurement and Contract Administration – New Vehicles, Class 1 – 7

Contract Number: 4400004548

Current Option Period End Date: June 30, 2025

Important Links:

[Howard County, MD Current Awards and Contracts Link](#)

[Current Contracts Link](#)

5. State of Iowa – Specialty Vehicles: Armored Rescue Vehicle

Contract Number: 005-RFB-0437-2023 / 23202

Current Option Period End Date: August 31, 2024

Important Links:

[Iowa Department of Administrative Services Link](#)

Designer and Manufacturer of Tactical Armored Security Vehicles

10 Betnr Industrial Drive · Pittsfield, MA 01201 · Tel (413) 443-7359 · Fax (413) 445-7865

www.LencoArmor.com · e-mail: Info@LencoArmor.com

Lenco Reseller Cooperative Contracts

(Call for details.)

6. US Communities (OMNIA Partners) – Public Safety & Emergency Preparedness

Contract Number: 4400008468

Current Option Period End Date: September 30, 2024

Lead Agency: County of Fairfax, Virginia

Lead Contractor: Safeware, Inc.

Important Links:

[US Communities / OMNIA Partners Contract Link](#)

7. Sourcewell – Public Procurement Cooperative Purchasing: Public Safety and Emergency Management

Contract Number: 080922-SAF

Current Option Period End Date: October 7, 2027

Lead Contractor: Safeware, Inc.

Important Links:

[Sourcewell Public Safety and Emergency Management Contract](#)

8. US Communities (OMNIA Partners) – Public Safety & Emergency Preparedness

Contract Number: 4400008495

Current Option Period End Date: September 30, 2024

Lead Agency: County of Fairfax, Virginia

Lead Contractor: Mallory Safety and Supply, LLC

Important Links:

[US Communities / OMNIA Partners Contract Link](#)

9. New Jersey Cooperative Purchasing Alliance (Bergen County Co-Op) – Catalog / SWAT Equipment

Contract Number: BC-Bid-#21-55 (COOP)

Current Option Period End Date: December 3, 2024

Lead Agency: County of Bergen, NJ

Lead Contractors: Tomahawk Strategic Solutions

Important Links:

[Bergen County Co-Op Contract Link](#)

10. TIPS - The Interlocal Purchasing System

Contract Number: 210907 (Automobiles)

Current Option Period End Date: November 30, 2024

Important Links:

[TIPS - The Interlocal Purchasing System](#)

11. TX SmartBuy - Vehicle 5501

Contract Number: 070-M1 / IFB 304T-23T070A1

Current Option Period End Date: November 30, 2024

Important Links:

[TX SmartBuy Contracts Link](#)

June 18, 2024

Designer and Manufacturer of Tactical Armored Security Vehicles

10 Betnr Industrial Drive · Pittsfield, MA 01201 · Tel (413) 443-7359 · Fax (413) 445-7865

www.LencoArmor.com · e-mail: Info@LencoArmor.com

H-GAC

Houston-Galveston Area Council

P.O. Box 22777 · 3555 Timmons · Houston, Texas 77227-2777

Cooperative Agreement - Contract - Lenco Industries, Inc. - Public Services - ID: 11110

MASTER GENERAL PROVISIONS

This Master Agreement is made and entered into, by and between the Houston-Galveston Area Council hereinafter referred to as H-GAC having its principal place of business at 3555 Timmons Lane, Suite 120, Houston, Texas 77027 and Lenco Industries, Inc., hereinafter referred to as the Contractor, having its principal place of business at 10 Betnr Industrial Drive, Pittsfield, MA 01201.

WITNESSETH:

WHEREAS, H-GAC hereby engages the Contractor to perform certain services in accordance with the specifications of the Master Agreement; and

WHEREAS, the Contractor has agreed to perform such services in accordance with the specifications of the Master Agreement;

NOW, THEREFORE, H-GAC and the Contractor do hereby agree as follows:

ARTICLE 1: LEGAL AUTHORITY

The Contractor warrants and assures H-GAC that it possesses adequate legal authority to enter into this Master Agreement. The Contractor's governing body, where applicable, has authorized the signatory official(s) to enter into this Master Agreement and bind the Contractor to the terms of this Master Agreement and any subsequent amendments hereto.

ARTICLE 2: APPLICABLE LAWS

The Contractor agrees to conduct all activities under this Master Agreement in accordance with all federal laws, executive orders, policies, procedures, applicable rules, regulations, directives, standards, ordinances, and laws, in effect or promulgated during the term of this Master Agreement, including without limitation, workers' compensation laws, minimum and maximum salary and wage statutes and regulations, and licensing laws and regulations. When required, the Contractor shall furnish H-GAC with satisfactory proof of its compliance therewith.

ARTICLE 3: PUBLIC INFORMATION

Except as stated below, all materials submitted to H-GAC, including any attachments, appendices, or other information submitted as a part of a submission or Master Agreement, are considered public information, and become the property of H-GAC upon submission and may be reprinted, published, or distributed in any manner by H-GAC according to open records laws, requirements of the US Department of Labor and the State of Texas, and H-GAC policies and procedures. In the event the Contractor wishes to claim portions of the response are not subject to the Texas Public Information Act, it shall so; however, the determination of the Texas Attorney General as to whether such information must be disclosed upon a public request shall be binding on the Contractor. H-GAC will request such a determination only if Contractor bears all costs for preparation of the submission. H-GAC is not responsible for the return of creative examples of work submitted. H-GAC will not be held accountable if material from submissions is obtained without the written consent of the contractor by parties other than H-GAC, at any time during the evaluation process.

ARTICLE 4: INDEPENDENT CONTRACTOR

The execution of this Master Agreement and the rendering of services prescribed by this Master Agreement do not change the independent status of H-GAC or the Contractor. No provision of this Master Agreement or act of H-GAC in performance of the Master Agreement shall be construed as making the Contractor the agent, servant, or employee of H-GAC, the State of Texas, or the United States Government. Employees of the Contractor are

subject to the exclusive control and supervision of the Contractor. The Contractor is solely responsible for employee related disputes and discrepancies, including employee payrolls and any claims arising therefrom.

ARTICLE 5: ANTI-COMPETITIVE BEHAVIOR

Contractor will not collude, in any manner, or engage in any practice which may restrict or eliminate competition or otherwise restrain trade.

ARTICLE 6: SUSPENSION AND DEBARMENT

Debarment and Suspension (Executive Orders 12549 and 12689) – A contract award (2 CFR 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1966 Comp. p. 189) and 12689 (3 CFR Part 1989 Comp. p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

Pursuant to the Federal Rule above, Respondent certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency or by the State of Texas and at all times during the term of the Contract neither it nor its principals will be debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency or by the State of Texas Respondent shall immediately provide the written notice to H-GAC if at any time the Respondent learns that this certification was erroneous when submitted or has become erroneous by reason of changed circumstances. H-GAC may rely upon a certification of the Respondent that the Respondent is not debarred, suspended, ineligible, or voluntarily excluded from the covered contract, unless the H-GAC knows the certification is erroneous.

ARTICLE 7: GOAL FOR CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN’S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS (if subcontracts are to be let)

H-GAC’s goal is to assure that small and minority businesses, women’s business enterprises, and labor surplus area firms are used when possible in providing services under a contract. In accordance with federal procurements requirements of 2 CFR §200.321, if subcontracts are to be let, the prime contractor must take the affirmative steps listed below:

1. Placing qualified small and minority businesses and women’s business enterprises on solicitation lists;
2. Assuring that small and minority businesses and women’s business enterprises are solicited whenever they are potential sources;
3. Dividing total requirements, when economically feasible, into smaller task or quantities to permit maximum participation by small and minority businesses, and women’s business enterprises;
4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women’s business enterprises;
5. Using the services and assistance as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.
- 6.

Nothing in this provision will be construed to require the utilization of any firm that is either unqualified or unavailable. The Small Business Administration (SBA) is the primary reference and database for information on requirements related to Federal Subcontracting <https://www.sba.gov/federal-contracting/contracting-guide/prime-subcontracting>

NOTE: The term DBE as used in this solicitation is understood to encompass all programs/business enterprises such as: Small Disadvantaged Business (SDB), Historically Underutilized Business (HUB), Minority Owned Business Enterprise (MBE), Women Owned Business Enterprise (WBE) and Disabled Veteran Business Enterprise (DVBE) or other designation as issued by a certifying agency.

Contractor agrees to work with and assist HGACBuy customer in meeting any DBE targets and goals, as may be required by any rules, processes, or programs they might have in place. Assistance may include compliance with reporting requirements, provision of documentation, consideration of Certified/Listed subcontractors, provision of documented evidence that an active participatory role for a DBE entity was

considered in a procurement transaction, etc.

ARTICLE 8: SCOPE OF SERVICES

The services to be performed by the Contractor are outlined in an Attachment to this Master Agreement.

ARTICLE 9: PERFORMANCE PERIOD

This Master Agreement shall be performed during the period which begins Oct 01 2023 and ends Sep 30 2027. All services under this Master Agreement must be rendered within this performance period, unless directly specified under a written change or extension provisioned under Article 21, which shall be fully executed by both parties to this Master Agreement.

ARTICLE 10: PAYMENT OR FUNDING

Payment provisions under this Master Agreement are outlined in the Special Provisions. H-GAC will not pay for any expenses incurred prior to the execution date of a contract, or any expenses incurred after the termination date of the contract.

ARTICLE 11: PAYMENT FOR WORK

The H-GAC Customer is responsible for making payment to the Contractor upon delivery and acceptance of the goods or completion of the services and submission of the subsequent invoice.

ARTICLE 12: PAYMENT TERMS/PRE-PAYMENT/QUANTITY DISCOUNTS

If discounts for accelerated payment, pre-payment, progress payment, or quantity discounts are offered, they must be clearly indicated in the Contractor's submission prior to contract award. The applicability or acceptance of these terms is at the discretion of the Customer.

ARTICLE 13: REPORTING REQUIREMENTS

If the Contractor fails to submit to H-GAC in a timely and satisfactory manner any report required by this Master Agreement, or otherwise fails to satisfactorily render performances hereunder, H-GAC may terminate this Master Agreement with notice as identified in Article 29 of these General Provisions. H-GAC has final determination of the adequacy of performance and reporting by Contractor. Termination of this Master Agreement for failure to perform may affect Contractor's ability to participate in future opportunities with H-GAC. The Contractor's failure to timely submit any report may also be considered cause for termination of this Master Agreement. Any additional reporting requirements shall be set forth in the Special Provisions of this Master Agreement.

ARTICLE 14: INSURANCE

Contractor shall maintain insurance coverage for work performed or services rendered under this Master Agreement as outlined and defined in the attached Special Provisions.

ARTICLE 15: SUBCONTRACTS AND ASSIGNMENTS

Except as may be set forth in the Special Provisions, the Contractor agrees not to assign, transfer, convey, sublet, or otherwise dispose of this Master Agreement or any right, title, obligation, or interest it may have therein to any third party without prior written approval of H-GAC. The Contractor acknowledges that H-GAC is not liable to any subcontractor or assignee of the Contractor. The Contractor shall ensure that the performance rendered under all subcontracts shall result in compliance with all the terms and provisions of this Master Agreement as if the performance rendered was rendered by the Contractor. Contractor shall give all required notices, and comply with all laws and regulations applicable to furnishing and performance of the work. Except where otherwise expressly required by applicable law or regulation, H-GAC shall not be responsible for monitoring Contractor's compliance, or that of Contractor's subcontractors, with any laws or regulations.

ARTICLE 16: AUDIT

Notwithstanding any other audit requirement, H-GAC reserves the right to conduct or cause to be conducted an independent audit of any transaction under this Master Agreement, such audit may be performed by the H-GAC local government audit staff, a certified public accountant firm, or other auditors designated by H-GAC and will be

conducted in accordance with applicable professional standards and practices. The Contractor understands and agrees that the Contractor shall be liable to the H-GAC for any findings that result in monetary obligations to H-GAC.

ARTICLE 17: TAX EXEMPT STATUS

H-GAC and Customer members are either units of government or qualified non-profit agencies, and are generally exempt from Federal and State sales, excise or use taxes. Respondent must not include taxes in its Response. It is the responsibility of Contractor to determine the applicability of any taxes to an order and act accordingly. Exemption certificates will be provided upon request.

ARTICLE 18: EXAMINATION OF RECORDS

The Contractor shall maintain during the course of the work complete and accurate records of all of the Contractor's costs and documentation of items which are chargeable to H-GAC under this Master Agreement. H-GAC, through its staff or designated public accounting firm, the State of Texas, and United States Government, shall have the right at any reasonable time to inspect, copy and audit those records on or off the premises by authorized representatives of its own or any public accounting firm selected by H-GAC. The right of access to records is not limited to the required retention period, but shall last as long as the records are retained. Failure to provide access to records may be cause for termination of the Master Agreement. The records to be thus maintained and retained by the Contractor shall include (without limitation): (1) personnel and payroll records, including social security numbers and labor classifications, accounting for total time distribution of the Contractor's employees working full or part time on the work, as well as cancelled payroll checks, signed receipts for payroll payments in cash, or other evidence of disbursement of payroll payments; (2) invoices for purchases, receiving and issuing documents, and all other unit inventory records for the Contractor's stocks or capital items; and (3) paid invoices and cancelled checks for materials purchased and for subcontractors' and any other third parties' charges.

Contractor agrees that H-GAC will have the right, with reasonable notice, to inspect its records pertaining to purchase orders processed and the accuracy of the fees payable to H-GAC. The Contractor further agrees that the examination of records outlined in this article shall be included in all subcontractor or third-party Master Agreements.

ARTICLE 19: RETENTION OF RECORDS

The Contractor and its subcontractors shall maintain all records pertinent to this Master Agreement, and all other financial, statistical, property, participant records, and supporting documentation for a period of no less than seven (7) years from the later of the date of acceptance of the final payment or until all audit findings have been resolved. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the retention period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the seven (7) years, whichever is later, and until any outstanding litigation, audit, or claim has been fully resolved.

ARTICLE 20: DISTRIBUTORS, VENDORS, RESELLERS

Contractor agrees and acknowledges that any such designations of distributors, vendors, resellers or the like are for the convenience of the Contractor only and the awarded Contractor will remain responsible and liable for all obligations under the Contract and the performance of any designated distributor, vendor, reseller, etc. Contractor is also responsible for receiving and processing any Customer purchase order in accordance with the Contract and forwarding of the Purchase Order to the designated distributor, vendor, reseller, etc. to complete the sale or service. H-GAC reserves the right to reject any entity acting on the Contractor's behalf or refuse to add entities after a contract is awarded.

ARTICLE 21: CHANGE ORDERS AND AMENDMENTS

- A. Any alterations, additions, or deletions to the terms of this Master Agreement, which are required by changes in federal or state law or by regulations, are automatically incorporated without written amendment hereto, and shall become effective on the date designated by such law or by regulation.

- B. To ensure the legal and effective performance of this Master Agreement, both parties agree that any amendment that affects the performance under this Master Agreement must be mutually agreed upon and that all such amendments must be in writing. After a period of no less than 30 days subsequent to written notice, unless sooner implementation is required by law, such amendments shall have the effect of qualifying the terms of this Master Agreement and shall be binding upon the parties as if written herein.
- C. Customers have the right to issue a change order to any purchase orders issued to the Contractor for the purposes of clarification or inclusion of additional specifications, qualifications, conditions, etc. The change order must be in writing and agreed upon by Contractor and the Customer agency prior to issuance of any Change Order. A copy of the Change Order must be provided by the Contractor to, and acknowledged by, H-GAC.

ARTICLE 22: CONTRACT ITEM CHANGES

- A. If a manufacturer discontinues a contracted item, that item will automatically be considered deleted from the contract with no penalty to Contractor. However, H-GAC may at its sole discretion elect to make a contract award to the next lowest Respondent for the item, or take any other action deemed by H-GAC, at its sole discretion, to be in the best interests of its Customers.
- B. If a manufacturer makes any kind of change in a contracted item which affects the contract price, Contractor must advise H-GAC of the details. H-GAC may allow or reject the change at its sole discretion. If the change is rejected, H-GAC will remove the item from its program and there will be no penalty to Contractor. However, H-GAC may at its sole discretion elect to make a contract award to the next lowest Respondent for the item, or take any other action deemed by H-GAC, at its sole discretion, to be in the best interests of its Customers.
- C. If a manufacturer makes any change in a contracted item which does not affect the contract price, Contractor shall advise H-GAC of the details. If the 'new' item is equal to or better than the originally contracted item, the 'new' item shall be approved as a replacement. If the change is rejected H-GAC will remove the item from its program and there will be no penalty to Contractor. However, H-GAC may at its sole discretion elect to make a contract award to the next lowest Respondent for the item or may take any other action deemed by H-GAC at its sole discretion, to be in the best interests of its Customers.
- D. In the case of specifically identified catalogs or price sheets which have been contracted as base bid items or as published options, routine published changes to products and pricing will be automatically incorporated into the contract. However, Contractor must still provide written notice and an explanation of the changes to products and pricing. H-GAC will respond with written approval.

ARTICLE 23: CONTRACT PRICE ADJUSTMENTS

Price Decreases

If Contractor's Direct Cost decreases at any time during the full term of this award, Contractor must immediately pass the decrease on to H-GAC and lower its prices by the amount of the decrease in Direct Cost. (Direct Cost means Contractor's cost from the manufacturer of any item or if Contractor is the manufacturer, the cost of raw materials required to manufacture the item, plus costs of transportation from manufacturer to Contractor and Contractor to H-GAC. Contractor must notify H-GAC of price decreases in the same way as for price increases set out below. The price decrease shall become effective upon H-GAC's receipt of Contractor's notice. If Contractor routinely offers discounted contract pricing, H-GAC may request Contractor accept amended contract pricing equivalent to the routinely discounted pricing.

Price Increase

Contractors may request a price increase for items priced as Base Bid items and Published Options. The amount of any increase will not exceed actual documented increase in Contractor's Direct Cost and will not exceed 10% of

the previous bid price. Considerations on the percentage limit will be given if the price increase is the result of increased tariff charges or other governmental actions, or other economic factors. Manufacturer price/contract changes involving the sale of motor vehicles will be considered and may be allowed during the entire contract period subject to submission and verification of the proper documentation required for a contract change as referenced in this section.

Price Changes

Any permanent increase or decrease in offered pricing for a base contract item or published option is considered a price change. Temporary increases in pricing by whatever name (e.g., 'surcharge', 'adjustment', 'equalization charge', 'compliance charge', 'recovery charge', etc.), are also considered to be price changes.

For published catalogs and price sheets as part of an H-GAC contract, requests to amend the contract to reflect any new published catalog or price sheet must be submitted whenever the manufacturer publishes a new document. The request must include the new catalog or price sheet. All Products shall, at time of sale, be equipped as required under any then current applicable local, state, and federal government requirements. If, during any contract, changes are made to any government requirements which cause a manufacturer's costs of production to increase, Contractor may increase pricing to the extent of Contractor's actual cost increase. The increase must be substantiated with support documentation acceptable to H-GAC prior to taking effect. Modifications to a Product required to comply with such requirements which become effective after the date of any sale are the responsibility of the Customer.

Requesting Price Increase/Required Documentation

Contractor must submit a written overview of changes requested and reasons for the request, stating the amount of the increase, along with an itemized list of any increased prices, showing the Contractor's current price, revised price, the actual dollar difference and the percentage of the price increase by line item. Price change requests must be supported with substantive documentation (e.g., notices from suppliers and manufacturers of pricing changes in products, components, transportation, raw materials or commodities, and/or product availability, copies of invoices from suppliers, etc.) clearly showing that Contractor's actual costs have increased per the applicable line-item bid. The Producer Price Index (PPI) may be used as partial justification, subject to approval by H-GAC, but no price increase based solely on an increase in the PPI will be allowed. This documentation should be submitted in Excel format to facilitate analysis and updating of the website. The letter and documentation must be sent to Lead Program Coordinator, james.glover@h-gac.com.

Review/Approval of Requests

If H-GAC approves the price increase, Contractor will be notified in writing; no price increase will be effective until Contractor receives this notice. If H-GAC does not approve Contractor's price increase, Contractor may terminate its performance upon sixty (60) days advance written notice to H-GAC, however Contractor must fulfill any outstanding Purchase Orders. Termination of performance is Contractor's only remedy if H-GAC does not approve the price increase. H-GAC reserves the right to accept or reject any price change request.

ARTICLE 24: DELIVERIES AND SHIPPING TERMS

The Contractor agrees to make deliveries only upon receipt of authorized Customer Purchase Order acknowledged by H-GAC. Delivery made without such Purchase Order will be at Contractor's risk and will leave H-GAC the option of canceling any contract awarded to the Contractor. The Contractor must secure and deliver any item within five (5) working days, or as agreed to on any corresponding customer Purchase Order.

Shipping must be Freight On Board Destination to the delivery location designated on the Customer purchase order. The Contractor will retain title and control of all goods until delivery is completed and the Customer has accepted the delivery. All risk of transportation and all related charges are the responsibility of the Contractor. The Customer will notify the Contractor and H-GAC promptly of any damaged goods and will assist the Contractor in arranging for inspection. The Contractor must file all claims for visible or concealed damage. Unless otherwise stated in the Master Agreement, deliveries must consist only of new and unused merchandise.

ARTICLE 25: RESTOCKING (EXCHANGES AND RETURNS)

There will be no restocking charge to the Customer for return or exchange of any item purchased under the terms of any award. If the Customer wishes to return items purchased under an awarded contract, the Contractor agrees

to exchange, these items for other items, with no additional charge incurred. Items must be returned to Contractor within thirty (30) days from date of delivery. If there is a difference in price in the items exchanged, the Contractor must notify H-GAC and invoice Customer for increase price or provide the Customer with a credit or refund for any decrease in price per Customer's preference. On items returned, a credit or cash refund will be issued by the Contractor to Customer. This return and exchange option will extend for thirty (30) days following the expiration of the term of the Contract. All items returned by the Customer must be unused and in the same merchantable condition as when received. Items that are special ordered may be returned only upon approval of the Contractor.

ARTICLE 26: MANUALS

Each product delivered under contract to any Customer must be delivered with at least one (1) copy of a safety and operating manual and any other technical or maintenance manual. The cost of the manual(s) must be included in the price for the Product offered.

ARTICLE 27: OUT OF STOCK, PRODUCT RECALLS, AND DISCONTINUED PRODUCTS

H-GAC does NOT purchase the products sold pursuant to a Solicitation or Master Agreement. Contractor is responsible for ensuring that notices and mailings, such as Out of Stock or Discontinued Notices, Safety Alerts, Safety Recall Notices, and customer surveys, are sent directly to the Customer with a copy sent to H-GAC. Customer will have the option of accepting any equivalent product or canceling the item from Customer's Purchase Order. Contractor is not authorized to make substitutions without prior approval.

ARTICLE 28: WARRANTIES, SALES, AND SERVICE

Warranties must be the manufacturer's standard and inclusive of any other warranty requirements stated in the Master Agreement; any warranties offered by a dealer will be in addition to the manufacturer's standard warranty and will not be a substitute for such. Pricing for any product must be inclusive of the standard warranty.

Contractor is responsible for the execution and effectiveness of all product warranty requests and any claims, Contractor agrees to respond directly to correct warranty claims and to ensure reconciliation of warranty claims that have been assigned to a third party.

ARTICLE 29: TERMINATION PROCEDURES

The Contractor acknowledges that this Master Agreement may be terminated for Convenience or Default. H-GAC will not pay for any expenses incurred after the termination date of the contract.

A. Convenience

H-GAC may terminate this Master Agreement at any time, in whole or in part, with or without cause, whenever H-GAC determines that for any reason such termination is in the best interest of H-GAC, by providing written notice by certified mail to the Contractor. Upon receipt of notice of termination, all services hereunder of the Contractor and its employees and subcontractors shall cease to the extent specified in the notice of termination.

The Contractor may cancel or terminate this Master Agreement upon submission of thirty (30) days written notice, presented to H-GAC via certified mail. The Contractor may not give notice of cancellation after it has received notice of default from H-GAC.

B. Default

H-GAC may, by written notice of default to the Contractor, terminate the whole or any part of the Master Agreement, in any one of the following circumstances:

- (1) If the Contractor fails to perform the services herein specified within the time specified herein or any extension thereof; or
- (2) If the Contractor fails to perform any of the other provisions of this Master Agreement for any reason whatsoever, or so fails to make progress or otherwise violates the Master Agreements that completion of services herein specified within the Master Agreement term is significantly endangered, and in either of these two instances does not cure such failure within a period of ten (10) days (or such longer period of time as may be authorized by H-GAC in writing) after receiving written notice by certified mail of default from H-GAC.

- (3) In the event of such termination, Contractor will notify H-GAC of any outstanding Purchase Orders and H-GAC will consult with the End User and notify the Contractor to what extent the End User wishes the Contractor to complete the Purchase Order. If Contractor is unable to do so, Contractor may be subject to a claim for damages from H-GAC and/or the End User.

ARTICLE 30: SEVERABILITY

H-GAC and Contractor agree that should any provision of this Master Agreement be determined to be invalid or unenforceable, such determination shall not affect any other term of this Master Agreement, which shall continue in full force and effect.

ARTICLE 31: FORCE MAJEURE

To the extent that either party to this Master Agreement shall be wholly or partially prevented from the performance of any obligation or duty placed on such party by reason of or through strikes, stoppage of labor, riot, fire, flood, acts of war, insurrection, accident, order of any court, act of God, or specific cause reasonably beyond the party's control and not attributable to its neglect or nonfeasance, in such event, the time for the performance of such obligation or duty shall be suspended until such disability to perform is removed. Determination of force majeure shall rest solely with H-GAC.

ARTICLE 32: CONFLICT OF INTEREST

No officer, member or employee of the Contractor or Contractors subcontractor, no member of the governing body of the Contractor, and no other public officials of the Contractor who exercise any functions or responsibilities in the review or Contractor approval of this Master Agreement, shall participate in any decision relating to this Master Agreement which affects his or her personal interest, or shall have any personal or pecuniary interest, direct or indirect, in this Master Agreement.

- A. **Conflict of Interest Questionnaire:** Chapter 176 of the Texas Local Government Code requires contractors contracting or seeking to contract with H-GAC to file a conflict-of-interest questionnaire (CIQ) if they have an employment or other business relationship with an H-GAC officer or an officer's close family member. The required questionnaire and instructions are located on the H-GAC website or at the Texas Ethics Commission website <https://www.ethics.state.tx.us/forms/CIQ.pdf>. H-GAC officers include its Board of Directors and Executive Director, who are listed on this website. Respondent must complete and file a CIQ with the Texas Ethics Commission if an employment or business relationship with H-GAC office or an officer's close family member as defined in the law exists.
- B. **Certificate of Interested Parties Form – Form 1295:** As required by Section 2252.908 of the Texas Government Code. H-GAC will not enter a Contract with Contractor unless (i) the Contractor submits a disclosure of interested parties form to H-GAC at the time the Contractor submits the contract H-GAC, or (ii) the Contractor is exempt from such requirement. The required form and instructions are located at the Texas Ethics Commission website https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm. Respondents who are awarded a Contract must submit their Form 1295 with the signed Contract to H-GAC.

ARTICLE 33: FEDERAL COMPLIANCE

Contractor agrees to comply with all federal statutes relating to nondiscrimination, labor standards, and environmental compliance. With regards to "Rights to Inventions Made Under a Contract or Master Agreement," If the Federal award meets the definition of "funding Master Agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding Master Agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Master Agreements," and any implementing regulations issued by the awarding agency. Contractor agrees to be wholly compliant with the provisions of 2 CFR 200, Appendix II. Additionally, for work to be performed under the Master Agreement or subcontract thereof, including procurement of materials or leases of equipment, Contractor shall notify each potential subcontractor or supplier of the Contractor's federal compliance obligations. These may include, but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b)

Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) the Fair Labor Standards Act of 1938 (29 USC 676 et. seq.), (d) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps and the Americans with Disabilities Act of 1990; (e) the Age Discrimination in Employment Act of 1967 (29 USC 621 et. seq.) and the Age Discrimination Act of 1974, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (f) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (g) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to the nondiscrimination on the basis of alcohol abuse or alcoholism; (h) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (i) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (j) any other nondiscrimination provisions in any specific statute(s) applicable to any Federal funding for this Master Agreement; (k) the requirements of any other nondiscrimination statute(s) which may apply to this Master Agreement; (l) applicable provisions of the Clean Air Act (42 U.S.C. §7401 et seq.), the Federal Water Pollution Control Act, as amended (33 U.S.C. §1251 et seq.), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and the Environmental Protection Agency regulations at 40 CFR Part 15; (m) applicable provisions of the Davis- Bacon Act (40 U.S.C. 276a - 276a-7), the Copeland Act (40 U.S.C. 276c), and the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-332), as set forth in Department of Labor Regulations at 20 CFR 5.5a; (n) the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163).

ARTICLE 34: PROHIBITION ON CONTRACTING WITH ENTITIES USING CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE EQUIPMENT (EFFECTIVE AUG. 13, 2020 AND AS AMENDED OCTOBER 26, 2020)

Pursuant to 2 CFR 200.216, Contractor shall not offer equipment, services, or system that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. Covered telecommunications equipment or services means 1) telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities); 2) for the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities); 3) telecommunications or video surveillance services provided by such entities or using such equipment; or 4) telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country. Respondent must comply with requirements for certifications. The provision at 48 C.F.R Section 52.204-26 requires that offerors review SAM prior to completing their required representations. This rule applies to all acquisitions, including acquisitions at or below the simplified acquisition threshold and to acquisitions of commercial items, including commercially available off the-shelf items.

ARTICLE 35: DOMESTIC PREFERENCE

In accordance with 2 CFR 200.322, as appropriate and to the extent consistent with law, when using federal grant award funds H-GAC should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). H-GAC must include this requirement in all subawards including all contracts and purchase orders for work or products under the federal grant award. If Contractor intends to qualify for Purchase Orders using federal grant money, then it shall work with H-GAC to provide all required certifications and other documentation needed to show compliance.

ARTICLE 36: CRIMINAL PROVISIONS AND SANCTIONS

The Contractor agrees to perform the Master Agreement in conformance with safeguards against fraud and abuse as set forth by the H-GAC, the State of Texas, and the acts and regulations of any related state or federal agency. The Contractor agrees to promptly notify H-GAC of any actual or suspected fraud, abuse, or other criminal activity

through the filing of a written report within twenty-four (24) hours of knowledge thereof. Contractor shall notify H-GAC of any accident or incident requiring medical attention arising from its activities under this Master Agreement within twenty-four (24) hours of such occurrence. Theft or willful damage to property on loan to the Contractor from H-GAC, if any, shall be reported to local law enforcement agencies and H-GAC within two (2) hours of discovery of any such act.

The Contractor further agrees to cooperate fully with H-GAC, local law enforcement agencies, the State of Texas, the Federal Bureau of Investigation, and any other duly authorized investigative unit, in carrying out a full investigation of all such incidents.

The Contractor shall notify H-GAC of the threat of lawsuit or of any actual suit filed against the Contractor pertaining to this Master Agreement or which would adversely affect the Contractor's ability to perform services under this Master Agreement.

ARTICLE 37: INDEMNIFICATION AND RECOVERY

H-GAC's liability under this Master Agreement, whether for breach of contract, warranty, negligence, strict liability, in tort or otherwise, is limited to its order processing charge. In no event will H-GAC be liable for any loss of use, loss of time, inconvenience, commercial loss, lost profits, or savings or other incidental, special or consequential damages to the full extent such use may be disclaimed by law. Contractor agrees, to the extent permitted by law, to defend and hold harmless H-GAC, its board members, officers, agents, officials, employees, and indemnities from any and all claims, costs, expenses (including reasonable attorney fees), actions, causes of action, judgements, and liens arising as a result of Contractor's negligent act or omission under this Master Agreement. Contractor shall notify H-GAC of the threat of lawsuit or of any actual suit filed against Contractor relating to this Master Agreement.

ARTICLE 38: LIMITATION OF CONTRACTOR'S LIABILITY

Except as specified in any separate writing between the Contractor and an END USER, Contractor's total liability under this Master Agreement, whether for breach of contract, warranty, negligence, strict liability, in tort or otherwise, but excluding its obligation to indemnify H-GAC, is limited to the price of the particular products/services sold hereunder, and Contractor agrees either to refund the purchase price or to repair or replace product(s) that are not as warranted. In no event will Contractor be liable for any loss of use, loss of time, inconvenience, commercial loss, loss of profits or savings or other incidental, special or consequential damages to the full extent such use may be disclaimed by law. Contractor understands and agrees that it shall be liable to repay and shall repay upon demand to END USER any amounts determined by H-GAC, its independent auditors, or any agency of State or Federal government to have been paid in violation of the terms of this Master Agreement.

ARTICLE 39: TITLES NOT RESTRICTIVE

The titles assigned to the various Articles of this Master Agreement are for convenience only. Titles shall not be considered restrictive of the subject matter of any Article, or part of this Master Agreement.

ARTICLE 40: JOINT WORK PRODUCT

This Master Agreement is the joint work product of H-GAC and the Contractor. This Master Agreement has been negotiated by H-GAC and the Contractor and their respective counsel and shall be fairly interpreted in accordance with its terms and, in the event of any ambiguities, no inferences shall be drawn against any party.

ARTICLE 41: PROCUREMENT OF RECOVERED MATERIAL

H-GAC and the Respondent must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include: (1) procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; (2) procuring solid waste management services in a manner that maximizes energy and resource recovery; and (3) establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines. Pursuant to the Federal Rule above, as required by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6962(c)(3)(A)(i)), Respondent

certifies that the percentage of recovered materials content for EPA-designated items to be delivered or used in the performance of the Contract will be at least the amount required by the applicable contract specifications or other contractual requirements.

ARTICLE 42: COPELAND “ANTI-KICKBACK” ACT

Contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into the contract. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as appropriate agency instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses. A breach of the contract clauses above may be grounds for termination of the Contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

ARTICLE 43: DISCRIMINATION

Respondent and any potential subcontractors shall comply with all Federal statutes relating to nondiscrimination. These include, but are not limited to:

- a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352), which prohibits discrimination on the basis of race, color, or national origin;
- b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex;
- c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps;
- d) The Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101- 6107), which prohibits discrimination on the basis of age;
- e) The Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse;
- f) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism;
- g) Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records;
- h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental, or financing of housing;
- i) Any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and
- j) The requirements of any other nondiscrimination statute(s) that may apply to the application.

ARTICLE 44: DRUG FREE WORKPLACE

Contractor must provide a drug-free workplace in accordance with the Drug-Free Workplace Act, as applicable. For the purposes of this Section, “drug-free” means a worksite at which employees are prohibited from engaging in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance. H-GAC may request a copy of this policy.

ARTICLE 45: APPLICABILITY TO SUBCONTRACTORS

Respondent agrees that all contracts it awards pursuant to the contract awarded as a result of this Master Agreement will be bound by the foregoing terms and conditions.

ARTICLE 46: WARRANTY AND COPYRIGHT

Submissions must include all warranty information, including items covered, items excluded, duration, and renewability. Submissions must include proof of licensing if using third party code for programming.

ARTICLE 47: DATA HANDLING AND SECURITY

It will always be the responsibility of the selected Contractor to manage data transfer and to secure all data appropriately during the project to prevent unauthorized access to all data, products, and deliverables.

ARTICLE 48: DISPUTES

All disputes concerning questions of fact or of law arising under this Master Agreement, which are not addressed within the Whole Master Agreement as defined pursuant to Article 4 hereof, shall be decided by the Executive Director of H-GAC or his designee, who shall reduce his decision to writing and provide notice thereof to the Contractor. The decision of the Executive Director or his designee shall be final and conclusive unless, within thirty (30) days from the date of receipt of such notice, the Contractor requests a rehearing from the Executive Director of H-GAC. In connection with any rehearing under this Article, the Contractor shall be afforded an opportunity to be heard and offer evidence in support of its position. The decision of the Executive Director after any such rehearing shall be final and conclusive. The Contractor may, if it elects to do so, appeal the final and conclusive decision of the Executive Director to a court of competent jurisdiction. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the Master Agreement and in accordance with H-GAC's final decision.

ARTICLE 49: CHOICE OF LAW: VENUE

This Master Agreement shall be governed by the laws of the State of Texas. Venue and jurisdiction of any suit or cause of action arising under or in connection with the Master Agreement shall lie exclusively in Harris County, Texas. Disputes between END USER and Contractor are to be resolved in accordance with the law and venue rules of the state of purchase. Contractor shall immediately notify H-GAC of such disputes.

ARTICLE 50: ORDER OF PRIORITY

In the case of any conflict between or within this Master Agreement, the following order of priority shall be utilized: 1) General Provisions, 2) Special Provisions, 3) Scope of Work, and 4) Other Attachments.

ARTICLE 51: WHOLE MASTER AGREEMENT

Please note, this is an H-GAC Master Agreement template and is used for all products and services offered in H-GAC Cooperative Purchasing. Any redlines to this Master Agreement may not be reviewed. If this Master Agreement has not been signed by the Contractor within 30 calendar days, this Master Agreement will be automatically voided. The Master General Provisions, Master Special Provisions, and Attachments, as provided herein, constitute the complete Master Agreement between the parties hereto, and supersede any and all oral and written Master Agreements between the parties relating to matters herein. Except as otherwise provided herein, this Master Agreement cannot be modified without written consent of the parties.

ARTICLE 52: UNIVERSAL IDENTIFIER AND SYSTEM FOR AWARD MANAGEMENT (SAM)

In accordance with 2 CFR Title 2, Subtitle A, Chapter I, Part 25 as it applies to a Federal awarding agency's grants, cooperative agreements, loans, and other types of Federal financial assistance as defined in 2 CFR 25.406.

Contractor understands and as it relates to 2 CFR 25.205(a), a Federal awarding agency may not make a Federal award or financial modification to an existing Federal award to an applicant or recipient until the entity has complied with the requirements described in 2 CFR 25.200 to provide a valid unique entity identifier and maintain an active SAM registration (www.SAM.gov) with current information (other than any requirement that is not applicable because the entity is exempted under § 25.110). 2 CFR 25.200(b) requires that registration in the SAM **prior to submitting an application or plan**; and maintain an active SAM registration with current information, including information on a recipient's immediate and highest level owner and subsidiaries, as well as on all predecessors that have been awarded a Federal contract or grant within the last three years, if applicable, at all times during which it has an active Federal award or an application or plan under consideration by a Federal awarding agency; and provide its unique entity identifier in each application or plan it submits to the Federal awarding agency. To remain registered in the SAM database after the initial registration, the applicant is required to review and update its information in the SAM database on an annual basis from the date of initial registration or subsequent updates to ensure it is current, accurate and complete. At the time a Federal awarding agency is ready to make a Federal award, if the intended recipient has not complied with an applicable requirement to provide a unique entity identifier or maintain an active SAM registration with current information, the Federal awarding agency: (1) May determine that the applicant is not qualified to receive a Federal award; and (2) May use that determination as a basis for making a Federal award to another applicant.

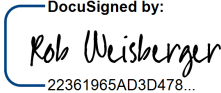
ARTICLE 53: PROCUREMENT OF RECOVERED MATERIALS

In accordance with 2 CFR 200.323, the Houston-Galveston Area Council and the Contractor or Subrecipient must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include: (1) procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; (2) procuring solid waste management services in a manner that maximizes energy and resource recovery; and (3) establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines. Pursuant to the Federal Rule above, as required by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6962(c)(3)(A)(i)), the Contractor or Subrecipient certifies that the percentage of recovered materials content for EPA-designated items to be delivered or used in the performance of the Agreement will be at least the amount required by the applicable contract specifications or other contractual requirements.

SIGNATURES:

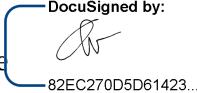
H-GAC and the Contractor have read, agreed, and executed the whole Master Agreement as of the date first written above, as accepted by:

Lenco Industries, Inc.

Signature  DocuSigned by:
22361965AD3D478...

Name Rob Weisberger
Title Contracting & Sales Admin Spec.
Date 10/18/2023

H-GAC

Signature  DocuSigned by:
82EC270D5D61423...

Name Chuck Wemple
Title Executive Director
Date 10/23/2023

H-GAC

Houston-Galveston Area Council

P.O. Box 22777 · 3555 Timmons · Houston, Texas 77227-2777

Cooperative Agreement - Contract - Lenco Industries, Inc. - Public Services - ID: 11110

MASTER SPECIAL PROVISIONS

Please note, this is an H-GAC Master Agreement template and is used for all products and services offered in H-GAC Cooperative Purchasing. Any redlines to this Master Agreement may not be reviewed. Incorporated by attachment, as part of the whole Master Agreement, H-GAC and the Contractor do, hereby agree to the Master Special Provisions as follows:

ARTICLE 1: BIDS/PROPOSALS INCORPORATED

In addition to the whole Master Agreement, the following documents listed in order of priority are incorporated into the Master Agreement by reference: Bid/Proposal Specifications and Contractor's Response to the Bid/Proposal.

ARTICLE 2: END USER MASTER AGREEMENTS ("EUA")

H-GAC acknowledges that the END USER, which is the HGACBuy customer utilizing the contract (CUSTOMER and END USER may be used interchangeably) may choose to enter into an End User Master Agreement (EUA) with the Contractor through this Master Agreement. A CUSTOMER/END USER is a state agency, county, municipality, special district, or other political subdivision of a state, or a qualifying non-profit corporation (providing one or more governmental function or service that possess legal authority to enter into the Contract. The term of the EUA may exceed the term of the current H-GAC Master Agreement.

H-GAC's acknowledgement is not an endorsement or approval of the End User Master Agreement's terms and conditions. Contractor agrees not to offer, agree to or accept from the CUSTOMER/END USER, any terms or conditions that conflict with those in Contractor's Master Agreement with H-GAC. Contractor affirms that termination of its Master Agreement with H-GAC for any reason shall not result in the termination of any underlying EUA, which shall in each instance, continue pursuant to the EUA's stated terms and duration. Pursuant to the terms of this Master Agreement, termination of this Master Agreement will disallow the Contractor from entering into any new EUA with CUSTOMER/END USER. Applicable H-GAC order processing charges will be due and payable to H-GAC on any EUAs, surviving termination of this Master Agreement between H-GAC and Contractor.

ARTICLE 3: MOST FAVORED CUSTOMER CLAUSE

Contractor shall provide its most favorable pricing and terms to H-GAC. If at any time during this Master Agreement, Contractor develops a regularly followed standard procedure of entering into Master Agreements with other governmental customers within the State of Texas, and offers the same or substantially the same products/services offered to H-GAC on a basis that provides prices, warranties, benefits, and or terms more favorable than those provided to H-GAC, Contractor shall notify H-GAC within ten (10) business days thereafter, and this Master Agreement shall be deemed to be automatically retroactively amended, to the effective date of Contractor's most favorable past Master Agreement with another entity. Contractor shall provide the same prices, warranties, benefits, or terms to H-GAC and its CUSTOMER/END USER as provided in its most favorable past Master Agreement. H-GAC shall have the right and option at any time to decline to accept any such change, in which case the amendment shall be deemed null and void. If Contractor claims that a more favorable price, warranty, benefit, or term that was charged or offered to another entity during the term of this Master Agreement, does not constitute more favorable treatment, than Contractor shall, within ten (10) business days, notify H-GAC in writing, setting forth the detailed reasons Contractor believes the aforesaid

offer is not in fact most favored treatment. H-GAC, after due consideration of Contractor's written explanation, may decline to accept such explanation and thereupon this Master Agreement between H-GAC and Contractor shall be automatically amended, effective retroactively, to the effective date of the most favored Master Agreement, to provide the same prices, warranties, benefits, or terms to H-GAC and the CUSTOMER/END USER.

EXCEPTION: This clause shall not be applicable to prices and price adjustments offered by a bidder, proposer, or contractor, which are not within bidder's/proposer's control [example; a manufacturer's bid concession], or to any prices offered to the Federal Government and its agencies.

ARTICLE 4: PARTY LIABILITY

Contractor's total liability under this Master Agreement, whether for breach of contract, warranty, negligence, strict liability, in tort or otherwise, is limited to the price of the particular products/services sold hereunder. Contractor agrees either to refund the purchase price or to repair or replace product(s) that are not as warranted. Contractor accepts liability to repay, and shall repay upon demand to CUSTOMER/END USER, any amounts determined by H-GAC, its independent auditors, or any state or federal agency, to have been paid in violation of the terms of this Master Agreement.

ARTICLE 5: GOVERNING LAW & VENUE

Contractor and H-GAC agree that Contractor will make every reasonable effort to resolve disputes with the CUSTOMER/END USER in accord with the law and venue rules of the state of purchase. Contractor shall immediately notify H-GAC of such disputes.

ARTICLE 6: SALES AND ORDER PROCESSING CHARGE

Contractor shall sell its products to CUSTOMER/END USER based on the pricing and terms of this Master Agreement. H-GAC will invoice Contractor for the applicable order processing charge when H-GAC receives notification of a CUSTOMER/END USER order. Contractor shall remit to H-GAC the full amount of the applicable order processing charge, after delivery of any product or service and subsequent CUSTOMER/END USER acceptance. Payment of the Order Processing Charge shall be remitted from Contractor to H-GAC, within thirty (30) calendar days or ten (10) business days after receipt of a CUSTOMER/END USER's payment, whichever comes first, notwithstanding Contractor's receipt of invoice. For sales made by Contractor based on this Master Agreement, including sales to entities without Interlocal Master Agreements, Contractor shall pay the applicable order processing charges to H-GAC. Further, Contractor agrees to encourage entities who are not members of H-GAC's Cooperative Purchasing Program to execute an H-GAC Interlocal Master Agreement. H-GAC reserves the right to take appropriate actions including, but not limited to, Master Agreement termination if Contractor fails to promptly remit the appropriate order processing charge to H-GAC. In no event shall H-GAC have any liability to Contractor for any goods or services a CUSTOMER/END USER procures from Contractor. At all times, Contractor shall remain liable to pay to H-GAC any order processing charges on any portion of the Master Agreement actually performed, and for which compensation was received by Contractor.

ARTICLE 7: LIQUIDATED DAMAGES

Contractor and H-GAC agree that Contractor shall cooperate with the CUSTOMER/END USER at the time a CUSTOMER/END USER purchase order is placed, to determine terms for any liquidated damages.

ARTICLE 8: INSURANCE

Unless otherwise stipulated in Section B of the Bid/Proposal Specifications, Contractor must have the following insurance and coverage minimums:

- a. General liability insurance with a Single Occurrence limit of at least \$1,000,000.00, and a General Aggregate limit of at least two times the Single Occurrence limit.
- b. Product liability insurance with a Single Occurrence limit of at least \$1,000,000.00, and a General Aggregate limit of at least two times the Single Occurrence limit for all Products except Automotive Fire Apparatus. For Automotive Fire Apparatus, see Section B of the Bid/Proposal Specifications.
- c. Property Damage or Destruction insurance is required for coverage of End User owned equipment while in Contractor's possession, custody, or control. The minimum Single Occurrence limit is \$500,000.00 and the General Aggregate limit must be at least two times the Single Occurrence limit. This insurance may be carried in several ways, e.g. under an Inland Marine policy, as art of Automobile coverage, or under a Garage Keepers policy. In any event, this coverage must be specifically and clearly listed on insurance certificate(s) submitted to H-GAC.
- d. Insurance coverage shall be in effect for the length of any contract made pursuant to the Bid/Proposal, and for any extensions thereof, plus the number of days/months required to deliver any outstanding order after the close of the contract period.
- e. Original Insurance Certificates must be furnished to H-GAC on request, showing Contractor as the insured and showing coverage and limits for the insurances listed above.
- f. If any Product(s) or Service(s) will be provided by parties other than Contractor, all such parties are required to carry the minimum insurance coverages specified herein, and if requested by H-GAC, a separate insurance certificate must be submitted for each such party.
- g. H-GAC reserves the right to contact insurance underwriters to confirm policy and certificate issuance and document accuracy.

ARTICLE 9: PERFORMANCE AND PAYMENT BONDS FOR INDIVIDUAL ORDERS

H-GAC's contractual requirements DO NOT include a Performance & Payment Bond (PPB); therefore, Contractor shall offer pricing that reflects this cost savings. Contractor shall remain prepared to offer a PPB to cover any order if so requested by the CUSTOMER/END USER. Contractor shall quote a price to CUSTOMER/END USER for provision of any requested PPB, and agrees to furnish the PPB within ten business (10) days of receipt of CUSTOMER/END USER's purchase order.

ARTICLE 10: ORDER PROCESSING CHARGE

H-GAC will apply an Order Processing Charge for each sale done through the H-GAC contract, with the exception of orders for motor vehicles. Any pricing submitted must include this charge amount per the most current H-GAC schedule. For motor vehicle orders, the Processing Charge is paid by the CUSTOMER/END USER. Contractor will need to refer to the solicitation for the Order Processing Charge.

ARTICLE 11: CHANGE OF STATUS

Contractor shall immediately notify H-GAC, in writing, of ANY change in ownership, control, dealership/franchisee status, Motor Vehicle license status, or name. Contractor shall offer written guidance to advise H-GAC if this Master Agreement shall be affected in any way by such change. H-GAC shall have the right to determine whether or not such change is acceptable, and to determine what action shall be warranted, up to and including cancellation of Master Agreement.

ARTICLE 12: REQUIREMENTS TO APPLICABLE PHYSICAL GOODS

In the case of physical goods (e.g. equipment, material, supplies, as opposed to services), all Products offered must comply with any applicable provisions of the Texas Business and Commerce Code, Title 1, Chapter 2 and with at least the following:

- a. Be new, unused, and not refurbished.
- b. Not be a prototype as the general design, operation, and performance. This requirement is NOT meant to preclude the Contractor from offering new models or configurations which incorporate improvements in a current design or add functionality, but in which new model or configuration may be new to the marketplace.
- c. Include all accessories which may or may not be specifically mentioned in the Master Agreement, but which are normally furnished or necessary to make the Product ready for its intended use upon delivery. Such accessories shall be assembled, installed, and adjusted to allow continuous operation of Product at time of delivery.
- d. Have assemblies, sub-assemblies and component parts that are standard and interchangeable throughout the entire quantity of a Product as may be purchased simultaneously by any END USER/CUSTOMER.
- e. Be designed and constructed using current industry accepted engineering and safety practices, and materials.
- f. Be available for inspection at any time prior to or after procurement.

ARTICLE 13: TEXAS MOTOR VEHICLE BOARD LICENSING

All Contractors that deal in motor vehicles shall maintain current licenses that are required by the Texas Motor Vehicle Commission Code. If at any time during this Master Agreement term, any required Contractor license is denied, revoked, or not renewed, Contractor shall be in default of this Master Agreement, unless the Texas Motor Vehicle Board issues a stay or waiver. Contractor shall promptly provide copies of all current applicable Texas Motor Vehicle Board documentation to H-GAC upon request.

ARTICLE 14: INSPECTION/TESTING

All Products sold pursuant to this Master Agreement will be subject to inspection/testing by or at the direction of H-GAC and/or the ordering CUSTOMER/END USER, either at the delivery destination or the place of manufacture. In the event a Product fails to meet or exceed all requirements of this Master Agreement, and unless otherwise agreed in advance, the cost of any inspection and/or testing, will be the responsibility of the Contractor.

ARTICLE 15: ADDITIONAL REPORTING REQUIREMENTS

Contractor agrees to submit written quarterly reports to H-GAC detailing all transactions during the previous three (3) month period. Reports must include, but are not limited, to the following information:

- a. CUSTOMER/END USER Name
- b. Product/Service purchased, including Product Code if applicable
- c. Customer Purchase Order Number
- d. Purchase Order Date
- e. Product/Service dollar amount
- f. HGACBuy Order Processing Charge amount

ARTICLE 16: BACKGROUND CHECKS

Cooperative customers may request background checks on any awarded contractor's employees who will have direct contact with students, or for any other reason they so choose, any may require contractor to pay the cost of obtaining any background information requested by the CUSTOMER/END USER.

ARTICLE 17: PROHIBITION ON CONTRACTS WITH COMPANIES BOYCOTTING ISRAEL CERTIFICATION

As required by Chapter 2271 of the Texas Local Government Code the Contractor must verify that it 1) does not boycott Israel; and 2) will not boycott Israel during the term of the Contract. Pursuant to Section 2271.001, Texas Government Code:

1. “Boycott Israel” means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes; and

2. “Company” means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or any limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of those entities or business associations that exist to make a profit.

ARTICLE 18: NO EXCLUDED NATION OR TERRORIST ORGANIZATION CERTIFICATION

As required by Chapter 2252 of the Texas Government Code the Contractor must certify that it is not a company engaged in active business operations with Sudan, Iran, or a foreign terrorist organization – specifically, any company identified on a list prepared and maintained by the Texas Comptroller under Texas Government Code §§806.051, 807.051, or 2252.153. (A company that the U.S. Government affirmatively declares to be excluded from its federal sanctions regime relating to Sudan, Iran, or any federal sanctions regime relating to a foreign terrorist organization is not subject to the contract prohibition.)

ARTICLE 19: PROHIBITION ON CONTRACTING WITH ENTITIES USING CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE EQUIPMENT (Effective Aug. 13, 2020 and as amended October 26, 2020)

Pursuant to 2 CFR 200.216, Contractor shall not offer equipment, services, or system that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. “Covered telecommunications equipment or services means 1) telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities); 2) for the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities); 3) telecommunications or video surveillance services provided by such entities or using such equipment; or 4) telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

Contractor must comply with requirements for certifications. The provision at 48 C.F.R Section 52.204-26 requires that Contractors review SAM prior to completing their required representations. This rule applies to all acquisitions, including acquisitions at or below the simplified acquisition threshold and to acquisitions of commercial items, including commercially available off the-shelf items.

ARTICLE 20: BUY AMERICA ACT (National School Lunch Program and Breakfast Program)

With respect to products purchased by CUSTOMER/END USER for use in the National School Lunch Program and/or National School Breakfast Program, Contractor shall comply with all federal procurement laws and regulations with respect to such programs, including the Buy American provisions set forth in 7 C.F.R. Part 210.21(d), to the extent applicable. Contractor agrees to provide all certifications required by CUSTOMER/END USER regarding such programs.

In the event Contractor or Contractor’s supplier(s) are unable or unwilling to certify compliance with the Buy American Provision, or the applicability of an exception to the Buy American provision, H-GAC CUSTOMER/END USER may decide not to purchase from Contractor. Additionally, H-GAC

CUSTOMER/END USER may require country of origin on all products and invoices submitted for payment by Contractor, and Contractor agrees to comply with any such requirement.

ARTICLE 21: BUY AMERICA REQUIREMENT (Applies only to Federally Funded Highway and Transit Projects)

With respect to products purchased by CUSTOMER/END USER for use in federally funded highway projects, Contractor shall comply with all federal procurement laws and regulations with respect to such projects, including the Buy American provisions set forth in 23 U.S.C. Section 313, 23 C.F.R. Section 635.410, as amended, and the Steel and Iron Preference provisions of Texas Transportation Code Section 223.045, to the extent applicable. Contractor agrees to provide all certifications required by CUSTOMER/END USER regarding such programs. With respect to products purchased by CUSTOMER/END USER for use in federally funded transit projects, Contractor shall comply with all federal procurement laws and regulations with respect to such projects, including the Buy American provisions set forth in 49 U.S.C. Section 5323(j)(1), 49 C.F.R. Sections 661.6 or 661.12, to the extent applicable. Contractor agrees to provide all certifications required by CUSTOMER/END USER regarding such programs.

ARTICLE 22: DOMESTIC PREFERENCE

In accordance with 2 CFR 200.322, as appropriate and to the extent consistent with law, a CUSTOMER/END USER using federal grant award funds should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The CUSTOMER/END USER must include this requirement in all subawards including all contracts and purchase orders for work or products under the federal grant award. If Contractor intends to qualify for Purchase Orders using federal grant money, they shall work with the CUSTOMER/END USER to provide all required certifications and other documentation needed to show compliance.

ARTICLE 23: TITLE VI REQUIREMENTS

H-GAC in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any disadvantaged business enterprises will be afforded full and fair opportunity to submit in response to this Master Agreement and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

ARTICLE 24: EQUAL EMPLOYMENT OPPORTUNITY

Except as otherwise provided under 41 CFR Part 60, all Contracts and CUSTOMER/END USER Purchase Orders that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 shall be deemed to include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., pg.339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41CFR Part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

The equal opportunity clause provided under 41 CFR 60-1.4(b) is hereby incorporated by reference. Contractor agrees that such provision applies to any contract that meets the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 and agrees that it will comply with such provision.

ARTICLE 25: CLEAN AIR AND WATER POLLUTION CONTROL ACT

CUSTOMER/END USER Purchase Orders using federal funds must contain a provision that requires the Contractor to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean

Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

Pursuant to the Federal Rule above, Contractor certifies that it is in compliance with all applicable provisions of the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387) and will remain in compliance during the term of the Contract.

ARTICLE 26: PREVAILING WAGE

Contractor and any potential subcontractors have a duty to and shall pay the prevailing wage rate under the Davis-Bacon Act, 40 U.S.C. 276a – 276a-5, as amended, and the regulations adopted thereunder contained in 29 C.F.R. pt. 1 and 5.

ARTICLE 27: CONTRACT WORK HOURS AND SAFETY STANDARDS

As per the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708), where applicable, all CUSTOMER/END USER Purchase Orders in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer, on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

ARTICLE 28: PROFIT AS A SEPARATE ELEMENT OF PRICE

For purchases using federal funds more than the current Simplified Acquisition Threshold of \$250,000, requires negotiation of profit as a separate element of the price. See, 2 CFR 200.324(b). Contractor agrees to provide information and negotiate regarding profit as a separate element of the price for the purchase. Contractor also agrees that the total price, including profit, charged by Contractor will not exceed the awarded pricing, including any applicable discount, under any awarded contract.

ARTICLE 29: BYRD ANTI-LOBBYING AMENDMENT

Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) – Contractors that apply or bid for an award exceeding \$100,000 must file the required anti-lobbying certification. Each tier must certify to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier, up to the CUSTOMER/END USER. As applicable, Contractor agrees to file all certifications and disclosures required by, and otherwise comply with, the Byrd Anti-Lobbying Amendment (31 USC 1352). Contractor certifies that it is currently in compliance with all applicable provisions of the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) and will continue to be in compliance throughout the term of the Contract and further certifies that:

1. No Federal appropriated funds have been paid or will be paid by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection

with the awarding of a Federal contract, the making of a Federal Grant, the making of a Federal Loan, the entering into a cooperative Master Agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative Master Agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing, or attempting to influence, an officer or employee of a Member of Congress in connection with a Federal contract, grant, loan, or cooperative Master Agreement, Contractor shall complete and submit Standard Form – LLL, “Disclosure Form to Report Lobbying”, in accordance with its instructions.
3. Contractor shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative Master Agreements) and that all subcontractors shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certificate is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

ARTICLE 30: COMPLIANCE WITH EPA REGULATIONS APPLICABLE TO GRANTS, SUBGRANTS, COOPERATIVE MASTER AGREEMENTS, AND CONTRACTS

Contractor certifies compliance with all applicable standards, orders, regulations, and/or requirements issued pursuant to the Clean Air Act of 1970, as amended (42 U.S.C. 1857(h)), Section 508 of the Clean Water Act, as amended (13 U.S.C. 1368), Executive Order 117389 and Environmental Protection Agency Regulation, 40 CFR Part 15.

ARTICLE 31: COMPLIANCE WITH ENERGY POLICY AND CONSERVATION ACT

Contractor certifies that Contractor will be in compliance with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

Attachment A
Lenco Industries, Inc.
Ambulances, EMS & Special Service Vehicles
Contract No.: AM10-23

Manufacturer	Product	Item Description	Offered List Price	HGACBuy Discount
		Category C - Other Specialty Vehicle or Equipment		
Lenco Industries, Inc	BearCat G2	BearCat G2 Armored Tactical Vehicle, F-550 chassis, 131" WB	\$ 213,514.89	6%
Lenco Industries, Inc	BearCat G3	BearCat G3 Armored Tactical Vehicle, F-550 chassis, 131" WB, Off-Road Edition	\$ 250,704.26	6%
Lenco Industries, Inc	BearCat G3M	BearCat G3 Armored Tactical Vehicle, F-550 chassis, 131" WB, Off-Road Edition, severe duty package, CTIS compatible	\$ 296,217.02	6%
Lenco Industries, Inc	MedCat G2	MedCat G2, Armored emergency response vehicle, F-550 chassis, 131" WB, MedEvac edition	\$ 240,990.43	6%
Lenco Industries, Inc	MedCat G3	MedCat G3, Armored emergency response vehicle, F-550 chassis, 131" WB, MedEvac Off-Road edition, (2) litter design	\$ 278,179.79	6%
Lenco Industries, Inc	BearCat G3 Advanced Rescue	BearCat G3 Advanced Rescue, Armored emergency response vehicle, F-550 chassis, 131" WB, MedEvac Off-Road edition, (4) litter design	\$ 341,124.47	6%
Lenco Industries, Inc	BearCat X3	BearCat X3, Armored tactical vehicle, F-550 chassis, 131" WB, Pick-up edition	\$ 259,063.83	6%
Lenco Industries, Inc	BearCat X3M	BearCat X3, Armored tactical vehicle, F-550 chassis, 131" WB, Pick-up edition, severe duty package; CTIS compatible	\$ 293,451.06	6%
Lenco Industries, Inc	BearCat X3 FireCat	BearCat X3 FireCat, Armored emergency response vehicle, F-550 chassis, 131" WB, Pick-up Fire Response Edition	\$ 358,957.45	6%
Lenco Industries, Inc	BearCat G2 EOD	BearCat G2 EOD, Armored emergency response vehicle, F-550 chassis, 131" WB, Bomb Disposal edition	\$ 252,663.83	6%
Lenco Industries, Inc	BearCat G3 EOD	BearCat G3 EOD, Armored emergency response vehicle, F-550 chassis, 131" WB, Bomb Disposal Off-Road edition	\$ 280,491.49	6%
Lenco Industries, Inc	BearCat VIP	BearCat VIP, Armored tactical security vehicle, F-550 chassis, 131" WB, SUV Edition	\$ 280,296.81	6%

Ambulances, EMS & Special Service Vehicles

Request For Proposal
 HGACBuy/Cooperative Purchasing Program
Project ID: AM10-23
Release Date: Friday, June 9, 2023
Due Date: Thursday, August 10, 2023 12:00pm
 Posted Friday, June 9, 2023 7:00am
 Bid Unsealed Thursday, August 10, 2023 12:03pm
 Pricing Unsealed Thursday, August 10, 2023 12:03pm
All dates & times in Central Time

3. Scope of Work / Specifications

This is an indefinite quantity/indefinite delivery offerings contract. The HGACBuy Customer is responsible to ensure adequate competition is performed between the various contractors or contractors outside of HGACBuy to determine price reasonableness that might be required per any funding agency. Customer will need to ensure compliance with any funding agency requirements before proceeding with a purchase order under this contract. Please consult legal counsel regarding questions concerning compliance as a contractor under this solicitation.

3.1. Overview

H-GAC is soliciting responses for selecting qualified manufacturers, dealers, distributors, and service providers of Ambulances, EMS and Other Specialty Vehicles and related services to make these types of products and services available to Customers of the HGACBuy Cooperative Purchasing Program under blanket type contracts. Customers (end users) may require selective acquisitions of equipment and/or services OR full turnkey projects necessitating additional services, training, and maintenance agreements. H-GAC is seeking the broadest possible selection of available ambulances, emergency medical response and specialty vehicles to best serve our customers by providing the largest selection of products/services available to meet their needs. This solicitation may include a request for a discount percent off price catalog, category, or manufacturer, or price list for supplies, materials, or not to exceed hourly rates for installation or repair. Respondents are not required to provide offerings on all categories.

3.2. Categories

This Solicitation is divided into ten (10) separate but related product categories (A-J). When submitting a response, Respondent may choose to submit a response to any of the categories or all of them. No additional weighted value will be assigned to a response that addresses more than one or all categories listed. All equipment must be the manufacturer's new and current model and must be fully operational upon delivery to the Customer.

Alternative Fuel Vehicles: All responses that include electric, hybrid, or other alternative fuel vehicles must include these vehicles in Category G. If that specific vehicle is also available with an internal combustion engine (ICE), please list the ICE vehicle separately in the appropriate vehicle category. Category G will only include the alternative fuel vehicles, regardless of vehicle function or type.

Product categories are as follows:

1. **Ambulance**

Response listings/descriptions must be organized by major sub-categories, which include Manufacturer, Type (I, II, or III), module configurations/dimensions, chassis (make and model), 2WD/4WD, and fuel type.

2. **Light/Medium Duty EMS Rescue Vehicle**

Response listings/descriptions must be organized by major sub-categories, which include manufacturer, model, type/function, chassis (make and model), dimensions, 2WD/4WD, and fuel type.

3. **Other Specialty Vehicle or Equipment**

Category includes vehicles or trailers for command, communication, tactical response, or other related emergency response functions. Response listings/descriptions must be organized by major sub-categories, which shall include manufacturer, model, type/function, chassis (make and model), axle configuration, dimensions, 2WD/4WD, and fuel type.

4. **EMS Vehicle Conversions**

Response listings/descriptions must be organized by major sub-categories, which include manufacturer, model, type/function, chassis, 2WD/4WD, and fuel type.

5. **Remount Services Only**

Pricing for this service must include the cost of removing an existing body and reinstalling it on a different chassis, only. This service would apply where the chassis was supplied by the end user.

Note: Remounting Services are to be performed by an authorized dealer/remounter. Any specific certifications or warranties that may be requested by an end user regarding remounts is the end user's responsibility and will be negotiated between the end user and the supplier/contractor when services are quoted.

6. **Remount on Contractor Supplied Chassis**

Pricing for these items must include the cost of the chassis plus the removal and reinstallation of the body.

7. **Electric/Alternative Fuel Ambulance/EMS/Rescue Vehicles**

Response listings must be organized by manufacturer, model, vehicle type/function, and primary fuel/propulsion type.

8. **Ambulance/EMS/Rescue Vehicle Service/Maintenance Plans**

Response listings must include specific details about which fees are included in costs, including current labor rates, and fee structures.

9. **Ambulance/EMS/Rescue Vehicle Parts and Supplies**

Response listing must include percentage discount.

10. **Ambulance/EMS/Rescue Vehicle Options**

Response listing must include percentage discount.

3.3. General Requirements

All products priced and sold pursuant to this Solicitation must, as applicable:

1. Meet all applicable requirements of federal, state and local laws and regulations.
2. Be manufacturer's normal offering with all standard features and functions and performance levels.
3. Be ready for turn-key operation upon delivery.
4. Respondent must include specifications, brochures, warranty information, and any other relevant product information with solicitation Response.

Note: "Unpriced/unpublished" options cannot be quoted on the Base Pricing List and may not be sold through this contract.

3.4. Additional Requirements

Licenses

1. Contractor must have and maintain the appropriate license(s) as required by the State of Texas, Department of Transportation, Division of Motor Vehicles, Motor Vehicle Commission Code [latest edition], or any other local, state and federal licenses required and which are applicable to the respondent's operations.
2. The prescribed licenses must include the manufacturer/respondent, and any and all dealers and their representatives as may be required by the Motor Vehicle Division. Contractor must ensure all emergency and specialty vehicles sold are in accordance with the laws of the state where the sale and acquisition are made.
3. Contractor must maintain all licensing required by the State of Texas as applicable to their business operations during the entire contract term. If during the contract period such licensing lapses, Contractor will be in default and become subject to contract termination unless issued a stay or waiver.

Manuals

1. Contractor must supply at the time of delivery, at least two (2) sets of complete operations and service documentation covering the completed emergency vehicles as delivered and accepted (as per latest edition of KKK-A-1822F).
2. Respondent must supply the following information with their response: Technical Specifications, Product Brochures, Tear Sheets, Cut Sheets, Strippers, etc. which clearly show all the standard features and capabilities of each listing being bid.

Warranty

Contractors must comply with the minimum warranty and maintenance requirements described below for any products or services provided under this Solicitation.

1. Contractor must furnish with response, and for all equipment sold through this H-GAC contract, the manufacturer's general warranty, which must be honored by all the manufacturer's authorized service locations.
2. All service/maintenance plan listings must clearly indicate the cost structure for such plans, clearly indicating which costs and fees are included (such as: hourly labor rates, shop fees, supply fees, environmental fees).
3. The Contractor will handle all warranty claims and all work must be completed within ten (10) calendar days after receipt of equipment/vehicle by the Contractor without cost to H-GAC or the Customer. Delayed warranties must be available for all vehicles and equipment. Warranty start date will be effective the date that the completed unit is placed into service by the Customer. The Contractor must furnish a delayed warranty card/document for each unit delivered and/or advise the Customer of the procedures to be followed for obtaining the delayed start of warranty coverage. Requests for delayed warranties will not exceed six months after delivery.
4. Any and all documents necessary to effect manufacturer's warranty must be properly applied for and submitted by the Contractor. The Contractor will provide to H-GAC and the Customer a manufacturer's warranty which will be honored by any of the manufacturer's authorized dealers and a complete copy must be provided at the time of delivery. When additional warranties are available as standard, they must be included as a part of the response for the benefit of H-GAC and Customer.
5. The patient compartment, all modifications to the OEM chassis by Contractor on the accepted unit, equipment and parts will be guaranteed for a minimum period of one (1) year against defects in design, materials, and workmanship. The warranty period will begin upon final acceptance of the equipment. This warranty will cover parts and labor expenses.
6. On Type I & III emergency medical service MODULE the warranty period will be fifteen (15) years.
7. This warranty will be upgraded to its original status each time the module is remounted by Contractor, or a Contractor authorized remount facility, not to exceed five (5) years above the original warranty.
8. In the event any component part of equipment or materials furnished under these specifications, or its subsequent contract(s), becomes defective by reason of material or workmanship during said period, and the end user agency immediately notifies Contractor of such defect, Contractor will, at no expense to the End User agency or H-GAC, repair or replace equipment or component with new equipment or component.
9. Warranty of all system equipment is the sole responsibility of the Contractor under contract, but may be performed by their certified, designated agent.

3.5. Vehicle Requirements

All equipment and vehicles must be new and be the manufacturer’s latest and current model. Each vehicle must be fully assembled, adjusted, serviced and ready for immediate and continuous operation upon delivery. If the equipment or vehicle does not meet the specification requirements upon delivery, Contractor will be responsible for correcting all deficiencies and making any corrections or adjustments needed to attain specification requirements.

All equipment and vehicles must conform to applicable local, state, federal requirements and must comply to all applicable industry standards (examples: National Fire Protection Association (NFPA), Commission on Accreditation of Ambulance Services (CAAS), Federal Specification for the Star-of-Life Ambulance (KKK-A-1822F), Occupational Safety and Health Administration (OSHA)).

3.6. Service / Maintenance Plans and Parts

All service/maintenance plan listings must clearly indicate the cost structure for such plans, clearly indicating which costs and fees are included (ex: hourly labor rates, shop fees, supply fees, environmental fees).

3.7. Labor Hours Definitions

If the awarded contract contains hours for labor related services, the following definitions will apply:

- 1. “Business Day” Monday through Friday
- 2. “Business Hours” Standard Business Hours 8 a.m. to 5 p.m.
- 3. “Regular Time” Work that occurs during standard business hours
- 4. “Emergency Time” Work that occurs outside standard business hours

3.8. Administrative Fee

For each purchase order processed under an awarded contract, H-GAC will directly invoice the contractor an administrative fee (Order Processing Charge) applicable to the sale of all equipment and services submitted in contractor’s response. It is the contractor’s responsibility to remit the administrative fee within thirty (30) days of processing any customer’s purchase order, even if an invoice is not received from H-GAC. Contractor agrees that H-GAC will have the right, with reasonable notice, to inspect its records pertaining to purchase orders processed and the accuracy of the fees payable to H-GAC. For this solicitation the administrative fee is as follows:

Administrative Fee (per Purchase Order)

Category A – Ambulance:	\$1,000 per purchase order
Category B – Light/Medium Rescue Vehicle:	\$1,000 per purchase order
Category C – Specialty Vehicle/Equipment:	

Light Rescue/Special Service	\$1,000 per purchase order
Heavy Rescue/Special Service	\$2,000 per purchase order
All Trailers	2% per purchase order
Category D – EMS Vehicle Conversions:	\$1,000 per purchase order
Category E – Remount Services Only:	\$600 per purchase order
Category F – Remount on Contractor Supplied Chassis:	\$600 per purchase order
Category G –Electric/Alternative Fuel Vehicles	Determined by category of vehicle
Category H –Service/Maintenance Plans:	2% per purchase order
Category I - Ambulance/Vehicle Parts and Supplies	2% per purchase order
Category J - Ambulance/EMS/Rescue Vehicle Options	No separate fee - part of vehicle

3.9. Final Contract Deliverables

Contractor agrees to submit written quarterly reports to H-GAC detailing all transactions during the previous three (3) month period. Reports must include, but are not limited, to the following information:

- Customer Name and address
- HGACBuy confirmation number
- Product/Service purchased, including Product Code, if applicable
- Customer Purchase Order Number
- Purchase Order Date
- Product/Service dollar amount
- HGACBuy Order Processing Charge amount

Reports must be provided to H-GAC in Excel or other acceptable electronic format by the 30th day of the month following the quarter being reported. If Contractor defaults in providing Products or Services reporting as required by the contract, recourse may be exercised through cancellation of the contract and other legal remedies as appropriate.

City of Independence

AGENDA ITEM COVER SHEET

Agenda Title:

Council action is requested to expend \$800,000.00 with Davenport Construction for Street Cut Repairs for the Water Division of the Municipal Services Department for fiscal year 2024-2025.

Recommendations:

Council approval to issue to authorize expenditures for this service.

Background:

Asphalt repairs are a result of damage to streets and roadways resulting from main breaks and other system restorations.

Council approved a multi-year contract to Davenport Construction on June 21, 2021, for the service of providing street cut repairs. This request is to fund asphalt repair needs resulting from water main leak repair and other various maintenance activities for the Water Construction/Repair division for FY 25.

Approval of this item authorizes change orders up to ten (10) percent of the authorized amount, providing appropriations are available.

Emergency Justification:**Fiscal Impact:**

The fiscal impact to the City totals \$880,000.00 including the 10% contingency. Funding is included in the fiscal year 2025 budget, page 190, account number (0404840-5212, Water Fund), Maintenance-Other.

Council Action:

Department / Contact	Municipal Services /
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REVIEWERS

Lisa Reynolds
Meagan Borth
Zachary Walker

Susanne Holland

ATTACHMENTS:

None

City of Independence

AGENDA ITEM COVER SHEET

Agenda Title:

Council action is requested to authorize the City Manager to approve a construction contract with Hettinger Construction, Inc., for an amount not to exceed \$993,006 authorizing future minor change orders not to exceed \$99,300 and/or time extensions as part of the 24 Highway Main Replacement (Cysler Ave. to River Blvd.) Project (No. C24-191-409749).

Recommendations:

Council approval is recommended.

Background:

There were 4 construction bids for this project.

Hettinger Construction, Inc. \$993,006.00

Abay Construction, Inc. \$1,135,192.00

Linaweaver Construction, Inc. \$1,270,500.00

Infrastructure Solutions \$1,633,000.00

City staff verified that Hettinger Construction, Inc. has successfully and satisfactorily completed similar projects for other municipalities in the area. Their bid is being recommended for approval of this contract.

The 24 Hwy Main Replacement Project (No. C24-191-409749) will replace a section of approximately 2,795 feet of water main along 24 Hwy from Cysler Ave. to River Blvd, and north on River Blvd. from 24 Hwy to Nickell Ave.

This is a budgeted capital project.

Emergency Justification:**Fiscal Impact:**

The fiscal impact to the City is \$1,092,306, including a 10% contingency. Funding for the 24 Hwy Main Replacement (Cysler Ave to River Blvd) Project (No. C24-191-409749) is funded by the Water Main Repair and Replacement Project (No. 9749) included in the FY 25 budget, page number 197, account number 0407040-5406.

Council Action:

REVIEWERS

Lisa Reynolds
Meagan Borth
Zachary Walker
Susanne Holland

ATTACHMENTS:

1. Official Bid Tab Summary - ITB #24039 - 12in Water Main Replacement - US 24 HWY & Chrysler to River Blvd - Project No. C24-191-409749
2. Project Map - US 24 Hwy Main Replacement - Chrysler to River

Invitation to Bid: #24039- Bid Tabulation Summary Project Title: 12" Water Main Replacement - US 24 Hwy (Crysler Ave to River Blvd) City Project No.: C24-191-409749 Date: 8/23/2024	
<u>Contractor</u>	<u>Bid Total</u>
Hettinger Construction, Inc.	\$ 993,006.00
Abay Construction, Inc.	\$ 1,135,192.00
Linaweaver Construction, Inc	\$ 1,270,500.00
Infrastructure Solutions	\$ 1,633,000.00



City of Independence

AGENDA ITEM COVER SHEET

Agenda Title:

Council action is requested to authorize the City Manager to approve purchase order change order #1 to the construction contract with Wiedenmann Construction, Inc. for a new contract total not to exceed \$950,186.21, authorizing future minor change orders and/or time extensions not to exceed \$95,018.62 to complete emergency repairs to additional stormwater structures throughout the City as part of the Emergency Stormwater Project (No. 131802) and Emergency Transportation Project (No. 112203).

Recommendations:

Council approval is recommended.

Background:

Approval of this item will authorize the City Manager to approve a change order to the current contract (PO#24001126) with Wiedenmann Construction, inc. to make additional necessary repairs to failing stormwater structures throughout the City.

This change order request breaks down as follows:

Original Contract: \$612,900.00

Change Order #1: \$337,286.21

New Contract Total: \$950,186.21

Four locations have been identified for these additional services: Bundschu Rd. - Culvert Failure, Saddlebrook HOA - Outlet Scour, 45th and Noland Rd. - Large Corrugated Metal Pipe (CMP) Separation, and 33rd & Willis - Gabion Wall Failure.

Repairs at three locations have been completed under this contract: Viking and 25th - Culvert Failure, 1716 N Rogers - Drainage Repairs, and Truman and Alexander - Culvert Replacement.

The pricing for these services comes from a cooperative contract with Johnson County, Kansas (2023-045D).

Purchases under cooperative agreements are authorized by Section 8.06.004, Paragraph 5, of the Independence City Code, which states that when cooperative bids or contracts are used, they will first have been established pursuant to generally accepted governmental purchasing practices.

This is a budgeted capital expense.

Emergency Justification:

Fiscal Impact:

The fiscal impact to the City is \$1,045,204.83 including a 10% contingency. Funding for the Emergency Stormwater Project (No. 131802) is included in the FY 25 proposed budget, page number 196, account number 0587058-5406. Funding for the Emergency Transportation Project (No. 112203) is included in the FY 25 proposed budget, page number 196, account number 0517051-5406.

Council Action:

Department / Contact	Municipal Services /
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REVIEWERS

Lisa Reynolds
Meagan Borth
Susanne Holland

ATTACHMENTS:

None

City of Independence

AGENDA ITEM COVER SHEET

Agenda Title:

Council action is requested to authorize the City Manager to execute a Power Generation Option to Lease agreement with UET Ventures, LLC, substantially similar to the attached agreement, for the purposes of engineering, permitting, acquiring and installing power generation facilities and equipment at the retired Independence Power & Light Blue Valley Power Plant site.

Recommendations:

Staff recommends approval of item to allow City Manager to enter into Power Generation Option to Lease Agreement

Background:

UET Ventures, LLC in cooperation with Rainbow Energy Marketing Corporation along with Northpoint Development ("Proponents") have discussed with the City of Independence and Independence Power & Light ("IPL") to explore options to supply Blue Valley power plant with new natural gas-powered generation capable of producing at least 300 Megawatts. IPL has a rich history of providing for the electric power needs of the City and its businesses and residents at the Blue Valley power plant site.

Throughout the United States, the need for reliable electricity to support development has increased significantly. Despite being retired, the Blue Valley facility offers several attributes that make it an attractive site to host modern electrical generation, including existing reusable equipment and infrastructure. For example, the facility has an existing substation and pieces of equipment such as transformers that can be refurbished and reused. In addition, the facility has associated transmission lines that provide an existing means to export power to customers and existing onsite utilities such as water supply and wastewater disposal facilities.

Recently, potential large commercial customers have evaluated development near the Blue Valley facility. It is believed that the installation of modern generation at the existing site provides an attractive offer to these potential customers.

To advance this proposed project, several key development milestones will need to be achieved. The first milestone for the Proponents is for the City/IPL and the Proponents to reach an agreement to demonstrate "site control" in a form acceptable to the Regional Transmission Operator, the Southwest Power Pool (SPP) and several permitting agencies. Without such site control, Proponents are unable to apply for interconnection, or advance permit applications.

The binding option agreement represents the first step in obtaining site control. This agreement commits both the Proponents and the City to advance the negotiation of a lease of a substantial portion of the Blue Valley site. The Option will allow discussions with SPP and the

necessary permitting agencies, as well as provide tangible progress to potential commercial customers.

The advancement of this project represents a significant investment in the Blue Valley site and the City of Independence.

Emergency Justification:

Fiscal Impact:

This agreement has the potential for up to \$160,000 in fees if the agreement fails in any of the periods outlined in Exhibit C that would be payable from IPL's Power Purchase budget.

Council Action:

Department / Contact	Power and Light /
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REVIEWERS

Joseph Hegendeffer
Meagan Borth
Zachary Walker
Susanne Holland

ATTACHMENTS:

1. Option to Lease - UETV

POWER GENERATION OPTION TO LEASE

This **POWER GENERATION OPTION TO LEASE** (this “Agreement”) is made, dated and effective as of the Effective Date (defined below), by and between Landowner (defined below) and UET Ventures, LLC, a North Dakota limited liability company (“Lessee”) (Landowner and Lessee are sometimes referred to herein individually as a “Party” and collectively as the “Parties”).

1. **Basic Provisions.** The following terms used in this Agreement have the meanings set forth below:

1.1	“Landowner”	Independence Power and Light Company
1.2	“Property”	The real property consisting of 100 acres located in Jackson County, Missouri, which is described in <u>Exhibit A</u> attached hereto and incorporated herein by this reference, together with all rights, privileges and appurtenances pertaining to such real property, including, without limitation, all right, title and interest of Landowner in and to water rights, rights-of-way, easements and appurtenances. Exhibit B attached hereto shall include any portion of the property contained in Exhibit A that is restricted from consideration under the proposed lease
1.3	“Effective Date”	September 16, 2024
1.4	“Term”	The term of this Agreement commencing on the Effective Date and expiring on the expiration of the Operations Period or the earlier termination of this Agreement, consisting of the Feasibility Period, the Option Period, and the Operations Period.
1.5	“Feasibility Period”	The period commencing on the Effective Date and expiring on the date that is one hundred twenty (120) days after the Effective Date.
1.6	“First Option Period”	The period commencing upon the expiration of the Feasibility Period and expiring on the date that is twelve (12) months thereafter (as may be extended by two (2) additional twelve (12) month periods pursuant to <u>Section 2.1</u> below (each, an “ <u>Extended Option Period</u> ”).

1.7	“Option Period Payments”	Lessee shall pay Landowner each Option Period Payment when due in the amount provided in <u>Exhibit C</u> . Lessee shall pay to Landowner the first Option Period Payment on or prior to the expiration of the Feasibility Period and each subsequent Option Period Payment on or prior to the commencement of each Extended Option Period unless this Agreement is earlier terminated as provided herein.
1.8	“Improvements”	All facilities, structures, equipment, machinery, materials and property of every kind and character that is constructed, installed, and/or placed on, above, or under the Property by or on behalf of Lessee in connection with a Project, including Power Generation Facilities and ancillary support facilities.
1.9	“Project(s)”	A large integrated energy project that may be developed and constructed by Lessee on the Property and/or on other adjacent or nearby property. The Project may include any and all Improvements, including Power Generation and Electrical Transmission Facilities, that are developed, constructed and/or operated on the Property and/or on other property to generate and deliver electrical power to purchasers of such power.
1.10	“Power Generation Facilities”	All facilities, structures, equipment, machinery, materials and property of every kind and character, including, without limitation, multiple Power Generation Facilities, that are constructed, installed, and/or placed on, above, or under the Property by or on behalf of Lessee in connection with a Project, individual generation units, cooling systems, heat recovery steam generators and related facilities necessary for power generation systems installed in connection with the foregoing power generation facilities, existing and/or future technologies used or useful in connection with the generation of electricity and associated support structures, interconnection facilities for delivery to a utility grid or other system (including transformers and overhead electrical transmission lines), substation buildings or switching stations containing equipment used for purposes of adjusting voltage of electricity received from the collection lines, energy collection facilities, braces, wiring, plumbing, and related equipment, as well as facilities for including operations and maintenance building(s), together with all related utilities supporting same.

1.11	Option to Purchase	For the term of this Agreement, the Landowner shall have the right, but not the obligation to purchase energy and capacity to be produced from the Generation Facilities via a power purchase agreement mutually acceptable to the Landowner and Lessee.
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2. **Grant of Option.**

2.1. Grant of Option; Feasibility Period; Option Period. For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by Landowner, Landowner hereby grants to Lessee an exclusive option to lease a portion of the Property, exercisable during the Option Period (as defined below) (the “Option Period”). During the Feasibility Period and Option Period, Landowner shall permit Lessee to enter upon the Property to inspect the feasibility of the Property for the purpose of evaluating the site for future power generation construction and operations, which may include but not be limited to environmental surveys and inspections more fully described in Section 2.2 of this Agreement. Prior to the expiration of the First Option Period, Lessee may extend the term of the First Option Period for two (2) additional twelve (12) month Extended Option Periods by paying to Landowner the applicable Option Period Payment prior to the expiration of the First Option Period or the then-current Extended Option Period, as applicable. The First Option Period and each Extended Option Period shall collectively be known as the “Option Period.”

2.2. Lessee's Rights During Feasibility and Option Period. During the Feasibility Period and the Option Period, Lessee shall not hold any leasehold interest in the Property or be deemed to be a lessee of the Property, but Lessee, through its employees and agents, shall have the right to enter the Property (but not the right to occupy or possess the Property) to investigate and determine the feasibility of obtaining entitlements, utility meters, interconnection points, and other agreements for Lessee’s proposed Power Generation Operations. Within five (5) days following the Effective Date, or as soon as commercially reasonable thereafter, Landowner shall make available to Lessee copies of all environmental, geotechnical and other site assessments, surveys, plans, permits and entitlements, and other such records of Landowner which relate to the Property and to the extent reasonably requested by Lessee, including all of Landowner’s books and records, preliminary title reports, title policies and leases or use agreements (including oil and gas, wind, farming, ranching, and hunting), service contracts, and biological studies. During the duration of this Agreement, Lessee shall be permitted to inspect the Property and take such measurements, recordings and photographs, and conduct such surveys and environmental, engineering, mechanical, structural, biological, cultural, geotechnical, archaeological and other similar tests and studies, all as Lessee shall reasonably require, to assess the suitability of the Property for the Power Generation Operations. Such investigation may include review of permits, reports and other documentation maintained by Landowner with respect to the Property, interviews of employees or other representatives of Landowner, and environmental and safety review and assessment of the Property, including sampling of soil, groundwater and other materials as reasonably necessary to assess the presence of hazardous substances. During the duration of this Agreement, Lessee shall have the right to have an electric meter and meteorological weather measurement and monitoring equipment installed on the Property if reasonably necessary for Lessee’s investigation pursuant to this Section 2.2. In addition, Lessee shall be permitted to perform pre-construction site preparation during the Option Period in consultation with and after

consent of the Landlord, which shall not be unreasonably withheld, including the relocation of existing facilities to a location mutually acceptable to the Landowner and Lessee, and the temporary storage of materials and equipment on the Property that do not materially interfere with Landowner's operations on the Property as existing on the Effective Date. Lessee shall have the right to contact governmental and regulatory entities in connection with Lessee's due diligence and development activities, and to apply to such governmental and regulatory entities for all permits and approvals necessary or appropriate to construct and operate the Improvements. Landowner shall assist and fully cooperate with Lessee in complying with or obtaining any land use permits and approvals, federal and state tax-incentive or tax-abatement program approvals, building permits, environmental impact reviews or any other approvals required or deemed desirable by Lessee in connection with the development, financing, construction, installation, replacement, relocation, maintenance, operation or removal of Improvements, including, within five (5) business days after request therefore from Lessee, execution of applications for such approvals and delivery of information and documentation related thereto, and execution, if required, of any orders or conditions of approval; provided that Lessee carries out the activities set forth in this Section 2.2 in accordance with all applicable laws, rules, codes, and ordinances and in such a manner as will not unreasonably interfere with Landowner's operation or maintenance of the Property during the Option Period. Notwithstanding the foregoing, the Lessee agrees and acknowledges that the Landowner does not guarantee that any such permits and approvals will be considered or approved by the governing body with jurisdiction over the permit or approval. Lessee shall reimburse Landowner for its reasonable and actual out-of-pocket expenses directly incurred in connection with such cooperation, to the extent Lessee has approved such expenses in advance. To the extent permitted by law, Lessee shall indemnify, defend and hold Landowner harmless from any and all losses, damages, claims, expenses and other liabilities, including reasonable attorneys' fees, that result from the acts or omissions of Lessee or its agents in performing any inspection and/or testing activity on or about the Property; provided, this indemnity shall not apply to conditions existing at the Property that are merely discovered by Lessee or to the extent caused by or arising out of any act or omission of Landowner, its employees, representatives or agents. Further, Lessee shall promptly pay all costs, fees and expenses incurred as a result of or associated with such inspection work done or caused to be done by it on the Property as permitted by this Section 2.2 and shall keep the Property free from any and all mechanics or similar liens or charges resulting from such inspection work.

2.3. Feasibility Period Payment; Option Period Payments. Subject to Section 2.5 below, in order to keep this Agreement in effect during the Feasibility Period and the Option Period, Lessee shall pay the Feasibility Period Payment and Option Period Payments, as applicable, as set forth in Exhibit C of this Agreement. The Feasibility Period Payment and the Option Period Payments shall be non-refundable once paid to Landowner; provided, however, Lessee shall set off the Option Period Payment made immediately prior to exercising the Option (prorated per day of the First Option Period or the then-current Extended Option Period, as applicable, prior to delivery by Lessee to Landowner of the Exercise Option), against Operations Period Rent. If the Agreement is terminated, Lessee shall have no further obligation to pay any Option Period Payment that has a due date that is on or following the date of such termination.

2.4. Exercise of Option. Lessee shall exercise the Option to Purchase, if at all, by written notice (the "Exercise Notice") delivered to Landowner prior to the end of the Option Period. If the Option is exercised as to a portion of the Property, Lessee shall specify which portion

of the Property Lessee is exercising the Option for (“Leased Property” and the remainder of the Property, the “Remainder Property”) and the Parties shall replace the legal description in Exhibit A with the legal description of the Leased Property and the Leased Property shall become the Property for purposes of this Agreement. Upon request of Lessee at the time of delivery of the Exercise Notice, the Parties shall, for no additional consideration, begin negotiations to enter into a new Power Generation Operations option to lease and lease agreement for the Remainder Property (“New Agreement”) containing the same terms and conditions as this Agreement (except for any requirements that have been fulfilled by Lessee or any other person or entity prior to the execution of the New Agreement, and except for any modifications that may be required to ensure that each Party’s combined obligations under the New Agreement do not exceed such Party’s obligations under this Agreement or any modifications agreed to by both Parties), including the Term. The Parties both agree and understand that approval of this Option to Lease does not approve and future option to lease or lease agreement. The New Agreement shall enjoy the same priority as this Agreement over any lien, encumbrance or other interest against the Remainder Property. Further, the New Agreement shall provide that default under this Agreement, or the New Agreement shall not cause a cross default of the other agreement. In the event Lessee fails to properly deliver the Exercise Notice prior to the end of the Option Period, this Agreement shall automatically terminate and the Parties shall have no further obligation to each other except as otherwise expressly provided herein; provided, however, that if Lessee fails to make an Option Period Payment to extend the Option Period, this Agreement will only terminate in accordance with Section 2.5, including any notice and cure rights contained therein.

2.5. Cure Rights. Notwithstanding anything to the contrary contained herein, if Lessee fails to make any Feasibility Period Payment or Option Period Payment within the time period set forth herein and does not cure such failure within the cure period set forth below in this Section, and provided that Lessee’s failure to make such Feasibility Period Payment or Option Period Payment was not subsequent to, or the result of, a default or breach of this Agreement by Landowner, then the Option shall terminate and Lessee shall have no obligation to make the Option Period Payment then due, or any further payments pursuant to this Agreement (including any further Option Period Payments otherwise provided for in Section 2.3 above). It is the intent of Landowner and Lessee to avoid an inadvertent expiration of the Option Period. As a result and notwithstanding anything to the contrary contained in this Agreement, if Lessee fails to (a) timely make any Feasibility Period Payment or Option Period Payment as set forth in Section 2.3 above, (b) exercise any option to extend the Option Period as set forth in Section 2.1 above, or (c) exercise the Option prior to the expiration of the Option Period as set forth in Section 2.4 above, then the Option Period shall not terminate, but shall continue in full force and effect until fifteen (15) days after Landowner gives Lessee written notice that the Option Period will terminate unless such Feasibility Period Payment or Option Period Payment is made, the Option Period is extended by Lessee, or Lessee exercises the Option, as applicable, Lessee shall have such fifteen (15) day period to make such Feasibility Period Payment or Option Period Payment, extend the Option Period or to exercise the Option, as applicable; if Lessee does not perform such duty, as applicable the Option Period shall terminate. If Lessee exercises an extension option during such fifteen (15) day period, then the extension of the Option Period shall be retroactive to the date the Option Period would have expired without such exercise.

2.6. Indemnity. To the extent permitted by law, Landowner will indemnify, defend and hold harmless Lessee from and against any losses, damages, expenses, claims and

liability (including reasonable attorney's fees) for physical damage to property (including, without limitation, Lessee's roads) and for physical injuries or death to persons caused by the negligent or intentional acts or omissions of Landowner or any of its employees, agents, contractors and guests (collectively "Landowner Parties") except to the extent caused by or arising out of the negligent or intentional acts or omissions of any Lessee Parties. The Parties agree this indemnity shall survive the termination or earlier expiration of this Agreement. The Parties agree that any and all indemnity obligations imposed upon the Landowner within this Agreement are agreed to only to the extent permitted by law.

3. Lease Agreement and Confirmation; Location of Improvements; Separate Leases.

3.1. **Form of Lease.** This Agreement is a binding option agreement between the Landowner and Lessee and does not constitute a Lease Agreement. During the Feasibility Period, the Landowner shall negotiate in good faith the terms of a Lease Agreement mutually acceptable to the Lessee. The Landowner will submit the proposed Lease Agreement to the Landowner's governing body prior to the end of the Feasibility Period, or as soon thereafter as the Landowner's governing body's meeting schedule allows. Landowner acknowledges that Lessee will commit substantial resources to advance the proposed Generation Facilities. If, prior to the end of the Feasibility Period, or as soon thereafter as the Landowner's governing body's meeting schedule allows, Landlord fails to obtain approval to execute the Lease Agreement upon Exercise Notice, Lessee shall be entitled to recover its Feasibility Payment.

3.2. **Lease and Confirmation.** If Lessee delivers the Exercise Notice to Landowner prior to the end of the Option Period, then immediately upon such delivery, Landlord shall provide a fully executed Lease Agreement within thirty (30) calendar days, if approved by Landlord's governing body. The Property that will not be included in the Lease Agreement and reserved to Landowner and not subject to this Agreement or the Lease Agreement, if any, described as the "Reserved Acreage" shall be listed on Exhibit B attached hereto and incorporated herein by this reference ("Reserved Acreage"). Prior to the end of the Feasibility Period, Landowner will provide any amendments to Exhibit B.

3.3. **Division Into Separate Leases.** Lessee may use the Property for a Project or Lessee may divide the Property between two or more separate Projects. If Lessee elects to so divide the Property into two or more Projects, then Landowner shall, within thirty (30) days after written request from Lessee, and without demanding any additional consideration, bifurcate this Agreement by entering into and delivering to Lessee two or more stand-alone new leases (which shall supersede and replace this Agreement) that provide Lessee with separate leasehold estates in different portions of the Property, as designated by Lessee. Each new lease shall: (a) specify the portion(s) of the Property to be covered thereby; (b) contain the same terms and conditions as this Agreement, including the per acre Option Period Payments and per acre Operations Period Rent (except for any requirements that have been fulfilled by Lessee or any other person or entity prior to the execution of such new lease, and except for any modifications that may be required to ensure that each Party's combined obligations under such new leases do not exceed such Party's obligations under this Agreement and except for any modifications that are agreed to by both Parties); (c) be for a term equal to the remaining Term; (d) contain a grant of access, transmission, communications and other easements for the benefit of the bifurcated leasehold estates, covering

such portion or portions of the Property as Lessee may designate; and (e) enjoy the same priority as this Agreement over any lien, encumbrance or other interest against the Property. Further, each new lease shall provide that default under such new lease shall not cause a cross default of the other new lease.

3.4. **Parties in Possession.** The Parties acknowledge and agree that Landowner has entered into the agreements on a portion of the Property not designated Reserved Acreage and listed on Exhibit B. To the best of Landowner's knowledge, the Landowner represents and warrants to Lessee that the Prior Agreements will not interfere with Lessee's rights hereunder. Landowner represents and warrants to Lessee that all rights of the counterparties to the Prior Agreements in the Property will expire or be terminated on or before the fifth (5th) business day after the Exercise Notice is delivered or prior to the date Lessee notifies the Landowner that construction activities will commence, whichever is later. Landowner agrees not to extend or replace the Prior Agreements unless such Agreements are terminable by Landowner on thirty (30) days' prior written notice. Landowner shall deliver possession of the Property to Lessee on the Construction Commencement Date free and clear of all tenants, occupants, or parties in possession.

4. **Payments.** Lessee will pay Landowner the amounts provided for in Exhibit C. Notwithstanding the deadlines set forth below for payment of the any Feasibility Period Payment or Option Period Payments, Lessee shall not be required to make any payment under this Agreement until such time as Landowner has returned to Lessee a completed and executed Internal Revenue Service Form W-9, a payment instruction form signed by each person or entity holding record or equitable title to the Property, documentation evidencing signing authority reasonably satisfactory to Lessee if applicable, and any other documentation reasonably requested by Lessee.

5. **Lessee's Representations, Warranties and Covenants.** Lessee hereby represents, warrants, covenants and acknowledges to Landowner as follows:

5.1. **Insurance.** Lessee shall, at its expense, maintain a commercial general liability insurance policy insuring Lessee and Landowner against loss or liability caused by Lessee's occupation and use of the Property under this Agreement, in an amount not less than One Million Dollars (\$1,000,000) per occurrence and not less than Two Million Dollars (\$2,000,000) in the annual aggregate, which has a commercially reasonable deductible. Limits can be achieved through a combination of primary and excess limits and Lessee shall have the right to use a program of self-insurance to meet these requirements. Such insurance shall provide that such insurance may not be canceled or terminated in any manner upon less than ten (10) days' written notice to Landowner. Certificates of such insurance evidencing the coverage required by this Agreement shall be provided to Landowner at Landowner's reasonable request.

5.2. **Indemnity.** Lessee will indemnify, defend and hold harmless Landowner from and against any losses, damages, expenses, claims and liability (including reasonable attorney's fees) for physical damage to property and for physical injuries or death to persons caused by the negligent or intentional acts or omissions of Lessee or any of its employees, agents or contractors (collectively "Lessee Parties") in its occupancy, operation or use of the Property (including the Easements), except to the extent caused by or arising out of the negligent or intentional acts or omissions of any Landowner Parties (defined below). The reference to property damage in the preceding sentence does not include any damages to crops, or any losses of rent,

business opportunities, profits and the like that result from Landowner's loss of use of any portions of the Property occupied by, or otherwise attributable to the installation of, Improvements pursuant to this Agreement. The Parties agree this indemnity shall survive the termination or earlier expiration of this Agreement.

5.3. **Requirement of Governmental Agencies.** Lessee, at its expense, shall comply with laws, ordinances, statutes, orders and regulations of any governmental agency applicable to the Project. In its sole discretion and through appropriate legal proceedings brought (1) in the name of Lessee or (2) in the names of both Lessee and Landowner if appropriate or required and with at least five (5) business days' notice to the Landowner, Lessee shall have the right to contest the validity or applicability to the Property or Project of any law, ordinance, statute, order, regulation, property assessment or the like now or hereafter made or issued by any federal, state, county, local or other governmental agency or entity. Landowner shall cooperate in every reasonable way in such contest, provided Lessee reimburses Landowner for its reasonable and actual out-of-pocket expense incurred in connection with such cooperation. Any such contest or proceeding, including any maintained in the name of Landowner, shall be controlled and directed by Lessee, but Lessee shall observe and comply during the contest with the contested law, ordinance, statute, order, regulation or property assessment.

5.4. **Compliance With Law.** Lessee, at its expense, shall comply with laws, ordinances, statutes, orders and regulations of any governmental agency applicable to the Project.

5.5. **Lessee's Right to Terminate.** At any time during the Term, subject to Section 14, but notwithstanding any other provision of this Agreement, Lessee shall have the right to terminate this Agreement, and Assignees shall have the right to terminate their respective interests in or under this Agreement, as to all or any part of the Property at any time, for any reason whatsoever and without penalty effective upon thirty (30) days' prior written notice to Landowner ("Option Termination Date"). Lessee shall promptly thereafter execute and deliver to Landowner, or record in the real property records of Jackson County, Missouri, a release with respect to the part of the Property Lessee is terminating. The Parties hereby agree to enter into negotiations to amend Exhibit A to this Agreement as and if necessary, to modify the legal description of the Property following Lessee's partial termination. Lessee shall not be entitled to any refund of any payment, fees already paid or due and payable hereunder on or prior to the Option Termination Date. If such termination is as to only part of the Property, this Agreement shall remain in effect as to the remainder of the Property. The Feasibility Period Payment and Option Period Payments, as applicable, shall not be adjusted after any partial termination of this Agreement.

6. **Landowner's Representations, Warranties and Covenants.** Landowner hereby represents, warrants and covenants to Lessee as follows:

6.1. **Landowner's Authority.** Except for interests arising under the Prior Agreements, Landowner has sole and exclusive possession of the Property, and has the unrestricted right and authority to execute this Agreement and to grant to Lessee the rights granted hereunder, subject only to any Permitted Liens (defined below). No rights to use the Property for Power Generation Operations have been granted to or are held by any party other than Lessee. Each person signing this Agreement on behalf of Landowner is authorized to do so. When signed by

Landowner, this Agreement constitutes a valid and binding agreement enforceable against Landowner in accordance with its terms.

6.2. **No Interference.** Landowner shall not, nor shall Landowner grant any rights hereafter to any person or entity, whether located on the Property or elsewhere, in the future, which impede or interfere with: (i) the siting, permitting, construction, installation, maintenance, operation, replacement, or removal of Improvements, located on the Property; (ii) access over the Property to the Improvements; (iii) the undertaking of any other activities of Lessee permitted under this Agreement; (iv) the transmission of electric, electromagnetic or other forms of energy to or from the Property. In no event during the Term shall Landowner construct, build or locate or allow others to construct, build or locate any Power Generation Operations Energy Facilities or similar project on the Property. Lessee shall have the right to (1) remove any structures and improvements on the Property that could adversely impact the Power Generation Operations, and (2) remove, trim, prune or otherwise control the growth of any tree or other vegetation on the Property that could adversely impact the Power Generation Operations.

6.3. **Water for Project; Cooperation and Reimbursement of Costs.** During the Term, Landowner shall work in good faith to make available to Lessee, to the extent available to Landowner in excess of Landowner's own needs and to the extent allowed under applicable law and permits, water in such quantities as may be needed and available for sanitary and drinking purposes, as well as operational purposes during the Operations Period. Landowner shall cooperate with Lessee to study the availability of water on or to the Property and to assist in obtaining water rights or a contract for the delivery of water to the Property for use by Lessee in its Power Generation Operations, but Landowner shall have no obligation to incur any out-of-pocket cost in connection with such study or assistance. Lessee shall pay all administrative, operation and utility costs incurred by Lessee or Landowner in connection with obtaining water for Lessee's Power Generation Operations, and, to the extent Landowner incurs any out-of-pocket costs in connection with obtaining water for Lessee's Power Generation Operations, Lessee shall promptly reimburse Landowner for such costs. In the event Lessee obtains any water rights in conjunction with any well drilled on the Property, Lessee shall convey all such water rights to Landowner upon termination of this Agreement.

6.4. **Warranty of Title to Property; Title Insurance.** Landowner hereby warrants with respect to the Property (and any Easement areas) that (a) Landowner has good, indefeasible and insurable fee simple title, and (b) the leasehold estate created hereby with respect to the Property is free from encumbrances done, made, or suffered by Landowner, or any person claiming under Landowner, except for such encumbrances that are of record ("Permitted Liens"). Lessee may obtain a current preliminary title report or leasehold title insurance for the Property at its expense showing all liens and other exceptions to title to the Property. Landowner shall cooperate with Lessee and the title insurance company ("Title Company"), if any, selected by Lessee to issue title insurance insuring (a) Lessee's leasehold and easement interests in the Property, and/or (b) any mortgage encumbering such leasehold and easement interest and shall promptly (1) take such actions with respect to Prior Agreements as may be required pursuant to Section 4.5, and (2) execute and deliver such title affidavits and such other documents otherwise required by the Title Company.

6.5. **Requirements of Governmental Agencies.** Landowner shall be obligated to perform the obligations identified in Section 2.2 of the Agreement.

6.6. **Indemnity.** To the extent permitted by law, Landowner will indemnify, defend and hold harmless Lessee in accordance with Section 2.6 of this Agreement.

6.7. **Hazardous Materials.** Landowner represents and warrants that, to the best of Landowner's knowledge: (i) the Property is in compliance with all federal, state or local law, ordinances or regulations relating to the generation manufacture, production, use, storage, release or threatened release, discharge, disposal, transportation or presence of any substance, material or waste which is now or hereafter classified as hazardous or toxic, or which is regulated under current or future federal, state or local laws or regulations, on or under the Property (ii) there are no such hazardous or toxic substances, materials or waste in, on, or under the Property. To the extent permitted by law, no liability shall arise in Lessee from the mere discovery of facts or conditions existing or pertaining to the Property including, without limitation, facts or conditions existing or pertaining to the Property on or prior to the Effective Date. Landowner shall not violate, and to the extent permitted by law, shall indemnify, defend, and hold Lessee harmless for, from and against any claims, costs, damages, fees or penalties arising from a violation (past, present or future) by Landowner or Landowner Parties of all federal, state or local law, ordinances or regulations relating to the generation manufacture, production, use, storage, release or threatened release, discharge, disposal, transportation or presence of any substance, material or waste which is now or hereafter classified as hazardous or toxic, or which is regulated under current or future federal, state or local laws or regulations, on or under the Property except for a violation that is covered by Lessee's indemnity under Section 2.2. The Parties agree this indemnity shall survive the expiration or earlier termination of this Agreement. The Parties agree that any and all indemnity obligations imposed upon the Landowner within this Agreement are agreed to only to the extent permitted by law.

6.8. **No Litigation.** No litigation is pending, and, to Landowner's knowledge, no actions, claims or other legal or administrative proceedings are pending, threatened or anticipated with respect to, or that could affect, the Property, this Agreement or Lessee's rights hereunder.

7. **Assignment.**

7.1. **Assignees of Lessee and Tenants.** Subject to Section 3.2 above, Lessee and any Assignee (as defined below) shall have the right, provided that Landowner consents, which shall not be unreasonably withheld, to do any of the following, conditionally or unconditionally, with respect to all or any portion of the Property: assign this Agreement or any right or interest in this Agreement, or any or all right or interest of Lessee in the Property or in any or all of the Improvements that Lessee or any other party may now or hereafter install on the Property to one or more Assignees. An "Assignee" is any of the following: (i) any one or more parties involved in financing or refinancing of any Improvements, including, without limitation, any lender to or investor in Lessee or in any Power Generation Operations Facilities; (ii) a corporation, limited liability company, partnership or other entity now existing or hereafter organized in which Lessee, or any affiliate, owns (directly or indirectly). Lessee and any Assignee

shall provide Landowner thirty (30) days' notice for consideration of consent to assignment or lease of this Agreement..

7.2. **Assignee Obligations.** No Assignee that does not directly hold an interest in this Agreement, and no Assignee that holds an interest in or lien on or security interest in this Agreement for security purposes, shall have any obligation or liability under this Agreement prior to the time that such Assignee directly holds an interest in this Agreement or, in the case of an interest, lien or security interest for security purposes, the holder thereof succeeds to absolute title to such interest, in this Agreement. Any such Assignee shall be liable to perform obligations under this Agreement only for and during the period such Assignee directly holds such interest or absolute title.

8. **Default and Remedies.**

8.1. **Default.** Subject to any applicable notice and cure rights set forth in this Agreement, the occurrence of any of the following events shall constitute a default under of this Agreement:

(a) Either Landowner or Lessee breaches or fails to perform as required by any representation, warranty, covenant, term or condition of this Agreement, not including any obligation to make any payment hereunder ("**Non-Monetary Default**"); or

(b) Lessee fails to make any payments required by this Agreement when due ("**Lessee Monetary Default**").

8.2. **Lessee Default.** Landowner shall have the right to terminate this Agreement if (i) a Lessee Monetary Default shall have occurred and remains uncured, (ii) Landowner notifies Lessee in writing of the Lessee Monetary Default, which notice sets forth in reasonable detail the facts pertaining to the Lessee Monetary Default and specifies the method of cure, and (iii) the Lessee Monetary Default shall not have been remedied within thirty (30) days after receipt of the written notice. If (i) a Non-Monetary Default has occurred due to a breach or failure to perform by Lessee and such Non-Monetary Default remains uncured, (ii) Landowner notifies Lessee in writing of the Non-Monetary Default, which notice sets forth in reasonable detail the facts pertaining to the Non-Monetary Default and specifies the method of cure, and (iii) the Non-Monetary Default shall not have been remedied within thirty (30) days after receipt of the written notice, or, if the cure will take longer than thirty (30) days, Lessee has not begun diligently undertaking the cure within thirty (30) days and thereafter diligently prosecuting the cure to completion, provided, however, such extended cure period shall not exceed ninety (90) days, then Landowner reserves all rights and remedies available under this Agreement and/or under applicable law or in equity.

8.3. **Landowner Default.** Lessee shall have the right to terminate this Agreement if (i) a Non-Monetary Default has occurred due to a breach or failure to perform by Landowner and such Non-Monetary Default remains uncured, (ii) Lessee notifies Landowner in writing of the Non-Monetary Default, which notice sets forth in reasonable detail the facts pertaining to the Non-Monetary Default and specifies the method of cure, and (iii) the Non-Monetary Default shall not have been remedied within ninety (90) days after receipt of the written

notice, or, if the cure will take longer than ninety (90) days, Landowner has not begun diligently undertaking the cure within the relevant time period and thereafter diligently prosecuting the cure to completion; provided, however, such extended cure period shall not exceed one hundred eighty (180) days. If this Agreement is terminated by Lessee pursuant to this Section 8.3 prior to the Operations Period, then Landowner shall immediately pay to Lessee (A) the aggregate amount of the Feasibility Period Payment and the Option Period Payments previously paid to Landowner and (B) any of the reasonable costs and expenses actually incurred by Lessee in investigating the Property during the Option Period. Subject to the other terms and conditions of this Agreement, Lessee shall have all rights and remedies available at law and in equity for any Non-Monetary Default by Landowner. Landowner further acknowledges and agrees that should Landowner breach any of its obligations hereunder or otherwise fail to permit Lessee to exercise any of the rights and privileges granted herein, Lessee shall have the right to seek specific enforcement of this Agreement.

8.4. **Notices.** All notices or other communications required or permitted by this Agreement, including payments to Landowner, shall be in writing and shall be deemed given when personally delivered, or in lieu of such personal service, five (5) days after deposit in the United States mail, first class, postage prepaid, certified, or the next business day if sent by reputable overnight courier, provided receipt is obtained and charges prepaid by the delivering Party. Any notice shall be addressed as follows:

If to Landowner:

City of Independence
Independence Power and Light
17221 E 23rd Street
Independence, MO 64057

If to Lessee:

UET Ventures, LLC

For Electronic Funds:

Information to be provided to Lessee separately.

Any Party may change its address for purposes of this paragraph by giving written notice of such change to the other Parties in the manner provided in this paragraph.

Furthermore, by providing appropriate account information above, Landowner consents to Lessee making any and all necessary payments due under this Agreement by electronic payment. All amounts paid into the account listed above shall be deemed received by Landowner upon the execution of the electronic payment by Lessee.

8.5. **Entire Agreement; Amendments.** This Agreement constitutes the entire agreement between Landowner and Lessee respecting its subject matter. Any agreement, understanding or representation respecting the Property, this Agreement, or any other matter referenced herein not expressly set forth in this Agreement, or in a subsequent writing signed by

both Parties, is null and void. This Agreement shall not be modified or amended except in a writing signed by both Parties. No purported modifications or amendments, including, without limitation, any oral agreement (even if supported by new consideration), course of conduct or absence of a response to a unilateral communication, shall be binding on either Party.

8.6. **Legal Matters.**

8.6.1 This Agreement shall be governed by and interpreted in accordance with the laws of the State of Missouri without regard to the choice of law principles of the State of Missouri or any other state.

8.6.2 The Parties agree to first attempt to settle any dispute or claim of whatever nature arising out of or in connection with this Agreement by good-faith negotiation.

8.6.3 The Parties irrevocably and unconditionally agree that they will not commence any action, litigation, or proceeding of any kind or description, whether in law or equity, whether in contract or tort or otherwise, in any way relating to this Agreement in any forum other than the Courts of the State of Missouri in St. Louis County, Missouri. By execution of this agreement, the Parties consent to the jurisdiction of those courts. The Parties irrevocably waive any objection, including any objection to the laying of venue based on the grounds of forum non conveniens, which they may now or hereafter have to the bringing of any action or proceeding in such jurisdiction with respect to this Agreement.

8.6.4 **Partial Invalidity.** Should any provision of this Agreement be held in a final and unappealable decision by a court of competent jurisdiction to be either invalid, void or unenforceable, the remaining provisions hereof shall remain in full force and effect and unimpaired by the court's holding. Notwithstanding any other provision of this Agreement, the Parties agree that in no event shall the Term be longer than the longest period permitted by applicable law.

8.7. **Tax Credits.** If under applicable law the holder of a leasehold interest in the nature of that held by Lessee, an Assignee or a Tenant under this Agreement becomes ineligible for any tax credit, benefit or incentive for alternative energy expenditure established by any local, state or federal government, then, at Lessee's option, Landowner and Lessee may amend this Agreement or replace it with a different instrument so as to convert Lessee's interest in the Property to a substantially similar interest that makes Lessee eligible for such tax credit, benefit or incentive. Landowner hereby acknowledges and agrees that Lessee has the exclusive right to harness and store the Power Operations energy resources on, around, about or at the Property and Lessee is the exclusive owner of all Power Generation Operations energy and related economic benefits generated by the Power Generation Operations Energy Facilities, including, but not limited to, any and all federal, state and/or local benefits and credits (including tax credits, investment credits, carbon credits, renewable energy credits), rebates, incentives, benefits, grants, emissions reductions, entitlements, reporting rights, deductions, depreciation, offsets and allowances of any kind, howsoever entitled, attributable to the Power Generation Operations Energy Facilities or the electric energy, capacity or other generator-based or storage-based products related thereto, whether in effect as of the date of this Agreement or as may come into effect in the future

(collectively, “Credits”). Lessee shall be exclusively entitled to apply for, collect, receive, and obtain the benefit of all Credits. To the extent Landowner becomes the beneficiary of any Credits, Landowner shall assign the same to Lessee.

8.8. **Further Assurances.** Each Party hereby agrees that it shall, upon request of the other, execute and deliver such further documents (in form and substance reasonably acceptable to the Party to be charged) and do such other acts and things as are reasonably necessary and appropriate to effectuate the terms and conditions of this Agreement, without cost, including (without limitation) the execution and delivery of such documents, and the doing of such acts or things as may be required to satisfy the requirements of the Title Company to issue title insurance in accordance with this Agreement.

8.9. **No Partnership.** Nothing contained in this Agreement shall be construed to create an association, joint venture, trust or partnership covenant, obligation or liability on or with regard to any one or more of the Parties to this Agreement.

8.10. **No Broker.** Landowner and Lessee each represent and warrant to the other that no broker or finder is entitled to any commission or finder’s fee resulting from any action on its part in connection with this Agreement. To the extent permitted by law, each Party agrees to indemnify, defend and hold the other harmless against any claim, loss, damage, cost or liability for any broker’s commission or finder’s fee asserted as a result of its own act or omission in connection with this Agreement. The Parties agree that these indemnity obligations shall survive the termination or earlier expiration of this Agreement.

8.11. **Joint and Several.** The obligations of Landowner under this Agreement are joint and several.

8.12. **Counterparts.** This Agreement may be executed with counterpart signature pages and in duplicate originals, each of which shall be deemed an original, and all of which together shall constitute a single instrument.

[Signature Pages Follow]

IN WITNESS WHEREOF, Landowner and Lessee have caused this Agreement to be executed as of the Effective Date.

LESSEE:

[_____]

By: _____

Printed Name: _____

Title: _____

Draft

LANDOWNER:

[_____]

By: _____

Printed Name: _____

Title: _____

Draft

EXHIBIT A

Description of Property

EXHIBIT B

Depiction of Property and Reserved Acreage

EXHIBIT C

Feasibility Period and Option Period Payments

Feasibility Period: \$10,000 due and payable fifteen (15) business days after the Effective Date of this Agreement

First Option Period: \$50,000 due and payable no later than one (1) business day after the last day of the Feasibility Period or notice to the Landowner by the Lessee that the First Option Period has commenced.

First Extension Option Period: \$50,000 due and payable on or before the expiration of the First Option Period

Second Extension Option Period: \$50,000 due and payable on or before the expiration of the First Extension Option Period

EXHIBIT D

Privileged

General Terms of the Lease Agreement

The Parties to agree on a form of Lease Agreement as an amendment hereto

Draft

City of Independence

AGENDA ITEM COVER SHEET

Agenda Title:

Council action is requested for approval to revise the premiums for the City's Self-Insured Cigna Health Plan.

Recommendations:

Staff recommends approval.

Background:

The Staywell Health Advisory Committee was established to serve in an advisory capacity to the City Manager for the City's Self Insurance Staywell Fund. The Fund pays the health insurance costs for employees and retirees under the age of 65 and their dependents. The Committee works closely with the Human Resources Department and the City's consultants to develop recommendations for the City Manager to consider.

At its August meeting, the Staywell Committee recommended a 7.34% increase to the 2025 Cigna Healthcare premiums and to accept the Cigna Pharmacy Renewal, effective with the 2025 plan year. This is consistent with the recommendation from the City's health plan advisor, CBIZ. City Management concurs with this recommendation.

Emergency Justification:**Fiscal Impact:**

The City's share of the rate increase is \$1,211,940 for a total estimated contribution of \$17,712,742 to the Staywell Fund in calendar year 2025. This increase will need to be included as part of the fiscal year 2025-26 budget.

Council Action:

**Department /
Contact**

Human Resources /

REVIEWERS

Mike Jackson
Meagan Borth
Zachary Walker

Susanne Holland

ATTACHMENTS:

1. Stay Well Recom. Aug. 2024 (1)
2. 2025 Staywell Renwal Rate Comparison
3. 2025 Staywell Renwal Rate Comparison

City of Independence

MEMORANDUM

DATE: August 27, 2024

TO: Zachary Walker, City Manager

FROM: Michael Veit, Stay Well Committee Chairman

SUBJECT: Stay Well Committee August 27, 2024



The Stay Well Committee made the following recommendation at the August 22, 2024, meeting:

- To recommend to the City Manager the 7.34% increase across all the 2025 Healthcare plan premiums and to accept the Cigna Medical/Pharmacy Renewal.

Background Information:

Throughout the 2024 Calendar year the Stay Well Committee has monitored claims and the funding projections for 2025. As we continue through the year the Committee, along with the assistance of Cbiz, have kept a rolling update of claims for the last 24 months. I am happy to announce that with the help of Cigna and the programs running behind the scenes we have managed to decrease claims.

At this time last year, the Committee recommended at 10.3% premium increase and as of July 2024 the Committee was facing a recommendation of 9.83%. With the positive health of the Stay Well Claims we were presented a premium increase of 7.34% at our August 2024 monthly meeting. This is a direct reflection of the hard work by the Committee and the City in promoting migration to our high deductible plans and the management of our Healthcare plan with Cigna and the managing programs running behind the scene.

If you have any additional questions on the recommendations from the Stay Well Committee, please contact me.

Thank you,

Michael Veit

Michael Veit, Chairman
Stay Well Committee – 816-547-3783

2025 Sample Contributions



	2024			Enrollment	2025			
	EE	City	Total		EE	City	Total	EE Change
OAP 1	20%				20%			
EE	\$186.39	\$745.56	\$931.95	193	\$200.08	\$800.32	\$1,000.40	\$13.69
EE + Spouse	\$451.08	\$1,804.31	\$2,255.39	74	\$484.21	\$1,936.83	\$2,421.04	\$33.13
EE + Child(ren)	\$361.61	\$1,446.43	\$1,808.03	59	\$388.17	\$1,552.66	\$1,940.83	\$26.56
Family	\$630.01	\$2,520.03	\$3,150.04	92	\$676.28	\$2,705.12	\$3,381.40	\$46.27
OAP 2	18%				18%			
EE	\$128.08	\$583.48	\$711.56	135	\$137.49	\$626.33	\$763.82	\$9.41
EE + Spouse	\$309.96	\$1,412.04	\$1,722.00	51	\$332.73	\$1,515.75	\$1,848.48	\$22.77
EE + Child(ren)	\$248.48	\$1,131.98	\$1,380.46	52	\$266.73	\$1,215.12	\$1,481.85	\$18.25
Family	\$432.92	\$1,972.19	\$2,405.11	110	\$464.72	\$2,117.04	\$2,581.76	\$31.80
Local Plus	14%				14%			
EE	\$92.86	\$570.41	\$663.27	100	\$99.68	\$612.31	\$711.99	\$6.82
EE + Spouse	\$224.72	\$1,380.43	\$1,605.15	26	\$241.23	\$1,481.82	\$1,723.04	\$16.50
EE + Child(ren)	\$180.15	\$1,106.63	\$1,286.78	57	\$193.38	\$1,187.91	\$1,381.29	\$13.23
Family	\$313.87	\$1,928.04	\$2,241.90	74	\$336.92	\$2,069.64	\$2,406.56	\$23.05
Base Plan	13%				13%			
EE	\$0.00	\$569.72	\$569.72	75	\$0.00	\$611.56	\$611.56	\$0.00
EE + Spouse	\$179.24	\$1,199.53	\$1,378.77	3	\$192.40	\$1,287.63	\$1,480.04	\$13.17
EE + Child(ren)	\$143.69	\$961.62	\$1,105.31	4	\$154.24	\$1,032.25	\$1,186.49	\$10.55
Family	\$250.34	\$1,675.38	\$1,925.72	3	\$268.73	\$1,798.43	\$2,067.16	\$18.39
Annual Total	\$3,513,316	\$16,500,803	\$20,014,119	1,108	\$3,771,360	\$17,712,742	\$21,484,103	
Change					\$258,044	\$1,211,940	\$1,469,984	
Change					7.34%	7.34%	7.34%	

2025 Sample Contributions



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Change					\$258,044	\$1,211,940	\$1,469,984	
Change					7.34%	7.34%	7.34%	

City of Independence

AGENDA ITEM COVER SHEET

Agenda Title:

Council action is requested to include the Cigna Omada Complete and Cigna Pathwell Bone/Joint as optional programs with the 2025 Cigna Healthcare plan.

Recommendations:**Background:**

During Cigna's annual review in April 2024 the Omada Complete and Pathwell Bone and Joint programs were presented as options for the City of Independence to add to our plan to help reduce future claim costs. These programs are optional for our Staywell Plan members.

Cigna's Omada Complete Program is for those individuals with pre-diabetes, diabetes and/or hypertension. It offers dedicated support from a professional health coach and/or diabetes specialist, and access to a community of other members.

Cigna's Pathwell Bone and Joint program is for those individuals with spine, hip, knee, or shoulder pain to get on the right treatment path and reduce unnecessary surgeries. It offers designated providers along with a personal care advocate to assist the member in getting quality and effective treatment.

Emergency Justification:**Fiscal Impact:**

Cigna anticipates 8% of the approximate 680 eligible members to participate in these programs. If this occurs, the cost to the City would be approximately \$24,000. The return on investment (through reduced claims) is expected to be \$58,000 in the first year, resulting in a \$34,000 savings to the Staywell Fund.

Council Action:

Department / Contact	Human Resources /
---------------------------------	-------------------

REVIEWERS

Mike Jackson
Meagan Borth
Zachary Walker
Susanne Holland

ATTACHMENTS:

1. City of Independence Stay Well Meeting 08222024
2. Stay Well Recom. Aug. 2024 (2)

City of Independence

StayWell Meeting

August 22, 2024



Offered by Cigna Health and Life Insurance Company

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Supporting those who take specialty medications along the right path for care

Cigna Pathwell Specialty® is our therapy-specific care program that guides those who take specialty medications through integrated benefits that support holistic, high-quality care for our customers while managing the high-cost specialty medications.

- Robust, high-performing* Open Access Plus based (OAP-based) **national network** of more than 28,000 local, affordable providers and pharmacies**
- Dedicated **care management team** that guides members and providers to in-network providers
- **Optimized drug coverage management** of affordable, clinically appropriate specialty medications
- **Integrated strategy with benefit optimization** that looks across pharmacy and medical benefits to maximize savings
- **Comprehensive whole-person health approach** that offers additional support through programs such as: HelloFresh®, Caregiver Bridge, Foodsmart™ and Oncology Consult

Cigna Pathwell Specialty clients can see a
15%+
reduction in medical spend.***

*High-performing providers are those identified as having superior results based upon Cigna Healthcare's quality and cost efficiency methodology as assessed on an annual basis. Quality designations are not a guarantee of the quality of care delivered to individual patients. Providers are solely responsible for any treatment provided.** Number of providers as of February 2023. Subject to change

*** Cigna Healthcare analysis 2022 based on commercial national book of business. Individual results and savings will vary and are not guaranteed. For ASO clients only. Savings vary by market, funding type and utilization and are subject to change.

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Omada Complete

Modular programs for virtual-first care

Program	 DPP	 Diabetes	 Hypertension
Clinical Indication	Prediabetes + At Risk	Type 1 & 2 Diabetes	High Blood Pressure
Care Team	Health Coach Behavioral Health Specialist	Health Coach Diabetes Specialist Behavioral Health Specialist	Health Coach Hypertension Specialist Behavioral Health Specialist
Connected Devices	 Connected Scale	 Scale, Blood Glucose Monitor, Continuous Glucose Monitor	 Scale, Blood Pressure Monitor
Feature Highlights	 Nutrition counseling  Interest-Based Communities  Personalized content  Interactive lessons  Targeted outreach  Curated peer groups		

All programs include behavioral health support

Cigna Pathwell Bone & Joint®

A Condition-Specific Care program that guides your members with spine, knee, hip, and shoulder conditions to the right path for care using a comprehensive whole person health approach



-  **\$0/low-cost** surgery benefit¹
-  **Up to \$600 travel benefit²** for surgery
-  **100% coverage** for physical therapy visits³

1. When program participation requirements are met for Condition-Specific Care benefit. Admission through discharge. For non-HSA plans, the employer's plan pays 100% of eligible expenses. For HSA plans, the employer's plan pays 100% after deductible is met. 2 For surgery with designated provider >60 miles from home . Amount varies based on factors such as treatment plan, location and duration of facility stay and subject to program participation requirement. 3. Optional benefit for ASO clients covers up to five (5) visits.



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Demand grows for GLP-1 drugs as view on obesity shifts

Controlling costs and optimizing health outcomes requires utilization management and lifestyle change

- Inappropriate use of medications containing GLP-1-agonists is **creating shortages** and **access to care issues** for customers managing diabetes.
- Clients are **facing increasing pressure** to cover these highly effective medications, as obesity is now viewed as a chronic condition.
- High prevalence, high cost of GLP-1s, and potential need for lifelong therapy may lead to dramatic **increases in usage and cost:**
 - Wegovy® costs¹ about \$1,300/month
 - Zepbound™ costs¹ about \$1,000/month
- Obesity substantially raises an individual's risk of developing type 2 diabetes, coronary heart disease and hypertension²

42%
of adults in the
U.S. are obese.³

\$1,861
higher annual
medical costs than
for people with
healthy weight.³

5%
weight loss can
decrease the risk of
chronic diseases
related to obesity.⁴

1. Could Zepbound's Lower Cost Start a Weight Loss Drug Price War?" Nancy Schimelpfening. December 2023. <https://www.healthline.com/health-news/zepbound-cost-lower>. 2. Centers for Disease Control and Prevention Know Your Risk for Heart Disease https://www.cdc.gov/heartdisease/risk_factors.htm Last reviewed: March 21, 2023. Accessed February 2024. 3. Centers for Disease Control Overweight and Obesity. Data and Statistics. <https://www.cdc.gov/obesity/data/adult.html>. Last reviewed: May 17, 2022. Accessed February 2024. 4. Centers for Disease Control and Prevention. Healthy Weight, Nutrition, and Physical Activity. https://www.cdc.gov/healthyweight/losing_weight/index.html Last reviewed: June 15, 2023. Accessed February 2024. 5. Available 1/1/2025 for ASO clients through Proclaim. A PMPM client fee applies and includes a performance guarantee. Confidential, unpublished property of Cigna Healthcare. Do not duplicate or distribute. Use and distribution limited solely to authorized personnel. © 2024 Cigna Healthcare.

Introducing

EncircleRxSM for Cigna

The next evolution in benefit coverage of weight management medications

EncircleRx for Cigna⁵ offers:

- **Enhanced management** to ensure that appropriate customers have access
 - Higher BMI and documentation of weight-related comorbidities
- Required enrollment and ongoing engagement with a **lifestyle modification program**
- Appropriate **prescriber and pharmacy management** with enhanced fraud, waste, and abuse activities focused on GLP-1s

City of Independence

MEMORANDUM

DATE: August 27, 2024

TO: Zachary Walker, City Manager

FROM: Michael Veit, Stay Well Committee Chairman

SUBJECT: Stay Well Committee August 27, 2024



The Stay Well Committee made the following recommendation at the August 22, 2024, meeting:

- To recommend to the City Manager the Cigna program Omada Complete and Cigna Pathwell Bone and Joint.

Background Information:

In April 2024 the Stay Well Sub-Committee met with Cigna for our Annual plan review and projections for 2025. During this time Cigna presented several programs for consideration, Cigna Pathwell Specialty, Omada Complete, Cigna Pathwell Bone and Joint, and GLP-1 Drugs. At that time the committee recommended no action due to the RFP process for 2025. After the City agreeing to terms with Cigna for Medical and Pharmacy, I asked our Cigna team to present these programs again at our August regular meeting. The Committee at this time is recommending the City participate in the Omada Complete and Cigna Pathwell Bone and Joint for 2025. The Committee made no action on GLP-1 Drugs due to the long term high cost associated that would have negative effects on the City and the Stay Well Plan.

With the new Cigna contract to be implemented January 1, 2025 Cigna has included Cigna Pathwell Specialty which will assist in cutting cost for specialty drug infusions saving the plan substantiality. The Omada Complete program is a plan that assist with Pre-Diabetes/Diabetes and Hypertension (High Blood Pressure). We know that these 2 diseases are gateways to larger and more expensive medical problems. This program will consist of health coaching and accountability of plan members to assist in losing weight and maintaining a healthy diet. The cost associated with this program will be a preventive claim in the amount of \$235 along with a per percentage of weight loss charged to the City. In year one that charge is 13% and year two that charge becomes 8%. If a member does not lose any weight, then there is no charge to the City. The second recommendation is for the Cigna Pathwell Bone and Joint program. This program is geared towards cutting cost for musculoskeletal injuries and surgeries. This program has built a high-performance network to reduce cost to the plan and the City as we are well aware of the high cost/claims due to musculoskeletal injuries. There is no PMPM reduced cost to the plan and no cost to the members. The City/Plan would be charged \$500.00 per participant. With this program it would provide a no cost surgery benefit, up to \$600 for travel, and covers 100% for physical therapy visits. This reduced or no cost program will have a positive substantial effect on the HealthCare plan.

Thank you for your time and consideration of these recommendations.

If you have any additional questions on the recommendations from the Stay Well Committee, please contact me.

Thank you,

Michael Veit

Michael Veit, Chairman
Stay Well Committee – 816-547-3783

City of Independence

AGENDA ITEM COVER SHEET

Agenda Title:

Council action is requested on the change in ownership for a Retail Selling of Intoxicating Liquor of all kinds in the original package for KC Quick 6 located at 15800 E. 23rd St. S.

Recommendations:

This application meets the requirements of the City's Alcoholic Beverage Code.

Background:

The applicant is requesting City Council approval for change in ownership for Retail Selling of Intoxicating Liquor of all kinds in the original package Monday through Saturday 4:00 am to 10:00 pm and Sunday 4:00 am to 12:00 am midnight. The applicant has also requested a Sunday Sales License and a Tasting Permit. These licenses will be issued administratively should the City Council approve the ownership change. KC 1 Enterprises LLC has purchased this property from Casey's Marketing Corporation in July 2024. Their plan is to operate the location in the same capacity as Casey's and are requesting approval of the liquor license application to continue to sell liquor. The applicant has indicated that this location will have alcohol sales that meet the City's Alcoholic Beverage Code.

Background:

Applicant: KC 1 Enterprises, LLC

Name of business: KC Quick 6

Business Address: 15800 E. 23rd St. S.

Size of establishment (includes outdoor patio space if applicable): KC Quick 6 will be operating within the approximate 3,500 square feet of space at 15800 E. 23rd St. S.

Liquor License Types: Retail Selling of Intoxicating Liquor of all kinds in the original package including Sunday Sales and Tasting Permit

Types of Alcohol to be sold/served: Various types of intoxicating liquor and beer by the package.

History of any liquor license at this location; if a new building, provide a brief update on the construction: Casey's Marketing Corporation has operated this 3,500 square foot convenience store with gas pumps at 15800 E. 23 St. S. since they purchased the store in 2023 from Minit Mart. Minit Mart operated at this location for many years with an active liquor license prior to Casey's purchasing. Casey's obtained a liquor license in 2023 to continue alcohol sales. There are other active liquor licenses within 500 – 1000 feet of this location: Walgreen's, Hy-Vee, Hy-Vee Gas, and Hy-Vee Market Grille are located to the west, and Aldi #58 are located to the south.

Location proximity to school, church, or residential zoning: According to the City's mapping system there are no schools within 300 feet of this establishment. There is a church and residential property located within 300 feet.

Managing Officer Information and results from background check: KC Quick 6 has indicated

Gurcharan Singh will serve as the appointed managing officer. The background investigation conducted by the Missouri State Highway Patrol on Gurcharan Singh revealed he meets the requirements of the Alcoholic Beverages code.

Emergency Justification:

Fiscal Impact:

Council Action:

Department / Contact	Community Development /
---------------------------------	-------------------------

REVIEWERS

Tom Scannell
Jeremy Cover
Zachary Walker
Susanne Holland

ATTACHMENTS:

1. Redacted KC Quick Application
2. Aerial Map
3. Zoning Map

Application Type: ☒ Package ☐ Drink ☐ Manufacturing ☐ Wholesale ☐ Special ☐ Ownership Change

Business Information

This Business is a: ☐ Sole Proprietor ☐ Partnership ☐ LP ☒ LLC ☐ Corporation

Legal Name of Entity

KC 1 Enterprises, LLC

Type of Business

Convenience Store with Gasoline

Doing Business as (d/b/a) (if different than above)

KC Quick

Physical Address

City

State

Zip

15800 East 23rd St. S. Independence, MO 64055

Mailing Address (if different from above)

11 E. Kansas St. Liberty MO 64068

Phone

Cell Phone

Email

816-222-4260, x3

347-335-2836

admin@licenseconsultinginc.com

State & Date of Incorporation or Organization

MO, 7/15/2024

Missouri Retail Sales Tax Number

29558115

Date business scheduled to open 08/20/2024

Give dimensions or square footage of the building, outdoor patio, and any other areas in which alcoholic beverages may be stored or dispensed: 3500

Is the proposed location within 300 feet of a church, school, or hospital? No

Proposed hours of operation: M-Sat, 4AM-10 PM, Sun 4 AM-12 AM

If existing business, from whom was the business purchased? Casey's Marketing Corporation

Date of purchase: 07/11/2024 Date of Possession: 8/20/2024

Does the former owner of the business have any interest, either directly or indirectly, in the business for which you seek a license? If so, explain:

No

I hereby apply to the City of Independence, MO, for the following license(s) for the business and premises described above (mark all license types for which you are applying on page 2). I also certify that the information given in this application is true to the best of my knowledge and that the license is non-transferable. I also agree that this business will observe the restrictions specifically enumerated in Chapter 2 of the Independence City Code related to alcoholic beverages.

Signature of Applicant

Gurcharan Singh

Printed Name

Managing Officer

Title

Date

Liquor License Types (mark all license types for which you are applying)

All liquor licenses are effective for one (1) year, beginning July 1 and ending June 30. Any liquor license application made between January 1 and March 31 will be charged a prorated fee equal to one-half of the annual license fee (listed below). Those licenses will expire June 30 of that year. Applications made between April 1 and June 30 will be charged the full license fee (listed below), however those licenses will expire June 30 the following year.

Package Liquor Licenses

- ☒ P1 – Retail Selling of Intoxicating Liquor of all kinds in the original package (\$150.00)
- ☐ P3 – Retail Selling of Beer only in the original package; includes Sunday Sales (\$150.00)
- ☒ S – Sunday Sales (\$300.00)
- ☒ T – Tasting Permit (\$25.00)

Drink Licenses

- ☐ T1 – Retail Selling of Intoxicating Liquor by the Drink (\$450.00)
- ☐ T2 – Retail Selling of Malt Liquor & Wine by the Drink (\$150.00)
- ☐ T3 – Retail Selling of Beer by the Drink; includes Sunday Sales (\$150.00)
- ☐ R1 – Restaurant Selling Intoxicating Liquor (\$450.00)
- ☐ R2 – Restaurant Selling Beer; includes Sunday Sales (\$150.00)
- ☐ F1 – Tax Exempt Organizations Selling Intoxicating Liquor (\$300.00)
- ☐ H1 – Hotel Selling Intoxicating Liquor (\$450.00)
- ☐ Z1 – Consumption of Intoxicating Liquor (\$150.00)
- ☐ S – Sunday Sales (\$300.00)

Manufacturing, Distilling, Blending Licenses

- ☐ M1 – Manufacturing, Distilling, Blending Intoxicating Liquor of all kinds (\$300.00)
- ☐ M2 – Manufacturing twenty-two (22) percent or less alcohol- content intoxicating liquor (\$300.00)
- ☐ M3 – Manufacturing, Brewing Malt Liquor (\$300.00)

Wholesale Licenses

- ☐ W1 – Wholesale selling of Intoxicating Liquor of all kinds (\$300.00)
- ☐ W2 – Wholesale selling of twenty-two (22) percent or less alcohol-content intoxicating liquor (\$300.00)
- ☐ W3 – Wholesale selling of malt liquor (\$300.00)

Special Licenses

- ☐ S1 – Microbrewery (\$7.50 per 100 barrels produced)
- ☐ S2 – Domestic Winery (\$7.50 per 500 gallons produced)
- ☐ S4 – Picnic 7 Day Intoxicating Liquor by the Drink (\$15.00 per day)
- ☐ S6 – July 4th Celebration Malt Liquor & Light Wine by the Drink (\$15.00 per day)
- ☐ C1 – Caterer Intoxicating Liquor by the Drink – Up to 7 Days (\$15.00 per day)
- ☐ C2 – Caterer Intoxicating Liquor by the Drink – Up to 50 Days (\$500.00)
- ☐ C3 – Caterer Intoxicating Liquor by the Drink – Unlimited Days (\$1,000.00 per day)

Managing Officer, Sole Owner, or Managing Partner Information

Gurcharan Singh						[REDACTED]
Full Name						Social Security Number
M	31	6'-2"	220	[REDACTED]	India	Yes
Sex	Age	Height	Weight	Date of Birth	Place of Birth	Are you a U.S. Citizen
9100 N Oxford Ave. Kansas City MO 64119						
Home Address		City		State		Zip
KC Quick				347-335-2836		monukhalsa3000@yahoo.com
Place of Employment (other than business)				Employment Phone		Email
5810 N Antioch Road Gladstone, MO 64119						
Employment Address		City		State		Zip

City or Town where the Managing Officer, Sole Owner, or Managing Partner pays taxes:

Kansas City, MO

Will this person be in active control and management of this business? Please explain (part-time/full-time, etc.):

Yes

Have you, any partner or employee ever been arrested anywhere in the United States for the violation of any City, State or Federal Law? If so, who, where, when and what offense (do not include minor traffic offenses):

No

Have you, any partner or employee ever been the holder of a license to manufacture or sell alcoholic beverages, which was revoked? If so, explain:

No

Have you, or any member of your household or immediate family, ever made application for a permit for the Director of Liquor Control that was denied? If so, explain and provide approximate date of denial:

No

Do you rent or lease the premises for which this business is to be used? If so, give terms of rent or lease, and name and address of property owner:

Rent from Family Express 1, LLC

Partnership or Member Information (complete only for partnerships or LLCs with multiple members)

Give partnership or LLC name (if not already listed above) and the name, address, and percentage ownership interest of each partner or member:

Kamaljeet Kaur 33.33%	Manjeet Kaur 33.34%
8051 North Denver Ave.	9100 North Oxford Ave
Kansas City, MO 64119	Kansas City, MO 64157
Gurcharan Singh 33.33%	
9100 North Oxford Ave	
Kansas City, MO 64157	

Corporate Information (complete only for a corporation)

List full name, complete address, phone number, date of birth and Social Security Number of all corporate officers:

President: _____

Vice President: _____

Secretary: _____

Treasurer: _____

Managing Officer: _____

Names, address, and phone number of shares owned of all stockholders who hold 10% or more of the capital stock:

Is the corporation or any stockholder or the managing officer thereof, or any member of his/her household or immediate family, have interest directly in any other permit issued by the Director of Liquor Control? If so, explain:

Has any stockholder of the corporation or an officer ever been convicted of a crime that had a license revoked or suspended? If so, who, when, and where?



For questions or concerns
regarding this application,
please contact:

Kim-Marie Graham

at
kim-marie@licenseconsultinginc.com
816 - 222 - 4260

11 E Kansas Street
Liberty, MO 64068

Alcoholic Beverage Code Certifications – Adult Materials

- ☒ I certify this establishment **will not** display or sell books, magazines, or other materials which are distinguished or characterized by the principal emphasis on specified sexual activities.
- ☐ I certify this establishment **will** display or sell books, magazines, or other materials which are distinguished or characterized by the principal emphasis on specified sexual activities.

Alcoholic Beverage Code Certifications – Allow Entry for Inspection

- ☒ I agree that I will permit the entry of any officer or investigator who has legal authority for the purpose of inspection; and will permit the removal of all things and articles which may be in violation of the ordinances of Independence, Missouri, and the laws of the State of Missouri or the United States.

Alcoholic Beverage Code Certifications – Restaurant Liquor Sales

- ☐ **If qualifying as a restaurant:** I certify that at least 50% of the gross sales of the business for which this license application is made will consist of food.

Alcoholic Beverage Code Certifications – Package Liquor Sales

If applying for a package liquor license: I certify that, at all times, I will keep a stock of goods having a value according to my original invoices of at least one thousand dollars (\$1,000.00), exclusive of the inventory value of the fixtures and of the intoxicating liquor, which I shall offer for sale on said premises. Check one of the following:

- ☒ This location will have alcohol sales that are less than 90% of gross store sales.
☐ This location will have alcohol sales that are more than 90% of gross store sales.

Additional Documentation Required

1. Letter of Explanation – Letter explaining why the application is being submitted by outlining the operations of the business and the use of the liquor license, should it be approved.
2. A recent photo of the Managing Officer.
3. Criminal Record Check – Missouri Highway Patrol criminal record check for the Managing Officer, Sole Owner, or each partner or member of a partnership or LLC.
4. Copy of the Managing Officer's paid Missouri personal property tax receipt for year immediately preceding the date of application.
5. Copy of Missouri voter registration card for the Managing Officer.
6. Recent photos of the interior and exterior of the premises to be licensed. If the building is under construction, the applicant shall provide a copy of the plans and specifications of the building.
7. Floorplan of the premises to be licensed including any areas where alcoholic beverages will be stored, sold, or consumed including outdoor patio areas.
8. Copy of Jackson County Business Property Tax receipt for year immediately preceding date of application. (If the business was new after January 1 of that year, it is exempt from this requirement.)
9. Business License Application – Applicant must submit a Business License application that includes a letter of "No Tax Due" dated within the previous 90-days for the MO sales tax number provided and a certificate of liability insurance.
10. License Fee: Check or money order payable to the City of Independence. See page 2 for current annual license fees.

Please return this application and all required documents to the Regulated Industries Division at the address above. For questions about completing this application, please contact Jordan Ellena at JEllena@indepmo.org or by phone at 816-325-7183.



License Consulting, Inc.
11 E. Kansas St.
Liberty, MO 64068
816-222-4260

August 5, 2024

Regulated Industries Division
111 E. Maple Avenue
Independence, MO 64050

Please find enclosed an application for liquor licensing for the location that is currently Casey's at 15800 East 23rd St. S. Independence, MO 64055. This store will change owners on 8/20/2024.

The liquor license application is submitted so that the store can continue to carry on liquor sales as approved for the previous owner. The store will continue to operate as a convenience store with gasoline. There are no planned renovations, additional construction or significant changes to the business operations other than ownership.

Please do not hesitate to call if you have any questions or need any additional information. Thank you in advance for your assistance.

Kim-Marie Graham
License Consultant





No Match Notification

A statewide search of the identifiers below has revealed no criminal conviction or sex offender information on file. Fingerprints were not provided and thus the result of the search cannot be guaranteed.

Date of Search: 07/22/2024

Name (1): GURCHARAN SINGH

Name (2):

Name (3):

Date Of Birth: [REDACTED]

SSN: [REDACTED]

Control Number: 6833970

If you have any questions, please do not hesitate to contact our office at 573-526-6153.

Missouri State Highway Patrol
Criminal Justice Information Services Division
PO BOX 9500
Jefferson City, MO 65102



No Match Notification

A statewide search of the identifiers below has revealed no criminal conviction or sex offender information on file. Fingerprints were not provided and thus the result of the search cannot be guaranteed.

Date of Search: 07/22/2024

Name (1): KAMALJEET KAUR

Name (2):

Name (3):

Date Of Birth: [REDACTED]

SSN: [REDACTED]

Control Number: 6833971

If you have any questions, please do not hesitate to contact our office at 573-526-6153.

Missouri State Highway Patrol
Criminal Justice Information Services Division
PO BOX 9500
Jefferson City, MO 65102



No Match Notification

A statewide search of the identifiers below has revealed no criminal conviction or sex offender information on file. Fingerprints were not provided and thus the result of the search cannot be guaranteed.

Date of Search: 07/22/2024

Name (1): MANJEET KAUR

Name (2):

Name (3):

Date Of Birth:

SSN:

Control Number: 6833972

If you have any questions, please do not hesitate to contact our office at 573-526-6153.

Missouri State Highway Patrol
Criminal Justice Information Services Division
PO BOX 9500
Jefferson City, MO 65102



CLAY COUNTY

TAX PAYMENT RECEIPT

RECEIPT NUMBER: 4672123

Page 1 of 2

Entered: 7/22/2024 3:03 PM

Cashier: bclark

Printed By: BCLARK

Interest Date: 7/22/2024

Drawer: 9

Receipt Applied To:

Property Account No.

00099001918350

Year	District	Amount Applied	Unpaid Balance*	Description
2023	130	\$770.72	\$0.00	Property Tax Principal
2023	CNTY_100	\$11.03	\$0.00	Property Tax Interest
2023	130	\$80.93	\$0.00	Property Tax Interest
2023	CNTY_100	\$10.44	\$0.00	Property Tax Penalty
2023	130	\$76.65	\$0.00	Property Tax Penalty
2023	CNTY_100	\$105.00	\$0.00	Personal Property Late Filing Penalty
Amount Applied for Tax Year 2023		\$1,054.77	\$0.00	Unpaid Balance Amount for Tax Year 2023
Agency		Amount		
COUNTY SERVICES		\$10.4607		
KANSAS CITY		\$138.0208		
HANDICAP TAX		\$8.8470		
HOSPITAL TAX		\$11.8690		
KCJC TAX		\$16.2514		
LIBRARY TAX		\$26.5775		
HEALTH TAX		\$7.3771		
MENTAL HEALTH TAX		\$7.3771		
LIBERTY SCHOOL DISTRICT		\$541.2004		
STATE TAX		\$2.7390		

Description of Property:

Make: BMW

Model: X5 35i

Model Series: X5 35i

Year: 2017

Plate:

Item Type: TRUCK

1st Name on Title: UNKNOWN PARTY

2nd Name on Title:

Serial No./VIN: 5UXKR0C52H0U54718

Situation Address: 9100 N OXFORD AVE, KANSAS CITY

Total Paid on This Receipt: \$1,054.77

Thank you for your payment.

Run: 7/22/2024 3:03:42 PM

End of Receipt Number 4672123: 1 Page

[AscendClayProdReports]

Notes:

*Interest, penalties and fees will be assessed on any unpaid balance amount. The amount of any unpaid balance shown on this receipt is the unpaid balance amount at the time the receipt is run, exclusive of such interest, penalties and fees. Changes in the taxable value may alter your unpaid balance amount.

PAYER:

SINGH GURCHARAN
9100 N OXFORD AVE
KANSAS CITY MO 64157-7845

OWNER:

SINGH GURCHARAN
9100 N OXFORD AVE
KANSAS CITY MO 64157-7845

Current Voter Registration Information

GURCHARAN SINGH
9100 OXFORD AVE
KANSAS CITY, MO 64157

If any of the voter information is not accurate, you will need to [update your voter registration](#).

NOTICE: Polling location information is provided and updated by [local election authorities](#). It is recommended you confirm your polling place with your county clerk or board of election. Contact information for your local election authority may be found in the box on the right.

Election Resources

Select an upcoming election to view your polling place, the candidates and issues that will appear on your ballot, and more.

Election: Primary Election - 8/6/2024

Election Date:
Voter Registration Deadline:

8/6/2024
7/10/2024



[View Candidates & Issues](#)

My Polling Place:

35-WOODNEATH LIBRARY CENTER
8900 NE FLINTLOCK RD
KANSAS CITY, MO 64157

Jurisdiction Information

County: Clay
Precinct: 35.01
Split: 01



[View My Districts](#)

Have Questions?

Contact your Local Election Authority:

Clay County Board of Elections
100 W. Mississippi
Liberty, MO 64068

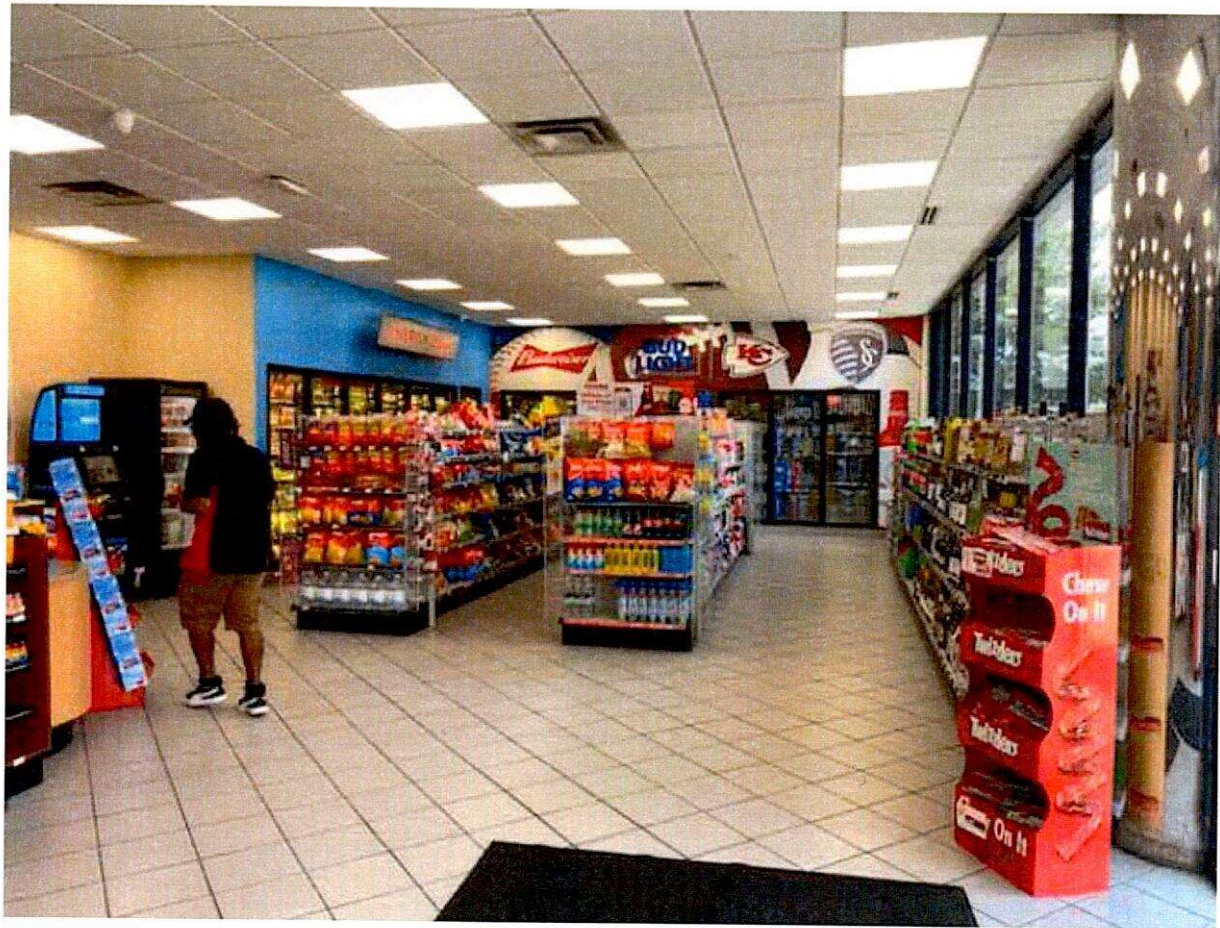
Phone: 816-415-8683
Fax: 816-792-5334

Email:
comments@voteclaycountymo.gov

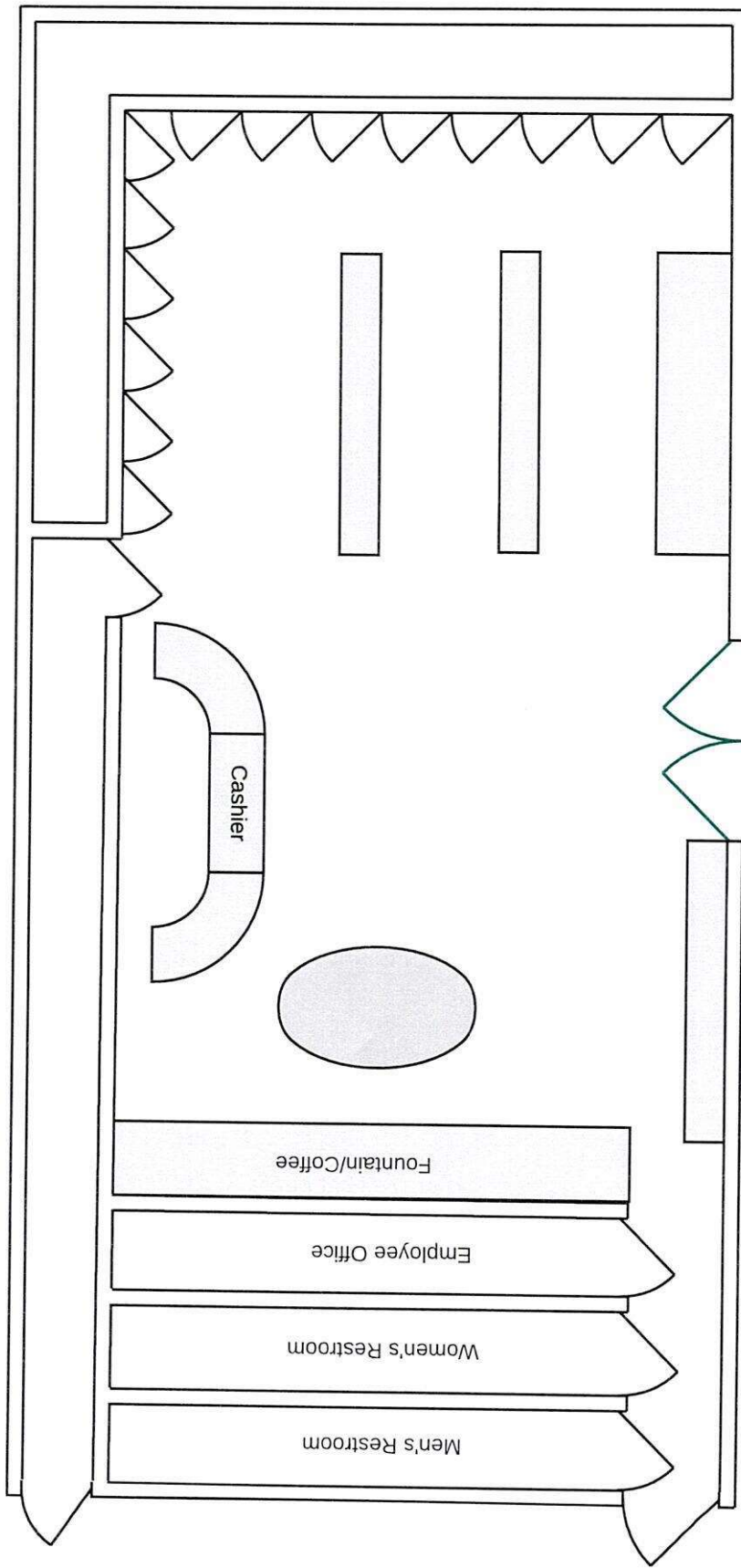
Website:
[LEA Website](#)

Need to update your registration?

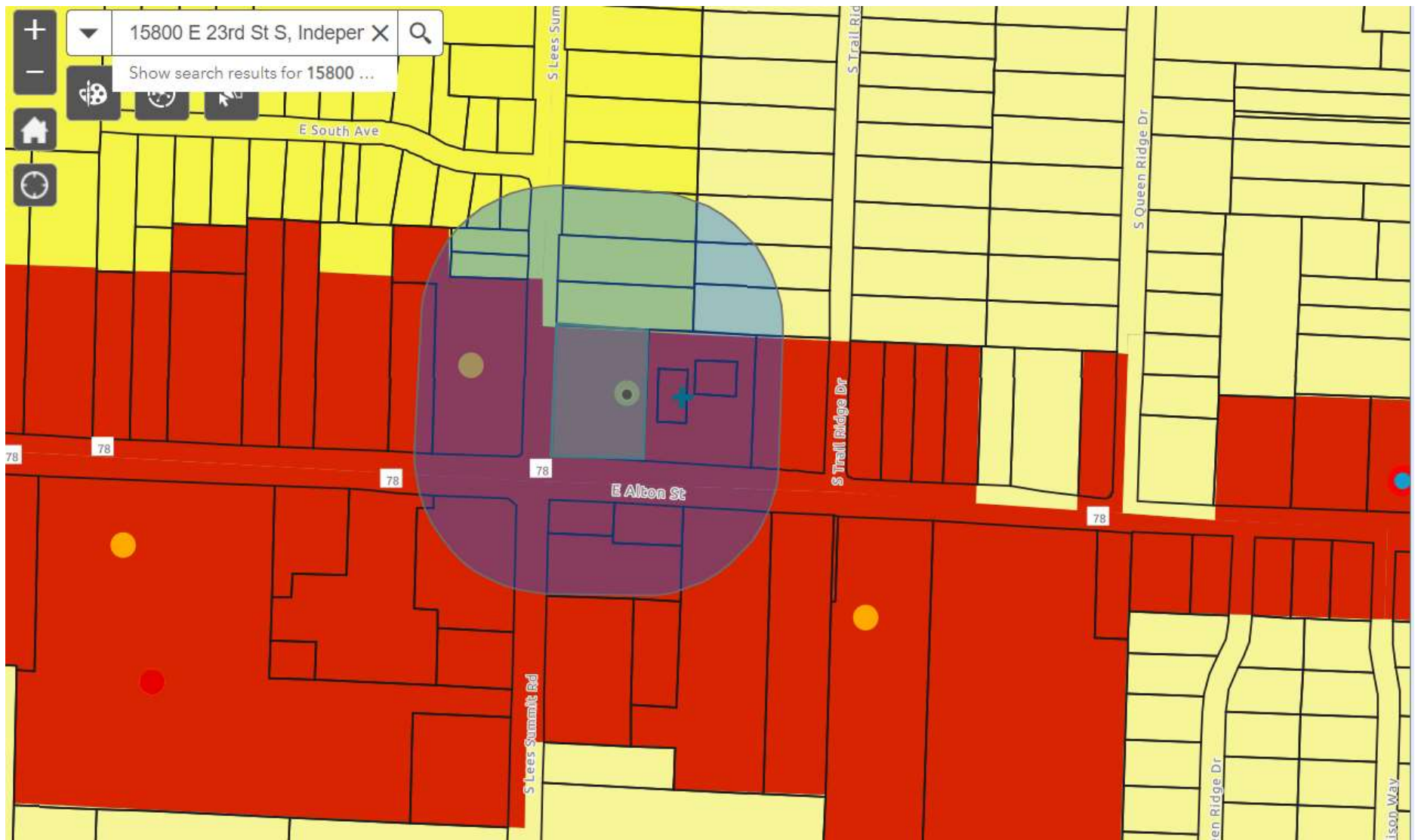
Visit the [Missouri Secretary of State Elections page](#) for more information.











City of Independence

AGENDA ITEM COVER SHEET

Agenda Title:

24-765 A Resolution declaring the Council's intent to adopt the 2024 International Plumbing Code, the 2024 International Existing Building Code, the 2024 International Mechanical Code, the 2024 International Residential Code, the 2024 International Fire Code, the 2024 International Building Code, the 2024 International Fuel Gas Code and the 2020 National Electrical Code (NFPA 70).

Recommendations:

Staff recommends approval of this Resolution.

Background:

This Resolution establishes the required 90-day period of time for the proposed code to be available for public viewing. The Resolution allows the City to announce its intent to adopt the listed codes as proscribed under the provisions of RSMo 67.280.

After the 90-day public comment period, the ordinance may be presented on a future agenda for the first reading at one meeting and the second reading and scheduled vote by the Council at the following meeting. This resolution provides for the listed Codes to be on file and available for review with the City Clerk.

Emergency Justification:**Fiscal Impact:****Council Action:**

Department / Contact	Community Development /
---------------------------------	-------------------------

REVIEWERS

Tom Scannell
Jeremy Cover
Zachary Walker
Susanne Holland

ATTACHMENTS:

1. Resolution of Intent to adopt 2024 Codes

RESOLUTION BILL NO. _____

RESOLUTION NO. _____

A RESOLUTION DECLARING THE COUNCIL'S INTENT TO ADOPT THE 2024 INTERNATIONAL PLUMBING CODE, THE 2024 INTERNATIONAL EXISTING BUILDING CODE, THE 2024 INTERNATIONAL MECHANICAL CODE, THE 2024 INTERNATIONAL RESIDENTIAL CODE, THE 2024 INTERNATIONAL FIRE CODE, THE 2024 INTERNATIONAL BUILDING CODE, THE 2024 INTERNATIONAL FUEL GAS CODE AND THE 2020 NATIONAL ELECTRICAL CODE (NFPA 70).

WHEREAS, it is the intent of the Council to adopt the 2024 International Plumbing Code, the 2024 International Existing Building Code, the 2024 International Mechanical Code, the 2024 International Residential Code, the 2024 International Fire Code, the 2024 International Building Code, the 2024 International Fuel Gas Code and the 2020 National Electrical Code (NFPA 70), and referenced standards with additions, insertions, deletions and changes; and,

WHEREAS, the statutes of the State of Missouri (Section 67. 280 RSMo) require that one copy of the Code and its amendments be filed with the City Clerk and there be kept available for public use, inspection, and examination for a period of 90 days prior to the adoption of the ordinance which incorporates the Code by reference.

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

SECTION 1. That the City Clerk is hereby directed to keep on file in the office of the City Clerk, and make available for public use, inspection, and examination, one copy of the 2024 International Plumbing Code and its proposed amendments, for a period of at least 90 days prior to the adoption of an ordinance which incorporates the Code by reference.

SECTION 2. That the City Clerk is hereby directed to keep on file in the office of the City Clerk, and make available for public use, inspection, and examination, one copy of the 2024 International Existing Building Code and its proposed amendments, for a period of at least 90 days prior to the adoption of an ordinance which incorporates the Code by reference.

SECTION 3. That the City Clerk is hereby directed to keep on file in the office of the City Clerk, and make available for public use, inspection, and examination, one copy of the 2024 International Mechanical Code and its proposed amendments, for a period of at least 90 days prior to the adoption of an ordinance which incorporates the Code by reference.

SECTION 4. That the City Clerk is hereby directed to keep on file in the office of the City Clerk, and make available for public use, inspection, and examination, one copy of the 2024 International Residential Code and its proposed amendments, for a period of at least 90 days prior to the adoption of an ordinance which incorporates the Code by reference.

SECTION 5. That the City Clerk is hereby directed to keep on file in the office of the City Clerk, and make available for public use, inspection, and examination, one copy of the 2024 International Fire Code and its proposed amendments, for a period of at least 90 days prior to the adoption of an ordinance which incorporates the Code by reference.

SECTION 6. That the City Clerk is hereby directed to keep on file in the office of the City Clerk, and make available for public use, inspection, and examination, one copy of the 2024 International Building Code and its proposed amendments, for a period of at least 90 days prior to the adoption of an ordinance which incorporates the Code by reference.

SECTION 7. That the City Clerk is hereby directed to keep on file in the office of the City Clerk, and make available for public use, inspection, and examination, one copy of the 2024 International Fuel Gas Code and its proposed amendments, for a period of at least 90 days prior to the adoption of an ordinance which incorporates the Code by reference.

SECTION 8. That the City Clerk is hereby directed to keep on file in the office of the City Clerk, and make available for public use, inspection, and examination, one copy of the 2020 National Electrical Code (NFPA 70) and its proposed amendments, for a period of at least 90 days prior to the adoption of an ordinance which incorporates the Code by reference.

PASSED THIS _____ DAY OF _____, 2024, BY THE CITY COUNCIL
OF THE CITY OF INDEPENDENCE, MISSOURI.

Presiding Officer of the City Council
of the City of Independence, Missouri

ATTEST:

City Clerk

APPROVED AS TO FORM AND LEGALITY:

City Counselor

REVIEWED BY:

City Manager

City of Independence

AGENDA ITEM COVER SHEET

Agenda Title:

24-766 A Resolution amending Resolution 7020, appointing Councilmembers to certain Boards and Commissions as Councilmember Liaisons.

Recommendations:**Background:****Emergency Justification:****Fiscal Impact:****Council Action:**

**Department /
Contact**

Council and Board /

REVIEWERS

Zachary Walker
Susanne Holland

ATTACHMENTS:

1. Resolution Apptg Councilmember liaisons DRAFT (3)

BILL NO. _____

RESOLUTION NO. _____

**A RESOLUTION AMENDING RESOLUTION 7020, APPOINTING COUNCILMEMBERS
TO CERTAIN BOARDS AND COMMISSIONS AS COUNCILMEMBER LIAISONS**

WHEREAS, Section 2.10(10) of the Independence City Charter permits the City Council to create boards, commissions, or committees as determined necessary; and

WHEREAS, on February 20th, 2023, the Independence City Council formally adopted the 2023-24 Independence Action Plan (“Action Plan”) via Resolution No. 6902; and

WHEREAS, Section 1.2 of the Action Plan encourages the City of Independence to “[b]roaden and deepen engagement of the community in city government, innovating methods for inviting input from the community and stakeholders” to more effectively advise the City and engage the public”; and,

WHEREAS, Strategic Plan Section 6 High Performance Organization states, “[w]e operate as an ethical high-performance organization, anticipating future needs, utilizing best practices, and striving for continuous improvement.”; and,

WHEREAS, on January 2, 2024, the Independence City Council formally adopted Resolution No. 6975, establishing rules, process, and procedures for all Boards, Commissions, and Committees; and,

WHEREAS, on July 15, 2024, the Independence City Council formally adopted Resolution No. 7020, appointing Council members to certain Boards and Commissions as Councilmember Liaisons, and;

WHEREAS, it was later determined that the Tree Commission and the TIF Commission were inadvertently left off the list, and the Human Relations Commission was assigned two liaisons; and

WHEREAS, this resolution will clarify the list of assigned councilmember liaisons.

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

SECTION 1. That the City Council of the City of Independence, Missouri, hereby appoints the following individual(s) to the listed Boards, Commissions and Committees as follows:

City Council Committee Liaison Assignments

Board/Commission	Councilmember
Industrial Development Authority	Fears
Public Utility Advisory Board	Fears
Board of Adjustment	Fears
Advisory Board of Health	McCandless
Human Relations Commission	McCandless
Personnel Board	McCandless
Sustainability Commission	McCandless
Heritage Commission	Perkins
Square Advisory Board	Perkins
GO Bond Advisory Committee	Perkins

Board of Ethics	Rowland
Japanese Sister City Committee	Rowland
Tree Commission	Rowland
Truman Award Commission	Rowland
Public Safety Tax Oversight Committee	Stewart
Storm Water Control Oversight Committee	Stewart
Street Improvement Oversight Committee	Stewart
Board of Building & Engineering Appeals	Stewart
Park Commission	Vaught
Tourism Commission	Vaught
World Cup	Vaught
Animal Welfare Committee	Wiley
Planning Commission	Wiley
TIF Commission	Wiley

PASSED THIS _____ DAY OF _____, 2024, BY THE CITY COUNCIL OF THE
CITY OF INDEPENDENCE, MISSOURI.

Presiding Officer of the City Council
of the City of Independence, Missouri

ATTEST:

City Clerk

APPROVED AS TO FORM AND LEGALITY:

City Counselor

REVIEWED BY:

City Manager

City of Independence

AGENDA ITEM COVER SHEET

Agenda Title:

24-767 A Resolution for Directing the City Manager to Modify Provisions in the City's Design and Construction Manual Regarding Traffic Calming (*Requested by Councilmember Stewart*)

Recommendations:

Staff does not recommend approval of this item.

As listed in the Design and Construction Manual, there are several potential disadvantages associated with the installation of certain traffic-calming devices (namely speed humps) including but not limited to:

- Additional installation and maintenance costs
- Difficulties during winter weather events
- Additional difficulty for bicycles and motorcycles
- Increased noise pollution
- Potential damage to vehicles
- Potential increase in damage claims
- Increase in emergency response times

Surrounding jurisdictions that do allow speed humps require a 75% petition approval.

Background:**Emergency Justification:****Fiscal Impact:****Council Action:**

Department / Contact	Council and Board /
---------------------------------	----------------------------

REVIEWERS

Jeremy Cover
Zachary Walker
Susanne Holland

ATTACHMENTS:

1. CM.Traffic Calming Policy 9-6-24
2. Traffic Calming Policy

BILL NO. _____

RESOLUTION NO. _____

A RESOLUTION DIRECTING THE CITY MANAGER TO MODIFY PROVISIONS IN THE CITY'S DESIGN AND CONSTRUCTION MANUAL REGARDING TRAFFIC CALMING.

Requested by Councilmember Brice Stewart

WHEREAS, on September 18th, 2023, the Independence City Council adopted Ordinance 19485, and;

WHEREAS, this ordinance made several updates, including separating the standards for construction and design from Chapter 20 of the City Code into a Design and Construction Manual which will be maintained and updated by City Staff in order to stay current with national standards, and;

WHEREAS, the Design and Construction Manual contains the City's Traffic Calming Policy, and;

WHEREAS, traffic calming treatments are typically the most expensive means of mitigation and have the most significant impact to residents, and;

WHEREAS, for these two reasons, all traffic calming treatments must be overwhelmingly supported by the citizens within the impact area and meet certain qualifications for implementation, and;

WHEREAS, a petition for traffic calming modification/removal must be signed by at least 70% of the property owners within the impact area, and;

WHEREAS, the City Council wishes to see this policy modified;

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

SECTION 1. That the City Council directs the City Manager to modify the City's Traffic Calming Policy by lowering the required number of property owners that must approve a petition request from 70% to 51%.

PASSED THIS _____ DAY OF _____, 2024, BY THE CITY COUNCIL OF THE CITY OF INDEPENDENCE, MISSOURI.

Presiding Officer of the City Council
of the City of Independence, Missouri

ATTEST:

City Clerk

APPROVED - FORM AND LEGALITY:

City Counselor

REVIEWED BY:

City Manager

CITY OF INDEPENDENCE, MISSOURI DESIGN MANUAL

TRAFFIC CALMING POLICY

INTRODUCTION

The City of Independence Traffic Calming Program reflects the City's commitment to safe, family-friendly communities and quality neighborhoods and is a guide used by staff to gather information for requests regarding neighborhood traffic safety concerns. This program will be a cooperative effort by four City departments (Municipal Services, Police, Fire, and Community Development) and the public. The Traffic Engineering group of Municipal Services will work with the Police Department and residents in a distinctive, cooperative, and comprehensive effort to identify traffic problems in their neighborhoods and seek appropriate solutions. Citizen participation is encouraged and is an important part of all traffic safety programs.

The purpose of this program is to address neighborhood traffic concerns on residential local and residential collector streets in working towards a safer roadway network. The goal of the program is to promote safe, family-friendly, and quality neighborhoods by reducing the negative impact of traffic in residential areas through education, enforcement, engineering, and emergency response.

Goals and Objectives

- Promote safe and quality neighborhoods
- Promote open and transparent communication between the City and the public
- Promote family-friendly communities
- Provide a formal application process to be filled out by the public
- Provide direction and expectations to the public making requests
- Provide a clear, consistent approach to address traffic concerns
- Provide engineering, enforcement, and educational solutions
- Provide specific criterion for implementation of traffic calming measures
- Reduce the negative impacts of vehicular traffic
- Reduce traffic crash frequency and severity
- Enhance the street environment

Specific action will be taken to address neighborhood traffic concerns identified through a Traffic Calming Program Study that can be initiated through a request form.

TRAFFIC STUDY REQUEST

Requests for a Traffic Calming Program study may be initiated by any of the following:

Residents, property owners, or neighborhood associations may request a study be conducted by submitting an application and signed petition to the Municipal Services City Traffic

Engineer. Upon receipt of a valid application, staff will prepare a petition for the applicant to distribute. The petition will list the property ownership facing the street segment(s) listed on the application in the areas of concern and adjacent properties with no other access (i.e. No Outlet or Dead End streets). A street segment is defined as that part of a street between successive intersecting streets and shall be a minimum of 600 feet, measured from the middle of each intersection. The petition must be returned with at least fifty percent (50%) support from property ownership along the impacted area. For impact areas adjacent to more than 20 properties, 10 valid signatures will be required. Petitions will be reviewed by City staff for validity by verifying signatures of property ownership to County maintained records.

Police Department, Fire Department, Schools, or other similar public service agencies may request that studies be undertaken to solve a specific concern with respect to traffic and pedestrian safety.

City staff may initiate a study to solve a specific concern with respect to vehicular traffic, pedestrian, bicycle safety, or operations. This concern may be identified through data collection and monitoring.

At a minimum the request should identify: the applicant; the purpose of the study; location; description of the perceived problem (i.e. excessive traffic speed or traffic volume, time of day the problem occurs, specific location, etc.); and a neighborhood representative (person of contact for the neighborhood). The neighborhood representative may be the applicant or someone designated by the residents to represent the community. This person will also be responsible for the organization of petitions and coordinating any associated neighborhood meetings with the City's Traffic Engineer and other City Departments involved.

Each request will be recorded into the City's database of Traffic Calming Requests. Upon receipt of a valid study request, City staff will contact the neighborhood representative to arrange a neighborhood meeting, if necessary, where City staff, including a representative of the Police Department (when applicable), Fire Department (when applicable), and residents can discuss the Traffic Calming Program, boundaries of the impact area, and solicit their input about the submitted request. The impact area includes properties which may be affected by actions taken to mitigate the concerns expressed in the request. Impact areas may include a single street segment or multiple streets depending on the nature of the concern. City staff will attempt to clarify the nature and extent of the perceived problem at this initial meeting (e.g. excessive speed, high traffic volume, cut-through traffic, and whether the problem is at mid-block or at an intersection).

After discussion with the applicant and/or neighborhood representatives, additional information and data will be gathered to help recognize the concern, rank the priority in relation to other concerns, and identify what action and treatment(s), if any, should be implemented. Data collected may include street width, street classification, availability of parking, fronting land uses, presence of bicycle or pedestrian routes, sidewalks, locations and proximity of parks and schools, vehicular and pedestrian counts, crash records, travel speeds, and other appropriate information to assist in addressing the concern.

When the necessary information and data has been acquired to assess the situation identified in the request and a clear understanding of the concern discussed with the applicant has been established, a study will be completed by City staff to determine which course of action or combination of actions should be taken: education, enforcement, and/or engineering. The results and

recommendations of the study will be presented at a neighborhood meeting to be organized by the neighborhood representative.

One year after the establishment of any safety zone or the installation of physical measures, a follow-up traffic study will be conducted to assess the impact. Depending on the results of this study, additional action may be required in any or all of the three areas. Not all traffic concerns can be mitigated by education, enforcement, engineering, or some combination of the three.

The Four E's of Traffic Safety

Education: Neighborhood Meetings, Radar Speed Trailer, Changeable Message Signs, Neighborhood Newsletters, Informational pamphlets, City Web-Site, Government Access Channel;

Enforcement: Assigned enforcement areas are conducted by all officers of the Traffic Unit, Scheduled return enforcement of completed program areas, Random enforcement of areas with a low volume of violators, Establishment of neighborhood traffic safety zones, Increased traffic fines;

Engineering: Review areas for atypical circumstances, perform engineering study of impacted area, investigate geometric modifications to the street which may include construction of recommended traffic calming measures identified by the Institute of Transportation Engineers (ITE) and/or the Federal Highway Administration;

Emergency Response: Review impacts related to response times when engineering solutions are under consideration, proposed design or recommended from the engineering study.

EDUCATION

Whether the study finds a problem exists or not, a neighborhood meeting should be coordinated through the neighborhood representative where City staff has the opportunity to educate the public on the Traffic Calming Program and the results of the study. For any case, these actions promote safe and quality neighborhoods for all users of residential streets.

If the study does not identify an existing problem, City staff will attempt to raise public awareness and convey reasonable traffic expectations in residential neighborhoods through education. The local traffic conditions will be explained to the residents and sources of traffic safety information will be presented (city web-site, informational pamphlets, government access channel, etc). Another application into the program for the same area may not be submitted within two years from the date the traffic study was completed, unless the City Traffic Engineer determines there have been significant changes to the transportation system that would impact future applications.

If there is an occasional problem identified during the course of study that doesn't warrant enforcement or engineering measures, means of improving neighborhoods by reducing the negative impact of traffic through education will be discussed. Typically, most of the vehicles using residential streets are people who reside in the neighborhood. The City in conjunction with the Police Department will attempt to educate the residents on non-invasive methods of deterring traffic problems within a neighborhood. These methods may include traffic safety campaigns,

message boards, and radar speed display units. Neighborhood traffic safety campaigns usually consist of personalized letters or general flyers that are distributed to all residents in the neighborhood. The letters and flyers may cite statistics on speeding, cut-through traffic, or other findings summarized in the study for the area and appeal for compliance with traffic laws. Message boards may be used to raise driver awareness regarding traffic concerns in the area. Radar speed display units can be used to remind drivers that they are speeding, thus encouraging compliance with the speed limit. If an education approach is recommended in the study, but not a traffic enforcement zone or engineered treatments, another application into the program for the same area may not be submitted within two years from the date the traffic study was completed, unless the City Traffic Engineer determines there have been significant changes to the transportation system that would impact future applications.

If the problem is severe enough that enforcement and/or engineering treatments are recommended, the education techniques described above will still be discussed. The combination of education with enforcement and/or engineering is a benefit to the residents and an important aspect of the program. Since enforcement and engineering treatments may be recommended and not be supported, education could be the only initiative explored.

ENFORCEMENT

Enforcement strategies to relieve traffic concerns validated by the traffic study must be supported by the majority of the residents within the impact area. If the public has indicated a majority interest in enforcement techniques discussed at the neighborhood meeting, City staff may coordinate with the Police Department to pursue increased presence and ticketing in the area.

Assigned enforcement areas are conducted by all officers of the special operations unit with scheduled return enforcement of completed program areas and random enforcement of areas with a low volume of violators.

Some areas where problems persist may be designated Traffic Enforcement Zones by the Municipal Services and Police Department. These areas would have permanent signs installed advising drivers of the area status and increased fines if stopped for traffic violations in that area, for a maximum two-year period. To be designated a Traffic Enforcement Zone, the area must be recommended by City staff, the Police Department, and the local residents. The City will contact the designated applicant or neighborhood representative and request a petition prior to action. The neighborhood representative must submit a signed petition in favor of designating the area a Traffic Enforcement Zone to Municipal Services. The petition must clearly state what it is for (in favor of Traffic Enforcement Zone for the street(s) “location”) and the petition must be signed by at least 70% of the properties within the impact area. The City will review the petition for validity and check the signatures of the property owners against property ownership records maintained by the County. The petition must be submitted within 30 days of the petition request or it shall be considered unsuccessful. A Traffic Enforcement Zone will be removed after two years of installation. At the request of the Police Department or at the request of a resident within the neighborhood with a resident petition signed by at least 70% of the residents within the original impact area the Traffic Enforcement Zone may remain in place.

Upon any applied enforcement technique or unsuccessful petition, another application to the Traffic Calming Program for the same area cannot be submitted within two years from the date the traffic study was completed, unless the City Traffic Engineer determines there have been significant changes to the transportation system that would impact future applications.

ENGINEERING

Background

If all education and enforcement initiatives are unsuccessful or inappropriate due to the nature of the concern (e.g. cut-through traffic); the use of traffic calming treatments may be considered. Traffic calming is characterized as the combination of mainly physical measures that reduce the negative effects of motor vehicles, alter driver behavior, and improve conditions for non-motorized street users. It is the retrofitting of physical measures into the roadway to reduce traffic speeds and cut-through traffic, thereby generally making the street environment more safe and pleasant for pedestrians, other drivers, and residents. Traffic calming is not route modification, traffic control devices (notably STOP signs and speed limit signs that require enforcement), and streetscape. By contrast, traffic calming measures are intended to be self-enforcing. Traffic calming, by its nature, will impact neighborhoods and residents within the neighborhood the most. Thus, the implementation of any traffic calming treatment without overwhelming local support can have significant backlash. Traffic calming has several significant benefits, as well as, some drawbacks. Summarized below are a few benefits and disadvantages of traffic calming.

Benefits of Traffic Calming:

- Reducing speed
- Reducing traffic volume
- Reducing collision frequency and severity
- Increased safety for non-motorized users of the street
- Enhancing the street environment
- Reducing cut-through vehicle traffic
- Increase in quality of life
- Incorporates the preferences and requirements of people using the area along street(s)
- Reducing the negative impacts of vehicles on the environment and the neighborhood
- Reducing the need for police enforcement, hence reducing costs (cost is offset by the reduced need for police enforcement)

Disadvantages of Traffic Calming:

- Increased emergency response times
- Vehicles may be damaged and people injured by inappropriate driver behavior (e.g., driving too fast or inattentive)
- Snow removal is more difficult and time consuming
- Installation & maintenance costs
- Additional signs and lighting may be required
- Increased maintenance, especially where landscaping is included
- Annoying to some residents (noise and inconvenience)
- Some treatments can restrict resident access

Traffic calming treatments have been implemented in the United States since before the 1980's. In some countries these same treatments have been used long before the 1970's. Many of the successful traffic calming treatments used are into their second and third generation. There are more than 25 treatments commonly used around the world. Many of these treatments are used in the United States. The most effective traffic calming treatments are those that deflect vehicles vertically, horizontally, or both. Some of the treatments applicable for use are available for viewing online through the [Federal Highway Administration, Safety: Toolbox of Individual Traffic Calming Measures](#). These techniques include Horizontal Deflection, Vertical Deflection, or other measures. City staff may determine to use one or more of these treatments as a possible solution for traffic concerns. However, the Traffic Calming Program Study must show there is a need for traffic calming devices and that the street is suitable for treatment. Temporary devices may be utilized when appropriate to verify suitability of a permanent solution or to gauge public reaction before implementing the permanently recommended solution, when insufficient funds are available for permanent construction, or as a short term initiative due to temporary major traffic generating events or nearby construction on a parallel system.

Qualification

Traffic calming treatments are typically the most expensive means of mitigation and have the most significant impact to residents. For these two reasons, all traffic calming treatments must be overwhelmingly supported by the citizens within the impact area and meet certain qualifications for implementation.

Not all streets are suitable for traffic calming treatments. Suitability is based on speed, volume, street classification, and several other criteria. To be qualified for traffic calming treatments a street must meet the following requirements and score more than 50 points on the point rating system described in Tables 1 and 2:

Streets classified as residential "local" or "collector", meeting the following criteria:

- No more than 2 travel lanes or 40 ft pavement width
- Horizontal curve of 300 ft radius or greater
- Vertical curve with adequate stopping sight distance
- Grade of 8 percent or less
- Posted speed limit of 30 mph or less
- No more than 5 percent long wheel-base vehicles
- Not on a primary emergency response route, snow route, or transit route

Residential Local Street Point Criteria

The point criteria for local streets are described in the following table:

Criteria	Point Assignments for Residential Local Street
Speed	3 Points shall be assigned for each mph over the posted speed limit based upon the 85 th percentile speed [(85th percentile speed – posted speed limit) x 3 points]
Volume	1 Point shall be assigned for every 200 vehicles of daily traffic [ADT/200]

Pedestrian Routes & Bikeway	10 Points shall be assigned for not having continuous sidewalk on either side of the street 5 Points shall be assigned for only having sidewalk on one side of the street 5 Points shall be assigned if the street is a bicycle route (signed or unsigned)
Correctible Crashes	Correctible crashes shall be evaluated for a 3-year period and should include the Impact Area and all intersecting approaches (within 150 feet) of the study area: 1 Points shall be assigned for each Property Damage Only crash 3 Points shall be assigned for each Personal Injury crash 6 Points shall be assigned for each Fatal crash
Pedestrian Generators	5 Points shall be assigned for every school, park, community center, and church located within 1000' of the project area (10 Points if Elementary or Middle School)
Driveway Density	1 Point shall be assigned for every 20 driveway access points within the impact area

TABLE 1

Residential Collector Street Point Criteria

The point criteria for collector streets are described in the following table:

Criteria	Point assignments for Residential Collector Street
Speed	3 Points shall be assigned for each mph over the posted speed limit based upon the 85 th percentile speed [(85 th percentile speed – posted speed limit) x 3 points]
Volume	1 Point shall be assigned for every 300 vehicles of daily traffic [ADT/300]
Pedestrian Route & Bikeway	15 Points shall be assigned for not having continuous sidewalk on either side of the street 5 Points shall be assigned for only having sidewalk on one side of the street 5 Points shall be assigned if the street is a bicycle route (signed or unsigned)
Correctible Crashes	Correctible crashes shall be evaluated for a 3-year period and should include the Impact Area and all intersecting approaches (within 150 feet) of the study area: 1 Points shall be assigned for each Property Damage Only crash 3 Points shall be assigned for each Personal Injury crash 6 Points shall be assigned for each Fatal crash
Pedestrian Generators	5 Points shall be assigned for every school, park, community center, and church located within 500' of the project area (10 Points if Elementary or Middle School)
Driveway Density	1 Point shall be assigned for every 10 driveway access points within the impact area

TABLE 2

Concept

If the residents support the use of traffic calming measures (as indicated at neighborhood meetings), the project meets the requirements for traffic calming, and is recommended by the results of the study; a conceptual traffic calming plan will be developed. The conceptual plan will be presented at a neighborhood meeting to describe/illustrate the recommended treatment(s). The conceptual plan is Staff's recommendation, but should not be considered the only solution or final solution. Upon discussion, residents may desire alternate treatments, modifications to the recommendation, or no treatment at all. Revisions may be made by the City as a result of this meeting and presented in another neighborhood meeting, if required.

Petition

After the conceptual plan has been established, the City will contact the designated neighborhood representative and request a petition prior to implementation. The neighborhood representative must submit a signed petition in favor of implementing the conceptual traffic calming measure(s) presented in the last neighborhood meeting to the Municipal Services Traffic Engineering Group. The petition must clearly state what it is for (in favor of implementing/constructing traffic calming measure "type" for the street "location"). The petition must be signed by at least 70% of the properties within the impact area and by each of the property owners immediately adjacent to the proposed traffic calming devices. For instance, if a speed hump is to be installed in front of a resident's house, the resident must agree to it. The City will review the petition for validity and check the signatures of the property owners against property ownership records maintained by the County. The petition must be submitted within 30 days of the petition notice or it shall be considered unsuccessful. If the petition is unsuccessful, another application into the program for the same area may not be submitted within two years from the date the traffic study was completed, unless the City Traffic Engineer determines there have been significant changes to the transportation system that would impact the recommendation.

Priority

Traffic calming projects recommended as a result of a study are programmed on an as recommended basis, utilizing funds that would otherwise be available for street improvements. Programming funds for Traffic Calming projects will be based on a ranking system and available funding. A ranking system will prioritize projects based on rating scores received from the study plus points that incorporate funding and time. A project will be awarded 2 points for every year, up to 5 years (10 total points) it remains on the project list. If a project is partially or wholly funded by the applicant/neighborhood residents, a point is awarded for each percent of the total estimated project cost funded above 50%, for a maximum 50 points if 100% funded. If a project does not get programmed within 5 years, it will be dropped from the system and an application may be resubmitted.

Design

The project will be designed according to standard City procedures, generally conforming to practices set forth by the Institute of Transportation Engineers (ITE) and/or the American Municipal Services Association (APWA).

Construction

The project will be let, constructed, and inspected following standard City procedures.

Modification/Removal

Traffic calming measures may be removed or modified after a one-year period for any of the following reasons:

- Resident request, with sufficient supporting documentation

If residents of the impact area feel the strategy has not achieved the goals defined in the public process and are significantly dissatisfied, they can submit a petition for modification or removal that has been signed by over 50% of the properties within the pre-defined impact area. Upon receipt of a valid petition the City will develop a proposal (which may include the removal of the measure or measures) to be presented in a public meeting. After the meeting, the City will request a petition be submitted by the residents within the impact area in favor of the modification/removal proposal to the Municipal Services Traffic Engineering group. The petition must clearly state what it is for (in favor of modification/removal of traffic calming measure “type” for the street “location”). The petition must be signed by at least 70% of the property owners within the impact area. The City will review the petition for validity and check the signatures of the property owners against property ownership records maintained by the County. The petition must be submitted within 30 days of the petition request. If the petition is unsuccessful, the request will be dismissed and further application for modification/removal may be initiated after 12 months. If the request is granted, the neighborhood will be responsible for funding the cost to remove or modify the traffic calming measure. When traffic calming measures are removed the area will not be considered for traffic calming for a minimum of three years after removal.

Traffic calming measures may be removed or modified for any of the following reasons:

- Public Safety issues are identified after installation, with sufficient and supporting documentation; or
- If unacceptable impacts are identified through a subsequent traffic study; or
- If a street improvement project is planned and would significantly alter or improve roadway features

Emergency Response

In the event an engineering solution has been recommended by City staff and a conceptual plan has been developed, Police and Fire Departments shall evaluate impacts to response times based on the design concept of the recommended solution. If in the process of evaluation, the recommended devices are deemed overly detrimental to emergency response times the project may be significantly altered or eliminated to provide adequate response times to the Impact Area or surrounding area.



CITY OF INDEPENDENCE CONSTRUCTION MANUAL

City of Independence

AGENDA ITEM COVER SHEET

Agenda Title:

24-768 A Resolution rescinding City Council non-ordinance action item number three that was approved by the City Council at the April 5, 2023, regular meeting directing an evaluation of Independence Power and Light and calling for a public vote on the future ownership of Independence Power & Light no later than November 2025. (*Requested by Councilmembers Fears and Stewart*)

Recommendations:

Approval of this resolution is recommended.

Background:**Emergency Justification:****Fiscal Impact:****Council Action:**

**Department /
Contact**

Council and Board /

REVIEWERS

Zachary Walker
Susanne Holland

ATTACHMENTS:

1. IPL Resolution sponsored by Fears and Stewart
2. PUAB Recommendation Letter to CC - Motion to Rescind the Non-Ordinance Action Item for Sale of IPL REVISED LSB_2

BILL NO. _____

RESOLUTION NO. _____

A RESOLUTION RESCINDING CITY COUNCIL NON-ORDINANCE ACTION ITEM NUMBER THREE THAT WAS APPROVED BY THE CITY COUNCIL AT THE APRIL 5, 2023 REGULAR MEETING DIRECTING AN EVALUATION OF INDEPENDENCE POWER & LIGHT AND CALLING FOR A PUBLIC VOTE ON THE FUTURE OWNERSHIP OF INDEPENDNECE POWER & LIGHT NO LATER THAN NOVEMBER 2025. *(Requested by Councilmembers Fears & Stewart)*

WHEREAS, on February 20th, 2023, the Independence City Council adopted the “2023-24 City of Independence Action Plan” to formalize the Council’s strategic vision and priorities, and;

WHEREAS, among the strategic priorities outlined in this plan are to “determine the long-term plan for Independence Power & Light (IPL), including additional generation resources, long-term plan for maintaining capacity, and facilitating the retirement of existing combustion turbines” (Action Plan Item 4.1.J) and “research and evaluate the governance and operation of Independence Power & Light” (Action Plan Item 5.1.F), and;

WHEREAS, on April 5th, 2023, the Independence City Council approved Non-Ordinance Action Item No. 3 on the Regular Agenda directing and authorizing the City Manager to initiate a process to evaluate all options relative to the future ownership model of Independence Power & Light, and;

WHEREAS, this evaluation was to include benefits of ownership structure(s), deferred investments, rate impact, services/value to overall city priorities and operations, etc., and;

WHEREAS, this evaluation process was to lead into an expansive, thorough, citywide conversation about the findings of the evaluation, including innumerable public presentations and allowing for interactive dialogue in which ratepayers would be able to ask questions, and;

WHEREAS, this process was to conclude with a citywide election to be held no earlier than November 2023 and no later than November 2025, at which time voters would be asked to determine whether the City should retain ownership of the electric utility or pursue privatization, and;

WHEREAS, on November 20th, 2023, the City Council approved Consent Agenda Item No. 4 on the Regular Agena issuing a purchase order to DKMT Consulting LLC for the combined studies, Cost-Benefit Analysis Report and Strategic Plan for Long-Term Ownership of the Power & Light Department, and;

WHEREAS, the Public Utilities Advisory Board (PUAB) met on August 15th, 2024 and received presentations from DKMT on the IPL Cost-Benefit Analysis Report, IPL Strategic Plan Report, and an IPL Governance White Paper, and;

WHEREAS, the Cost-Benefit Analysis Report found that a sale of IPL, if approved by voters would take years to conclude, be legally complicated, and most likely require regulatory approval by the Missouri Public Service Commission, and;

WHEREAS, while no potential sale price was provided, the report calculated a “modest surplus” of \$6.4 million after comparing long-term revenue to corresponding expenses and existing debt, and;

WHEREAS, the Strategic Plan Report concluded that major investments and future rate increases are necessary if IPL wants to better serve customers and attract large energy users, but also found that IPL operations compare favorably to other utilities and that the IPL system is very reliable, and;

WHEREAS, the IPL Governance White Paper found that “board governance could be a public power utility’s greatest strength or its weakest link”, that 70% of utilities the size of IPL use an independent board oversight governance model, and gave credence to the creation of an independent management board comprised of individuals with strong professional backgrounds and skills, and;

WHEREAS, after hearing these presentations, the PUAB voted unanimously to recommend that the City Council reverse itself on holding a public vote on whether to sell IPL, and;

WHEREAS, on August 26th, 2024, the City Council received the same presentations and reports that were previously shared with the PUAB, and;

WHEREAS, at the conclusion of the August 26th Study Session, Councilmember At-Large Jared Fears (Council Liaison to the PUAB) and District 2 Councilmember Brice Stewart both requested that the City Manager prepare a resolution rescinding the action of the City Council on April 5th, 2023 calling for a public vote on the future ownership of IPL by November 2025, and;

WHEREAS, the City Council voted unanimously to direct the City Manager to prepare the requested resolution, schedule a review and discussion of said resolution for the September 9th, 2024 Study Session, and have the resolution added to the Regular Agenda at the September 16th, 2024 Council Meeting, and;

WHEREAS, having had these issues independently researched and after thoughtful review and consideration of the independent reports, the City Council believes that investing time and effort into improving IPL is a better approach than a protracted and controversial public vote on selling IPL;

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

SECTION 1. That the Independence City Council expresses its desire to retain public ownership of Independence Power & Light.

SECTION 2. That the Independence City Council believes a public vote regarding the ownership of IPL would be costly, contentious and unproductive.

SECTION 3. That the Independence City Council further believes that there are several looming challenges that need to be addressed urgently in order to achieve the electric utility that Independence needs and deserves.

SECTION 4. That the Independence City Council does hereby rescind Non-Ordinance Action Item No. 3 that was approved on April 5th, 2023 that, in part, called for a citywide election to be held no earlier than November 2023 and no later than November 2025, at which time voters would be asked to determine whether the City should retain ownership of the electric utility or pursue privatization.

SECTION 5. That the City Manager is directed to address the conclusions of the DKMT Strategic Plan Report a present recommendations for City Council consideration including future rates, new generation, reliability, and modern technology.

SECTION 6. That the City Manager is further directed to review the current governance model for IPL along with alternative models as presented in the DKMT IPL Governance White Paper and present recommendations for City Council consideration.

PASSED THIS _____ DAY OF _____, 2024, BY THE CITY COUNCIL OF THE CITY OF INDEPENDENCE, MISSOURI.

Presiding Officer of the City Council
of the City of Independence, Missouri

ATTEST:

City Clerk

APPROVED - FORM AND LEGALITY:

City Counselor

REVIEWED BY:

City Manager

DATE: August 20, 2024
TO: Mayor and Councilmembers
FROM: Public Utility Advisory Board
RE: Motion to Rescind the Non-Ordinance Action Item for Sale of IPL

At the August 15, 2024, meeting of the PUAB, discussions ~~were~~ held after the DKMT presentations for the IPL Studies – Cost Benefit Analysis, Governance and Strategic Plan. The PUAB feels the non-ordinance action item the City Council passed early last year which “would conclude with a citywide election to be held no earlier than November 2023 and no later than November 2025, at which time voters would be asked to determine whether the City should retain ownership of the electric utility or pursue privatization” should be ~~re~~rescinded.

At ~~Thursday’s PUAB that~~ meeting, a motion was made by Mr. Giamita that the non-ordinance action item concerning the sale of IPL made on April 5, 2023, be rescinded and the sale of IPL be taken off the table. This was seconded by Mr. McLuckie. The vote was called, and the motion passed unanimously (5-0).

The recommendation for ~~r~~rescinding this non-ordinance action item is based on the information presented in the DKMT reports and our combined knowledge and experience as a board studying IPL issues.; ~~W~~e believe it is in the best interest of the ratepayers and the city NOT to put the sale of IPL on ~~any~~the ballot.

Some of the reasoning of the PUAB include:

- The high number of debt obligations by IPL will severely limit the number of interested buyers
- A sale of IPL would take at least 2 years, and probably longer
- The bond holders for IPL’s debts (over \$260 million) would have to approve the sale
- The impact of electric rates on Independence residents would increase dramatically
- Selling the electric utility would most likely lessen the response ~~times~~ and reliability ~~the~~ citizens currently receive
- ~~T~~urning over ownership would ~~s~~everely limit the ~~C~~city’s ability to increase commercial and industrial customers due to having no control over the utility

The PUAB serves in an advisory capacity, and we respectfully request the City Council ~~should~~ consider our motion and ~~take action~~take appropriate action as such-as such.

If any members of the Ccity Council have questions or concerns on this matter, feel free to reach out to any member of the PUAB.

Sincerely,

PUAB members: Les Boatright, Anthony Giaramita, Steve McLuckie, Michael Talcott and Brad Chance

City of Independence

AGENDA ITEM COVER SHEET

Agenda Title:

A public hearing for the Taxable Industrial Development Revenue Bonds for the Arabella Apartment Project. ***Full Public Hearing.***

Recommendations:**Background:****Emergency Justification:****Fiscal Impact:****Council Action:**

Department / Contact	Community Development /
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REVIEWERS

Tom Scannell
Jeremy Cover
Zachary Walker
Susanne Holland

ATTACHMENTS:

None

City of Independence

AGENDA ITEM COVER SHEET

Agenda Title:

A public hearing for the amendment to the Noland Road Community Improvement District. ***Full Public Hearing.***

Recommendations:**Background:****Emergency Justification:****Fiscal Impact:****Council Action:**

Department / Contact	Community Development /
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REVIEWERS

Tom Scannell
Zachary Walker
Susanne Holland

ATTACHMENTS:

None

City of Independence

AGENDA ITEM COVER SHEET

Agenda Title:

24-089 **2R** An ordinance levying a tax on all real property subject to taxation on January 1, 2024, within the corporate limits of the City of Independence, Missouri, for general revenue and public health and recreation purposes, and for The Independence Square Special Benefit District; said levies and assessments being separate and distinct, all for the fiscal year commencing on the 1st day of July, 2024, and ending on the 30th day of June, 2025. **2R**

Recommendations:

Staff recommends approval of this ordinance.

Background:

Proposed property tax rates to be set by the City of Independence for the fiscal year beginning July 1, 2024, based on the current assessed valuation by Jackson and Clay Counties must be considered by Ordinance before certification to the Counties.

The City's budget was adopted with Ordinance #19561 by City Council June 17, 2024. In order for the County to levy tax rates, the City must first certify the amount needed for the City's budget. A notice of public hearing to hear citizens on the property tax was published. Tax levies are based on assessed valuations approved by the County Board of Equalization. Per RsMo 67.110, each political subdivision, located at least partially within a county with a charter form of government or within a city not within a county, shall fix its ad valorem property tax rates as provided in this section not later than October first.

Emergency Justification:**Fiscal Impact:**

The tax revenue is projected as part of the FY2024-2025 Operating Budget.

The recommended tax levies are as follows per \$100 of assessed valuation:

Fund	Amount
General Fund (002)	\$5,063,000
Health & Animal Levy (005)	\$933,450
Parks Health & Recreation Levy (007)	\$1,942,736
Total	\$8,939,186

Council Action:

Department / City Manager /
Contact

REVIEWERS

Jeremy Cover
Meagan Borth
Zachary Walker
Susanne Holland

ATTACHMENTS:

1. Tax Levy Ordinance
2. 2024 State Calculator - GR
3. 2024 State Calculator - H&R
4. 2024 State Calculator - Independence Square

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE LEVYING A TAX ON ALL REAL PROPERTY SUBJECT TO TAXATION ON JANUARY 1, 2024, WITHIN THE CORPORATE LIMITS OF THE CITY OF INDEPENDENCE, MISSOURI, FOR GENERAL REVENUE AND PUBLIC HEALTH AND RECREATION PURPOSES, AND FOR THE INDEPENDENCE SQUARE SPECIAL BUSINESS BENEFIT DISTRICT; SAID LEVIES AND ASSESSMENTS BEING SEPARATE AND DISTINCT, ALL FOR THE FISCAL YEAR COMMENCING ON THE 1ST DAY OF JULY, 2024, AND ENDING ON THE 30TH DAY OF JUNE, 2025.

WHEREAS, the approved 2023 tax levy rate per \$100 of assessed value for the following purposes was as follows:

<u>PURPOSE</u>	<u>RATE</u>
General Revenue	\$0.3235
Recoupment	0.0000
Public Health & Recreation	0.1524
Recoupment	0.0000
Debt Service	<u>0.0000</u>
Subtotal	\$ 0.4759
Independence Square Special Business Benefit District	\$ 0.5755

WHEREAS, the report of 2023 Aggregate Assessed Valuation for Political Subdivisions from the County Clerks of Jackson County and Clay County for that portion of each county that lies within the city limits of Independence indicated that the Real Property Tax Levy for the General Revenue purpose should be \$0.3235 per \$100 assessed value within the City with a 2022 Recoupment Levy of \$0.0000; and,

WHEREAS, the report of 2023 Aggregate Assessed Valuation for Political Subdivisions from the County Clerk of Jackson County and Clay County for that portion of each county that lies within the city limits of Independence indicated that the Real Property Tax Levy for the Public Health and Recreation purpose should be \$0.1524 per \$100 assessed value within the City with a 2022 Recoupment Levy of \$0.0000; and,

WHEREAS, a General Debt Service Levy is not required due to the retirement of all outstanding General Obligation Bonds; and,

WHEREAS, the 2023 report of real property assessed valuation from Jackson County relating to the Independence Square Special Business Benefit District indicates that the authorized tax levy rate should be \$0.5755 per \$100 assessed value within the Independence Square Special Business Benefit District; and,

WHEREAS, the City is authorized by State Statutes to include an additional tax levy in the current year when the prior year's assessed valuation was lowered following the setting of the tax levy in that prior year; and,

WHEREAS, the City recommends the 2024 tax levy rate per \$100 of assessed value for the following purposes as follows:

<u>PURPOSE</u>	<u>RATE</u>
General Revenue	\$0.3286
Recoupment	0.0000
Public Health & Recreation	0.1548
Recoupment	0.0000
Debt Service	<u>0.0000</u>
Subtotal	\$ 0.4834
Independence Square Special	
Business Benefit District	\$ 0.5755

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

SECTION 1. General Municipal Purposes Levy: That there is hereby levied against all real property, subject to taxation within the corporate limits of the City of Independence, Missouri, a tax in the amount of \$0.3286 on the One Hundred Dollars (\$100.00) assessed valuation of such property for general municipal purposes with a 2023 Recoupment Levy of \$0.0000, for the fiscal year commencing on the 1st day of July, 2024, and ending on the 30th day of June, 2025.

SECTION 2. Public Health and Recreation Levy: That there is hereby levied against all real property, subject to taxation within the corporate limits of the City of Independence, Missouri, an additional tax in the amount of \$0.1548 on the One Hundred Dollars (\$100.00) assessed valuation of such property for Public Health and Recreation purposes with a 2023 Recoupment Levy of \$0.0000, for the fiscal year commencing on the 1st day of July, 2024 and ending on the 30th day of June, 2025.

SECTION 3. Independence Square Special Business Benefit District Levy: That there is hereby levied against all real property, subject to taxation within the described boundaries of the Independence Square Special Business Benefit District, an additional tax in the amount of \$0.5755 on the One Hundred Dollars (\$100.00) assessed valuation of such property for the Independence Square Special Benefit District purposes, for the fiscal year commencing on the 1st day of July, 2024, and ending on the 30th day of June, 2025.

PASSED THIS _____ DAY OF _____, 2024, BY THE CITY COUNCIL OF THE CITY OF INDEPENDENCE, MISSOURI.

Presiding Officer of the City Council
of the City of Independence, Missouri

ATTEST:

City Clerk

APPROVED - FORM AND LEGALITY:

City Counselor

REVIEWED BY:

City Manager

Name of Political Subdivision

City of Independence

Political Subdivision Code:

09-048-0007

(XX - XXX - XXXX)

Purpose:

General Revenue

YEAR: 2024

INSTRUCTIONS: COMPLETE THE HIGHLIGHTED CELLS TO USE THIS TAX RATE CALCULATOR.
CLICK ON THE TABS BELOW TO VIEW THE SUMMARY PAGE, FORM A, FORM B, FORM C, AND INFORMATIONAL DATA.
PRINT OFF THE SUMMARY PAGE, FORM A, FORM B, FORM C, & INFORMATIONAL DATA IF DESIRED.

Information gathered on this tab is used to calculate the Summary Page, Form A, Form B, Form C, & Informational Data tabs. Data entered in Column 1 is used to calculate the Tax Rate Ceiling had no voluntary reductions been taken in a prior even numbered year (see the Informational Data tab for this calculation). The political subdivision must use Column 2 for setting its property tax rate (see the Summary Page and Form A for this calculation). The numbers in the Column 2 may be different from Column 1 if a voluntary reduction was taken in a prior even numbered year.

	Column 1	Column 2
	Based on Prior Year	
	Tax Rate Ceiling as if	For Political
	No Voluntary Reductions	Subdivision Use
	Were Taken in a Prior	in Calculating its
	Even Numbered Year	Tax Rate
Summary Page		
1) (2023) Prior year tax rate ceiling, revised if applicable		
Column 1 (Prior year Informational Data, Line F)		
Column 2 (Prior year Summary Page, Line F in an even year, Line F minus Line H in an odd year)	0.3235	0.3235
2) Most recent voter approved rate (Prior year's Summary Page, Line E or Form B, Line 15 if new ballot)	1.0000	1.0000

Form A - Assessed Valuations	Real Estate	Personal Property
1) (2024) Current year assessed valuation	1,893,902,791	
2) New construction and improvements	9,479,359	Calculated Amount
3) Newly added territory	0	
4) (2023) Prior year assessed valuation	1,913,947,167	
5) Newly separated territory	0	
6) Property changed from local to state assessed	0	

Form B - Additional Voter Approved Rates - See Form B for additional instructions

1) Date of election:

3) Election results:

Yes:

No:

1a) Is this election increasing an existing rate?

(Yes or No)

2a) Voter approved tax rate or increase

Amount of increase ("increase of/by")

or

2b) Stated rate approved by voters ("increase to")

4) Expiration date (if applicable):

Ballot language approved: Attach a sample ballot or state the proposition posed to the voters exactly as it appeared on the ballot.

Form C - Debt Service Requirements - See Form C for additional instructions

1) (2025) Principal and interest payments for next calendar year (Form C, Line 2)	0
2) Estimated cost of collection & allowance for delinquencies (Form C, Line 3)	0
3) (2026) Reasonable reserve for payments for year following next calendar year (Form C, Line 4)	0
4) (2024) Anticipated December 31st balance (Form C, Line 6)	0

For Political Subdivisions Other Than School Districts Levying a Single Rate on All Property

City of Independence	09-048-0007	General Revenue
Name of Political Subdivision	Political Subdivision Code	Purpose of Levy

The information to complete the Summary Page is available from prior year forms, computed on the attached forms, or on this page. Information on this page takes into consideration any voluntary reduction(s) taken in previous even numbered year(s). If in an even numbered year, the political subdivision wishes to no longer use the lowered tax rate ceiling to calculate its tax rate, it can hold a public hearing and pass a resolution, a policy statement, or an ordinance justifying its action prior to setting and certifying its tax rate. The information in the Informational Data, at the end of these forms, provides the rate that would be allowed had there been no previous voluntary reduction(s) taken in an even numbered year(s).

	FOR POLITICAL Subdivision Use in Calculating its Tax Rate
A. Prior year tax rate ceiling as defined in Chapter 137, RSMo, revised if the prior year data changed or a voluntary reduction was taken in a non-reassessment year (Prior year Summary Page, Line F minus Line H in odd numbered year or prior year Summary Page, Line F in even numbered year)	0.3235
B. Current year rate computed pursuant to Article X, Section 22, of the Missouri Constitution and Section 137.073, RSMo, if no voter approved increase (Form A, Line 18)	0.3286
C. Amount of rate increase authorized by voters for current year if same purpose, (Form B, Line 7)	
D. Rate to compare to maximum authorized levy to determine tax rate ceiling (Line B if no election, otherwise Line C)	0.3286
E. Maximum authorized levy the most recent voter approved rate	1.0000
F. Current year tax rate ceiling maximum legal rate to comply with Missouri laws	0.3286
G1. Less required sales tax reduction taken from tax rate ceiling (Line F), if applicable	0.0000
G2. Less 20% required reduction 1st class charter county political subdivision NOT submitting an estimated non-binding tax rate to the county(ies) taken from tax rate ceiling (Line F)	0.0000
H. Less voluntary reduction by political subdivision taken from the tax rate ceiling (Line F) WARNING: A Voluntary reduction taken in an even numbered year will lower the tax rate ceiling for the following year.	0.0000
I. Plus allowable recoupment rate added to tax rate ceiling (Line F) If applicable, attach Form G or H.	0.0000
J. Tax rate to be levied (Line F - Line G1 - Line G2 - Line H + Line I)	0.3286
AA. Rate to be levied for debt service , if applicable (Form C, Line 10)	
BB. Additional special purpose rate authorized by voters after the prior year tax rates were set, (Form B, Line 7 if a different purpose)	

Certification of Non-Binding Estimated Tax Rate to the County Clerk(s)

I, the undersigned, City Manager (Office) of City of Independence (Political Subdivision) levying a rate in Jackson & Clay (County(ies)) do hereby certify that the data set forth above and on the accompanying forms is true and accurate to the best knowledge and belief.

Please complete Lines G through BB, sign this form, and return to the county clerk(s).

(Date)	(Signature)	(Printed Name)	(Telephone)

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Form A
For Political Subdivisions Other Than School Districts Levying a Single Rate on All Property

City of Independence	09-048-0007	General Revenue
Name of Political Subdivision	Political Subdivision Code	Purpose of Levy

Computation of reassessment growth and rate for compliance with Article X, Section 22, and Section 137.073, RSMo.

1. (2024) Current year assessed valuation Include the current state and locally assessed valuation obtained from the county clerk, county assessor, or comparable office finalized by the local board of equalization.

(a) 1,893,902,791 + (b) 0 = 1,893,902,791

(Real Estate) (Personal Property) (Total)

2. Assessed valuation of new construction & improvements

2(a) - Obtained from the county clerk or county assessor 2(b) - increase in personal property, use the formula listed under Line 2(b)

(a) 9,479,359 + (b) 0 = 9,479,359

(Real Estate) Line 1(b) - 3(b) - 5(b) + 6(b) + 7(b) (Total)

If Line 2b is negative, enter zero

3. Assessed value of newly added territory obtained from the county clerk or county assessor

(a) 0 + (b) 0 = 0

(Real Estate) (Personal Property) (Total)

4. Adjusted current year assessed valuation (Line 1 total - Line 2 total - Line 3 total)

1,884,423,432

5. (2023) Prior year assessed valuation Include prior year state and locally assessed valuation obtained from the county clerk, county assessor, or comparable office finalized by the local board of equalization. NOTE: If this is different than the amount on the prior year Form A, Line 1, then revise the prior year tax rate ceiling. Enter the revised prior year tax rate ceiling on this year's Summary Page, Line A.

(a) 1,913,947,167 + (b) 0 = 1,913,947,167

(Real Estate) (Personal Property) (Total)

6. Assessed value of newly separated territory obtained from the county clerk or county assessor

(a) 0 + (b) 0 = 0

(Real Estate) (Personal Property) (Total)

7. Assessed value of property locally assessed in prior year, but state assessed in current year obtained from the county clerk or county assessor

(a) 0 + (b) 0 = 0

(Real Estate) (Personal Property) (Total)

8. Adjusted prior year assessed valuation (Line 5 total - Line 6 total - Line 7 total)

1,913,947,167

Information on this page takes into consideration any voluntary reduction(s) taken in previous even numbered year(s). If in an even numbered year, the political subdivision wishes to no longer use the lowered tax rate ceiling to calculate its tax rate, it can hold a public hearing and pass a resolution, a policy statement, or an ordinance justifying its action prior to setting and certifying its tax rate. The information in the Informational Data, at the end of these forms, provides the rate that would be allowed had there been no previous voluntary reduction(s) taken in an even numbered year(s).

9. Percentage increase in adjusted valuation of existing property in the current year over the prior year's assessed valuation (Line 4 - Line 8/Line 8 x 100)

-1.5426%

10. Increase in Consumer Price Index (CPI) certified by the State Tax Commission

3.4000%

11. Adjusted prior year assessed valuation (Line 8)

1,913,947,167

12. (2023) Tax rate ceiling from prior year (Summary Page, Line A)

0.3235

13. Maximum prior year adjusted revenue from property that existed in both years (Line 11 x Line 12/100)

6,191,619

14. Permitted reassessment revenue growth

The percentage entered on Line 14 should be the lower of the actual growth (Line 9), the CPI (Line 10) or 5%. A negative figure on Line 9 is treated as a 0 for Line 14 purposes. Do not enter less than 0 or more than 5%.

0.0000%

15. Additional revenue permitted (Line 13 x Line 14)

0

16. Total revenue permitted in current year* from property that existed in both years (Line 13 + Line 15)

6,191,619

17. Adjusted current year assessed valuation (Line 4)

1,884,423,432

18. Maximum tax rate permitted by Article X, Section 22, and Section 137.073 RSMo (Line 16 / Line 17 x 100)

Round a fraction to the nearest one/one hundredth of a cent.

Enter this rate on the Summary Page, Line B

0.3286

* To compute the total property tax revenues billed for the current year (including revenues from all new construction and improvements and annexed property), multiply Line 1 by the rate on Line 18 and divide by 100. The property tax revenues billed would be used in estimating budgeted revenues.

(Form Revised 12-2017)

Form A

Page 137 of 383

Caclulation of New Voter Approved Tax Rate or Tax Rate Increase

Since the prior year tax rate computation, some political subdivisions may have held elections where the voters approved an increase to an existing tax or approved a new tax. Form B is designed to document the election.

1. Date of election
2. Ballot language
- Attach a sample ballot or state the proposition posed to the voters exactly as it appeared on the ballot.

3. Election results
- (Yes) (No)
4. Expiration date
- Enter the last year the levy will be in effect, if applicable.
5. Amount of increase approved by voters
- (An "increase/decrease of/by") OR
- Stated rate approved by voters
- (An "increase/decrease to")
- a.
- b.

For Political Subdivision Use in Calculating its Tax Rate

6. Prior year tax rate ceiling or voluntarily reduced rate to apply voter approved increase to
- (Summary Page, Line A if increase to an existing rate, otherwise 0)
7. Voter approved increased tax rate to adjust
- (If an "increase of/by" ballot, Line 5a + Line 6, if an "increase to" ballot, Line 5b)

City of Independence
Name of Political Subdivision
09-048-0007
Political Subdivision Code
Debt Service
Purpose of Levy

Debt Service Calculation for General Obligation Bonds Paid for with Property Taxes

The tax rate for debt service will be considered valid if, after making the payment(s) for which the tax was levied, the bonds remain outstanding, and the debt fund reserves do not exceed the following year's payments.

Since the property taxes are levied and collected on a calendar year basis (January - December), it is recommended that this levy be computed using calendar year data.

1. Total current year assessed valuation obtained from the county clerk or county assessor (Form A, Line 1 total)
2. Amount required to pay debt service requirements during the next calendar year (i.e. Assuming the current year is Year 1, use January - December year 2 payments to complete the year 1 Form C) Include the principal and interest payments due on outstanding general obligation bond issues plus anticipated fees of any transfer agent or paying agent due during the next calendar year.
3. Estimated costs of collection and anticipated delinquencies (i.e. collector fees & commissions & assessment fund withholdings) Experience in prior years is the best guide for estimating uncollectible taxes. It is usually 2% to 10% of Line 2 above.
4. Reasonable reserve up to one year's payment (i.e. Assuming the current year is year 1, use January - December year 3 payments to complete the year 1 Form C) It is important that the debt service fund have sufficient reserves to prevent any default on the bonds. Include payments for the year following the next calendar year, accounted for on Line 2.
5. Total required for debt service (Line 2 + Line 3 + Line 4)
6. Anticipated balance at end of current calendar year Show the anticipated bank or fund balance at December 31st of this year (this will equal the current balance minus the amount of any principal or interest due before December 31st plus any estimated investment earning due before December 31st). Do not add the anticipated collections of this tax into this amount.
7. Property tax revenue required for debt service (Line 5 - Line 6) Line 6 is subtracted from Line 5 because the debt service fund is only allowed to have the payments required for the next calendar year (Line 2) and the reasonable reserve of the following year's payment (Line 4). Any current balance in the fund is already available to meet these requirements so it is deducted from the total revenues required for debt service purposes.
8. Computation of debt service tax rate (Line 7/Line 1 x 100) Round a fraction to the nearest one/one hundredth of a cent.
9. Less voluntary reduction by political subdivision
10. Actual rate to be levied for debt service purposes * (Line 8 - Line 9) Enter this rate on Line AA of the Summary Page.

* The tax rate levied may be lower than the rate computed as long as adequate funds are available to service the debt requirements.

INFORMAL TAX RATE CALCULATOR FILE
Informational Data
For Political Subdivisions Other Than School Districts Levying a Single Rate on All Property

Printed on: 8/19/2024
(2024)

Table with 3 columns: City of Independence, Name of Political Subdivision, 09-048-0007, Political Subdivision Code, General Revenue, Purpose of Levy

This page shows the information that would have been on the line items for the Summary Page, Form A, and/or Form B had no voluntary reduction(s) been taken in prior even numbered year(s). The information on this page should not be used in the current year unless the taxing authority wishes to reverse any voluntary reduction(s) taken in prior even numbered year(s) and follows the following steps in an even numbered year.

- Step 1 The governing body should hold a public hearing and adopt a resolution, a policy statement, or an ordinance justifying its action prior to setting and certifying its tax rate.
Step 2 Submit a copy of the resolution, policy statement, or ordinance to the State Auditor's Office for review.

Based on Prior Year
Tax Rate Ceiling as if
No Voluntary Reductions
were Taken in a Prior
Even Numbered Year

Informational Summary Page

Table with 2 columns: Description (A. Prior year tax rate ceiling, B. Current year rate computed, C. Amount of increase authorized by voters for current year, D. Rate to compare to maximum authorized levy, E. Maximum authorized levy, F. Tax rate ceiling if no voluntary reductions were taken in a prior even numbered year) and Value (0.3235, 0.3286, 0.3286, 1.0000, 0.3286)

Informational Form A

Table with 2 columns: Description (9. Percentage increase in adjusted valuation, 10. Increase in Consumer Price Index (CPI), 11. Adjusted prior year assessed valuation, 12. (2023) Tax rate ceiling from prior year, 13. Maximum prior year adjusted revenue, 14. Permitted reassessment revenue growth, 15. Additional reassessment revenue permitted, 16. Total revenue permitted in current year, 17. Adjusted current year assessed valuation, 18. Maximum tax rate permitted by Article X, Section 22, and Section 137.073, RSMo) and Value (-1.5426%, 3.4000%, 1,913,947,167, 0.3235, 6,191,619, 0.0000%, 0, 6,191,619, 1,884,423,432, 0.3286)

Informational Form B

Table with 2 columns: Description (6. Prior year tax rate ceiling to apply voter approved increase to, 7. Voter approved increased tax rate to adjust) and Value (empty fields)

For Political Subdivisions Other Than School Districts Levying a Single Rate on All Property

City of Independence	09-048-0007	Health & Recreation
Name of Political Subdivision	Political Subdivision Code	Purpose of Levy

The information to complete the Summary Page is available from prior year forms, computed on the attached forms, or on this page. Information on this page takes into consideration any voluntary reduction(s) taken in previous even numbered year(s). If in an even numbered year, the political subdivision wishes to no longer use the lowered tax rate ceiling to calculate its tax rate, it can hold a public hearing and pass a resolution, a policy statement, or an ordinance justifying its action prior to setting and certifying its tax rate. The information in the Informational Data, at the end of these forms, provides the rate that would be allowed had there been no previous voluntary reduction(s) taken in an even numbered year(s).

	FOR POLITICAL Subdivision Use in Calculating its Tax Rate
A. Prior year tax rate ceiling as defined in Chapter 137, RSMo, revised if the prior year data changed or a voluntary reduction was taken in a non-reassessment year (Prior year Summary Page, Line F minus Line H in odd numbered year or prior year Summary Page, Line F in even numbered year)	0.1524
B. Current year rate computed pursuant to Article X, Section 22, of the Missouri Constitution and Section 137.073, RSMo, if no voter approved increase (Form A, Line 18)	0.1548
C. Amount of rate increase authorized by voters for current year if same purpose, (Form B, Line 7)	
D. Rate to compare to maximum authorized levy to determine tax rate ceiling (Line B if no election, otherwise Line C)	0.1548
E. Maximum authorized levy the most recent voter approved rate	0.4000
F. Current year tax rate ceiling maximum legal rate to comply with Missouri laws	0.1548
G1. Less required sales tax reduction taken from tax rate ceiling (Line F), if applicable	0.0000
G2. Less 20% required reduction 1st class charter county political subdivision NOT submitting an estimated non-binding tax rate to the county(ies) taken from tax rate ceiling (Line F)	0.0000
H. Less voluntary reduction by political subdivision taken from the tax rate ceiling (Line F) WARNING: A Voluntary reduction taken in an even numbered year will lower the tax rate ceiling for the following year.	0.0000
I. Plus allowable recoupment rate added to tax rate ceiling (Line F) If applicable, attach Form G or H.	0.0000
J. Tax rate to be levied (Line F - Line G1 - Line G2 - Line H + Line I)	0.1548
AA. Rate to be levied for debt service , if applicable (Form C, Line 10)	
BB. Additional special purpose rate authorized by voters after the prior year tax rates were set, (Form B, Line 7 if a different purpose)	

Certification of Non-Binding Estimated Tax Rate to the County Clerk(s)

I, the undersigned, City Manager (Office) of City of Independence (Political Subdivision) levying a rate in Jackson & Clay (County(ies)) do hereby certify that the data set forth above and on the accompanying forms is true and accurate to the best knowledge and belief.

Please complete Lines G through BB, sign this form, and return to the county clerk(s).

(Date)	(Signature)	(Printed Name)	(Telephone)

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For Political Subdivisions Other Than School Districts Levying a Single Rate on All Property

City of Independence	09-048-0007	Independence Square Benefit Distr
Name of Political Subdivision	Political Subdivision Code	Purpose of Levy

The information to complete the Summary Page is available from prior year forms, computed on the attached forms, or on this page. Information on this page takes into consideration any voluntary reduction(s) taken in previous even numbered year(s). If in an even numbered year, the political subdivision wishes to no longer use the lowered tax rate ceiling to calculate its tax rate, it can hold a public hearing and pass a resolution, a policy statement, or an ordinance justifying its action prior to setting and certifying its tax rate. The information in the Informational Data, at the end of these forms, provides the rate that would be allowed had there been no previous voluntary reduction(s) taken in an even numbered year(s).

	FOR POLITICAL Subdivision Use in Calculating its Tax Rate
A. Prior year tax rate ceiling as defined in Chapter 137, RSMo, revised if the prior year data changed or a voluntary reduction was taken in a non-reassessment year (Prior year Summary Page, Line F minus Line H in odd numbered year or prior year Summary Page, Line F in even numbered year)	0.5755
B. Current year rate computed pursuant to Article X, Section 22, of the Missouri Constitution and Section 137.073, RSMo, if no voter approved increase (Form A, Line 18)	0.5755
C. Amount of rate increase authorized by voters for current year if same purpose, (Form B, Line 7)	
D. Rate to compare to maximum authorized levy to determine tax rate ceiling (Line B if no election, otherwise Line C)	0.5755
E. Maximum authorized levy the most recent voter approved rate	0.8500
F. Current year tax rate ceiling maximum legal rate to comply with Missouri laws	0.5755
G1. Less required sales tax reduction taken from tax rate ceiling (Line F), if applicable	0.0000
G2. Less 20% required reduction 1st class charter county political subdivision NOT submitting an estimated non-binding tax rate to the county(ies) taken from tax rate ceiling (Line F)	0.0000
H. Less voluntary reduction by political subdivision taken from the tax rate ceiling (Line F) WARNING: A Voluntary reduction taken in an even numbered year will lower the tax rate ceiling for the following year.	0.0000
I. Plus allowable recoupment rate added to tax rate ceiling (Line F) If applicable, attach Form G or H.	0.0000
J. Tax rate to be levied (Line F - Line G1 - Line G2 - Line H + Line I)	0.5755
AA. Rate to be levied for debt service , if applicable (Form C, Line 10)	
BB. Additional special purpose rate authorized by voters after the prior year tax rates were set, (Form B, Line 7 if a different purpose)	

Certification of Non-Binding Estimated Tax Rate to the County Clerk(s)

I, the undersigned, City Manager (Office) of City of Independence (Political Subdivision) levying a rate in Jackson & Clay (County(ies)) do hereby certify that the data set forth above and on the accompanying forms is true and accurate to the best knowledge and belief.

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City of Independence

AGENDA ITEM COVER SHEET

Agenda Title:

24-090 **2R** An Ordinance Amending Independence City Code Section 16-01-002 "License Tax" **2R**

Recommendations:

Staff recommends approval.

Background:

The City has authority under RSMo. Ch. 67.2689 to charge video service providers a fee for providing video service within the City of Independence. This Ordinance would amend the City Code to be in compliance with recent changes to state law regarding video service provider fees, including the step-down schedule for the authorized percentage rate to be charged.

Emergency Justification:**Fiscal Impact:**

There is no fiscal impact.

Council Action:

**Department /
Contact**

Legal /

REVIEWERS

Jeremy Cover
Meagan Borth
Zachary Walker
Susanne Holland

ATTACHMENTS:

1. Ordinance - Video Service Fees LEK review

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING INDEPENDENCE CITY CODE SECTION 16-01-002 “LICENSE TAX”

WHEREAS, City Council has authority under RSMo. Ch. 67.2689 to charge video service providers a fee for providing video service within the City of Independence; and

WHEREAS, City Council has previously enacted an Ordinance imposing a fee for cable television providers on gross receipts on business conducted within the City; and

WHEREAS, City Council desires to update the City Code to comport with the recent changes to state law regarding video service provider fees; and

WHEREAS, City Council also desires to update the City Code to include the statutorily required fee step-down.

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

SECTION 1. The Code of Ordinances of the City of Independence Section 16.01.002(B) shall hereby read as follows

Section 16.01.002. – License tax.

~~B. Every person, firm or corporation now or hereafter engaged in the business of supplying cable television service shall pay to the City a license or occupation tax in a sum equal to five percent of the gross receipts derived from such business within the City.~~

B. Video service provider fee.

1. For the purposes of this Section, the following terms will be given the definition ascribed below:

- a. **“Video service”, the provision by a video service provider of video programming provided through wireline facilities located at least in part in the public right-of-way without regard to delivery technology, including internet protocol technology whether provided as part of a tier, on demand, or a per-channel basis. This definition includes cable service as defined by 47 U.S.C. Section 522(6), but does not include any video programming provided by a commercial mobile service provider defined in 47 U.S.C. Section 332(d), or any video programming accessed via a service that enables users to access**

content, information, electronic mail, or other services offered over the internet, including streaming content;

- b. "Video service provider", any person that distributes video service through a video service network pursuant to a video service authorization;
- c. "Gross revenues", amounts billed to video service subscribers for the following:
 - i. Recurring charges for video service; and
 - ii. Event-based charges for video service, including but not limited to pay-per-view and video-on-demand charges;
- d. "Gross revenues" do not include:
 - i. Discounts, refunds, and other price adjustments that reduce the amount of compensation received by an entity holding a video service authorization;
 - ii. Uncollectibles;
 - iii. Late payment fees;
 - iv. Amounts billed to video service subscribers to recover taxes, fees, or surcharges imposed on video service subscribers or video service providers in connection with the provision of video services, including the video service provider fee authorized by this section;
 - v. Fees or other contributions for PEG or I-Net support;
 - vi. Charges for services other than video service that are aggregated or bundled with amounts billed to video service subscribers, if the entity holding a video service authorization reasonably can identify such charges on books and records kept in the regular course of business or by other reasonable means;
 - vii. Rental of set top boxes, modems, or other equipment used to provide or facilitate the provision of video service;
 - viii. Service charges related to the provision of video service including, but not limited to, activation, installation, repair, and maintenance charges;
 - ix. Administrative charges related to the provision of video service including, but not limited to, service order and service termination charges; or
 - x. A pro rata portion of all revenue derived from advertising, less refunds, rebates, or discounts.

2. Every video service provider ~~person, firm or corporation now or hereafter engaged in the business of supplying cable television~~ video service within the geographic area of the City shall pay to the City a video service provider fee ~~license or occupation tax~~ in a sum equal to ~~five percent~~ the percentage described in Subsection B.3 below of the gross

revenues charged to each customer of the video service provider ~~receipts derived from such business within the City.~~

3. From August 28, 2024 to August 27, 2025 the percentage to be charged shall be 4%. From August 28, 2025 to August 27, 2026 the percentage to be charged shall be 3.5%. From August 28, 2026 to August 27, 2027 the percentage to be charged shall be 3%. Beginning August 28, 2027 and each year after, the percentage to be charged shall be 2.5%.
4. The video service provider fee shall be paid to the City on or before the last day of the month following the end of each calendar quarter.
5. Notwithstanding any other provision of this Section, video service provider fees shall be administered in a manner consistent with Sections 67.2675 to 67.2714, RSMo (the "Video Services Providers Act"). In the event of a conflict between the requirements of this Chapter and the Video Service Providers Act or other superseding state or federal law, the provisions of such superseding state or federal law shall control.

SECTION 2. This Ordinance shall be in full force and effect from and after passage.

SECTION 3. The provisions of this Ordinance are severable and if any provision hereof is declared invalid, unconstitutional or unenforceable, such determination shall not affect the validity of the remainder of this Ordinance.

SECTION 4. The City Clerk is hereby authorized to correct any scriveners' errors contained herein or made in amending the City Code.

PASSED THIS ____ DAY OF _____, 20____, BY THE CITY COUNCIL OF THE CITY OF INDEPENDENCE, MISSOURI.

Presiding Officer of the City Council
of the City of Independence, Missouri

ATTEST:

City Clerk

APPROVED AS TO FORM AND LEGALITY:

Drafter's Note: deleted language is shown ~~thus~~; inserted language is shown **thus**.

City Counselor

REVIEWED BY:

City Manager

City of Independence

AGENDA ITEM COVER SHEET

Agenda Title:

24-091 **1R** An ordinance approving a plan for an industrial development project for the Arabella Apartment Project; authorizing the City of Independence, Missouri to issue its Taxable Industrial Development Revenue bonds in a principal amount not to exceed \$39,200,000; and authorizing certain documents and actions in connection therewith. **1R**

Recommendations:

Staff recommends approval.

Background:

Lombardo Homes of Independence, LLC seeks a Chapter 100 Plan for the purpose of acquiring, constructing and improving approximately 176 ranch-style residential units. The project is located near the southwest corner of R D Mize and Jackson on approximately 45 acres and will consist of approximately twenty-three (23) six-unit buildings and nine (9) four-unit buildings. An additional two units may be added for a total of 176.

The purpose of the Chapter 100 Plan is to authorize the issuance by the City of taxable industrial development revenue bonds in the aggregate principal amount of not to exceed \$39,200,000 (the "Bonds") with respect to the project. The Bonds will be payable solely out of payments, revenues and receipts derived by the City from the lease of the Project to Lombardo and/or its designee, and from no other source. Under no circumstance will the City have any liability for repayment of the bonds.

The purpose of this Chapter 100 Plan is to provide sales and use tax exemption on construction materials only for qualified building materials for the construction of the project. A payment in lieu of tax will be required in an amount calculated to equal the taxes that would otherwise have been due in each year during which the Project is off the tax rolls by virtue of City ownership. With this Plan, there is no real property tax abatement and City ownership will continue only during the construction period, which is anticipated to be completed by July 2027.

Emergency Justification:**Fiscal Impact:****Council Action:**

REVIEWERS

Tom Scannell
Jeremy Cover
Zachary Walker
Susanne Holland

ATTACHMENTS:

1. Arabella Chapter 100 Ordinance
2. BPA
3. Indenture
4. Lease
5. Performance Agreement
6. Plan and CBA - FINAL AS MAILED

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE APPROVING A PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT FOR THE ARABELLA APARTMENTS PROJECT; AUTHORIZING THE CITY OF INDEPENDENCE, MISSOURI TO ISSUE TAXABLE INDUSTRIAL DEVELOPMENT REVENUE BONDS IN A PRINCIPAL AMOUNT NOT TO EXCEED \$39,200,000; AND AUTHORIZING CERTAIN DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.

WHEREAS, the City of Independence, Missouri (the “City”) is a constitutional charter city and municipal corporation of the State of Missouri, duly created, organized and existing under and by virtue of the Constitution and laws of the State of Missouri; and

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

WHEREAS, the City, in accordance with Section 100.050 of the Act, has prepared a plan for industrial development (the “Plan”) for Lombardo Homes of Independence, LLC, a Michigan limited liability company (the “Company”), with respect to a project consisting of the construction and improvement of a commercial apartment facility located at 19515 - 19601 E. R.D. Mize Road in Independence, Missouri, together with related public improvements (the “Project”), notice of the Project was given to the taxing jurisdictions in accordance with Section 100.059.1 of the Act and the City now desires to approve the Plan; and

WHEREAS, the City desires to finance the costs of the Project out of the proceeds of industrial development revenue bonds to be issued under the Act (the “Bonds”); and

WHEREAS, the City has and does hereby find and determine that it is desirable for the economic development of the City and within the public purposes of the Act that the City proceed with the issuance of the Bonds for the purpose described above; and

WHEREAS, Section 10.7 of the City Charter requires that all bonds sold by the City be sold at public sale upon sealed proposals after at least ten days’ notice in a newspaper of general circulation in the City; and

WHEREAS, a notice of sale was published in *The Examiner* inviting potential bond purchasers to submit bids for the Bonds and the City has received one bid for the Bonds; and

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

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

Section 1. Promotion of Economic Development. The Council hereby finds and determines that the Project is a commercial project that will promote the economic welfare and the development of the City, and the issuance of the Bonds by the City to pay the costs of the Project will be in furtherance of the public purposes set forth in the Act.

Section 2. Approval of Plan. The Council hereby approves the Plan for an Industrial Development Project attached hereto as *Exhibit A* in accordance with Section 100.050 of the Act.

Section 3. Authorization and Sale of the Bonds. The City is hereby authorized to issue and sell its Taxable Industrial Development Revenue Bonds (Arabella Apartments Project), in an aggregate principal amount not to exceed \$39,200,000, for the purpose of providing funds to pay the costs of the Project. The Bonds shall be issued and secured pursuant to the herein authorized Trust Indenture and shall bear such date, shall mature at such time, shall be in such denominations, shall bear interest at such rate, shall be in such form, shall be subject to redemption, shall have such other terms and provisions, shall be issued, executed and delivered in such manner and shall be subject to such provisions, covenants and agreements as are specified in the Trust Indenture upon the execution thereof, and the signatures of the officers of the City executing the Trust Indenture shall constitute conclusive evidence of their approval and the City's approval thereof. The City hereby accepts the bid received from the Company for the sale of the Bonds. The sale of the Bonds to the Company or its designee(s), as the winning bidder at the public sale, at the interest rate set forth in the winning bid and upon the terms set forth in the Trust Indenture is hereby approved.

Section 4. Limited Obligations. The Bonds and the interest thereon shall be limited obligations of the City payable solely out of the payments, revenues and receipts derived by the City from the herein authorized Lease Agreement, and such payments, revenues and receipts shall be pledged and assigned to the Trustee as security for the payment of the Bonds as provided in the Trust Indenture. The Bonds and the interest thereon shall not be deemed to constitute a debt or liability of the City within the meaning of any constitutional provision, statutory limitation or City Charter provision and shall not constitute a pledge of the full faith and credit of the City. The issuance of the Bonds shall not, directly, indirectly or contingently, obligate the City to levy any form of taxation therefore or to make any appropriation for their payment.

Section 5. Approval and Authorization of Documents. The following documents (the "City Documents") are hereby approved in substantially the forms presented to the Council at this meeting (copies of which documents shall be filed in the records of the City), and the City is hereby authorized to execute and deliver the City Documents with such changes therein as shall be approved by the officials of the City executing such documents, such officials' signatures thereon being conclusive evidence of their approval thereof:

(a) Trust Indenture dated as of the date set forth therein (the "Trust Indenture"), between the City and BOKF, N.A., as trustee (the "Trustee"), pursuant to which the Bonds shall be issued and the City shall pledge and assign the payments, revenues and receipts received pursuant to the Lease Agreement to the Trustee for the benefit and security of the owners of the Bonds upon the terms and conditions as set forth in the Trust Indenture;

(b) Lease Agreement dated as of the date set forth therein (the “Lease Agreement”), between the City and the Company, under which the City will provide funds for the construction and improvement of the Project and lease the Project to the Company pursuant to the terms and conditions in the Lease Agreement, in consideration of rental payments by the Company which will be sufficient to pay the principal of, premium, if any, and interest on the Bonds;

(c) Bond Purchase Agreement dated as of the date set forth therein, between the City and the Company, pursuant to which the Company agrees to purchase the Bonds; and

(d) Performance Agreement dated as of the date set forth therein, between the City and the Company, pursuant to which the City has granted the Company certain rights in consideration for the Company’s agreement to pay certain payments in lieu of taxes.

Section 6. Execution of Documents. The Mayor or City Manager of the City is hereby authorized and directed to execute the Bonds and to deliver the Bonds to the Trustee for authentication for and on behalf of and as the act and deed of the City in the manner provided in the Indenture. The Mayor and/or City Manager of the City is hereby authorized and directed to execute the City Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance, for and on behalf of and as the act and deed of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City to the Bonds and the City Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

Section 7. Further Authority. The Mayor, City Manager, Director of Finance, City Clerk and other officials, agents and employees of the City as required are hereby authorized and directed to take such further action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance and to carry out, comply with and perform the duties of the City with respect to the Bonds and the City Documents, including but not limited to the execution of any financing documents in accordance with the Lease.

Section 8. Effective Date. This Ordinance shall take effect and be in full force as provided by the City Charter.

[remainder of page intentionally left blank]

PASSED THIS _____ DAY OF OCTOBER, 2024, BY THE CITY COUNCIL OF THE CITY OF INDEPENDENCE, MISSOURI.

Presiding Officer of the City Council
of the City of Independence, Missouri

ATTEST:

City Clerk

APPROVED AS TO FORM AND LEGALITY:

City Counselor

REVIEWED BY:

City Manager

EXHIBIT A

PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT

\$39,200,000
(AGGREGATE MAXIMUM PRINCIPAL AMOUNT)
CITY OF INDEPENDENCE, MISSOURI
TAXABLE INDUSTRIAL DEVELOPMENT REVENUE BONDS
(ARABELLA APARTMENTS PROJECT)
SERIES 2024

DATED AS OF OCTOBER 1, 2024

BOND PURCHASE AGREEMENT

Mayor and City Council
Independence, Missouri

Ladies and Gentlemen:

On the basis of the representations, and covenants and upon the terms and conditions contained in this Bond Purchase Agreement, Lombardo Homes of Independence, LLC, a Michigan limited liability company (the “Purchaser”), offers to purchase from the City of Independence, Missouri (the “City”), the above-referenced series of Taxable Industrial Development Revenue Bonds (the “Bonds”), to be issued by the City, under and pursuant to an ordinance passed by the governing body of the City on October __, 2024 (the “Ordinance”) and a Trust Indenture dated as of October 1, 2024 (the “Indenture”), by and between the City and BOKF, N.A., Kansas City, Missouri, as trustee (the “Trustee”). Capitalized terms not otherwise defined herein shall have the meanings set forth in **Section 101** of the Indenture.

SECTION 1. REPRESENTATIONS AND AGREEMENTS

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

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

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

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

(b) The Purchaser represents as follows:

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

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

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

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

SECTION 2. PURCHASE, SALE AND DELIVERY OF THE BONDS

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

The Bonds shall be sold to the Purchaser by the City on the Closing Date (hereinafter defined) upon payment of an amount equal to the Closing Price (hereinafter defined) for the Bonds, which amount shall be deposited in the Project Fund as provided in **Section 502** of the Indenture and shall thereafter on the Closing Date immediately be applied to the payment of Project Costs as provided in **Section 4.4** of the Lease. From time to time after the Closing Date as additional Project Costs are incurred, the Purchaser may make additional payments with respect to the Bonds ("Additional Payments") to the Trustee, which Additional Payments shall be deposited in the Project Fund and applied to the payment of Project Costs and the outstanding principal amount of the Bonds shall increase by each such Additional Payment; provided that the sum of the Closing Price and all such Additional Payments for the Bonds shall not, in the aggregate, exceed \$39,200,000.

As used herein, the term "Closing Date" shall mean October __, 2024, or such other date as shall be mutually agreed upon by the City and the Purchaser; the term "Closing Price" shall mean, with respect to the Bonds, that certain amount specified in writing by the Purchaser and agreed to by the City as the amount required to fund the initial disbursement from the Project Fund on the Closing Date.

The Bonds shall be issued under and secured as provided in the Ordinance, the Indenture and the Lease authorized thereby and the Bonds shall have the maturity, interest rate and shall be subject to redemption as set forth therein. The delivery of the Bonds shall be made in definitive form as a fully registered bond in the maximum aggregate principal denomination of \$39,200,000; provided, that the principal amount of the Bonds outstanding at any time shall be that amount recorded in the official bond registration records of the Trustee and further provided that interest shall be payable on the Bonds only on the outstanding principal amount of the Bonds, as more fully provided in the Indenture.

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

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

SECTION 3. CONDITIONS TO THE PURCHASER'S OBLIGATIONS

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

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

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

or the constitutionality or validity of the indebtedness represented by the Bonds or the validity of the Bonds or any proceedings in relation to the issuance or sale thereof;

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

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

SECTION 4. THE PURCHASER'S RIGHT TO CANCEL

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

SECTION 5. CONDITIONS OF OBLIGATIONS

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

SECTION 6. REPRESENTATIONS AND AGREEMENTS TO SURVIVE DELIVERY

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

SECTION 7. PAYMENT OF EXPENSES

The Company shall pay all reasonable expenses and costs to effect the authorization, preparation, issuance, delivery and sale of the Bonds.

SECTION 8. NOTICE

Any notice or other communication to be given to the City under this Agreement may be given by mailing or delivering the same in writing to the address of the City as provided in the Indenture for notices to the City required thereunder; any notice or other communication to be given to the Purchaser or the Company under this Agreement may be given by delivering the same in writing to the address of the Company as provided in the Indenture for notices to the Company thereunder.

SECTION 9. APPLICABLE LAW; ASSIGNABILITY

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

SECTION 10. EXECUTION OF COUNTERPARTS; ELECTRONIC STORAGE

This Bond Purchase Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same document. The parties agree that the transaction described herein may be conducted and related documents may be 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]

Very truly yours,

LOMBARDO HOMES OF INDEPENDENCE, LLC,
a Michigan limited liability company

By: _____
Name:
Title:

Accepted and Agreed to:

CITY OF INDEPENDENCE, MISSOURI

By: _____
Name: Zachary Walker
Title: City Manager

[SEAL]

ATTEST:

By: _____
Name: Susanne Holland
Title: City Clerk

**CITY OF INDEPENDENCE, MISSOURI,
the City**

AND

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

TRUST INDENTURE

Dated as of October 1, 2024

Relating to:

**\$39,200,000
(Aggregate Maximum Principal Amount)
City of Independence, Missouri
Taxable Industrial Development Revenue Bonds
(Arabella Apartments Project)
Series 2024**

TRUST INDENTURE

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TRUST INDENTURE

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

RECITALS:

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

2. Pursuant to the Act, the City Council passed an ordinance (the “Ordinance”), authorizing the City to issue its Taxable Industrial Development Revenue Bonds (Arabella Apartments Project), Series 2024, in the maximum principal amount of \$39,200,000 (the “Bonds”), for the purpose of acquiring and improving certain real property located at 19515 - 19601 E. R.D. Mize Road in the City (the “Project Site,” as more fully described on **Exhibit A** hereto), including the construction and improvement of a commercial facility on the Project Site together with related public improvements (the “Project Improvements,” as more fully described on **Exhibit B** hereto).

3. The Ordinance authorizes the City to lease the Project Site and the Project Improvements (collectively, the “Project”) to Lombardo Homes of Independence, LLC, a Michigan limited liability company (the “Company”).

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

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

NOW, THEREFORE, THIS TRUST INDENTURE WITNESSETH:

GRANTING CLAUSES

That the City, in consideration of the premises, the acceptance by the Trustee of the trusts hereby created, the purchase and acceptance of the Bonds by the Owners thereof, and of other good and valuable consideration, the receipt of which is hereby acknowledged, and in order to secure the payment of the principal of and interest on all of the Bonds issued and outstanding under this Indenture from time to time according to their tenor and effect, and to secure the performance and observance by the City of all the covenants, agreements and conditions herein and in the Bonds contained, does hereby pledge and assign to the Trustee and its successors and assigns until this Indenture has been satisfied and discharged, the property described in paragraphs (a), (b) and (c) below (said property being herein referred to as the "Trust Estate"), to-wit:

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

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

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

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

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

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

THIS INDENTURE FURTHER WITNESSETH, and it is hereby expressly declared, covenanted and agreed by and between the parties hereto, that all Bonds issued and secured hereunder are to be issued, authenticated and delivered and that all the Trust Estate is to be held and applied under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as

hereinafter expressed, and the City does hereby agree and covenant with the Trustee and with the respective Owners from time to time, as follows:

ARTICLE I

DEFINITIONS

Section 101. Definitions of Words and Terms. In addition to words and terms defined in **Section 1.1** of the Lease, which definitions shall be deemed to be incorporated herein, and terms defined elsewhere in this Indenture, the following words and terms as used in this Indenture shall have the following meanings, unless some other meaning is plainly intended:

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

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

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

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

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

“Bond” or **“Bonds”** means the Taxable Industrial Development Revenue Bonds (Arabella Apartments Project), Series 2024, in the maximum aggregate principal amount of \$39,200,000, issued, authenticated and delivered under and pursuant to this Indenture.

“Bond Fund” means the “City of Independence, Missouri, Bond Fund – Lombardo Homes of Independence, LLC” created in **Section 501** of this Indenture.

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

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

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

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

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

“Company” means Lombardo Homes of Independence, LLC, a Michigan limited liability company, and its successors or assigns.

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

“Costs of Issuance Fund” means the “City of Independence, Missouri, Costs of Issuance Fund – Lombardo Homes of Independence, LLC” created in **Section 501** hereof.

“Cumulative Outstanding Principal Amount” means an amount equal to the aggregate of all amounts paid into the Project Fund in accordance with the provisions of this Indenture, the Bond Purchase Agreement and the Lease, as reflected in the bond registration records maintained by the Trustee or in the Table of Cumulative Outstanding Principal Amount set forth in the form of Bond in **Exhibit C** hereto.

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

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

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

“Investment Securities” means any of the following securities:

- (a) Government Securities;
- (b) obligations of the Federal Financing Bank, the Federal Intermediate Credit Corporation, Federal Banks for Cooperatives, Federal Land Banks, and Farmers Home Administration;
- (c) direct and general obligations of any state of the United States of America, to the payment of the principal of and interest on which the full faith and credit of such state is pledged, provided that at the time of their purchase under this Indenture such obligations are rated in either of the two highest rating categories by a nationally-recognized bond rating agency;
- (d) certificates of deposit, whether negotiable or nonnegotiable, issued by any bank or trust company organized under the laws of any state of the United States of America or any national banking association (including the Trustee or any of its affiliates), provided that such certificates of deposit shall be either (1) continuously and fully insured by the Federal Deposit Insurance Corporation, or (2) continuously and fully secured by such securities as are described above in

clauses (a) through (c), inclusive, which shall have a market value at all times at least equal to the principal amount of such certificates of deposit and shall be deposited with the Trustee or a custodian bank, trust company or national banking association. The bank, trust company or national banking association holding each such certificate of deposit required to be so secured shall furnish the Trustee written evidence satisfactory to it that the aggregate market value of all such obligations securing each such certificate of deposit will at all times be an amount at least equal to the principal amount of each such certificate of deposit and the Trustee shall be entitled to rely on each such undertaking;

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

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

"Lease" means the Lease Agreement dated as of October 1, 2024, between the City, as lessor, and the Company, as lessee, as from time to time amended and supplemented by Supplemental Leases in accordance with the provisions thereof and of **Article XII** of this Indenture.

"Lender" has the meaning set forth in the Lease.

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

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

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

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

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

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

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

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

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

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

“Project” means the Project Site and the Project Improvements as they may at any time exist.

“Project Costs” means all costs of construction and improvement of the Project and the Public Improvements and acquisition of the Project Site.

“Project Fund” means the “City of Independence, Missouri, Project Fund – Lombardo Homes of Independence, LLC” created in **Section 501** hereof.

“Project Improvements” means the Public Improvements and all buildings, structures, improvements and fixtures to be purchased, constructed, installed and otherwise improved on the Project Site pursuant to **Article IV** of the Lease and paid for in whole or in part from the proceeds of Bonds, as described in **Exhibit B** attached hereto, and all additions, alterations, modifications and improvements thereof made pursuant to the Lease.

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

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

“Public Improvements” means that portion of the Project Improvements consisting of constructing new street entrances, replacing the existing sidewalk, removing the existing entrance approach and installing water main under the road at two locations, and related improvements.

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

“State” means the State of Missouri.

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

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

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

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

“Unassigned Rights” means the City’s right to receive moneys for its own account, including but not limited to payments in lieu of taxes, and the City’s rights to indemnification or to be protected from liabilities by insurance policies required by the Lease, and the rights of the City to provide any consent or approval under the Lease.

Section 102. Rules of Interpretation.

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

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

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

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

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

ARTICLE II

THE BONDS

Section 201. Title and Amount of Bonds. No Bonds may be issued under this Indenture except in accordance with the provisions of this Article. The Bonds authorized to be issued under this Indenture shall be designated as “City of Independence, Missouri, Taxable Industrial Development Revenue Bonds (Arabella Apartments Project), Series 2024.” The maximum total principal amount of Bonds that may be issued hereunder is hereby expressly limited to \$39,200,000.

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

thereon, and the Bonds shall not constitute an indebtedness within the meaning of any constitutional, charter or statutory debt limitation or restriction, and are not payable in any manner by taxation.

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

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

(b) The Bonds shall be dated by the Trustee as of the date of initial delivery thereof as provided herein. If the Bonds are at any time thereafter transferred, any replacement Bonds shall be dated as of the date of authentication thereof and numbered from 1 upward.

Section 204. Method and Place of Payment of Bonds.

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

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

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

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

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

Section 205. Execution and Authentication of Bonds.

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

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

Section 206. Registration, Transfer and Exchange of Bonds.

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

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

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

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

(e) The City and Trustee consent to the pledge of the Bonds to any Lender with a Mortgage (as such term is defined in the Lease) on all or any portion of the Project Site.

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

Section 208. Authorization of the Bonds.

(a) The Bonds are authorized in the aggregate maximum principal amount of \$39,200,000 for the purpose of providing funds to pay the costs of the Project and the costs of issuing the Bonds, which Bonds shall be designated “City of Independence, Missouri, Taxable Industrial Development Revenue Bonds (Arabella Apartments Project), Series 2024.” The Bonds shall be dated as provided in **Section 203(b)** hereof, shall become due on **December 1, 2027** (subject to prior redemption as provided in **Article III** hereof) and shall bear interest as specified in **Section 208(f)** hereof, payable on the dates specified in **Section 208(f)** hereof.

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

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

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

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

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

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

(5) An opinion of counsel nationally recognized on the subject of municipal bonds to the effect that the Bonds are in proper form and have been duly authorized in accordance with the Constitution and statutes of the State of Missouri, including the Act, and constitute valid and legally binding special obligations of the City; and

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

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

(e) Following the initial issuance and delivery of the Bonds, the Company may submit additional requisition certificates in accordance with **Section 4.4** of the Lease, and the Trustee shall, based solely of the amount set forth in the requisition, endorse the Bonds in an amount equal to the amount set forth in each requisition certificate. The date of endorsement of each Principal Amount Advanced (as defined in subsection (g) below) as set forth on **Schedule I** to the Bonds shall be the date of the City's approval of each requisition certificate. The Trustee shall keep a record of the total requisitions submitted, and shall notify the City if the requisitions submitted exceed the maximum Cumulative Outstanding Principal Amount of the Bonds permitted hereunder.

(f) The Bonds shall bear interest at the rate of 7.50% per annum on the Cumulative Outstanding Principal Amount of the Bonds. Such interest shall be payable in arrears on each December 1, commencing on December 1, 2024, and continuing thereafter until the Cumulative Outstanding Principal Amount is paid in full; provided that the aggregate maximum principal amount shall not exceed \$39,200,000 and further provided that the Bonds shall be paid in full no later than **December 1, 2027**. Interest shall be calculated on the basis of a year of 360 days consisting of twelve months of 30 days each.

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

Section 209. Mutilated, Lost, Stolen or Destroyed Bonds. If any Bond becomes mutilated, or is lost, stolen or destroyed, the City shall execute and the Trustee shall authenticate and deliver a new Bond of like series, date and tenor as the Bond mutilated lost, stolen or destroyed; provided that, in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Trustee, and in the case of any lost, stolen or destroyed Bond, there shall be first furnished to the City and the Trustee evidence of such loss, theft or destruction satisfactory to the Trustee, together with indemnity satisfactory to the Trustee to

save each of the City and the Trustee harmless. If any such Bond has matured, instead of delivering a substitute Bond, the Trustee may pay the same without surrender thereof. Upon the issuance of any substitute Bond, the City and the Trustee may require the payment of an amount sufficient to reimburse the City and the Trustee for any tax or other governmental charge that may be imposed in relation thereto and any other reasonable fees and expenses incurred in connection therewith.

Section 210. Cancellation and Destruction of Bonds Upon Payment.

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

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

ARTICLE III

REDEMPTION OF BONDS

Section 301. Redemption of Bonds.

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

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

(c) In connection with a redemption under paragraphs (a) or (b) of this Section, at its option, the Company may deliver to the Trustee for cancellation any Bonds owned by the Company and not previously paid, and the Company shall receive a credit against the amounts payable by the Company for

the redemption of such Bonds in an amount equal to the principal amount of the Bonds so tendered for cancellation, plus accrued interest.

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

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

ARTICLE IV

FORM OF BONDS

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

ARTICLE V

CUSTODY AND APPLICATION OF BOND PROCEEDS

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

- (a) "City of Independence, Missouri, Project Fund – Lombardo Homes of Independence, LLC" (herein called the "Project Fund");
- (b) "City of Independence, Missouri, Costs of Issuance Fund – Lombardo Homes of Independence, LLC" (herein called the "Costs of Issuance Fund"); and

(c) “City of Independence, Missouri, Bond Fund – Lombardo Homes of Independence, LLC” (herein called the “Bond Fund”).

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

Section 503. Disbursements from the Project Fund.

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

(b) If, pursuant to **Section 208** hereof, the Trustee is deemed to have deposited into the Project Fund the amount specified in the requisition certificates submitted by the Company in accordance with the provisions of **Article IV** of the Lease, the Trustee shall upon endorsement of the Bonds in an equal amount be deemed to have disbursed such funds from the Project Fund to the Company (or such other purchaser designated by the Company) in satisfaction of the requisition certificate.

(c) In paying any requisition under this Section, the Trustee may rely as to the completeness and accuracy of all statements in such requisition certificate if such requisition certificate is signed by the Authorized Company Representative. If the City so requests in writing, a copy of each requisition certificate submitted to the Trustee for payment under this Section shall be promptly provided by the Trustee to the City. The City hereby authorizes and directs the Trustee to make disbursements in the manner and as provided for by the aforesaid provisions of the Lease.

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

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

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

ARTICLE VI

REVENUES AND FUNDS

Section 601. Deposits Into the Bond Fund.

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

(b) If the Company is not the sole Owner of the Bonds, the Trustee shall notify the Company in writing, at least 15 days before each date on which a payment is due under **Section 5.1** of the Lease, of the amount that is payable by the Company pursuant to such Section.

Section 602. Application of Moneys in the Bond Fund.

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

(b) The City hereby authorizes and directs the Trustee to withdraw sufficient funds from the Bond Fund to pay the principal of and the interest on the Bonds as the same become due and payable and to make said funds so withdrawn available to the Paying Agent for the purpose of paying said principal and interest. To the extent the Company is the Owner of all of the Bonds Outstanding, payment may be made via transaction entry on the trust records held by Trustee.

(c) Whenever the amount in the Bond Fund from any source whatsoever is sufficient to redeem all of the Bonds Outstanding and to pay interest to accrue thereon before such redemption, the City covenants and agrees, upon request of the Company, to take and cause to be taken the necessary steps to redeem all such Bonds on the next succeeding redemption date for which the required redemption notice may be given or on such later redemption date as may be specified by the Company. The Trustee may use

any moneys in the Bond Fund to redeem a part of the Bonds Outstanding in accordance with and to the extent permitted by **Article III** hereof so long as the Company is not in default with respect to any payments under the Lease and to the extent said moneys are in excess of the amount required for payment of Bonds theretofore matured or called for redemption and past due interest, if any, in all cases when such Bonds have not been presented for payment.

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

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

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

Section 605. Repayment to the Company from the Bond Fund. After payment in full of the principal of and interest on the Bonds (or provision has been made for the payment thereof as provided in this Indenture), and the reasonable fees, charges and expenses of the Trustee and the City and any other amounts required to be paid under this Indenture and the Lease, all amounts remaining in the Bond Fund shall be paid to the Company upon the expiration or sooner termination of the Lease.

ARTICLE VII

SECURITY FOR DEPOSITS AND INVESTMENT OF FUNDS

Section 701. Moneys to be Held in Trust. All moneys deposited with or paid to the Trustee for account of the Bond Fund or the Project Fund under any provision of this Indenture, and all moneys deposited with or paid to any Paying Agent under any provision of this Indenture, shall be held by the Trustee or Paying Agent in trust and shall be applied only in accordance with the provisions of this Indenture

and the Lease, and, until used or applied as herein provided, shall constitute part of the Trust Estate and be subject to the lien hereof. Neither the Trustee nor any Paying Agent shall be under any liability for interest on any moneys received hereunder except such as may be agreed upon in writing.

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

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

ARTICLE VIII

GENERAL COVENANTS AND PROVISIONS

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

Section 802. Authority to Execute Indenture and Issue Bonds. The City covenants that it is duly authorized under the Constitution and laws of the State to execute this Indenture, to issue the Bonds and to pledge and assign the Trust Estate in the manner and to the extent herein set forth; that all action on its part for the execution and delivery of this Indenture and the issuance of the Bonds has been duly and

effectively taken; that the Bonds in the hands of the Owners thereof are and will be valid and enforceable obligations of the City according to the import thereof.

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

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

Section 805. Recordings and Filings. The City shall file or cause to be kept and filed all financing statements, and hereby authorizes the Trustee to file or cause to be kept and filed continuation statements with respect to such originally filed financing statements related to this Indenture and all supplements hereto and such other documents as may be required under the Uniform Commercial Code in order to fully preserve and protect the security of the Owners and the rights of the Trustee hereunder. The City will cooperate in causing this Indenture and all Supplemental Indentures, the Lease and all Supplemental Leases and all other security instruments to be recorded and filed in such manner and in such places as may be required by law in order to fully preserve and protect the security of the Owners and the rights of the Trustee hereunder.

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

Section 807. Enforcement of Rights Under the Lease. The City covenants and agrees that it will enforce all of its rights and all of the obligations of the Company (at the expense of the Company) under the Lease to the extent necessary to preserve the Project in good repair and reasonably safe operating condition, and to protect the rights of the Trustee and the Owners hereunder with respect to the pledge and assignment of the rents, revenues and receipts coming due under the Lease; provided that, the City and the Trustee, as its assignee, shall refrain from enforcing any such right or obligation (except for the rights of the City or the Trustee to receive payments owing to either of them for their own account under the Indenture, the Lease, the Performance Agreement or any other agreement related to the Bonds or for their rights of indemnification or to be protected from liabilities by insurance policies required by the Lease) if so directed in writing by the Owners of 100% of the Outstanding Bonds. The City agrees that the Trustee, as assignee of the rentals and other amounts to be received by the City and paid by the Company under the Lease, or in its name or in the name of the City, may enforce all rights of the City to receive such rentals and other amounts and all obligations of the Company to pay such rentals and other amounts under and pursuant to the Lease for and on behalf of the Owners, whether or not the City is in default hereunder.

Section 808. Subordination of Indenture to the Lease. This Indenture and the rights and privileges hereunder of the Trustee and the Owners of the Bonds are specifically made subject and subordinate to the rights and privileges of the Company (as long as no default by the Company under the Lease is continuing beyond any applicable grace period) set forth in the Lease. So long as not otherwise provided in this Indenture, the Company shall be suffered and permitted to possess, use and enjoy the Project and appurtenances so as to carry out its obligations under the Lease. Nothing contained in this Section shall be interpreted as eliminating, modifying or affecting in any manner the rights, privileges or immunities granted to the Trustee in **Article X** hereof.

ARTICLE IX

DEFAULT AND REMEDIES

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

- (a) Default in the due and punctual payment of the principal on any Bond, whether at the stated maturity or accelerated maturity thereof, or at any date fixed for redemption thereof;
- (b) Default in the due and punctual payment of the interest on any Bond, whether at the stated maturity or accelerated maturity thereof, or at any date fixed for redemption thereof;
- (c) Default as specified in **Section 12.1** of the Lease has occurred; or
- (d) Default in the performance, or breach, of any other covenant or agreement under this Indenture.

No default specified above shall constitute an Event of Default until the City, the Trustee or the Owners of 25% in aggregate principal amount of all Bonds Outstanding has given actual notice of such default by registered or certified mail to the Company, and the Company has had 30 days after receipt of such notice to correct said default or cause said default to be corrected and has not corrected said default or caused said default to be corrected within such period; provided, however, if any such default (other than a default in the payment of any money) is such that it cannot be corrected within such period, it shall not constitute an Event of Default if corrective action is instituted by the Company or the City (as the case may be) within such period and diligently pursued until the default is corrected.

Section 902. Acceleration of Maturity in Event of Default; Rescission. If an Event of Default has occurred and is continuing after the notice and cure period described in **Section 901** elapses, the Trustee may, and upon the written request of the Owners of not less than 25% in aggregate principal amount of Bonds then Outstanding, shall, by notice in writing delivered to the City and the Company, declare the principal of all Bonds then Outstanding and the interest accrued thereon immediately due and payable, and such principal and interest shall thereupon become and be immediately due and payable. At any time after such a declaration of acceleration has been made, but before any judgment or decree for payment of money due on any Bonds has been obtained by the Trustee as provided in this Article, the owners of a majority in principal amount of the Bonds Outstanding may, by written notice to the Company and Trustee but with the written consent of the City, rescind and annul such declaration and its consequences if: (a) there is deposited with the Trustee a sum sufficient to pay: (1) all overdue installments of interest on all Bonds; (2) the principal of (and premium, if any, on) any Bonds which have become due otherwise than by such

declaration of acceleration and interest thereon at the rate or rates prescribed therefor in such Bonds; and (3) all sums paid or advanced by the Trustee hereunder and the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel; and (b) all events of default, other than the non-payment of the principal of Bonds which have become due solely by such declaration of acceleration, have been cured or have been waived as provided in **Section 910** of this Indenture.

Section 903. Surrender of Possession of Trust Estate; Rights and Duties of Trustee in Possession. If an Event of Default has occurred and is continuing after the notice and cure period described in **Section 901** hereof elapses, the City, upon demand of the Trustee, shall forthwith surrender the possession of, and it shall be lawful for the Trustee, by such officer or agent as it may appoint, to take possession of all or any part of the Trust Estate, together with the books, papers and accounts of the City pertaining thereto, and including the rights and the position of the City under the Lease, and to hold, operate and manage the same, and from time to time make all needful repairs and improvements. The Trustee may lease the Project or any part thereof, in the name and for account of the City, and collect, receive and sequester the rents, revenues and receipts therefrom, and out of the same and any moneys received from any receiver of any part thereof pay, and set up proper reserves for the payment of all proper costs and expenses of so taking, holding and managing the same, including without limitation (a) reasonable compensation to the Trustee, its agents and counsel, (b) any reasonable charges of the Trustee hereunder, (c) any taxes and assessments and other charges having a lien that is senior to the lien of this Indenture, (d) all expenses of such repairs and improvements and (e) any amounts payable under the Performance Agreement. The Trustee shall apply the remainder of the moneys so received in accordance with the provisions of **Section 908** hereof. Whenever all that is due upon the Bonds has been paid and all defaults cured, the Trustee shall surrender possession of the Trust Estate to the City, its successors or assigns, the same right of entry, however, to exist upon any subsequent Event of Default. While in possession of such property, the Trustee shall render annually to the City and the Company a summarized statement of receipts and expenditures in connection therewith.

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

Section 905. Exercise of Remedies by the Trustee.

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

(b) If an Event of Default has occurred and is continuing after the notice and cure period described in **Section 901** elapses, and if requested to do so by (1) the City (in the case of an Event of Default pursuant to **Section 12.1(b), (c), (d), (e)** or **(f)** of the Lease), or (2) the Owners of 25% in aggregate principal amount of Bonds then Outstanding, and if indemnified as provided in subsection (l) of **Section 1001** hereof, the Trustee shall be obligated to exercise such one or more of the rights and powers conferred by this Article

as the Trustee, being advised by counsel, shall deem most expedient and in the interests of the City or the Owners, as the case may be.

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

Section 906. Limitation on Exercise of Remedies by Owners. No Owner shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of this Indenture or for the execution of any trust hereunder or for the appointment of a receiver or any other remedy hereunder, unless (a) a default has occurred of which the Trustee has been notified as provided in **Section 1001(h)** hereof or of which by said subsection the Trustee is deemed to have notice, (b) such default has become an Event of Default, (c) the Owners of 25% in aggregate principal amount of Bonds then Outstanding have made written request to the Trustee, have offered it reasonable opportunity either to proceed for such reasonable period not to exceed 60 days following such notice and to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name, and have offered to the Trustee indemnity as provided in **Section 1001(i)** hereof, and (d) the Trustee thereafter fails or refuses to exercise the powers herein granted or to institute such action, suit or proceeding in its own name; such notification, request and offer of indemnity are hereby declared in every case, at the option of the Trustee, to be conditions precedent to the execution of the powers and trusts of this Indenture, and to any action or cause of action for the enforcement of this Indenture, or for the appointment of a receiver or for any other remedy hereunder, it being understood and intended that no one or more Owners shall have any right in any manner whatsoever to affect, disturb or prejudice this Indenture by their action or to enforce any right hereunder except in the manner herein provided, and that all proceedings at law or equity shall be instituted, had and maintained in the manner herein provided and for the equal benefit of the Owners of all Bonds then Outstanding. Nothing in this Indenture contained shall, however, affect or impair the right of any Owner to payment of the principal of and interest on any Bond at and after the maturity thereof or the obligation of the City to pay the principal of and interest on each of the Bonds issued hereunder to the respective Owners thereof at the time, place, from the source and in the manner herein and in the Bonds expressed.

Section 907. Right of Owners to Direct Proceedings.

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

(b) Notwithstanding any provision in this Indenture to the contrary, including paragraph (a) of this Section, the Owners shall not have the right to control or direct any remedies hereunder upon an Event of Default under **Section 12.1(b)** or (c) (in either case, with respect to the Unassigned Rights), (d), (e) or (f) of the Lease.

Section 908. Application of Moneys in Event of Default.

(a) All moneys received by the Trustee pursuant to any right given or action taken under the provisions of this Article shall, after payment of any obligations outstanding under the Lease and the Performance Agreement, of the cost and expenses of the proceedings resulting in the collection of such moneys and of the fees, expenses, liabilities and advances incurred or made by the Trustee (including any attorneys fees and expenses) or amounts to be paid pursuant to **Section 903** hereof, be deposited in the Bond Fund and all moneys so deposited in the Bond Fund shall be applied as follows:

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

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

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

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

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

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

(c) Whenever all of the Bonds and interest thereon, if any, have been paid under the provisions of this Section, and all fees, expenses and charges of the City and the Trustee and any other amounts

required to be paid under this Indenture and the Lease have been paid (including any amounts payable under the Performance Agreement), any balance remaining in the Bond Fund shall be paid to the Company as provided in **Section 602** hereof.

Section 909. Remedies Cumulative. No remedy by the terms of this Indenture conferred upon or reserved to the Trustee or to the Owners is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Trustee or to the Owners hereunder or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right, power or remedy accruing upon any Event of Default shall impair any such right, power or remedy or shall be construed to be a waiver of any such Event of Default or acquiescence therein; every such right, power or remedy may be exercised from time to time and as often as may be deemed expedient. If the Trustee has proceeded to enforce any right under this Indenture by the appointment of a receiver, by entry, or otherwise, and such proceedings have been discontinued or abandoned for any reason, or have been determined adversely, then and in every such case the City, the Company, the Trustee and the Owners shall be restored to their former positions and rights hereunder, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

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

ARTICLE X

THE TRUSTEE

Section 1001. Acceptance of the Trusts. The Trustee hereby accepts the trusts imposed upon it by this Indenture, but only upon and subject to the following express terms and conditions, and no implied covenants or obligations shall be read into this Indenture against the Trustee:

- (a) The Trustee, before the occurrence of an Event of Default and after the curing or waiver of all Events of Default that may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. If any Event of Default has occurred and is continuing, subject to **Section 1001(i)** hereof, the Trustee shall exercise such of the rights and

powers vested in it by this Indenture, and shall use the same degree of care and skill in their exercise, as a prudent Person would exercise or use under the circumstances in the conduct of its own affairs.

(b) The Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or through agents, affiliates, attorneys or receivers and shall not be responsible for any misconduct or negligence on the part of any agent, attorney or receiver appointed or chosen by it with due care. The Trustee may conclusively rely upon and act or refrain from acting upon any opinion or advice of counsel, who may be counsel to the City or to the Company, concerning all matters of trust hereof and the duties hereunder, and may in all cases pay such reasonable compensation to all such agents, attorneys and receivers as may reasonably be employed in connection with the trusts hereof. The Trustee shall not be responsible for any loss or damage resulting from any action or inaction by it taken or omitted to be taken in good faith in reliance upon such opinion or advice of counsel addressed to the City and the Trustee.

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

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

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

(f) As to the existence or nonexistence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, or whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established before taking, suffering or omitting any action hereunder, the Trustee shall be entitled to rely upon a certificate signed by the Authorized City Representative or an Authorized Company Representative as sufficient evidence of the facts therein contained, and before the occurrence of a default of which the Trustee has been notified as provided in subsection (h) of this Section or of which by said subsection it is deemed to have notice, the Trustee shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient, but may at its discretion secure

such further evidence deemed necessary or advisable, but shall in no case be bound to secure the same. The Trustee is under no duty to perform an independent investigation as to any statement or fact contained in any such certificate, opinion or advice it obtains regarding the accuracy or truth of any statement or correctness of any opinion. The Trustee shall not be liable for any action or inaction taken in good faith in reliance on such a certificate or any advice received from counsel, and the Trustee may conclusively rely as to the truth of the statements and the correctness of the opinions or statements expressed therein.

(g) The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty, and the Trustee shall not be answerable for other than its negligence or willful misconduct. In no event shall the Trustee be liable for consequential damages. The Trustee shall not be liable for any act or omission, in the absence of bad faith, when the Trustee reasonably believes the act or failure to act is authorized and within its powers to perform under the Indenture.

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

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

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

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

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

(m) Notwithstanding any other provision of this Indenture to the contrary, any provision relating to the conduct of, intended to provide authority to act, right to payment of fees and expenses, protection, immunity and indemnification to the Trustee, shall be interpreted to

include any action of the Trustee, whether it is deemed to be in its capacity as Trustee, bond registrar or Paying Agent.

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

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

Section 1004. Intervention by the Trustee. In any judicial proceeding to which the City is a party and which, in the opinion of the Trustee and its counsel, has a substantial bearing on the interests of Owners, the Trustee may intervene on behalf of Owners and, subject to the provisions of **Section 1001(i)** hereof, shall do so if requested in writing by the Owners of at least 25% of the aggregate principal amount of Bonds then Outstanding.

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

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

court of competent jurisdiction for the appointment of a successor Trustee. The Trustee's rights to indemnity and to any fees, charges or other amounts due and payable to it shall survive such resignation.

Section 1007. Removal of Trustee. The Trustee may be removed at any time, with or without cause, by an instrument or concurrent instruments in writing (a) delivered to the Trustee, the City and the Company and signed by the Owners of a majority in aggregate principal amount of Bonds then Outstanding, or (b) so long as no Event of Default under this Indenture or the Lease shall have occurred and be continuing, delivered to the Trustee, the Company and the Owners and signed by the City. The Trustee's rights to indemnity and to any fees, charges or other amounts due and payable to it shall survive such removal.

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

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

Section 1010. Right of Trustee to Pay Taxes and Other Charges. If any tax, assessment or governmental or other charge upon, or insurance premium with respect to, any part of the Project is not paid as required herein or in the Lease, the Trustee may pay such tax, assessment or governmental charge or insurance premium, without prejudice, however, to any rights of the Trustee or the Owners hereunder arising in consequence of such failure; any amount at any time so paid under this Section, with interest thereon from the date of payment at the rate of 10% per annum, shall become an additional obligation secured by this Indenture, and the same shall be given a preference in payment over any payment of

principal of or interest on the Bonds, and shall be paid out of the proceeds of rents, revenues and receipts collected from the Project, if not otherwise caused to be paid; but the Trustee shall be under no obligation to make any such payment unless it shall have been requested to do so by the Owners of at least 25% of the aggregate principal amount of Bonds then Outstanding and shall have been provided adequate funds for the purpose of such payment.

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

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

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

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

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

Section 1012. Accounting. The Trustee shall render an annual accounting for the period ending December 31 of each year, within 90 days following the end of such year, to the City, the Company and to any Owner requesting the same and, upon the request of the City, the Company or any Owner, a monthly accounting to any such party, showing in reasonable detail all financial transactions relating to the Trust Estate during the accounting period and the balance in any funds or accounts created by this Indenture as of the beginning and close of such accounting period.

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

ARTICLE XI

SUPPLEMENTAL INDENTURES

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

- (a) To cure any ambiguity or formal defect or omission in this Indenture, or to make any other change which, in the judgment of the Trustee, is not to the material prejudice of the Trustee or the Owners;
- (b) To grant to or confer upon the Trustee for the benefit of the Owners any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Owners or the Trustee or either of them;
- (c) To more precisely identify any portion of the Project or to add additional property thereto;
- (d) To conform the Indenture to amendments to the Lease made by the City and the Company; or
- (e) To subject to this Indenture additional revenues, properties or collateral.

Section 1102. Supplemental Indentures Requiring Consent of Owners.

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

(b) If at the time the City requests the Trustee to enter into any such Supplemental Indenture for any of the purposes of this Section, the Trustee shall cause notice of the proposed execution of such Supplemental Indenture to be mailed to each Owner as shown on the bond registration books required by **Section 206** hereof. Such notice shall briefly set forth the nature of the proposed Supplemental Indenture and shall state that copies thereof are on file at the corporate trust office of the Trustee for inspection by all Owners. If within 60 days or such longer period as may be prescribed by the City following the mailing of such notice, the Owners of not less than a majority in aggregate principal amount of the Bonds Outstanding

at the time of the execution of any such Supplemental Indenture shall have consented to and approved the execution thereof as herein provided, no Owner shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the City from executing the same or from taking any action pursuant to the provisions thereof.

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

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

ARTICLE XII

SUPPLEMENTAL LEASES

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

Section 1202. Supplemental Leases Requiring Consent of Owners. Except for Supplemental Leases as provided for in **Section 1201** hereof, neither the City nor the Trustee shall consent to the execution of any Supplemental Lease or Supplemental Leases by the City or the Company without the mailing of notice and the obtaining of the written approval or consent of the Owners of not less than a majority in aggregate principal amount of the Bonds at the time Outstanding given and obtained as provided in **Section 1102** hereof. If at any time the City and the Company shall request the consent of the Trustee to any such proposed Supplemental Lease, the Trustee shall cause notice of such proposed Supplemental Lease to be mailed in the same manner as provided in **Section 1102** hereof with respect to Supplemental Indentures. Such notice shall briefly set forth the nature of such proposed Supplemental Lease and shall state that copies of the same are on file in the corporate trust office of the Trustee for inspection by all Owners. If within 60 days or such longer period as may be prescribed by the City following the mailing of such notice, the Owners of not less than 50% in aggregate principal amount of the Bonds Outstanding at the time of the execution of any such Supplemental Lease shall have consented to and approved the execution thereof as

herein provided, no Owner shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the City from executing the same or from taking any action pursuant to the provisions thereof.

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

ARTICLE XIII

SATISFACTION AND DISCHARGE OF INDENTURE

Section 1301. Satisfaction and Discharge of this Indenture.

(a) When the principal of and interest on all the Bonds have been paid in accordance with their terms or provision has been made for such payment, as provided in **Section 1302** hereof, and provision also made for paying all other sums payable hereunder and under the Lease and the Performance Agreement, including the reasonable fees and expenses of the Trustee, the City and Paying Agent to the date of retirement of the Bonds, then the right, title and interest of the Trustee in respect hereof shall thereupon cease, determine and be void. Thereupon, the Trustee shall cancel, discharge and release this Indenture and shall upon the written request of the City or the Company execute, acknowledge and deliver to the City such instruments of satisfaction and discharge or release as shall be required to evidence such release and the satisfaction and discharge of this Indenture, and shall assign and deliver to the City (subject to the City's obligations under **Section 11.2** of the Lease) any property at the time subject to this Indenture which may then be in its possession, except amounts in the Bond Fund required to be paid to the Company under **Section 602** hereof and except funds or securities in which such funds are invested held by the Trustee for the payment of the principal of and interest on the Bonds.

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

Section 1302. Bonds Deemed to be Paid.

(a) Bonds shall be deemed to be paid within the meaning of this Article when payment of the principal of and interest thereon to the due date thereof (whether such due date be by reason of maturity or upon redemption as provided in this Indenture, or otherwise), either (1) have been made or caused to be made in accordance with the terms thereof, or (2) have been provided for by depositing with the Trustee or other commercial bank or trust company having full trust powers and authorized to accept trusts in the State in trust and irrevocably set aside exclusively for such payment (i) moneys sufficient to make such payment or (ii) Government Securities maturing as to principal and interest in such amount and at such times as will insure the availability of sufficient moneys to make such payment, or (3) have been provided for by surrendering the Bonds to the Trustee for cancellation. At such time as Bonds are deemed to be paid

hereunder, as aforesaid, they shall no longer be secured by or entitled to the benefits of this Indenture, except for the purposes of such payment from such moneys or Government Securities.

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

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

ARTICLE XIV

MISCELLANEOUS PROVISIONS

Section 1401. Consents and Other Instruments by Owners.

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

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

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

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

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

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

(a) To the City:

City of Independence, Missouri
111 E. Maple Avenue
Independence, MO 64050
Attention: City Manager

(b) To the Trustee:

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

(c) To the Company:

Lombardo Homes of Independence, LLC
13001 23 Mile Road, Suite 200
Shelby Township, Michigan 48315
Attention: Brian Powers

With a copy to:

Polsinelli PC
900 W. 48th Place, Suite 900
Kansas City, MO 64112
Attention: Curtis J. Petersen

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

All notices given by certified or registered mail as aforesaid shall be deemed fully given as of the date they are so mailed, provided that any of the foregoing given to the Trustee shall be effective only upon receipt. All notices given by overnight delivery or other delivery service shall be deemed fully given as of the date when received. A duplicate copy of each notice, certificate or other communication given hereunder by either the City or the Trustee to the other shall also be given to the Company. The City, the

Company and the Trustee may from time to time designate, by notice given hereunder to the others of such parties, such other address to which subsequent notices, certificates or other communications shall be sent.

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

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

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

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

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

[Remainder of this page intentionally left blank]

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

CITY OF INDEPENDENCE, MISSOURI

By: _____
Name: Zachary Walker
Title: City Manager

[SEAL]

ATTEST:

By: _____
Name: Susanne Holland
Title: City Clerk

BOKF, N.A.,
as Trustee

[SEAL]

By _____
Name:
Title:

ATTEST:

By _____
Name:
Title:

EXHIBIT A

PROJECT SITE

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

All that portion of such lands described in that certain Warranty Deed recorded as Document No. 2008E0020082 on February 22, 2008 and that certain Trustee's Deed recorded as Document No. 2009E0024269 on March 16, 2009 with each of said documents being filed with the Office of the Recorder of Deeds for Jackson County, Missouri and being situated in the Southwest Quarter of Section 16 and the Southeast Quarter of Section 17, all in Township 49 North, Range 31 West, in the City of Independence, said County and State. Being now more particularly described as follows: Commencing at the Southeast Corner of the Southeast Quarter of aforesaid Section 17; thence North 87 degrees 29 minutes 45 seconds West, along the South line of said Quarter Section, a distance of 417.70 feet to the Southeast corner of Tract A, MEADOW HILLS – 4th PLAT, a subdivision in aforesaid City, County and State; thence North 02 degrees 31 minutes 54 seconds East (North 00 degrees 06 minutes 27 seconds East, Plat) along a line 417.70 feet West of and parallel with the East line of said Quarter Section, being also along the East line of said Tract A, a distance of 117.03 feet to a point on the Northerly Right-of-Way line of South Jackson Drive as now established by that certain instrument of Conveyance of Right-of-Way recorded June 4, 2007 in said Office of the Recorder of Deeds as Document No. 2007E0073264 and the Point of Beginning of the tract of land to be herein described; thence continuing North 02 degrees 31 minutes 54 seconds East (North 00 degrees 06 minutes 27 seconds East, Plats) along the last described course, being also along the East lines of MEADOW HILLS – 3rd PLAT, and MEADOW HILLS 1st PLAT and along the Northerly extension of the East line of said MEADOW HILLS 1st PLAT, each being platted subdivisions in the said City, County and State, a distance of 2,505.84 feet to a point on the Southerly Right-of-Way line of R D Mize Road, as now established by that certain instrument of Conveyance of Right-of-Way recorded November 7, 2006 in said Office of the Recorder of Deeds as Document No. 2006E0118992; thence Easterly along the Southerly Right-of-Way line of said R D Mize Road as described in said Document No. 2006E0118992 and by the Conveyance of Right-of-Way recorded June 6, 2007 in said Office of the Recorder of Deeds as Document No. 2007E0074680 and by the Conveyance of Right-of-Way recorded June 14, 2007 in said Office of the Recorder of Deeds as Document No. 2007E0078544, the following courses and distances; thence South 87 degrees 47 minutes 11 seconds East (South 87 degrees 46 minutes 54 seconds East, Deed 2006E0118992) along a line 40.00 feet South of and parallel with the North line of the Southeast Quarter of said Section 17, a distance of 417.71 feet to a point on the East line of said Southeast Quarter Section; thence North 02 degrees 31 minutes 54 seconds East (North 02 degrees 27 minutes 13 seconds East, Deed) along the East line of said Southeast Quarter Section, a distance of 1.00 foot; thence South 88 degrees 09 minutes 08 seconds East (South 88 degrees 14 minutes 49 seconds East, Deed 2006E0118992) along a line 39 feet South of and parallel with the North line of the Southwest Quarter of aforesaid Section 16, a distance of 40.80 feet; thence continuing South 88 degrees 09 minutes 08 seconds East (South 88 degrees 09 minutes 36 seconds East, Deed 2007E0074680) along a line 39 feet South of and parallel with the North line of the Southwest Quarter of aforesaid Section 16, a distance of 266.79 feet; thence South 01 degrees 50 minutes 52 seconds West (South 01 degrees 50 minutes 24 seconds West, Deed 2007E0074680), perpendicular to the North line of said Southwest Quarter, a distance of 55.50 feet to a point 94.50 feet South of the North line of the Southwest Quarter of said Section 16 as measured perpendicular to the North line thereof; thence South 88 degrees 09 minutes 08 seconds East (South 88 degrees 09 minutes 36 seconds East, Deed 2007E0074680) along a line 94.50 feet South of and parallel with the North line of said Southwest Quarter, a distance of 67.00 feet; thence North 01 degrees 50 minutes 52 seconds East (North 01 degrees 50 minutes 24 seconds East, Deed 2007E0074680), perpendicular to the North line of said Southwest Quarter, a distance of 55.50 feet to a point 39.00 feet South of the North line of the Southwest Quarter of said Section 17 as measured perpendicular to the North line thereof; thence South 88 degrees 09 minutes 08 seconds East (South 88 degrees 09 minutes 36 seconds East, Deed 2007E0074680) along a line 39 feet

South of and parallel with the North line of the Southwest Quarter of said Section 16, a distance of 2.20 feet; thence South 83 degrees 09 minutes 53 seconds East (South 83 degrees 07 minutes 42 seconds East, Deed 2007E0078544), a distance of 122.88 feet to a point 499.30 feet East of the West line of the Southwest Quarter of said Section 16 as measured perpendicular to the West line thereof; thence South 02 degrees 31 minutes 54 seconds West along a line 499.30 feet East of and parallel with the West line of the Southwest Quarter of said Section 16, a distance of 1,868.15 feet to a point on the Northerly Right-of-Way line of said South Jackson Drive as now established by said Conveyance of Right-of-Way recorded June 14, 2007 in said Office of the Recorder of Deeds as Document No. 2007E0078544; thence generally Southwesterly along the Northerly Right-of-Way line of said South Jackson Drive as established by said Document No. 2007E0078544 and by said Document No. 2007E0073264, the following courses and distances; thence Southwesterly along a curve to the right, having an initial tangent bearing of South 56 degrees 15 minutes 48 seconds West, a radius of 650.00 feet and a central angle of 18 degrees 57 minutes 24 seconds (18 degrees 56 minutes 55 seconds, Deed 2007E0078544), an arc length of 215.06 feet (214.97 feet, Deed 2007E0078544; thence South 75 degrees 13 minutes 12 seconds West (South 75 degrees 13 minutes 05 seconds West, Deed 2007E0078544), tangent to the last described curve, a distance of 120.19 feet; thence Southwesterly along a curve to the left, tangent to the last described course, having a radius of 750.00 feet and a central angle of 29 degrees 02 minutes 06 seconds, an arc length of 380.07 feet; thence South 46 degrees 11 minutes 06 seconds West (South 46 degrees 11 minutes 00 seconds West, Deed 2007E0073264), tangent to the last described curve, a distance of 422.55 feet to the Point of Beginning. This description having been prepared by Steven R. Whitaker, Missouri, P.L.S No. 2005019220. MEC Corporate Certificate / License No. 2012009395.

EXHIBIT B

PROJECT IMPROVEMENTS

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

Approximately 176 ranch-style apartment units to be constructed with trench and block foundations, wood framing, vinyl siding, vinyl windows, cultured stone facades, and asphalt shingle roofing, together with walking paths, a dog park, ponds, a gazebo, a pet wash station and the Public Improvements.

EXHIBIT C

FORM OF BONDS

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

No. 1

**Not to Exceed
\$39,200,000**

**UNITED STATES OF AMERICA
STATE OF MISSOURI**

**CITY OF INDEPENDENCE, MISSOURI
TAXABLE INDUSTRIAL DEVELOPMENT REVENUE BOND
(ARABELLA APARTMENTS PROJECT)
SERIES 2024**

Interest Rate

7.50%

Maturity Date

December 1, 2027

Dated Date

_____, 2024

OWNER:

**LOMBARDO HOMES OF
INDEPENDENCE, LLC**

MAXIMUM PRINCIPAL AMOUNT:

**NOT TO EXCEED THIRTY-NINE
MILLION TWO HUNDRED THOUSAND
DOLLARS**

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

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

THIS BOND is one of a duly authorized series of Bonds of the City designated “City of Independence, Missouri, Taxable Industrial Development Revenue Bonds (Arabella Apartments Project), Series 2024,” in the maximum aggregate principal amount of \$39,200,000 (the “Bonds”), to be issued for the purpose of improving certain real property located at 19515 - 19601 E. R.D. Mize Road in the City (the “Project Site,” as more fully described on **Exhibit A** to the Lease (defined below)), including the construction and improvement of a commercial facility together with related public improvements (the “Project Improvements”). The City will lease the Project Site and the Project Improvements (collectively, the “Project”) to a private-sector company (the “Company”), under the terms of a Lease Agreement dated as of October 1, 2024 (said Lease Agreement, as amended and supplemented from time to time in accordance with the provisions thereof, being herein called the “Lease”), between the City and the Company, all pursuant to the authority of and in full compliance with the provisions, restrictions and limitations of the Constitution, the statutes of the State of Missouri, including particularly the Act, the charter of the City and pursuant to proceedings duly had by the Council of the City.

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

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

THE BONDS are subject to redemption and payment prior to maturity as provided in the Indenture.

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

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

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

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

THE BONDS are issuable in the form of one fully-registered Bond in the maximum principal amount of \$39,200,000.

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

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

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

CERTIFICATE OF AUTHENTICATION

CITY OF INDEPENDENCE, MISSOURI

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

By: _____
City Manager

Registration Date: _____

BOKF, N.A.,
as Trustee

ATTEST: _____ (Seal)

By _____
Authorized Signatory

City Clerk

SCHEDULE I

TABLE OF CUMULATIVE OUTSTANDING PRINCIPAL AMOUNT

**CITY OF INDEPENDENCE, MISSOURI
TAXABLE INDUSTRIAL DEVELOPMENT REVENUE BOND
(ARABELLA APARTMENTS PROJECT)
SERIES 2024**

Date	Principal Amount Advanced	Principal Amount Redeemed	Cumulative Outstanding Principal Amount	Notation Made By

FORM OF ASSIGNMENT

(NOTE RESTRICTIONS ON TRANSFERS)

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

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

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

Dated: _____.

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

PLACE SIGNATURE MEDALLION BELOW:

EXHIBIT D

FORM OF REPRESENTATION LETTER

City of Independence, Missouri
111 E. Maple Avenue
Independence, MO 64050
Attention: City Manager

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

Re: \$39,200,000 Maximum Principal Amount of Taxable Industrial Development Revenue Bonds (Arabella Apartments Project), Series 2024 of the City of Independence, Missouri

Ladies and Gentlemen:

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

1. The Purchaser fully understands that (a) the Bonds have been issued under and pursuant to a Trust Indenture dated as of October 1, 2024 (the “Indenture”), between the City of Independence, Missouri (the “City”) and BOKF, N.A., Kansas City, Missouri, as trustee (the “Trustee”), and (b) the Bonds are payable solely out of certain rents, revenues and receipts to be derived from the leasing or sale of the Project (as defined in the Indenture) to Lombardo Homes of Independence, LLC, a Michigan limited liability company (the “Company”), under a Lease Agreement dated as of October 1, 2024 (the “Lease”), between the City and the Company, with certain of such rents, revenues and receipts being pledged and assigned by the City to the Trustee under the Indenture to secure the payment of the principal of and interest on the Bonds.

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

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

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

5. The Company has (a) furnished to the Purchaser such information about itself as the Purchaser deems necessary in order for it to make an informed investment decision with respect to the purchase of the Bonds, (b) made available to the Purchaser, during the course of this transaction, ample opportunity to ask questions of, and to receive answers from, appropriate officers of the City and the terms and conditions of the offering of the Bonds, and (c) provided to the undersigned all additional information which it has requested.

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

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

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

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

10. The Purchaser hereby directs the Trustee to hold the Bonds in trust for the undersigned pursuant to **Section 208** of the Indenture.

Dated: _____, 20__

[PURCHASER OF BONDS]

By: _____
Name: _____
Title: _____

**CITY OF INDEPENDENCE, MISSOURI,
As Lessor,**

AND

**LOMBARDO HOMES OF INDEPENDENCE, LLC,
As Lessee**

LEASE AGREEMENT

Dated as of October 1, 2024

Relating to:

**\$39,200,000
(Aggregate Maximum Principal Amount)
City of Independence, Missouri
Taxable Industrial Development Revenue Bonds
(Arabella Apartments Project)
Series 2024**

Certain rights of the City of Independence, Missouri (the “City”), in this Lease Agreement have been pledged and assigned to BOKF, N.A., Kansas City, Missouri, as Trustee under the Trust Indenture dated as of October 1, 2024, between the City and the Trustee.

LEASE AGREEMENT

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Exhibit A - Project Site

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Appendix I: Performance Agreement

LEASE AGREEMENT

THIS LEASE AGREEMENT, dated as of October 1, 2024 (the “Lease”), is between the **CITY OF INDEPENDENCE, MISSOURI**, a constitutional charter city and municipal corporation duly organized and existing under the laws of the State of Missouri, as lessor (the “City”), and **LOMBARDO HOMES OF INDEPENDENCE, LLC**, a limited liability company organized and existing under the laws of the State of Michigan, as lessee, and its successors or assigns, as permitted hereunder (the “Company”);

RECITALS:

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

2. Pursuant to the Act, the City Council passed an ordinance (the “Ordinance”) authorizing the City to issue its Taxable Industrial Development Revenue Bonds (Arabella Apartments Project), Series 2024, in the maximum principal amount of \$39,200,000 (the “Bonds”), for the purpose of acquiring and improving certain real property located at 19515 - 19601 E. R.D. Mize Road in the City (the “Project Site,” as more fully described on **Exhibit A** hereto), including the construction and improvement of a commercial facility on the Project Site together with related public improvements (the “Project Improvements,” as more fully described on **Exhibit B** hereto).

3. Pursuant to the Ordinance, the City is authorized to enter into a Trust Indenture of even date herewith (the “Indenture”) with BOKF, N.A., Kansas City, Missouri, as Trustee (the “Trustee”), for the purpose of issuing and securing the Bonds, as therein provided, and to enter into this Lease with the Company under which the City will construct and improve the Project Improvements, and lease the Project Site and the Project Improvements as they may at any time exist (collectively, the “Project”), to the Company in consideration of rental payments by the Company that will be sufficient to pay the principal of and interest on the Bonds.

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

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

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

ARTICLE I

DEFINITIONS

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

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

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

“Certificate of Insurance Compliance” means a certificate in substantially the form set forth on **Exhibit D** hereto evidencing the Company’s compliance with the insurance requirements set forth in **Article VII** hereof, fully executed by the Authorized Company Representative and upon which the Trustee may conclusively rely without further investigation or inquiry.

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

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

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

“Lender” means any person who from time to time has made a loan to Company which is secured by a Mortgage.

“Mortgage” means any mortgage or deed of trust (together with all related loan documents and security agreements) relating to the Project and permitted pursuant to the provisions of **Section 10.4** hereof or existing prior to the date on which a memorandum of this Lease is recorded.

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

“Permitted Encumbrances” means, as of any particular time, as the same may encumber the Project Site, (a) liens for ad valorem taxes and special assessments not then delinquent, (b) the Indenture, this Lease and the Performance Agreement, (c) utility, access and other easements and rights-of-way, mineral rights, restrictions, exceptions and encumbrances that will not materially interfere with or impair the operations being conducted on the Project Site or easements granted to the City, (d) such minor defects, irregularities, encumbrances, easements, mechanic’s liens, rights-of-way and clouds on title as normally exist with respect to properties similar in character to the Project Site and as do not in the

aggregate materially impair the property affected thereby for the purpose for which it was acquired or is held by the City, (e) any Mortgage, (f) any assignment of leases and rents or similar assignment delivered by the Company in favor of a Lender in connection with any future Mortgage (delivered pursuant to **Section 10.4(b)** of this Lease), and (g) any encumbrances shown on a title policy or report included in the transcript of proceedings relating to the Bonds.

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

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

“Public Improvements” has the meaning given in the Indenture.

Section 1.2. Rules of Interpretation.

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

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

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

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

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

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

Section 1.3. Acceptance of Indenture. The Company acknowledges that it has received an executed copy of the Indenture and that it is familiar with the terms and conditions of the Indenture. The Company further covenants that it will comply with all the conditions and covenants contained in the Indenture relating to the Company and the Project, and that it will not take any action which would cause a default thereunder or jeopardize the rights of the Trustee, the City or the Bondowners.

ARTICLE II

REPRESENTATIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) The estimated costs of the construction and improvement of the Project are in accordance with sound engineering and accounting principles;

(e) The Project will comply in all material respects with all presently applicable building and zoning, health, environmental and safety orders and laws and all other applicable laws, rules and regulations; and

(f) The Project is located wholly within the corporate limits of the City of Independence, Missouri.

ARTICLE III

GRANTING PROVISIONS

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

Section 3.2. Lease Term. This Lease shall become effective upon its delivery, and subject to sooner termination pursuant to the provisions of this Lease, shall have a term commencing as of the date of this Lease and terminating on **December 1, 2027**.

Section 3.3. Possession and Use of the Project.

(a) The City covenants and agrees that as long as neither the City nor the Trustee has exercised any of the remedies set forth in **Section 12.2(b)** following the occurrence and continuance of an Event of Default, the Company shall have sole and exclusive possession of the Project (subject to Permitted Encumbrances and the City's and the Trustee's right of access pursuant to **Section 10.3** hereof) and shall and may peaceably and quietly have, hold and enjoy the Project during the Lease Term. The City covenants and agrees that it will not take any action, other than expressly pursuant to **Article XII** hereof, to prevent the Company from having quiet and peaceable possession and enjoyment of the Project during the Lease Term and will, at the request and expense of the Company, cooperate with the Company in order that the Company may have quiet and peaceable possession and enjoyment of the Project and will defend the Company's enjoyment and possession thereof against all parties.

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

Section 3.4. Title to the Project. The City shall be the sole owner of the Project during the Lease Term, except for any portions of the Project released from this Lease pursuant to the terms hereof.

ARTICLE IV

CONSTRUCTION AND IMPROVEMENT OF THE PROJECT

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

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

Section 4.2. Construction and Improvement of the Project. The City and the Company agree that the Company, as the agent of the City, shall construct and improve the Project as follows:

(a) The City has acquired the Project Site prior to the execution hereof. Concurrently with the execution of this Lease, (i) a deed and any other necessary instruments of transfer will be delivered to the City and placed of record, and (ii) the commitment for title insurance or ownership and encumbrance report (which may be provided in the form of a copy of the commitment for an owner's or loan policy of title insurance relating to the Company's acquisition of or private financing for the Project) required by **Article VII** hereof will be delivered to the City and the Trustee;

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

(c) The Company will comply with the provisions of Section 107.170 of the Revised Statutes of Missouri, as amended, to the extent applicable to the construction of the Project, and will not commence construction of any portion of the Project before providing the City with a payment bond in accordance with **Section 7.1**;

(d) The Company agrees that it will use reasonable efforts to cause the construction and improvement of the Project to be completed as soon as practicable with all reasonable dispatch. In the event such construction and improvement commences prior to the receipt of proceeds from the sale of the Bonds, the Company agrees to advance all funds necessary for such purpose; and

(e) The Public Improvements (but not any other portion of the Project Improvements) may be constructed in or on land that is not part of the Project Site, so long as such land is owned by the City or such Public Improvements are installed in City-held easements or right of way.

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

Section 4.4. Payment for Project Costs. All Project Costs as specified in **Section 4.3** hereof shall be paid by the Trustee from the Project Fund as more fully provided in the Indenture, and the City hereby authorizes and directs the Trustee to make disbursements from the Project Fund, upon receipt by the Trustee of certificates in substantially the form attached hereto as **Exhibit C**, signed by an Authorized Company Representative, which disbursements may be recorded via a transaction entry on the trust records held by the Trustee. The Trustee may rely conclusively on any such certificate and shall not be required to make any independent investigation in connection therewith. The submission of any requisition certificate by an Authorized Company Representative shall constitute unto the Trustee an irrevocable determination that all conditions precedent to the payments requested have been satisfied.

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

Section 4.6. Surplus or Deficiency in Project Fund.

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

(b) If the Project Fund shall be insufficient to pay fully all Project Costs and to complete the Project free of liens and encumbrances other than Permitted Encumbrances, the Company shall pay, in cash, the full amount of any such deficiency by making payments thereof directly to the contractors and to the suppliers of materials and services as the same shall become due, and the Company shall save the City and the Trustee whole and harmless from any obligation to pay such deficiency.

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

Upon completion of all or any portion of the Public Improvements and acceptance by the City of dedication or other transfer thereof, such Public Improvements shall become the property of the City separate and apart from, and shall not be subject to, this Lease. At such point, such Public Improvements shall cease to be a part of the Project.

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

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

The Company shall and does hereby indemnify the City, the Trustee and the Bondowners and agree to defend and hold them harmless from and against all loss, cost, damage and expense (including, without limitation, reasonable attorneys' fees and costs associated incurred in the investigation, defense and settlement of claims) that they may incur, directly or indirectly, as a result of or in connection with the assertion against them or any of them of any claim relating to the presence on, escape or removal from the Project during the term of this Lease of any hazardous substance or other material regulated by any applicable Environmental Law, or compliance with any applicable Environmental Law, whether such claim is raised before, during or after the term of this Lease, including claims relating to personal injury or damage to property; provided, however, this indemnity shall only relate to claims resulting from the City's ownership of the Project and the Trustee's acceptance of its duties as Trustee hereunder.

ARTICLE V

RENT PROVISIONS

Section 5.1. Basic Rent. The Company covenants and agrees to pay to the Trustee in same day funds for the account of the City during this Lease Term, for deposit in the Bond Fund on or before 10:00 a.m., Trustee's local time, on or before each December 1, commencing December 1, 2024 and continuing until the principal of and interest on the Bonds shall have been fully paid, an amount which, when added to any collected funds then on deposit in the Bond Fund and available on such Payment Date, shall be equal to the total amount payable on each December 1 as interest on the Bonds. On December 1, 2027 (or such earlier date as the Company may elect or be required to redeem the Bonds), the Company shall also pay an amount equal to all principal then due on the Bonds in connection with such maturity or redemption. All payments of Basic Rent provided for in this Section shall be paid directly to the Trustee and shall be deposited in accordance with the provisions of the Indenture into the Bond Fund and shall be used and applied by the Trustee in the manner and for the purposes set forth in this Lease and the Indenture, provided that if the Company is the Owner of all the Bonds Outstanding, payment of Basic

Rent as provided for in this Section may be made via a transaction entry on the trust records held by the Trustee and the Paying Agent consistent with **Section 204(e)** and **Section 208(g)** of the Indenture. Any Basic Rent paid by the Company which exceeds the total amount payable on such payment dates shall be immediately paid to the Company by wire transfer. At its option, on the final Payment Date, the Company may deliver to the Trustee for cancellation Bonds not previously paid and the Company shall receive a credit against the Basic Rent payable by the Company in an amount equal to the principal amount of the Bonds so tendered for cancellation plus accrued interest thereon.

In furtherance of the foregoing and of **Section 204(e)** and **Section 208(g)** of the Indenture, and notwithstanding any other provision in this Lease, the Indenture, the Bond Purchase Agreement or the Performance Agreement, and provided that the Company is the sole Bondowner, the Company may set-off each Basic Rent payment against the City's obligation to the Company as Bondowner, in lieu of delivery of a payment of Basic Rent on any date on which principal of or interest on the Bonds is payable, without providing notice of such set-off to the Trustee. The Trustee may conclusively rely on the absence of any notice from the Company to the contrary as evidence that such set-off has occurred.

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

- (a) all reasonable fees, charges and expenses, including agent and counsel fees, of the City or the Trustee incurred under the Indenture, this Lease, or any other document entered into in connection with the Bonds, as and when the same become due;
- (b) all costs incident to the payment of the principal of and interest on the Bonds as the same becomes due and payable, including all costs and expenses in connection with the call, redemption and payment of all outstanding Bonds;
- (c) all reasonable costs which are reasonably incurred in connection with the enforcement of any rights against the Company or the Project or in connection with a failure of the Company to perform its obligations under this Lease, the Indenture or the Performance Agreement by the City, the Trustee or the Bondowners, including counsel fees and expenses;
- (d) all amounts payable under the Performance Agreement; and
- (e) all other payments of whatever nature which Company has agreed to pay or assume under the provisions of this Lease.

Section 5.3. Obligations of Company Absolute and Unconditional.

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

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

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

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

Subject to **Section 301(a)** of the Indenture relating to the redemption of Bonds, the Company, at its option, may deliver to the Trustee for cancellation Bonds owned by the Company and not previously paid, and the Company shall receive a credit against amounts payable by the Company for the redemption of Bonds in an amount equal to the principal amount of the Bonds so tendered for cancellation, plus accrued interest thereon.

ARTICLE VI

MAINTENANCE, TAXES AND UTILITIES

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

Section 6.2. Taxes, Assessments and Other Governmental Charges.

(a) Subject to subsection (b) of this Section, the Company shall promptly pay and discharge, as the same become due, all taxes and assessments, general and special, and other governmental charges

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

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

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

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

Section 6.4. Property Tax Exemption. The City and the Company agree that while the Project is owned by the City and is subject to this Lease, the Project and the leasehold interest of the Company in the Project will be exempt from all *ad valorem* real property taxes by reason of such ownership, and the City agrees that it will (at the expense of the Company) cooperate with the Company to defend such exemption against all parties in accordance with the Performance Agreement attached hereto as *Appendix I*. Notwithstanding the foregoing, Company will annually pay to the City the payments with respect to the Project set forth in the Performance Agreement.

ARTICLE VII

INSURANCE

Section 7.1. Title Report; Payment Bond. Before conveying title to any real property to the City, the Company will provide a report reasonably acceptable to the City showing the ownership of and encumbrances on the Project Site. Copies of such report shall be provided to the City and the Trustee. Before commencing or continuing any construction on the Project Site, the Company shall provide to the City a payment bond or rider, in form satisfactory to the City, covering the payment of the costs of materials and labor for the Project.

Section 7.2. Property Insurance.

(a) The Company shall at its sole cost and expense obtain and shall maintain throughout the Lease Term, a policy or policies of insurance (including, if appropriate, builder's risk insurance) to keep the Project constantly insured against loss or damage by fire, lightning and all other risks covered by the extended coverage insurance endorsement then in use in the State of Missouri in an amount equal to the Full Insurable Value thereof (subject to reasonable loss deductible provisions). The insurance required pursuant to this Section shall be maintained with a generally recognized responsible insurance company or companies authorized to do business in the State of Missouri or generally recognized international insurers or reinsurers with an A.M. Best rating of B+ or the equivalent thereof or better as may be selected by the Company. All such policies of insurance pursuant to this Section, and all renewals thereof, shall name the Company as insured and the City and the Trustee shall be named as loss payees, as their respective interests may appear, and shall contain a provision that the issuer of such insurance will provide at least 10 days' advance written notice to, the Company of the cancellation of such insurance. Company agrees it shall immediately forward any notice of cancellation it receives from the issuer of such insurance to the City and Trustee. The Company shall provide the City and the Trustee, on an annual basis, commencing on December 1, 2024 with a Certificate of Insurance Compliance, in the form of **Exhibit D** attached hereto, certifying compliance with this Section and containing copies of the insurance policies required under this Section, or certificates thereof. The Trustee shall be entitled to conclusively rely upon such certificate as to the Company's compliance with the insurance requirements. The Trustee makes no representation as to, and shall have no responsibility for the sufficiency or adequacy of, the insurance.

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

Section 7.3. Commercial General Liability Insurance.

(a) The Company shall at its sole cost and expense maintain or cause to be maintained at all times during the Lease Term general accident and commercial general liability insurance under which the City, the Company and the Trustee shall be named as additional insureds, properly protecting and indemnifying the City and the Trustee, in an amount not less than the limits of liability set by Section 537.610 of the Revised Statutes of Missouri (subject to loss deductible clauses not to exceed \$50,000). The policies of said insurance shall contain a provision that the issuer of such insurance will provide at least 10 days' advance written notice to the Company of the cancellation of such insurance. The Company agrees it shall immediately forward any notice of cancellation it receives from the issuer of such insurance to the City and Trustee. The Company shall provide the City and the Trustee, on an annual basis, commencing on December 1, 2024 with a Certificate of Insurance Compliance, in the form

of **Exhibit D** attached hereto, certifying compliance with this Section and containing copies of the insurance policies required under this Section, or certificates thereof. The Trustee shall be entitled to conclusively rely upon such certificate as to the Company's compliance with the insurance requirements. The Trustee makes no representation as to, and shall have no responsibility for the sufficiency or adequacy of, the insurance.

(b) In the event of a public liability occurrence, and subject to the rights of Lender under and pursuant to the terms of the Mortgage (except that no right of the Lender under the Mortgage shall affect the right of the City or the Trustee to the protection and indemnification provided as additional insureds pursuant to subsection(a), above), the Net Proceeds of liability insurance carried pursuant to this Section shall be applied toward the extinguishment or satisfaction of the liability with respect to which such proceeds have been paid.

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

Section 7.5. Blanket Insurance Policies; Self-Insurance. The Company may satisfy any of the insurance requirements set forth in this Article by using blanket policies of insurance, provided each and all of the requirements and specifications of this Article respecting insurance are complied with. Nothing in this Lease shall be construed from prohibiting the Company from self-insuring provided the Company, or in combination with its parent corporation, has a net worth in excess of \$200,000,000, as determined by generally accepted accounting principles.

ARTICLE VIII

ALTERATION OF THE PROJECT

Section 8.1. Additions, Modifications and Improvements to the Project. The Company shall have and is hereby given the right, at its sole cost and expense, to make such additions, modifications and improvements in and to any part of the Project as the Company from time to time may deem necessary or desirable for its business purposes. All additions, modifications and improvements made by the Company pursuant to the authority of this Section shall (a) be made in workmanlike manner and will comply in all material respects with all laws and ordinances applicable thereto, (b) when commenced, be prosecuted to completion with due diligence, and (c) when completed, be deemed a part of the Project; provided, however, that additions of machinery, equipment and other personal property installed on the Project Site by the Company not purchased or acquired from funds deposited with the Trustee hereunder and not constituting repairs, renewals or replacements of the Project shall remain the property of the Company and may be removed by the Company. Such property shall be subject to *ad valorem* taxes.

Section 8.2. Additional Improvements on the Project Site. The Company may, at its sole cost and expense, construct on portions of the Project Site not theretofore occupied by buildings or improvements such additional buildings and improvements as the Company from time to time may deem necessary or desirable for its business purposes. All additional buildings and improvements constructed on the Project Site by the Company, and not paid for with Bond proceeds, pursuant to the authority of this Section shall not be included as Project Improvements and, during the life of this Lease, shall remain the property of the Company and may be added to, altered or razed and removed by the Company at any time. All additional buildings and improvements shall be made in a good and workmanlike manner and

in strict compliance with all material laws, orders and ordinances applicable thereto and when commenced shall be prosecuted to completion with due diligence. The Company covenants and agrees (a) to make any repairs and restorations required to be made to the Project because of the construction of, addition to, alteration or removal of said additional buildings or improvements, and (b) to promptly and with due diligence either raze and remove or repair, replace or restore any of said additional buildings and improvements as may from time to time be damaged by fire or other casualty. The Company shall pay all ad valorem taxes and assessments payable with respect to such additional buildings and improvements which remain the property of the Company. If for any reason the County Assessor determines that such additional buildings and improvements are not subject to ad valorem taxes, the Company shall make payments in lieu of taxes in an amount equal to the taxes that would otherwise be due under this Section.

Section 8.3. Permits and Authorizations. The Company shall not do or permit others under its control to do any work on the Project related to any repair, rebuilding, restoration, replacement, modification or addition to the Project, or any part thereof, unless all requisite municipal and other governmental permits and authorizations shall have been first procured. All such work shall be done in a good and workmanlike manner and in material compliance with all applicable building, zoning and other laws, ordinances, governmental regulations. In the event of demonstrated noncompliance with such laws, ordinances, governmental regulations and requirements the Company will take all reasonable steps to comply with laws, ordinances, governmental regulations and requirements.

Section 8.4. Mechanics' Liens.

(a) The Company will not directly or indirectly create, incur, assume or suffer to exist any lien on or with respect to the Project, except Permitted Encumbrances, and the Company shall promptly notify the City of the imposition of such lien of which the Company is aware and shall promptly, at its own expense, take such action as may be necessary to fully discharge or release any such lien. Whenever and as often as any mechanics' or other similar lien is filed against the Project, or any part thereof, purporting to be for or on account of any labor done or materials or services furnished in connection with any work in or about the Project, the Company shall discharge the same of record within 90 days after the date of filing. Notice is hereby given that the City shall not be liable for any labor or materials furnished the Company or anyone claiming by, through or under the Company upon credit, and that no mechanics' or other similar lien for any such labor, services or materials shall attach to or affect the reversionary or other estate of the City in and to the Project or any part thereof.

(b) Notwithstanding paragraph (a) above, the Company may contest any such mechanics' or other similar lien if the Company (1) within said 90-day period stated above notifies the City and the Trustee in writing of its intention so to do, (2) diligently prosecutes such contest, (3) at all times effectively stays or prevents any official or judicial sale of the Project, or any part thereof or interest therein, under execution or otherwise, (4) promptly pays or otherwise satisfies any final judgment adjudging or enforcing such contested lien claim and (5) thereafter promptly procures record release or satisfaction thereof. The Company may permit the lien so contested to remain unpaid during the period of such contest and any appeal therefrom unless the Company is notified by the City that, in the opinion of counsel, by nonpayment of any such items, the interest of the City in the Project will be subject to loss or forfeiture. In that event, the Company shall promptly, at its own expense, take such action as may be reasonably necessary to duly discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim if the same shall arise at any time. The Company shall save and hold harmless the City from any loss, costs or expenses the City may incur related to any such contest. The Company shall reimburse the City for any expense incurred by it in connection with the imposition of any such lien or in order to

discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim. The City shall cooperate fully with the Company in any such contest.

ARTICLE IX

DAMAGE, DESTRUCTION AND CONDEMNATION

Section 9.1. Damage or Destruction.

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

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

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

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

(c) Except as otherwise provided in this Lease, in the event of any such damage by fire or any other casualty, the provisions of this Lease shall be unaffected and the Company shall remain and

continue liable for the payment of all Basic Rent and Additional Rent and all other charges required hereunder to be paid by the Company, as though no damage by fire or any other casualty has occurred.

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

(e) The Company agrees to give prompt notice to the City and the Trustee with respect to all fires and any other casualties occurring in, on, at or about the Project Site which damages a material portion of the Project.

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

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

Section 9.2. Condemnation.

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

(b) If the Company determines that such substitution is practicable and desirable, the Company shall proceed promptly with and complete with reasonable dispatch the acquisition or construction of such substitute improvements, so as to place the Project in substantially the same condition as existed before the exercise of the said power of eminent domain, including the acquisition or construction of other improvements suitable for the Company's operations at the Project (which improvements will be deemed a part of the Project and available for use and occupancy by the Company

without the payment of any rent other than herein provided, to the same extent as if such other improvements were specifically described herein and demised hereby); provided, that such improvements will be acquired by the City subject to no liens, security interests or encumbrances before the lien and/or security interest afforded by the Indenture and this Lease other than Permitted Encumbrances. In such case, any Net Proceeds received from any award or awards with respect to the Project or any part thereof made in such condemnation or eminent domain proceedings, or of the sale proceeds, shall be applied in the same manner as provided in **Section 9.1** hereof (with respect to the receipt of casualty insurance proceeds).

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

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

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

Section 9.3. Bondowner Approval. Notwithstanding anything to the contrary contained in this **Article IX**, and subject to the rights of the Lender, the proceeds of any insurance received subsequent to a casualty or of any condemnation proceedings (or threats thereof) may prior to the application thereof by the City or the Trustee be applied as directed by the Owners of 100% of the principal amount of Bonds Outstanding, subject and subordinate to (a) the terms and conditions of the Mortgage; (b) the rights of the City and the Trustee to be paid all their expenses (including attorneys' fees, trustee's fees and any extraordinary expenses of the City and the Trustee) incurred in the collection of such gross proceeds.

ARTICLE X

SPECIAL COVENANTS

Section 10.1. No Warranty of Condition or Suitability by the City; Exculpation and Indemnification. The City makes no warranty, either express or implied, as to the condition of the Project or that it will be suitable for the Company's purposes or needs. The Company releases the City

and the Trustee from, agrees that the City and the Trustee shall not be liable for and agrees to hold the City and the Trustee harmless against, any loss or damage to property or any injury to or death of any Person that may be occasioned by any cause whatsoever pertaining to the Project or the Company's use thereof, unless such loss is the result of the City's or the Trustee's gross negligence or willful misconduct. This provision shall survive termination of this Lease.

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

Section 10.3. City's Right of Access to the Project. The Company agrees that the City and the Trustee and their duly authorized agents shall have the right at reasonable times during business hours, subject to 24 hours' advance written notice and the Company's usual safety and security requirements (and provided that no such access need be granted with respect to an occupied residential unit), to enter upon the Project Site (a) to examine and inspect the Project without interference or prejudice to the Company's operations, (b) as may be reasonably necessary to cause to be completed the purchase and installation provided for in **Section 4.2** hereof, (c) performing such work in and about the Project Site made necessary by reason of the Company's default under any of the provisions of this Lease, and (d) exhibiting the Project to prospective purchasers, lessees or trustees subsequent to an Event of Default.

Section 10.4. Granting of Easements; Mortgages and Financing Arrangements.

(a) Subject to **Sections 10.4(b)** and (c), if no Event of Default under this Lease has happened and is continuing, the Company may at any time or times (i) grant subleases (as permitted in **Section 13.1(b)** hereof), easements, licenses, rights-of-way (including the dedication of public highways) and other rights or privileges in the nature of easements that are for the direct use of the Project, or part thereof, by the grantee, (ii) release or terminate existing subleases, easements, licenses, rights-of-way and other rights or privileges, all with or without consideration and upon such terms and conditions as the Company shall determine, or (iii) incur Permitted Encumbrances. The Company may take such actions and may execute any applicable documents in the Company's own name. No separate signature of or authorization from the City shall be required for the execution and delivery of any such document, although the City agrees to execute and deliver such confirming documents as are described below, under the procedures described below, if the Company chooses to make such a request. All third parties entering into agreements with the Company or receiving delivery of or the benefit of such agreements or documents shall be entitled to rely upon the same as having been executed and delivered by the City, unless such third party has actual or constructive notice, expressly in writing, that the agency herein granted by the City to the Company has been terminated by the City because of an uncured Event of Default hereunder. The City agrees that it will execute and deliver and will cause and direct the Trustee to execute and deliver any instrument necessary or appropriate to confirm and grant, release or terminate

any such sublease, easement, license, right-of-way or other right or privilege or any such agreement or other arrangement, upon receipt by the City and the Trustee of: (i) a copy of the instrument of grant, release or termination or of the agreement or other arrangement, (ii) a written application signed by an Authorized Company Representative requesting such instrument, and (iii) a certificate executed by an Authorized Company Representative stating that such grant or release is not detrimental to the proper conduct of the business of the Company, will not impair the effective use or interfere with the efficient and economical operation of the Project, will not materially adversely affect the security intended to be given by or under the Indenture and will be a Permitted Encumbrance. If no Event of Default has happened and is continuing beyond any applicable grace period, any payments or other consideration received by the Company for any such grant or with respect to or under any such agreement or other arrangement shall be and remain the property of the Company; but, subject to **Sections 10.4(b) and (c)**, upon (i) termination of this Lease for any reason other than the redemption of the Bonds and/or the purchase of the Project by the Company or (ii) the occurrence and continuance of an Event of Default by the Company, all rights then existing of the Company with respect to or under such grant shall inure to the benefit of and be exercisable by the City and the Trustee.

(b) The City acknowledges and agrees that the Company may finance and refinance its rights and interests in the Project, this Lease, and the leasehold estate created hereby with prior notice to but without the consent of the City, provided and upon condition that a duplicate original or certified copy or photostatic copy of each Mortgage, and the note or other obligation secured thereby, is delivered to the City within thirty (30) days after the execution thereof. The Company may mortgage the fee estate held by the City with the consent of the City, not to be unreasonably withheld, conditioned, or delayed. In either case, in connection therewith, the Company shall have the right to assign this Lease, the leasehold estate, any sublease, and any rights in connection therewith, and/or grant liens or security interests therein, to any Lender. Any further sublease or assignment by any Lender shall be subject to the provisions of **Section 13.1(c)**.

(c) With respect to a future Mortgage, upon notice by the Company to the City in writing that it has executed a Mortgage under which it has granted rights in this Lease to a Lender which includes the name and address of such Lender, the following provisions shall apply in respect of each such Lender:

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

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

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

(4) the City may exercise any of its rights or remedies with respect to any other Event of Default by the Company, subject to the rights of each Lender under this **Section 10.4(c)** as to such other events of default. Without limiting the generality of the foregoing, any Lender

holding a Mortgage of the fee simple interest or leasehold interest in the Project may cause the sale of the fee simple interest or any leasehold interest of the Company, as applicable, to be sold at foreclosure sale conducted in accordance with applicable law and the terms of the Mortgage, may accept assignment of this Lease in lieu of foreclosure and may appoint a receiver for the Project, all without obtaining the prior written consent of the City (provided that the City's right to exercise remedies under this Lease against any successor in interest shall not be reduced by virtue of such transfer);

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

(6) such Lenders (and their designees, nominees, assignees, or transferees) shall have the right to enter, possess and use the Project at such reasonable times and manner as are necessary or desirable to effectuate the remedies and enforce their respective rights under the Mortgage(s); and

(7) Any notice sent by the Company to the City and the Trustee pursuant to any provision of this Lease shall also be sent to the Lender.

(d) In connection with the execution of one or more Mortgages, upon the request of the Company, the City agrees to execute such documents as shall be reasonably requested by a Lender and which are usual and customary in connection with the closing of the financing or refinancing pursuant to the Mortgage, provided that the City shall not be required to undertake any duties or payment obligations under such documents and shall make only such representations as it deems appropriate in its sole discretion. The Company agrees to reimburse the City for any and all costs and expenses incurred by the City pursuant to this Section, including reasonable attorneys' fees and expenses, in complying with such request.

(e) Notwithstanding anything contained to the contrary in this Lease, (a) the Company shall have the right to assign this Lease and any subleases to a Lender or to the designee or nominee of a Lender, without the consent of the City, and (b) if a Lender or its designee or nominee shall acquire ownership of the leasehold estate, either following foreclosure of the applicable Mortgage or in liquidation of the indebtedness and in lieu of foreclosure thereof, said Lender or its designee or nominee shall have the further right to further assign this Lease and any subleases and any purchase money mortgage accepted in connection therewith, without the consent of the City and such assignee shall enjoy all rights, powers and privileges granted herein to said Lender; provided, however, that such Lender or its assignee or nominee, or their assignee or nominee, shall assume in writing all rights, duties and obligations of the Company under this Lease and the Performance Agreement.

(f) During the term of any Mortgage, the following provisions shall apply:

(i) this Lease may not be modified, amended, canceled or surrendered by agreement between the City and the Company, without the prior written consent of the applicable Lender;

(ii) if this Lease shall terminate prior to the expiration of the Lease Term, the City shall enter into a new lease for the Project with the applicable Lender or its designee or nominee, for the remainder of the Lease Term, effective as of the date of such termination, at the same rent and upon the same terms, covenants and conditions contained herein, except that such new lease shall not guarantee possession of the Project to the new tenant as against the Company and/or anyone claiming under the Company, and the City, simultaneously with the execution and delivery of such new lease, shall turn over to the new tenant all monies, if any, then held by the City under the Lease on behalf of the Company, on condition that:

(A) The applicable Lender shall make written request for such new lease within thirty (30) days after the date of such termination, and

(B) on the commencement date of the term of the new lease, the applicable Lender shall cure all defaults of the Company under the Lease (susceptible of being cured by such Lender) which remain uncured on that date, and shall pay or cause to be paid all unpaid sums which at such time would have been payable under this Lease but for such termination, and shall pay or cause to be paid to the City on that date all fees, costs, charges and expenses, including, without limitation, reasonable counsel fees, court costs and disbursements, incurred by the City or the Trustee in connection with any such default and termination as well as in connection with the execution and delivery of such new lease;

(iii) if a Lender or its designee or nominee shall become the owner of this Lease either following foreclosure of a Mortgage or in liquidation of the indebtedness and in lieu of foreclosure thereof and said Lender or its designee or nominee shall have assigned this Lease, said Lender or its designee or nominee so assigning shall be released from all liability accruing from and after the date of such assignment.

(g) The City agrees that any requested consent or signature of the City to any Mortgage under this Section (including any related document, including but not limited to documents subordinating the City's fee interest in the Project Site or any portion thereof to a Mortgage) may be given by the City Manager, in his or her discretion, without further approval of the City Council. The City agrees that if a Mortgage on the fee interest in the Project Site is granted that this Lease shall be subject to, and subordinate to, any such Mortgage and that the Lender will not be required to grant any rights of nondisturbance with respect to this Lease.

Section 10.5. Indemnification of City and Trustee. The Company shall indemnify and save and hold harmless the City and the Trustee and their governing body members, officers, agents and employees (collectively, the "Indemnified Parties") from and against all claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, by or on behalf of any person, firm or corporation arising from the issuance of the Bonds and the execution of this Lease, the Indenture or any other documents entered into in connection with the Bonds and from the conduct or management of, or from any work or thing done in or on the Project during the Lease Term, and against and from all claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, arising during the Lease Term from (a) any condition of the Project, (b) any breach or default on the part of the Company in the performance of any of its obligations under this Lease or any related document, (c) any contract entered into by the Company in connection with the purchase, construction, extension or improvement of the

Project (including any failure to comply with Section 107.170 of the Missouri Revised Statutes, as amended, with respect to such contract), (d) any act of negligence of the Company or of any of its agents, contractors, servants, employees or licensees, (e) unless the Company has been released from liability pursuant to **Section 13.1(c)**, any act of negligence of any assignee or sublessee of the Company, or of any agents, contractors, servants, employees or licensees of any assignee or sublessee of the Company, (f) obtaining any applicable state and local sales and use tax exemptions for materials or goods that become part of the Project, and (g) any claim relating to the presence on, escape or removal from the Project during the term of the Lease of any hazardous substance or other material regulated by any applicable Environmental Law, or compliance with any applicable Environmental Law, whether such claim arises before, during or after the term of this Lease, including claims relating to personal injury or damage to property; provided, however, the indemnification contained in this **Section 10.5** shall not (i) extend to the City if such claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, are the result of work being performed at the Project by employees of the City or the result of negligence or willful misconduct by the City (unless relating to a failure to comply with Section 107.170 of the Missouri Revised Statutes, as amended), or (ii) extend to the Trustee if such claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, are the result of the negligence or willful misconduct of the Trustee or (iii) the performance or failure to perform by the City or the Trustee of its obligations under this Lease, the Performance Agreement, or any related documents. Upon notice from the City or the Trustee, the Company shall defend them or either of them in any such action or proceeding. This **Section 10.5** shall survive any termination of this Lease or the satisfaction and discharge of the Indenture.

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

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

Section 10.7. Company to Maintain its Corporate Existence. The Company agrees that until the Bonds are paid or payment is provided for in accordance with the terms of the Indenture, it will maintain its corporate existence, and will not dissolve or otherwise dispose of all or substantially all of its assets; provided, however, that the Company may, without violating the agreement contained in this Section, consolidate with or merge into another domestic corporation (i.e., a corporation incorporated and existing under the laws of one of the states of the United States) or permit one or more other domestic corporations to consolidate with or merge into it, or may sell or otherwise transfer to another domestic corporation all or substantially all of its assets as an entirety and thereafter dissolve, provided, the surviving, resulting or transferee corporation either (A) becomes, in connection with the consolidation, merger or sale of assets becomes the Owner of 100% in principal amount of the Bonds outstanding and expressly assumes in writing all of the obligations of the Company contained in this Lease and the Performance Agreement, or (B) if not the Owner of 100% in principal amount of the Bonds outstanding, expressly assumes in writing all the obligations of the Company contained in this Lease; and, further provided, that if not the Owner of 100% in principal amount of the Bonds outstanding, the surviving, resulting or transferee corporation, as the case may be, has a consolidated net worth (after giving effect to said consolidation, merger or transfer) at least (i) equal to or greater than that of the Company immediately prior to said consolidation, merger or transfer, or (ii) \$100,000,000. The term “net worth,” as used in this Section, shall mean the difference obtained by subtracting total liabilities (not including as a liability any capital or surplus item) from total assets of the Company and all of its subsidiaries. In any such consolidation, merger or transfer the Company shall comply with the provisions of **Section 13** hereof to the extent applicable.

Section 10.8. Security Interests. At the written request of the Owner of the Bonds, the City and the Company agree to enter into all instruments (including financing statements and statements of continuation) necessary for perfection of and continuance of the perfection of the security interests of the City and the Trustee in the Project. Upon the written instructions of the Owner of the Bonds, the Trustee, at the Company’s expense, shall file all instruments the Owner of the Bonds shall deem necessary to be filed and shall continue or cause to be continued the liens of such instruments for so long as the Bonds shall be Outstanding. The City and the Company shall cooperate with the Trustee in this regard by executing such continuation statements and providing such information as the Trustee may require to renew such liens.

Section 10.9. Release of Portions of the Project under Specific Circumstances.

(a) In addition to the automatic release of completed and accepted Public Improvements under **Section 4.7** of this Lease, upon completion of any Public Improvements, such Public Improvements and the portion(s) of the Project Site, if any, on which such Public Improvements are located may be, by agreement of the Company and the City, released from this Lease, the Indenture and the other documents relating to the Bonds, including by execution of documents described in **Section 11.2** sufficient to convey such property to the Company for purposes of dedication to the City.

(b) Any property (including any Public Improvements located thereon) released from this Lease pursuant to subsection (a) above, shall no longer constitute a part of the Project Improvements, the Project Site or the Project from and after such release.

ARTICLE XI

OPTION AND OBLIGATION TO PURCHASE THE PROJECT

Section 11.1. Option to Purchase the Project. The Company shall have, and is hereby granted, the option to purchase the Project at any time, upon payment in full of all Bonds then outstanding or provision for their payment having been made pursuant to **Article XIII** of the Indenture. To exercise such option the Company shall give written notice to the City and to the Trustee, and shall specify therein the date of closing such purchase, which date shall be not less than 15 nor more than 90 days from the date such notice is mailed unless otherwise agreed by the Company, the City and the Trustee, and in case of a redemption of the Bonds in accordance with the provisions of the Indenture, the Company shall make arrangements satisfactory to the Trustee for the giving of the required notice of redemption. Notwithstanding the forgoing, if the City or the Trustee provides notice of its intent to exercise its remedies hereunder (a "Remedies Notice"), the Company shall be deemed to have exercised its repurchase option under this Section on the 29th day following the issuance of the Remedies Notice without any further action by the Company; provided said notice has not been rescinded by such date (such option to take place on the 29th day following the issuance of the Remedies Notice). The Company may rescind such exercise by providing written notice to the City and the Trustee on or prior to the 29th day following the issuance of the Remedies Notice and by taking such action as may be required to cure the default that led to the giving of the Remedies Notice. The purchase price payable by the Company in the event of its exercise of the option granted in this Section shall be the sum of the following:

- (a) an amount of money which, when added to the amount then on deposit in the Bond Fund, will be sufficient to redeem all the then outstanding Bonds on the earliest redemption date next succeeding the closing date, including, without limitation, principal and interest to accrue to said redemption date and redemption expense; plus
- (b) an amount of money equal to the Trustee's agreed to and reasonable fees, charges and expenses under the Indenture accrued and to accrue until such redemption of the Bonds; plus
- (c) an amount of money equal to all payments due and payable pursuant to the Performance Agreement through the end of the calendar year in which the date of purchase occurs; plus
- (d) the sum of \$100.00.

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

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

- (a) If the Indenture shall not at the time have been satisfied in full, a release from the Trustee of the Project from the lien and/or security interest of the Indenture and this Lease and appropriate termination of financing statements as required under the Uniform Commercial Code; and

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

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

Section 11.4. Obligation to Purchase the Project. As additional consideration for the Company's use of the Project, the Company hereby agrees to purchase, and the City hereby agrees to sell, the Project upon the occurrence of (a) the expiration of the Lease Term following full payment of the Bonds or provision for payment thereof having been made in accordance with the provisions of the Indenture, and (b) the final payment due under the Performance Agreement. The amount of the purchase price under this Section shall be \$100 plus an amount sufficient to redeem all the then Outstanding Bonds, plus accrued interest and the reasonable fees and expenses of the City and the Trustee.

ARTICLE XII

DEFAULTS AND REMEDIES

Section 12.1. Events of Default. If any one or more of the following events shall occur and be continuing, it is hereby defined as and declared to be and to constitute an "Event of Default" or "default" under this Lease:

(a) Default in the due and punctual payment of Basic Rent for a period of 5 days following written notice to the Company by the City or the Trustee; or

(b) Default in the due and punctual payment of Additional Rent for a period of 30 days following written notice to the Company by the City or the Trustee; or

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

(d) The Company: (1) admits in writing its inability to pay its debts as they become due; or (2) files a petition in bankruptcy or for reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the Bankruptcy Code as now or in the future amended or any other similar present or future federal or state statute or regulation, or files a pleading asking for such relief; or (3) make an assignment for the benefit of creditors; or (4)

consents to the appointment of a trustee, receiver or liquidator for all or a major portion of its property or fails to have the appointment of any trustee, receiver or liquidator made without the Company's consent or acquiescence, vacated or set aside; or (5) is finally adjudicated as bankrupt or insolvent under any federal or state law; or (6) is subject to any proceeding, or suffers the entry of a final and non-appealable court order, under any federal or state law appointing a trustee, receiver or liquidator for all or a major part of its property or ordering the winding-up or liquidation of its affairs, or approving a petition filed against it under the Bankruptcy Code, as now or in the future amended, which order or proceeding, if not consented to by it, is not dismissed, vacated, denied, set aside or stayed within 90 days after the day of entry or commencement; or (7) suffers a writ or warrant of attachment or any similar process to be issued by any court against all or any substantial portion of its property, and such writ or warrant of attachment or any similar process is not contested, stayed, or is not released within 60 days after the final entry, or levy or after any contest is finally adjudicated or any stay is vacated or set aside; or

(e) the Company vacates, abandons, ceases operations, fails to occupy or is ejected from the Project Site or any material portion thereof, and the same remains uncared for or abandoned for a period of 180 days; or

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

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

(a) cause all amounts payable with respect to the Bonds for the remainder of the term of this Lease to become due and payable after giving ten (10) days prior written notice thereof to the Company, as provided in the Indenture; or

(b) give the Company written notice of the City's intention to terminate this Lease on a date specified therein, which date shall not be earlier than 30 days after such notice is given, and if all defaults have not then been cured, on the date so specified, the Owners shall tender or be deemed to have tendered the outstanding principal amount of the Bonds for cancellation with instruction that such tender is in lieu of payment in accordance with **Section 11.1** hereof and this Lease shall thereupon be terminated, and the City will promptly convey the Project in accordance with **Section 11.2** hereof.

Section 12.3. Survival of Obligations. The Company covenants and agrees with the City and Owners that those of its obligations under this Lease which by their nature require performance after the end of the term of this Lease, or which are expressly stated herein as intended to survive expiration or termination of this Lease, shall survive the cancellation and termination of this Lease, for any cause.

Section 12.4. Performance of the Company's Obligations by the City. If an Event of Default occurs as a result of any failure by the Company, then the City, or the Trustee in the City's name, may (but shall not be obligated so to do) upon the continuance of such failure on the Company's part for 30 days after written notice of such failure is given to the Company by the City or the Trustee, and without waiving or releasing the Company from any obligation hereunder, as an additional but not

exclusive remedy, make any such payment or perform any such obligation, and all reasonable sums so paid by the City or the Trustee and all necessary incidental reasonable costs and expenses incurred by the City or the Trustee (including, without limitation, attorneys' fees and expenses incurred by the City or the Trustee) in performing such obligations shall be deemed Additional Rent and shall be paid to the City or the Trustee on demand, and if not so paid by the Company, the City or the Trustee shall have the same rights and remedies provided for in **Section 12.2** hereof in the case of default by the Company in the payment of Basic Rent.

Section 12.5. Rights and Remedies Cumulative. The rights and remedies reserved by the Trustee, the City and the Company hereunder and those provided by law shall be construed as cumulative and continuing rights. No one of them shall be exhausted by the exercise thereof on one or more occasions. The Trustee, the City and the Company shall each be entitled to specific performance and injunctive or other equitable relief for any breach or threatened breach of any of the provisions of this Lease, notwithstanding availability of an adequate remedy at law, and each party hereby waives the right to raise such defense in any proceeding in equity.

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

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

ARTICLE XIII

ASSIGNMENT AND SUBLEASE

Section 13.1. Assignment; Sublease.

(a) The Company may assign, transfer, encumber or dispose of this Lease or any interest therein or part thereof for any lawful purpose under the Act. With respect to any assignment, the Company shall comply with the following conditions:

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

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

(3) A duplicate original of such assignment shall be delivered to the City and the Trustee within 10 days after the execution thereof, together with an assumption agreement, duly executed and acknowledged by the assignee in proper form for recording, by which the assignee

shall assume all of the terms, covenants and conditions of this Lease on the part of the Company to be performed and observed.

(b) The Company shall have the right to sublet all or any part of the Project to a single entity for any lawful purpose under the Act. The Company shall, within 10 days after the delivery thereof, furnish or cause to be furnished to the City and the Trustee a true and correct copy of each such sublease. Any sublease may provide, at the Company's option, that the City's consent shall not be required in respect of any further subletting thereunder if such further subletting is for a similar purpose as the original sublease and is for a purpose permissible under the Act. Notwithstanding the foregoing, the Company may, in the ordinary course of its business, and without the prior approval of, or notice to, the City, enter into leases or subleases with one or more persons or entities for the various parcels or units within the Project to be used for residential purposes or other uses commonly associated with an apartment complex. Nothing in this Lease shall allow the City to disturb the rights of a sublessee to use the Project under the terms and conditions as set forth in such sublessee's sublease with the Company, provided that this sentence shall not limit any remedy that the City may seek to impose on the Company in case of an Event of Default including but not limited to termination of this Lease.

(c) Notwithstanding the foregoing, the right of the Company to assign or sublease (excluding residential subleases as contemplated in subsection (b) hereof) any interests in this Lease without the prior written consent of the City shall only apply to assignments made (A) to any entity whose long-term debt, or the long-term debt of an entity controlled by, under common control with or controlling such entity has at least a rating in any of the top three long term debt rating categories by any nationally recognized rating agency; (B) so long as the Company shall remain secondarily liable, to any such entity; or (C) to an entity controlled by or under common control with or controlling the Company, so long as such entity has a net worth of at least \$5,000,000 at the time of such assignment or sublease. For any proposed assignment or transfer, other than those specifically set forth in this Lease, the Company may assign or transfer any interests in this Lease to any entity or person with the City's prior written consent, and such consent shall not be unreasonably withheld, conditioned or delayed. The City shall have the right to grant or withhold its consent to such proposed assignment or transfer in its reasonable discretion after inquiry and the delivery of information by the Company to the City as to whether the proposed assignee or transferee has sufficient financial wherewithal and experience to complete the Project according to the terms of this Lease, the Performance Agreement or any other agreement related to the issuance of the Bonds. If and to the extent that the Company and/or the proposed assignee reasonably demonstrates to the City that the proposed assignee has sufficient experience and a net worth sufficient to complete the Project, then it shall not be deemed "reasonable" for the City to withhold its consent to such proposed assignment or sublease. Any assignee of all the rights of the Company shall agree to be bound by the terms of this Lease and any other documents related to the issuance of the Bonds. Upon such assignment of all the rights of the Company and agreement by the assignee to be bound by the terms of this Lease and any other documents related to the Bonds, the Company shall be released from and have no further obligations under this Lease or any agreement related to the issuance of the Bonds.

Section 13.2. Assignment of Revenues by City. The City shall assign and pledge any rents, revenues and receipts receivable under this Lease, to the Trustee pursuant to the Indenture as security for payment of the principal of, interest and premium, if any, on the Bonds and the Company hereby consents to such pledge and assignment. The City and the Company recognize that the Trustee is a third party creditor beneficiary of this Lease.

Section 13.3. Prohibition Against Fee Mortgage of Project. Except as otherwise set forth in **Section 10.4**, the City shall not mortgage its fee interest in the Project, but may assign its interest in and

pledge any moneys receivable under this Lease to the Trustee pursuant to the Indenture as security for payment of the principal of and interest on the Bonds.

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

ARTICLE XIV

AMENDMENTS, CHANGES AND MODIFICATIONS

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

ARTICLE XV

MISCELLANEOUS PROVISIONS

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

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

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

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

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

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

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

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

Section 15.9. Electronic Storage and Notice. The parties hereto agree that the transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law. If the Company elects to give instructions by electronic notice to the Trustee, the Trustee may deem such instructions controlling. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The Company agrees to assume all risks arising out of the use of such electronic notice to submit instructions and directions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties.

Section 15.10. Satisfaction of the Company's Obligations. Any obligation of the Company under this Lease, including, but not limited to, the obligations of the Company to pay Basic Rent, Additional Rent and to maintain insurance as required herein, may be performed by a member of the Company, and such performance by a member of the Company shall be treated as though the obligation were performed by the Company.

Section 15.11 Complete Agreement. THE COMPANY AND THE CITY UNDERSTAND THAT ORAL OR UNEXECUTED AGREEMENTS OR COMMITMENTS TO LOAN MONEY, EXTEND CREDIT OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT INCLUDING PROMISES TO EXTEND OR RENEW SUCH DEBT ARE NOT ENFORCEABLE. TO PROTECT THE COMPANY AND THE CITY FROM MISUNDERSTANDING OR DISAPPOINTMENT, ANY AGREEMENTS THE COMPANY AND THE CITY REACH COVERING SUCH MATTERS ARE CONTAINED IN THIS LEASE AND IN THE PERFORMANCE AGREEMENT, WHICH ARE THE COMPLETE AND EXCLUSIVE STATEMENTS OF THE AGREEMENT BETWEEN THE COMPANY AND THE CITY, EXCEPT AS THE COMPANY AND THE CITY MAY LATER AGREE IN WRITING TO MODIFY THIS LEASE AND THE PERFORMANCE AGREEMENT.

[Remainder of this page intentionally left blank]

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

CITY OF INDEPENDENCE, MISSOURI

By: _____
Name: Zachary Walker
Title: City Manager

[SEAL]

ATTEST:

By: _____
Name: Susanne Holland
Title: City Clerk

LOMBARDO HOMES OF INDEPENDENCE, LLC,
a Michigan limited liability company

By: _____
Name:
Title:

Lease Agreement
Independence (Arabella Apartments Project)

EXHIBIT A

PROJECT SITE

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

All that portion of such lands described in that certain Warranty Deed recorded as Document No. 2008E0020082 on February 22, 2008 and that certain Trustee's Deed recorded as Document No. 2009E0024269 on March 16, 2009 with each of said documents being filed with the Office of the Recorder of Deeds for Jackson County, Missouri and being situated in the Southwest Quarter of Section 16 and the Southeast Quarter of Section 17, all in Township 49 North, Range 31 West, in the City of Independence, said County and State. Being now more particularly described as follows: Commencing at the Southeast Corner of the Southeast Quarter of aforesaid Section 17; thence North 87 degrees 29 minutes 45 seconds West, along the South line of said Quarter Section, a distance of 417.70 feet to the Southeast corner of Tract A, MEADOW HILLS – 4th PLAT, a subdivision in aforesaid City, County and State; thence North 02 degrees 31 minutes 54 seconds East (North 00 degrees 06 minutes 27 seconds East, Plat) along a line 417.70 feet West of and parallel with the East line of said Quarter Section, being also along the East line of said Tract A, a distance of 117.03 feet to a point on the Northerly Right-of-Way line of South Jackson Drive as now established by that certain instrument of Conveyance of Right-of-Way recorded June 4, 2007 in said Office of the Recorder of Deeds as Document No. 2007E0073264 and the Point of Beginning of the tract of land to be herein described; thence continuing North 02 degrees 31 minutes 54 seconds East (North 00 degrees 06 minutes 27 seconds East, Plats) along the last described course, being also along the East lines of MEADOW HILLS – 3rd PLAT, and MEADOW HILLS 1st PLAT and along the Northerly extension of the East line of said MEADOW HILLS 1st PLAT, each being platted subdivisions in the said City, County and State, a distance of 2,505.84 feet to a point on the Southerly Right-of-Way line of R D Mize Road, as now established by that certain instrument of Conveyance of Right-of-Way recorded November 7, 2006 in said Office of the Recorder of Deeds as Document No. 2006E0118992; thence Easterly along the Southerly Right-of-Way line of said R D Mize Road as described in said Document No. 2006E0118992 and by the Conveyance of Right-of-Way recorded June 6, 2007 in said Office of the Recorder of Deeds as Document No. 2007E0074680 and by the Conveyance of Right-of-Way recorded June 14, 2007 in said Office of the Recorder of Deeds as Document No. 2007E0078544, the following courses and distances; thence South 87 degrees 47 minutes 11 seconds East (South 87 degrees 46 minutes 54 seconds East, Deed 2006E0118992) along a line 40.00 feet South of and parallel with the North line of the Southeast Quarter of said Section 17, a distance of 417.71 feet to a point on the East line of said Southeast Quarter Section; thence North 02 degrees 31 minutes 54 seconds East (North 02 degrees 27 minutes 13 seconds East, Deed) along the East line of said Southeast Quarter Section, a distance of 1.00 foot; thence South 88 degrees 09 minutes 08 seconds East (South 88 degrees 14 minutes 49 seconds East, Deed 2006E0118992) along a line 39 feet South of and parallel with the North line of the Southwest Quarter of aforesaid Section 16, a distance of 40.80 feet; thence continuing South 88 degrees 09 minutes 08 seconds East (South 88 degrees 09 minutes 36 seconds East, Deed 2007E0074680) along a line 39 feet South of and parallel with the North line of the Southwest Quarter of aforesaid Section 16, a distance of 266.79 feet; thence South 01 degrees 50 minutes 52 seconds West (South 01 degrees 50 minutes 24 seconds West, Deed 2007E0074680), perpendicular to the North line of said Southwest Quarter, a distance of 55.50 feet to a point 94.50 feet South of the North line of the Southwest Quarter of said Section 16 as measured perpendicular to the North line thereof; thence South 88 degrees 09 minutes 08 seconds East (South 88 degrees 09 minutes 36 seconds East, Deed 2007E0074680) along a line 94.50 feet South of and parallel with the North line of said Southwest Quarter, a distance of 67.00 feet; thence North 01 degrees 50 minutes 52 seconds East (North 01 degrees 50 minutes 24 seconds East, Deed 2007E0074680), perpendicular to the North line of said Southwest Quarter, a distance of 55.50 feet to a point 39.00 feet South of the North line of the Southwest Quarter of said Section 17 as measured perpendicular to the North line thereof; thence South 88 degrees 09 minutes 08 seconds East (South 88 degrees 09 minutes 36 seconds East, Deed 2007E0074680) along a line 39 feet

South of and parallel with the North line of the Southwest Quarter of said Section 16, a distance of 2.20 feet; thence South 83 degrees 09 minutes 53 seconds East (South 83 degrees 07 minutes 42 seconds East, Deed 2007E0078544), a distance of 122.88 feet to a point 499.30 feet East of the West line of the Southwest Quarter of said Section 16 as measured perpendicular to the West line thereof; thence South 02 degrees 31 minutes 54 seconds West along a line 499.30 feet East of and parallel with the West line of the Southwest Quarter of said Section 16, a distance of 1,868.15 feet to a point on the Northerly Right-of-Way line of said South Jackson Drive as now established by said Conveyance of Right-of-Way recorded June 14, 2007 in said Office of the Recorder of Deeds as Document No. 2007E0078544; thence generally Southwesterly along the Northerly Right-of-Way line of said South Jackson Drive as established by said Document No. 2007E0078544 and by said Document No. 2007E0073264, the following courses and distances; thence Southwesterly along a curve to the right, having an initial tangent bearing of South 56 degrees 15 minutes 48 seconds West, a radius of 650.00 feet and a central angle of 18 degrees 57 minutes 24 seconds (18 degrees 56 minutes 55 seconds, Deed 2007E0078544), an arc length of 215.06 feet (214.97 feet, Deed 2007E0078544; thence South 75 degrees 13 minutes 12 seconds West (South 75 degrees 13 minutes 05 seconds West, Deed 2007E0078544), tangent to the last described curve, a distance of 120.19 feet; thence Southwesterly along a curve to the left, tangent to the last described course, having a radius of 750.00 feet and a central angle of 29 degrees 02 minutes 06 seconds, an arc length of 380.07 feet; thence South 46 degrees 11 minutes 06 seconds West (South 46 degrees 11 minutes 00 seconds West, Deed 2007E0073264), tangent to the last described curve, a distance of 422.55 feet to the Point of Beginning. This description having been prepared by Steven R. Whitaker, Missouri, P.L.S No. 2005019220. MEC Corporate Certificate / License No. 2012009395.

EXHIBIT B

PROJECT IMPROVEMENTS

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

Approximately 176 ranch-style apartment units to be constructed with trench and block foundations, wood framing, vinyl siding, vinyl windows, cultured stone facades, and asphalt shingle roofing, together with walking paths, a dog park, ponds, a gazebo, a pet wash station and the Public Improvements.

EXHIBIT C

FORM OF REQUISITION CERTIFICATE

Requisition No. _____
Date: _____

REQUISITION CERTIFICATE

TO: BOKF, N.A., AS TRUSTEE UNDER A TRUST INDENTURE DATED AS OF OCTOBER 1, 2024, BETWEEN CITY OF INDEPENDENCE, MISSOURI, AND THE TRUSTEE, AND THE LEASE AGREEMENT DATED AS OF OCTOBER 1, 2024, BETWEEN CITY OF INDEPENDENCE, MISSOURI AND LOMBARDO HOMES OF INDEPENDENCE, LLC.

The undersigned Authorized Company Representative hereby states and certifies that:

1. A total of \$ _____ is requested to pay for Project Costs (as defined in the Indenture) of the Project Improvements. The total amount of this requisition and all prior requisitions are as follows:

<u><i>Date of Project Costs</i></u>	<u><i>Amount Submitted in this Requisition</i></u>	<u><i>Requisitions Submitted to Date (Including this Requisition)</i></u>

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

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

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

LOMBARDO HOMES OF INDEPENDENCE, LLC

By: _____
Authorized Company Representative

SCHEDULE 1 TO REQUISITION CERTIFICATE

PROJECT COSTS

<u>Payee and Address</u>	<u>Description</u>	<u>Amount</u>
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EXHIBIT D

FORM OF CERTIFICATE OF INSURANCE COMPLIANCE

The undersigned, being the Authorized Company Representative for Lombardo Homes of Independence, LLC, as tenant (the “Company”), under a certain Lease Agreement dated as of October 1, 2024, between the City of Independence, Missouri (the “City”), and the Company (the “Lease”), and as beneficiary of the City’s Taxable Industrial Development Revenue Bonds (Arabella Apartments Project), Series 2024, issued pursuant to a certain Trust Indenture dated as of October 1, 2024 (the “Indenture”), hereby certifies pursuant to Article VII of Lease:

1. All capitalized terms used in this Certificate and not otherwise defined herein shall have the meanings set forth in the Lease.

2. The policies of insurance required to in place pursuant to Article VII of the Lease are effective and the premiums with respect thereto have been paid in full as of the date set forth below. Such policies comply with the terms and provisions set forth in Article VII, and the Company is in compliance with the provisions of Article VII.

3. The undersigned will notify the Trustee 10 days prior to any cancellation or material change to such policies; the policies currently in effect have an expiration date of _____, 20__.

4. The Trustee may conclusively rely on this Certificate of Insurance Compliance without further investigation.

5. Attached hereto are insurance certificates showing compliance with the liability and casualty insurance requirements of Article VII of the Lease.

IN WITNESS WHEREOF, the undersigned Authorized Company Representative has signed this Certificate, and the statements of fact made in this Certificate are true and correct.

Authorized Company Representative

Date: _____

ATTACHMENTS:

1. Liability insurance certificate(s)
2. Casualty insurance certificate(s)

Note: all insurance certificates must show the City and the Trustee as additional insureds.

APPENDIX I
PERFORMANCE AGREEMENT

(See Document No. ____)

PERFORMANCE AGREEMENT

Dated as of October 1, 2024

BETWEEN

CITY OF INDEPENDENCE, MISSOURI

AND

LOMBARDO HOMES OF INDEPENDENCE, LLC

Prepared By:

**Gilmore & Bell, P.C.
Kansas City, Missouri**

PERFORMANCE AGREEMENT

THIS PERFORMANCE AGREEMENT, dated as of October 1, 2024 (the “**Agreement**”), between the **CITY OF INDEPENDENCE, MISSOURI**, a constitutional charter city and municipal corporation duly organized and existing under the laws of the State of Missouri (the “**City**”), and **LOMBARDO HOMES OF INDEPENDENCE, LLC**, a Michigan limited liability company (the “**Company**”);

RECITALS:

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

2. Pursuant to the Act, the City Council of the City gave notice to the affected taxing jurisdictions in accordance with Section 100.059.1 of the Act and held a public hearing to finance the costs of a project (the “**Project**”) for the Company consisting of the acquisition and improvement of certain real property located at 19515 - 19601 E. R.D. Mize Road in the City (the “**Project Site**”), including the construction and improvement of a commercial facility on the Project Site together with related public improvements, out of the proceeds of the industrial development revenue bonds to be issued under the Act to provide funds to pay the costs of the Project, and to lease or sell the Project to the Company for the purpose of financing the costs of the Project.

3. Pursuant to an ordinance (the “**Ordinance**”) passed by the City Council, the City has approved a plan for the Company’s industrial development project and has been authorized to execute and deliver (a) a Trust Indenture of even date herewith (the “**Indenture**”) between the City and BOKF, N.A., Kansas City, Missouri, as trustee (the “**Trustee**”), for the purpose of issuing and securing the City’s Taxable Industrial Development Revenue Bonds (Arabella Apartments Project), Series 2024 in the maximum principal amount of \$39,200,000 (the “**Bonds**”), (b) a Lease Agreement of even date herewith (the “**Lease**”) with the Company under which the City, as lessor, will construct, extend and improve the Project and will lease the Project to the Company, in consideration of rentals which will be sufficient to pay the principal of and interest on the Bonds, and (c) this Agreement for the purpose of setting forth the payments in lieu of taxes to be made by the Company with respect to the Project.

4. Pursuant to the foregoing, the City desires to enter into this Agreement with the Company in consideration of the Company’s desire to construct, extend and improve the Project upon the terms and conditions hereinafter set forth.

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

ARTICLE I

DEFINITIONS

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

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

“Commercial Facility” means a facility comprised of rentable space operated for profit by the Company in accordance with this Agreement, consisting of a multifamily residential rental complex and associated uses.

“Company” means Lombardo Homes of Independence, LLC, a Michigan limited liability company, and its successors and assigns.

“Indenture” means the Trust Indenture dated as of October 1, 2024, between the City and BOKF, N.A., Kansas City, Missouri, as Trustee, relating to the issuance of the Bonds, as amended or supplemented from time to time.

“PILOT Payments” or **“PILOTS”** means the payments in lieu of taxes provided for in **Article III** hereof.

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

“Project Improvements” shall have the same meaning as provided in **Exhibit B** to the Indenture.

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

“Public Improvements” has the meaning given to such term in the Lease.

ARTICLE II

REPRESENTATIONS

Section 2.1. City’s Representations. The City hereby represents that the Project will significantly benefit the City and the State of Missouri by (i) stimulating economic development in the City and the State; and (ii) increasing local and state tax revenues.

Section 2.2. Company’s Representations. The Company hereby represents that the Project will significantly benefit the City and the State of Missouri by (i) stimulating economic development in the City and the State; and (ii) increasing local and state tax revenues.

ARTICLE III

PROPERTY TAX EXEMPTION; PAYMENT IN LIEU OF TAXES

Section 3.1. Property Tax Exemption. So long as the City owns title to the Project, the City expects that the Project will be exempt from ad valorem taxes on real property. The first year of the exemption period for purposes of this Agreement shall be 2024. Notwithstanding any other provision of this Agreement to the contrary, the last year of such exemption period shall be 2027. The Company covenants and agrees that, during each year the Project is exempt from ad valorem taxes by reason hereof, the Company will make annual payments in lieu of taxes to the City (each such payment, a “**PILOT**”) as described in this **Article III**. The City and the Company hereby agree that the tax exemption provided by this Agreement shall only apply to property financed with the proceeds of the Bonds (i.e., property constituting a part of the Project) and shall not apply to property not financed with proceeds of the Bonds (and specifically shall not apply to personal property relating to the Project other than construction materials).

Section 3.2. Payments In Lieu of Taxes for Project. The Company covenants and agrees to make PILOT Payments to the City on or before each December 31, commencing December 31, 2024, in the amounts, and in the years, set forth in **Exhibit B** attached hereto.

Section 3.3. Termination for Failure to Operate the Project as a Commercial Facility. If the Company operates the Project for any purpose other than as a Commercial Facility for a period of 90 consecutive days, then in addition to any other remedies that may be available to the City under the Lease or hereunder, the City shall have the right to terminate the Lease and convey the Project back to the Company, while holding the Company liable for any payments then due and owing under the Lease.

Section 3.4. Distribution of PILOTS. Within 30 days of the date of receipt of each PILOT, the City or designated billing/collection agent shall distribute each PILOT among the taxing jurisdictions in proportion to the amount of taxes which would have been paid in each year had the Project not been exempt from taxation pursuant to this Agreement.

Section 3.5. Obligation of City to Effect Tax Abatement. The City agrees to take all actions within its control to obtain and/or maintain in effect the exemption referred to in **Section 3.1** above, including any filing required with any governmental authorities; provided, however, the City shall not be liable for any failure of Jackson County, Missouri or any other governmental taxing authority to recognize the exemption provided herein. The City covenants that it will not voluntarily take any action that may cause or induce the levy or assessment of ad valorem taxes on the Project. In the event such a levy or assessment should occur, the City shall, at the Company’s request and at the Company’s expense, fully cooperate with the Company in all reasonable ways to prevent and/or remove any such levy or assessment against the Project.

Section 3.6. Administration Costs. Under Section 100.050 of the Act, the City may require the Company to reimburse the City for its actual costs of issuing the Bonds and administering the plan including costs associated with this Agreement, in an amount of no greater than \$1,000 per year. The City will provide a statement for such costs to the Company not later than November 1 of each year and the Company will reimburse the City for its costs on or before December 31 of each year continuing until December 31 of the year in which this Agreement expires or is terminated.

Section 3.7. Other Property Taxes In Connection with the Project. The real property tax exemption provided by the City’s ownership of the Project is expected to apply to all interests in the

Project during the period it is owned by the City. If any ad valorem real property taxes are levied by or on behalf of any taxing jurisdiction against any interest in the Project during the period the City owns the Project (including, without limitation, any ad valorem taxes levied against the Company's rights in the Lease), the amount of ad valorem tax payments related to such levy or levies which are paid by the Company and received by the City and other taxing jurisdictions shall be credited against and reduce on a *pro rata* basis the amount of the PILOT Payments the Company is obligated to pay pursuant to this Agreement. The Company shall be responsible for any taxes related to any interest in the Project which the Company owns in its own name or granted to the Company other than pursuant to the Lease.

Section 3.8. Credits for Certain Tax Payments. Nothing in this Agreement shall be construed to require the Company to make duplicate tax payments. The Company shall receive a credit hereunder to such extent it has made any payment for ad valorem real property taxes on the Project to Jackson County, Missouri.

Section 3.9. Company's Right To Protest Taxes. Notwithstanding any other provision of this Agreement to the contrary, nothing in this Agreement shall be construed to limit or in any way restrict the availability of any provision of Missouri law which confers upon the Company the right to appeal, protest or otherwise contest any property tax valuation, assessment, classification or similar action. However, no such appeal, protest or contest shall affect the amount or timing of PILOT Payments to be made under this Agreement.

Section 3.10. No Abatement on Special Assessments, Licenses or Fees. The City and the Company hereby agree that the property tax exemptions described in this Agreement shall not apply to special assessments and shall not serve to reduce or eliminate any other licenses or fees owing to the City or any other taxing jurisdiction with respect to the Project. The Company hereby agrees to make payments with respect to all special assessments, licenses and fees which would otherwise be due with respect to the Project if such Project was not owned by the City.

Section 3.11. Cessation of Construction. If for any reason the Company ceases construction of the Project during the term of this Agreement for a period of 90 consecutive days, the City shall have the right to terminate the Lease and convey the Project back to the Company, while holding the Company liable for any payments then due and owing under the Lease.

ARTICLE IV

COVENANTS, REPRESENTATIONS AND AGREEMENTS

Section 4.1. Inspection. The Company agrees that the City and its duly authorized agents shall have the right to enter upon the Project Site to examine and inspect the Project and the records of the Company which demonstrate compliance with this Agreement, subject to the requirements of **Section 10.3** of the Lease.

Section 4.2. Compliance with Laws. The Project will comply in all material respects with all applicable building and zoning, health, environmental and safety ordinances and laws and all other applicable laws, rules and regulations.

Section 4.3. Construction and Improvement of the Project. The Project will be constructed and improved consistent with the description of the Project herein and in the Lease. In the event the Project constructed and improved is materially inconsistent with the description of the Project

contained herein and in the Lease, the City reserves the right to declare an Event of Default in accordance with **Section 6.1** hereof.

Section 4.4. Representations and Warranties.

(a) The Company represents, warrants and covenants that as of the date of this Agreement and during the term of this Agreement:

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

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

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

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

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

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

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

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

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

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

Section 4.5. Survival of Covenants. All warranties, representations, covenants and agreements of the Company and the City contained herein shall survive termination of this Agreement for any reason.

Section 4.6. Indemnification. The Company shall indemnify and defend the City to insure that the City and the Trustee are held harmless from and against all claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, by or on behalf of any person, firm or corporation arising from the conduct or management of, or from any work or thing done in, on or about, the Project during the term of the Lease, and against and from all claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, arising during the term of the Lease from any event described in **Section 10.5** of the Lease to the extent and subject to the limitations provided therein. The Company hereby grants such warranties regarding environmental matters as set forth in **Section 4.9** of the Lease. This section shall not apply to the negligence or willful misconduct of the City or its officers, employees or agents.

Section 4.7. Sales Tax Exemption. Upon request of the Company after the issuance of the Bonds, the City will issue a sales tax exemption certificate to the Company for construction materials to be purchased for the Project and the City shall provide such other documentation as may be necessary from time to time to effect said sales tax exemption. The Company shall use the exemption certificate only for the purchase of construction materials to be incorporated into either the Project on the Project Site or the Public Improvements and shall not use the exemption certificate for the purchase of any personal property other than construction materials. The Company shall indemnify and defend the City and its respective officers, employees and agents against and from any and all causes of action or actions in law or equity, liens, claims damages, loss, costs or expenses of any nature whatsoever by any person or entity, arising out of the City's furnishing of the exemption certificate.

Section 4.8. Costs of Issuance of the Bonds. The Company agrees to pay on the date of the initial issuance of the Bonds, all costs of issuance incurred in connection therewith.

ARTICLE V

SALE AND ASSIGNMENT

The benefits granted by the City to the Company pursuant to this Agreement shall belong solely to the Company, and such benefits shall not be transferred (other than to an affiliate of the Company), assigned, pledged or in any other manner hypothecated without the express written consent of the City; but nothing herein shall preclude the Company from assigning or pledging its interest in the Project so long as the Company continues to operate the Project as a Commercial Facility and otherwise remains responsible for its undertakings herein. Notwithstanding the foregoing, the Company may, without the City's consent, transfer its interests in this Agreement to any entity or person to whom the Lease has been assigned in accordance with **Article XIII** thereof.

ARTICLE VI

DEFAULT AND REMEDIES

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

(a) the Company fails to make any PILOT Payments required to be paid hereunder within 10 days after written notice and demand by the City;

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

(c) the Company operates the Project for a purpose other than as a Commercial Facility for a period of 90 consecutive days.

Section 6.2. Remedies on Default. Upon an Event of Default hereunder this Agreement may be terminated by written notice to the Company from the City. Within thirty days of such termination and upon written notice of the dollar amounts due, the Company shall make a PILOT to the City equal to the PILOT Payment due for the then-current calendar year.

Upon any termination of this Agreement the Company agrees to pay interest and penalties on all amounts due hereunder to the same extent as if such payments were taxes under Missouri law.

Section 6.3. Payments on Defaulted Amounts. Any amounts due hereunder which are not paid when due shall bear interest at the interest rate imposed by Missouri law on overdue ad valorem real estate taxes from the date such payment was first due.

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

Section 6.5. Failure of the City to Perform its Obligations. In the event the City shall fail to perform any of its obligations hereunder for (i) a period of 60 days (or such longer period as the Company and the City may agree in writing) following written notice to the City from the Company of such failure which notice shall include a specific description of the City's failure hereunder), or (ii) if such failure is not subject to cure within such 60 days, the City shall have failed to initiate action to cure such default and shall pursue such action diligently; the Company may declare that the City is in default under this Agreement and may pursue any legal remedy available to it to enforce this Agreement.

ARTICLE VII

TERM OF AGREEMENT

This Agreement shall become effective upon execution, and subject to earlier termination pursuant to the provisions of this Agreement (including particularly **Article VI** hereof), shall have an initial term commencing as of the date of this Agreement and terminating on **December 1, 2027** (the "**Stated Expiration Date**"). This Agreement shall automatically terminate prior to the Stated Expiration Date in the event the Bonds (or any Bonds issued to refund the Bonds) are no longer outstanding.

ARTICLE VIII

MISCELLANEOUS PROVISIONS

Section 8.1. Severability. If for any reason any provision of this Agreement shall be determined to be invalid or unenforceable, the validity and enforceability of the other provisions hereof shall not be affected thereby.

Section 8.2. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Missouri.

Section 8.3. Execution in Counterparts. This Agreement may be executed simultaneously in several counterparts, each of which shall be deemed to be an original and all of which shall constitute but one and the same instrument.

Section 8.4. Waiver. The City and the Company acknowledge and agree that the amounts payable hereunder shall constitute payments due the City under the Lease executed in connection with the Bonds. The Company shall not be entitled to any extension of payment of such amounts as a result of a filing by or against the Company in any bankruptcy court.

Section 8.5. Entire Agreement. This Agreement constitutes the entire agreement relating to the subject matter contained herein and supersedes all prior agreements and understandings, both written and oral, between the City and the Company with respect to the subject matter hereof.

Section 8.6. Electronic Storage of Documents. The City and the Company agree that the transaction described herein may be conducted and related documents may be sent, received or stored by electronic means.

Section 8.7. Notices. All notices, certificates or other communications required or desired to be given hereunder shall be given in the manner specified in the Lease.

Section 8.8. Employee Verification. The Company will comply with and satisfy the requirements of Section 285.530.2, RSMo., as amended, which requires (1) any business entity receiving tax abatement to, by sworn affidavit and provision of documentation, annually affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the business entity receiving tax abatement, and (2) every such business entity to annually sign an affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the entity receiving tax abatement. The Company shall provide such affidavits and documentation to the City on or before November 15 of each year during the term of this Agreement, beginning November 15, 2024, and also upon execution of this Agreement.

Section 8.9. Complete Agreement. The Company and the City understand that oral or unexpected agreements or commitments to loan money, extend credit or to forbear from enforcing repayment of a debt including promises to extend or renew such debt are not enforceable. To protect the Company and the City from misunderstanding or disappointment, any agreements the Company and the City reach covering such matters are contained in this Agreement and the Lease, which are the complete and exclusive statements of the agreement between the Company and the City, except as the Company and the City may later agree in writing to modify this Agreement and the Lease.

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

CITY OF INDEPENDENCE, MISSOURI

By: _____
Name: Zachary Walker
Title: City Manager

[SEAL]

ATTEST:

By: _____
Name: Susanne Holland
Title: City Clerk

LOMBARDO HOMES OF INDEPENDENCE, LLC,
a Michigan limited liability company

By: _____
Name:
Title:

EXHIBIT A

Legal Description

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

All that portion of such lands described in that certain Warranty Deed recorded as Document No. 2008E0020082 on February 22, 2008 and that certain Trustee's Deed recorded as Document No. 2009E0024269 on March 16, 2009 with each of said documents being filed with the Office of the Recorder of Deeds for Jackson County, Missouri and being situated in the Southwest Quarter of Section 16 and the Southeast Quarter of Section 17, all in Township 49 North, Range 31 West, in the City of Independence, said County and State. Being now more particularly described as follows: Commencing at the Southeast Corner of the Southeast Quarter of aforesaid Section 17; thence North 87 degrees 29 minutes 45 seconds West, along the South line of said Quarter Section, a distance of 417.70 feet to the Southeast corner of Tract A, MEADOW HILLS – 4th PLAT, a subdivision in aforesaid City, County and State; thence North 02 degrees 31 minutes 54 seconds East (North 00 degrees 06 minutes 27 seconds East, Plat) along a line 417.70 feet West of and parallel with the East line of said Quarter Section, being also along the East line of said Tract A, a distance of 117.03 feet to a point on the Northerly Right-of-Way line of South Jackson Drive as now established by that certain instrument of Conveyance of Right-of-Way recorded June 4, 2007 in said Office of the Recorder of Deeds as Document No. 2007E0073264 and the Point of Beginning of the tract of land to be herein described; thence continuing North 02 degrees 31 minutes 54 seconds East (North 00 degrees 06 minutes 27 seconds East, Plats) along the last described course, being also along the East lines of MEADOW HILLS – 3rd PLAT, and MEADOW HILLS 1st PLAT and along the Northerly extension of the East line of said MEADOW HILLS 1st PLAT, each being platted subdivisions in the said City, County and State, a distance of 2,505.84 feet to a point on the Southerly Right-of-Way line of R D Mize Road, as now established by that certain instrument of Conveyance of Right-of-Way recorded November 7, 2006 in said Office of the Recorder of Deeds as Document No. 2006E0118992; thence Easterly along the Southerly Right-of-Way line of said R D Mize Road as described in said Document No. 2006E0118992 and by the Conveyance of Right-of-Way recorded June 6, 2007 in said Office of the Recorder of Deeds as Document No. 2007E0074680 and by the Conveyance of Right-of-Way recorded June 14, 2007 in said Office of the Recorder of Deeds as Document No. 2007E0078544, the following courses and distances; thence South 87 degrees 47 minutes 11 seconds East (South 87 degrees 46 minutes 54 seconds East, Deed 2006E0118992) along a line 40.00 feet South of and parallel with the North line of the Southeast Quarter of said Section 17, a distance of 417.71 feet to a point on the East line of said Southeast Quarter Section; thence North 02 degrees 31 minutes 54 seconds East (North 02 degrees 27 minutes 13 seconds East, Deed) along the East line of said Southeast Quarter Section, a distance of 1.00 foot; thence South 88 degrees 09 minutes 08 seconds East (South 88 degrees 14 minutes 49 seconds East, Deed 2006E0118992) along a line 39 feet South of and parallel with the North line of the Southwest Quarter of aforesaid Section 16, a distance of 40.80 feet; thence continuing South 88 degrees 09 minutes 08 seconds East (South 88 degrees 09 minutes 36 seconds East, Deed 2007E0074680) along a line 39 feet South of and parallel with the North line of the Southwest Quarter of aforesaid Section 16, a distance of 266.79 feet; thence South 01 degrees 50 minutes 52 seconds West (South 01 degrees 50 minutes 24 seconds West, Deed 2007E0074680), perpendicular to the North line of said Southwest Quarter, a distance of 55.50 feet to a point 94.50 feet South of the North line of the Southwest Quarter of said Section 16 as measured perpendicular to the North line thereof; thence South 88 degrees 09 minutes 08 seconds East (South 88 degrees 09 minutes 36 seconds East, Deed 2007E0074680) along a line 94.50 feet South of and parallel with the North line of said Southwest Quarter, a distance of 67.00 feet; thence North 01 degrees 50 minutes 52 seconds East (North 01 degrees 50 minutes 24 seconds East, Deed 2007E0074680), perpendicular to the North line of said Southwest Quarter, a distance of 55.50 feet to a point 39.00 feet South of the North line of the Southwest Quarter of said Section 17 as measured perpendicular to the North line thereof; thence South 88 degrees 09 minutes 08 seconds East (South 88 degrees 09 minutes 36 seconds East, Deed 2007E0074680) along a line 39 feet

South of and parallel with the North line of the Southwest Quarter of said Section 16, a distance of 2.20 feet; thence South 83 degrees 09 minutes 53 seconds East (South 83 degrees 07 minutes 42 seconds East, Deed 2007E0078544), a distance of 122.88 feet to a point 499.30 feet East of the West line of the Southwest Quarter of said Section 16 as measured perpendicular to the West line thereof; thence South 02 degrees 31 minutes 54 seconds West along a line 499.30 feet East of and parallel with the West line of the Southwest Quarter of said Section 16, a distance of 1,868.15 feet to a point on the Northerly Right-of-Way line of said South Jackson Drive as now established by said Conveyance of Right-of-Way recorded June 14, 2007 in said Office of the Recorder of Deeds as Document No. 2007E0078544; thence generally Southwesterly along the Northerly Right-of-Way line of said South Jackson Drive as established by said Document No. 2007E0078544 and by said Document No. 2007E0073264, the following courses and distances; thence Southwesterly along a curve to the right, having an initial tangent bearing of South 56 degrees 15 minutes 48 seconds West, a radius of 650.00 feet and a central angle of 18 degrees 57 minutes 24 seconds (18 degrees 56 minutes 55 seconds, Deed 2007E0078544), an arc length of 215.06 feet (214.97 feet, Deed 2007E0078544; thence South 75 degrees 13 minutes 12 seconds West (South 75 degrees 13 minutes 05 seconds West, Deed 2007E0078544), tangent to the last described curve, a distance of 120.19 feet; thence Southwesterly along a curve to the left, tangent to the last described course, having a radius of 750.00 feet and a central angle of 29 degrees 02 minutes 06 seconds, an arc length of 380.07 feet; thence South 46 degrees 11 minutes 06 seconds West (South 46 degrees 11 minutes 00 seconds West, Deed 2007E0073264), tangent to the last described curve, a distance of 422.55 feet to the Point of Beginning. This description having been prepared by Steven R. Whitaker, Missouri, P.L.S No. 2005019220. MEC Corporate Certificate / License No. 2012009395.

EXHIBIT B
PILOT PAYMENTS

The Company covenants and agrees to make PILOT Payments to the City on or before each December 31, commencing December 31, 2024, in the amounts, and in the years, set forth below. Any PILOT Payments due under this Agreement which are not paid when due shall bear interest at the interest rate imposed by Missouri law on overdue *ad valorem* real estate taxes from the date such payment was first due.

- 1) For calendar year 2024, the PILOT Payment shall be equal to \$2,684.
- 2) In each year after 2024, if the Project remains in City ownership, a PILOT Payment shall be made for the Project in the amount equal to the Taxes Otherwise Due on the Project.

“Taxes Otherwise Due” for purposes of this Exhibit B, means the *ad valorem* real property taxes that would have been due on the Project for the year were it not for ownership thereof by the City, as calculated by the City from assessed valuation estimates provided by Jackson County, Missouri and using the then-current tax rates of all applicable taxing jurisdictions; *provided that*, if Jackson County, Missouri shall fail or refuse to provide assessed valuation estimates, the assessed valuation shall be assumed to equal the amounts shown as the “Estimated Assessed Value of Existing Site with Project Improvements” for the applicable year on page 4 of the Cost Benefit Analysis attached to the Plan for an Industrial Development Project for the Arabella Apartments Project sent to taxing jurisdictions on August 19, 2024.

NOTICE TO TAXING JURISDICTIONS

PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT

On behalf of the City of Independence, Missouri (the “City”), please find enclosed a copy of a proposed plan for an industrial development project and cost benefit analysis (the “Plan”).

The City Council will consider an ordinance to approve the Plan during the City Council’s meeting on September 16, 2024, at 6:00 p.m. in the Council Chambers at City Hall, 111 E. Maple in Independence, Missouri.

The City invites you to submit written comments to the Council on the proposed Plan. All comments will be fairly and duly considered by the City. Comments will also be taken during a public hearing at the City Council meeting referred to above.

A copy of the Plan will be on file in the office of the City Clerk and will be available for public inspection during normal business hours.

Dated: August 19, 2024

Independence City Hall
111 E Maple Ave
Independence, MO 64050

Taxing Jurisdictions -- Distribution List

Independence School District Superintendent 201 N. Forest Avenue Independence, MO 64050	Junior College District of Metropolitan Kansas City, Missouri (Metropolitan Community College) Chancellor 3200 Broadway Kansas City, MO 64111
Jackson County Board of Disabled Services 8511 Hillcrest Rd., Suite 300 Kansas City, MO 64138	Mid-Continent Public Library Director 15616 E. Highway 24 Independence, MO 64050-2057
Jackson County County Executive 415 E. 12th Street, 2nd Floor Kansas City, MO 64106	Jackson County Community Mental Health Executive Director 1627 Main Street, Suite 500 Kansas City, MO 64108
Jackson County Assessment Department Director 1300 Washington St. Kansas City, MO 64106	Jackson County Collections Department Director 415 E. 12th Street, 1st Floor Kansas City, MO 64106
Jackson County Community Children's Services Fund Board of Directors 2345 Grand Blvd, Ste 1450 Kansas City, MO 64108	City of Independence City Clerk 111 E Maple Ave Independence, MO 64050
Missouri Department of Revenue County Tax Section Merchants/Manufacturers Replacement Tax Fund 301 West High Street Jefferson City, MO 65102-0453	Missouri Department of Revenue County Tax Section State Blind Pension Fund 301 West High Street Jefferson City, MO 65102-0453
Kansas City Zoological District Chair of the Board of Directors 6800 Zoo Drive Kansas City, MO 64132	

BEFORE THE

CITY COUNCIL

OF THE

CITY OF INDEPENDENCE, MISSOURI

PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT

FOR THE

ARABELLA APARTMENTS PROJECT

(sales and use tax exemption only)

Sent to taxing jurisdictions: August 19, 2024

**PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT FOR THE
ARABELLA APARTMENTS PROJECT**

TO: CITY COUNCIL OF THE CITY OF INDEPENDENCE, MISSOURI

The project described herein will be undertaken pursuant to the provisions of Sections 100.010 to 100.200 of the Revised Statutes of Missouri, as amended, and Article VI, Section 27(b) of the Missouri Constitution, as amended (collectively, the “Act”). The Act authorizes cities, counties, towns and villages to issue industrial development revenue bonds to finance the purchase, construction, extension and improvement of warehouses, distribution facilities, research and development facilities, office industries, agricultural processing industries, service facilities that provide interstate commerce, industrial plants and other commercial facilities. The leasing of residential property for a profit is a commercial undertaking.

Lombardo Homes of Independence, LLC, a Michigan limited liability company (together with its assignees or designees for purposes of implementation of this Plan, the “Company”) has proposed this Plan for an industrial development project as described herein to the City of Independence, Missouri (the “City”), for approval, to be carried out pursuant to the Act and in support of said application submit the following:

1. **Description of the Project.** The Project consists of acquiring land and constructing and improving approximately 176 ranch-style apartment units to be constructed with trench and block foundations, wood framing, vinyl siding, vinyl windows, cultured stone facades, and asphalt shingle roofing, together with walking paths, a dog park, ponds, a gazebo, and a pet wash station. The Project will be located on approximately 45 acres of land located at 19515 - 19601 E. R D Mize Road in Independence, Missouri. The location of the site is depicted below:



[remainder of page intentionally left blank]

2. **Estimate of the Cost of the Project.** The total cost of the Project is estimated to be \$39,200,000, which will consist of the cost of land acquisition and improvements to be made on the land, together with the costs of issuing the bonds described below.
3. **Source of Funds to be Expended for the Project.** The source of funds to be expended for the Project will be the proceeds of \$39,200,000 estimated aggregate principal amount of taxable industrial revenue bonds (the “Bonds”) to be issued by the City for the Project and to pay costs of issuance of the Bonds.
4. **Statement of the Terms Upon Which the Project is to be Leased and Otherwise Disposed of by the City.** The Project will be leased (with an option to purchase) to the Company or an affiliate or designee thereof (a “Lessee”) during the construction period. The lease payments under the lease will equal the principal and interest on the Bonds plus certain payments in lieu of taxes. The Bonds will be payable solely from the revenues derived by the City from the lease or other disposition of the Project and the Bonds will not be an indebtedness or general obligation, debt or liability of the City.
5. **General Information Concerning the Company.** The Company is a Michigan limited liability company and is an affiliate of Lombardo Homes Inc., a developer of homes and apartments in Michigan and Missouri.
6. **Bond Purchase Arrangements.** It is expected that the Company will purchase the Bonds in the principal amount of \$39,200,000.
7. **Affected Taxing Jurisdictions.** The Independence School District, Jackson County, Missouri, the Junior College District of Metropolitan Kansas City, Missouri, and the City will be affected by the Project. No ambulance district board operating under chapter 190 or fire protection district board operating under chapter 321 is affected by the Project. Other taxing jurisdictions affected by the Project are set out in the Cost Benefit Analysis attached hereto.
8. **Equalized Assessed Valuation.** The most recent equalized assessed valuation of the real property improvements to be included in the Project is \$39,637 (2023). The estimated total equalized assessed valuation after construction of the Project for real property to be included in the Project is \$6,850,236.
9. **Cost Benefit Analysis.** Attached hereto as **Exhibit A** is the Cost Benefit Analysis on each affected taxing jurisdiction, which assumes no real property tax abatement and assumes City ownership only during the construction period. A payment in lieu of tax will be required in an amount calculated to equal the taxes that would otherwise have been due in each year during which the Project is off the tax rolls by virtue of City ownership. The 2023 tax levy rates were utilized for all jurisdictions.

[remainder of page intentionally left blank]

10. **Payments in Lieu of Taxes.** A payment in lieu of tax will be required in an amount calculated to equal the taxes that would otherwise have been due in each year during which the Project is off the tax rolls by virtue of City ownership. See the Cost Benefit Analysis contained in **Exhibit A** for an estimate of the amount of payments in lieu of tax to be paid. Actual calendar years may vary from those shown in **Exhibit A** based on implementation timing.
11. **Sales and Use Tax Exemption on Construction Materials.** Qualified building materials purchased for the construction of the Project are expected to be exempt from sales and use tax pursuant to the provisions of Section 144.062 of the Revised Statutes of Missouri and the underlying Bond documents upon delivery of a project exemption certificate by the City to the Company. For purposes of determining the impact of the sales and use tax exemptions for the qualified building materials on the affected taxing jurisdictions, it is assumed that the total amount of qualified building materials purchased will be \$11,640,944 and that the situs of sale for tax purposes will be the project site to which the materials are delivered. Please note that any variance in these assumptions will alter the fiscal impact of the sales and use tax exemptions on the affected taxing jurisdictions.

Based on the assumptions set forth above, the fiscal impact on the affected taxing jurisdictions of the sales and use tax exemptions for qualified building materials is as follows:

	Tax Rate	Estimated Sales/Use Tax Revenues Subject to Exemption
State of Missouri	4.225%	\$491,830
Jackson County		
General	0.500	58,205
Drug Task Force	0.250	29,102
Sports Complex	0.375	43,654
Zoo District	0.125	14,551
City of Independence		
General Revenue	1.000	116,409
Capital Improvement - Police	0.125	14,551
Fire Protection	0.500	58,205
Streets	0.500	58,205
Parks	0.250	29,102
Storm water	0.250	29,102
Children's Services	0.250	29,102
Total	8.350%	\$972,019

* * *

EXHIBIT A

COST BENEFIT ANALYSIS

The Cost Benefit Analysis shows the estimated effect of the Project on taxing jurisdictions. The project will be in City ownership only during the construction period. The calendar years shown in the attached Cost Benefit Analysis are for demonstrative purposes only and Project implementation may change the calendar years affected.

**Independence, Missouri
(Arabella Apartments Project)**

**COST BENEFIT ANALYSIS
PLAN FOR INDUSTRIAL DEVELOPMENT PROJECT**



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Projected Taxes with Project Improvements but without Chapter 100	4
Projected PILOTS (100%)	5
Projected Abatement (0%)	6

This information is provided based on the factual information and assumptions provided to Gilmore & Bell, P.C. by a party to or a representative of a party to the proposed transaction. This information is intended to provide factual information only and is provided in conjunction with our legal representation. It is not intended as financial advice or a financial recommendation to any party. Gilmore & Bell, P.C. is not a financial advisor or a “municipal advisor” as defined in the Securities Exchange Act of 1934, as amended.

Project Assumptions

♦ Initial year taxes assessed			2024
♦ 2024 Assessed Value of Existing Site (residential / agricultural mix)	\$	39,637	
♦ 2025 Assessed Value of Existing Site (residential)	\$	42,867	
♦ Assessed Value of Project Improvements	2025 \$	1,197,036	
	2026 \$	4,874,118	
	2027 \$	5,444,866	
♦ Biennial growth rate of appraised value of existing site			3.0%
♦ Terms of abatement:			
Real property			
Years 2024 to 2027		0%	

Summary of Cost Benefit Analysis

Taxing Jurisdiction	Tax Rate	Taxes on Existing Site without Project Improvements	Projected Taxes with Project Improvements but without Chapter 100	Projected PILOTS (100%)	Projected Abatement (0%)
Board of Disabled Services	0.0716	\$ 117	\$ 8,367	\$ 8,367	\$ -
City - Independence	0.4759	777	55,612	55,612	-
Independence School District	5.1171	8,358	597,961	597,961	-
Jackson County	0.5116	836	59,783	59,783	-
Mental Health	0.0953	156	11,136	11,136	-
Metro Junior College	0.1780	291	20,800	20,800	-
Mid-Continent Library	0.2911	475	34,017	34,017	-
State Blind Pension	0.0300	49	3,506	3,506	-
	6.7706	\$ 11,059	\$ 791,182	\$ 791,182	\$ -

Taxes on Existing Site without Project Improvements

Estimated Assessed Value of Existing Site without Project Improvements						
		\$ 39,637	\$ 40,826	\$ 40,826	\$ 42,051	
	Tax Rate per					
Taxing Jurisdiction	\$100	2024	2025	2026	2027	Total
Board of Disabled Services	0.0716	\$ 28	\$ 29	\$ 29	\$ 30	\$ 117
City - Independence	0.4759	189	194	194	200	777
Independence School District	5.1171	2,028	2,089	2,089	2,152	8,358
Jackson County	0.5116	203	209	209	215	836
Mental Health	0.0953	38	39	39	40	156
Metro Junior College	0.1780	71	73	73	75	291
Mid-Continent Library	0.2911	115	119	119	122	475
State Blind Pension	0.0300	12	12	12	13	49
	6.7706	\$ 2,684	\$ 2,764	\$ 2,764	\$ 2,847	\$ 11,059

Projected Taxes with Project Improvements without Chapter 100

Estimated Assessed Value of Existing Site with Project Improvements						
	\$	39,637	\$1,239,903	\$4,916,986	\$5,489,020	
	Tax Rate per					
Taxing Jurisdiction	\$100	2024	2025	2026	2027	Total
Board of Disabled Services	0.0716	\$ 28	\$ 888	\$ 3,521	\$ 3,930	\$ 8,367
City - Independence	0.4759	189	5,901	23,400	26,122	55,612
Independence School District	5.1171	2,028	63,447	251,607	280,879	597,961
Jackson County	0.5116	203	6,343	25,155	28,082	59,783
Mental Health	0.0953	38	1,182	4,686	5,231	11,136
Metro Junior College	0.1780	71	2,207	8,752	9,770	20,800
Mid-Continent Library	0.2911	115	3,609	14,313	15,979	34,017
State Blind Pension	0.0300	12	372	1,475	1,647	3,506
	6.7706	\$ 2,684	\$ 83,949	\$ 332,909	\$ 371,640	\$791,182

Projected PILOTS (100%)

Estimated Assessed Value of Existing Site with						
Project Improvements	\$	39,637	\$ 1,239,903	\$ 4,916,986	\$ 5,489,020	
PILOT Payment		100%	100%	100%	100%	
	Tax Rate per					
Taxing Jurisdiction	\$100	2024	2025	2026	2027	Total
Board of Disabled Services	0.0716 \$	28	\$ 888	\$ 3,521	\$ 3,930	\$ 8,367
City - Independence	0.4759	189	5,901	23,400	26,122	55,612
Independence School District	5.1171	2,028	63,447	251,607	280,879	597,961
Jackson County	0.5116	203	6,343	25,155	28,082	59,783
Mental Health	0.0953	38	1,182	4,686	5,231	11,136
Metro Junior College	0.1780	71	2,207	8,752	9,770	20,800
Mid-Continent Library	0.2911	115	3,609	14,313	15,979	34,017
State Blind Pension	0.0300	12	372	1,475	1,647	3,506
	6.7706 \$	2,684	\$ 83,949	\$ 332,909	\$ 371,640	\$ 791,182

Projected Abatement (0%)

Estimated Assessed Value of Existing Site with							
Project Improvements		\$	39,637	\$1,239,903	\$4,916,986	\$5,489,020	
Abatement Percentage			0%	0%	0%	0%	
Taxing Jurisdiction		Tax Rate per \$100	2024	2025	2026	2027	Total
Board of Disabled Services		0.0716	\$ -	\$ -	\$ -	\$ -	\$ -
City - Independence		0.4759	-	-	-	-	-
Independence School District		5.1171	-	-	-	-	-
Jackson County		0.5116	-	-	-	-	-
Mental Health		0.0953	-	-	-	-	-
Metro Junior College		0.1780	-	-	-	-	-
Mid-Continent Library		0.2911	-	-	-	-	-
State Blind Pension		0.0300	-	-	-	-	-
		6.7706	\$ -	\$ -	\$ -	\$ -	\$ -

City of Independence

AGENDA ITEM COVER SHEET

Agenda Title:

24-092 **1R** An ordinance approving petitions to add property to the Noland Road Community Improvement District. **1R**

Recommendations:

Staff recommends approval.

Background:

The Noland Road Community Improvement District was formed by approval of the Petition for Formation of the District through the adoption of Ordinance No. 18400 on December 15, 2014. The District was created to provide reinvestment funds for the redevelopment and revitalization of Noland Road as a business, shopping, dining, office, hospitality destination. The CID provides resources to encourage continued growth, improved aesthetics and quality redevelopment along Noland Road.

Under the first petition, the City of Independence is the owner of property adjacent to the District along Noland Road, and the City petitioned to have this property, together with a lot owned by the Land Trust of Jackson County (which also signed the petition) added to the District area in order to fund certain public improvements on such property using District revenues. The City properties are located on the east side of Noland Road between Truman and Lexington and on the west side of Noland Road between Lexington and Walnut.

The second petition seeks to add approximately 4,500 square feet of privately-owned ground at the southwest corner of I-70 and Noland Road.

Emergency Justification:**Fiscal Impact:****Council Action:**

Department / Contact	Community Development /
---------------------------------	-------------------------

REVIEWERS

Tom Scannell
Jeremy Cover
Zachary Walker
Susanne Holland

ATTACHMENTS:

1. Ordinance Approving Petition to Add Property
2. 1st Petition - Final - Clerk Signoff
3. 2nd Petition - Final - Clerk Signoff

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE APPROVING PETITIONS TO ADD PROPERTY TO
THE NOLAND ROAD COMMUNITY IMPROVEMENT DISTRICT.

WHEREAS, the Noland Road Community Improvement District (the “District”) was formed on December 15, 2014, pursuant to Ordinance No. 18400; and

WHEREAS, property owners adjacent to the District have filed with the City Clerk (the “City Clerk”) petitions for the addition of property to the District pursuant to section 67.1441, RSMo (the “Petitions to Add Property”); and

WHEREAS, the City Clerk verified that the Petitions to Add Property substantially comply with sections 67.1401 to 67.1571, RSMo, as amended (the “CID Act”), submitted the verified Petitions to Add Property to the City Council and set a public hearing with all proper notice being given in accordance with the CID Act or other applicable law; and

WHEREAS, the District has consented to the addition of property as required by Section 67.1441.2, RSMo; and

WHEREAS, none of the signatures of the signers of the Petitions to Add Property were withdrawn within seven days after the Petitions to Add Property were filed with the City Clerk; and

WHEREAS, on September 16, 2024, the City Council held a public hearing at which all persons interested in the Petitions to Add Property were allowed an opportunity to speak; and

WHEREAS, the Petitions to Add Property being fully heard before the City Council, the City now desires to approve the Petitions to Add Property.

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

SECTION 1. The Petitions to Add Property attached hereto as Exhibit A are hereby approved and the District boundaries shall hereafter include the real property described in the Petitions to Add Property.

SECTION 2. City officers and agents are each hereby authorized and directed to take such action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

SECTION 3. All ordinances or resolutions or parts of ordinances or resolutions in conflict with this Ordinance are hereby repealed.

SECTION 4. This Ordinance shall take effect and be in full force as provided by the City Charter.

PASSED THIS _____ DAY OF _____, 2024, BY THE CITY COUNCIL OF THE CITY OF INDEPENDENCE, MISSOURI.

Presiding Officer of the City Council
of the City of Independence, Missouri

ATTEST:

City Clerk

APPROVED AS TO FORM AND LEGALITY:

City Counselor

REVIEWED BY:

City Manager

EXHIBIT A

PETITIONS TO ADD PROPERTY

[See attached]

NOLAND ROAD COMMUNITY IMPROVEMENT DISTRICT

**RESOLUTION APPROVING ADDITION OF ADJACENT PROPERTY TO THE DISTRICT;
AUTHORIZING SUBMISSION OF A PETITION TO CITY OF INDEPENDENCE FOR
APPROVAL; AND OTHER ACTIONS RELATED THERETO**

Adopted June 28, 2018

WHEREAS, by Ordinance No. 18400 ("Creation Ordinance"), adopted on December 15, 2014, and pursuant to the Community Improvement District Act, Sections 67.1401 *et seq.*, RSMo ("Act"), the City Council of Independence, Missouri ("City") approved the Petition to Establish the Noland Road Community Improvement District ("Petition"), thereby creating the Noland Road Community Improvement District ("District") in accordance with the Act; and

WHEREAS, Section 67.1441.2, RSMo, provides that, with the consent of the Board of Directors, real property may be added to the District by ordinance upon receipt of a proper petition and after a public hearing is held by the governing body of the municipality on the addition of the real property in the manner provided in section 67.1431 upon proper notice. For the purposes of adding property to the District, a proper petition is one which meets the requirements of section 67.1421, which requirements shall only apply as to the real property proposed to be added; and

WHEREAS, the District desires to amend the District's boundaries by adding the Adjacent Property legally described on the attached Exhibit A and depicted on the map attached as Exhibit B ("Adjacent Property") and to submit the Petition to Add Property to the Noland Road Community Improvement District to the owner of the Adjacent Property for its approval to amend the District's boundaries to include the Adjacent Property; and

THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS THAT:

1. The Board of Directors approves the amendment of the District's boundaries by adding the Adjacent Property to the District and authorizes submission of the Petition to Add Property to the Noland Road Community Improvement District to the owner of the Adjacent Property for its approval to amend the District's boundaries to include the Adjacent Property as permitted by the Act. The Petition to Add Property to the Noland Road Community Improvement District is approved in substantially the form presented on this date to the Board of Directors, subject to such changes, additions or deletions as may be deemed necessary or desirable by the District's officers, upon the advice of counsel, to carry out the purpose and intent of this Resolution, including adding any such other owner of the Adjacent Property, or any portion thereof, as a petitioner to the Petition to Add Property to the Noland Road Community Improvement District as may be necessary to comply with the Act and in recognition of the conveyance of title to the Adjacent Property following vacation as determined by Missouri law. The District's officers and legal counsel are further authorized to obtain consent of necessary property owners to the filing of the Petition to Add Property to the Noland Road Community Improvement District and the District's officers are authorized to execute an agreement securing such consent in a form acceptable to the District's officers and legal counsel, with execution of the same being conclusive evidence of the approval thereof.

2. The District's officers and legal counsel are authorized to file the Petition to Add Property to the Noland Road Community Improvement District with the City Clerk for approval by the

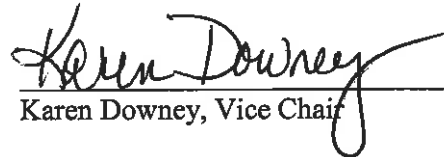
City Council of the City of Independence, Missouri following a public hearing in accordance with the Act.

3. Upon the addition of the Adjacent Property to the District, the Adjacent Property shall be subject to the District projects and sales tax in effect as of the date that the Adjacent Property is added to the District.

4. The appropriate officers are authorized and directed to take all further action necessary to carry out the purpose and intent of this Resolution.

5. This Resolution shall take effect immediately.

APPROVED:


Karen Downey, Vice Chair

ATTEST:

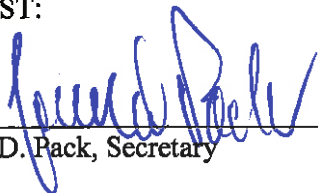

Louis D. Pack, Secretary

EXHIBIT A

BOUNDARY DESCRIPTION AND MAP OF PROPERTY TO BE ADDED TO THE DISTRICT

Tract 1:

26-240-02-10-00-0-00-000

WALDO & NORRIS ADD, BEG NW
COR BLK 1 TH E 560' TH S 190' TH W
10' TH N 10' TH, SWLY ALG NLY LI OF
RR ROW TO PT ON S LI SD BLK 1 TH
W 130', TH N TO POB, (EX PT IN
TRUMAN RD)

Tract 2:

26-240-02-08-00-0-00-000

WALDO & NORRIS ADD, PT LOTS 4, 5
& 6 BLK 4 LY W OF MO PAC RY ROW

Tract 3:

26-240-14-11-00-0-00-000

WALDO & NORRIS ADD, LOTS 4, 5 & 6
& PT LOT 3 BLK 8 NOT IN ROW

Tract 4:

26-240-14-13-00-0-00-000

WALDO & NORRIS ADD, LOTS 7, 8 & 9
BLK 8 (EX PT IN ROW)

Tract 5:

All that part of Dodgion Street right of way from Truman Road on the north to the railroad right of way on the south.

Tract 6:

All that part of Memorial Street right of way from Kansas Street on the north to Walnut Street on the south.

Tract 7:

26-240-13-01-00-0-00-000
or 0.09 acres, more or less.

WALDO & NORRIS ADD, SMALL DIAG
PIECE 20.5' X 12.25' IN NW COR LOT 6
BLK 7

Exhibit B
Map of Adjacent Property



N
1 inch = 200 feet

Exhibit A

PETITION TO THE CITY OF INDEPENDENCE, MISSOURI
TO ADD PROPERTY TO THE
NOLAND ROAD COMMUNITY IMPROVEMENT DISTRICT

**PETITION TO ADD PROPERTY TO THE
NOLAND ROAD COMMUNITY IMPROVEMENT DISTRICT**

To the City Council of the City of Independence, Missouri (the “City”):

The **Noland Road Community Improvement District** (the “District”) was formed by approval of the Petition for Formation of the District (the “Formation Petition”) through the adoption of Ordinance No. 18400 on December 15, 2014, (the “Formation Ordinance”). The City of Independence is the owner of certain property adjacent to the District and respectfully requests this property be added to the District for the mutual benefit of the City and the District. The undersigned, collectively representing:

- (1) the owners collectively owning more than fifty percent by assessed value of the real property that is proposed to be added to the District and
- (2) more than fifty percent per capita of all owners of the real property that is proposed to be added to the District,

do hereby petition and request that the City Council of The City of Independence (the “City”) **add property** to the District pursuant to Sections 67.1441, RSMo, as further described in this Petition.

Section 67.1441.2, RSMo, provides that a proper petition to add property to a community improvement district is one which meets the requirements of Section 67.1421, RSMo, which requirements shall only apply as to the real property proposed to be added to the district. Accordingly, this Petition contains the information required by Section 67.1421 as it relates to the property proposed to be added to the District. The Formation Petition as approved by the Formation Ordinance remains unmodified except as specified in this Petition relating to the property to be added to the District.

- A. Proposed District Name. No change -- see Formation Petition.
- B. Legal Description and Map. A legal description and map of the property to be added to the District (“Additional Property”) are attached hereto as **Exhibit A**. A legal description and map of the District, including the Additional Property added to the District, is attached as **Exhibit B**.
- C. Five Year Plan. No change -- see Formation Petition.
- D. Establishment as Political Subdivision. No change -- see Formation Petition.
- E. Appointment of Directors. No change -- see Formation Petition.
- F. Total Assessed Value. The total assessed value of all real property in the District, including the Additional Property, is \$28,117,408.00. Total assessed value of the Additional Property is \$935,246.00 (2023 AV is \$1,163,424.00). Parcel ownership and assessed value information of the Additional Property is set forth in **Exhibit C**.
- G. Blighted Area Determination. No change -- see Formation Petition.
- H. Term of Existence. No change -- see Formation Petition.

- I. Sales Tax. No change -- see Formation Petition. The sales tax authorized by the Formation Petition and the Formation Ordinance shall apply to the Additional Property.
- J. Real Estate Tax and Business License Tax. No change -- see Formation Petition.
- K. Maximum Special Assessment. No change -- see Formation Petition.
- L. No Borrowing Capacity Limitation. No change -- see Formation Petition.
- M. No Revenue Limitations. No change -- see Formation Petition.
- N. No Power Limitation. No change -- see Formation Petition.
- O. Petitioner Withdrawal Right Notice. **THE SIGNATURE OF THE SIGNER OF THIS PETITION MAY NOT BE WITHDRAWN FROM THIS PETITION LATER THAN SEVEN (7) DAYS AFTER THE FILING HEREOF WITH THE CITY CLERK.**

**EXECUTION PAGE FOR PETITION TO ADD PROPERTY TO THE
NOLAND ROAD COMMUNITY IMPROVEMENT DISTRICT**

Name of owner: City of Independence, Missouri
 Owner's telephone number: (816) 325-7019
 Owner's mailing address: 111 East Maple, Independence, MO 64050

IF SIGNER IS DIFFERENT FROM OWNER:

Name of signer: Zachary Walker
 State basis of legal authority to sign: City Manager, authorized by resolution
 Signer's telephone number: 816-325-7170
 Signer's mailing address: 111 E. Maple, Independence, MO 64050

If owner is an individual: ☐ Single ☐ Married
 If owner is not an individual,
 state what type of entity: ☐ Corporation ☐ General Partnership
☐ Limited Partnership ☐ Limited Liability Company
☐ Partnership ☐ Urban Redevelopment Corporation
☐ Not-for-profit Corporation ☒ Other Municipal Corporation

Map and parcel numbers:

Tract 1	26-240-02-10-00-0-00-000 (Sermon Center)
Tract 2	26-240-02-08-00-0-00-000 (Sermon Center)
Tract 3	26-240-14-11-00-0-00-000 (Hiram Young Park)
Tract 4	26-240-14-13-00-0-00-000 (Hiram Young Park)
Tract 5	All that part of Dodgion Street right of way from Truman Road on the north to the railroad right of way on the south
Tract 6	All that part of Memorial Street right of way from Kansas Street on the north to Walnut Street on the south
Tract 7	26-240-13-01-00-0-00-000 (Vacant tract owned by Land Trust of Jackson County)

(Special Note: All tract numbers listed above represent those parcel taxation identification numbers assigned to those tracts by Jackson County, Missouri and represent those legal descriptions referenced therein, which are incorporated herein by this reference.)

Assessed value: \$ \$935,214.00.

2023 assessed value: \$ \$1,163,008.00.

By executing this petition, the undersigned represents and warrants that he or she is authorized to execute this petition on behalf of the property owner named immediately above.

Date: 6-14-18

Signature: Zachary Walker

STATE OF MISSOURI)
) SS
COUNTY OF Jackson)

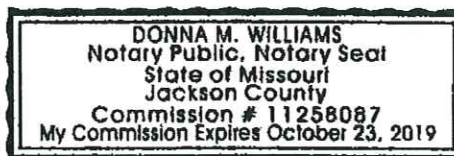
Before me personally appeared Zachary Walker, to me personally known to be the individual described in and who executed the foregoing instrument.

WITNESS my hand and official seal this 14 day of June, 2018.

Donna M. Williams
Notary Public

My Commission Expires:

10/23/2019



**EXECUTION PAGE FOR PETITION TO ADD PROPERTY TO THE
NOLAND ROAD COMMUNITY IMPROVEMENT DISTRICT**

Name of owner: Land Trust of Jackson County
 Owner's telephone number: (816) 221-3366 x 2
 Owner's mailing address: 4035 Central Street, KCMO 64111

IF SIGNER IS DIFFERENT FROM OWNER:

Name of signer: Michael B. Hunter
 State basis of legal authority to sign: Land Commissioner, authorized by Board of Trustees
 Signer's telephone number: 816-221-3366 x 2
 Signer's mailing address: 4035 Central Street, KCMO 64111
 If owner is an individual: ☐ Single ☐ Married
 If owner is not an individual, ☐ Corporation ☐ General Partnership
 state what type of entity: ☐ Limited Partnership ☐ Limited Liability Company
☐ Partnership ☐ Urban Redevelopment Corporation
☐ Not-for-profit Corporation ☒ Other Municipal Corporation

Map and parcel numbers:

Tract 1	26-240-02-10-00-0-00-000 (Sermon Center)
Tract 2	26-240-02-08-00-0-00-000 (Sermon Center)
Tract 3	26-240-14-11-00-0-00-000 (Hiram Young Park)
Tract 4	26-240-14-13-00-0-00-000 (Hiram Young Park)
Tract 5	All that part of Dodgion Street right of way from Truman Road on the north to the railroad right of way on the south
Tract 6	All that part of Memorial Street right of way from Kansas Street on the north to Walnut Street on the south
Tract 7	<u>26-240-13-01-00-0-00-000</u> (Vacant tract owned by Land Trust of Jackson County)

(Special Note: All tract numbers listed above represent those parcel taxation identification numbers assigned to those tracts by Jackson County, Missouri and represent those legal descriptions referenced therein, which are incorporated herein by this reference.)

Assessed value: \$ 32.00.

2023 assessed value: \$ 416.00.

By executing this petition, the undersigned represents and warrants that he ~~or she~~ is authorized to execute this petition on behalf of the property owner named immediately above.

Date: 6-7-18

Signature: Michael B. Hunter
Land Commissioner

STATE OF MISSOURI)
) SS
COUNTY OF JACKSON)

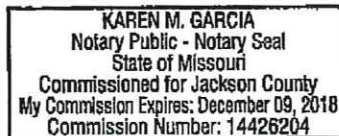
Before me personally appeared Michael B. Hunter, to me personally known to be the individual described in and who executed the foregoing instrument.

WITNESS my hand and official seal this 7 day of June, 2018.

Karen M Garcia
Notary Public

My Commission Expires:

12/9/18



City Clerk Verification

Pursuant to Sections 67.1401 to 67.1571 of the Revised Statutes of Missouri (the "CID Act"), I, the undersigned, City Clerk of the City of Independence, Missouri, state the following:

1. A petition to add property to the Noland Road Community Improvement District was filed with the City Clerk on 8-21-2024
2. I have reviewed the petition and have determined on 8-28-2024, which does not exceed ninety days after receipt of the petition, that the petition substantially complies with the requirements of Section 67.1421.2 and Section 67.1441 of the CID Act.
3. On 8-28-2024, 2024, I delivered the verified petition to the City Council.

(SEAL)

Date 8-28, 2024

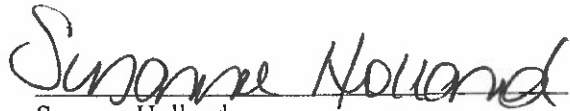

Susanne Holland
City Clerk, City of Independence, Missouri



EXHIBIT A
BOUNDARY DESCRIPTION AND MAP OF PROPERTY TO BE ADDED TO THE DISTRICT

Tract 1:

26-240-02-10-00-0-00-000

WALDO & NORRIS ADD, BEG NW
COR BLK 1 TH E 560' TH S 190' TH W
10' TH N 10' TH, SWLY ALG NLY LI OF
RR ROW TO PT ON S LI SD BLK 1 TH
W 130', TH N TO POB, (EX PT IN
TRUMAN RD)

Tract 2:

26-240-02-08-00-0-00-000

WALDO & NORRIS ADD, PT LOTS 4, 5
& 6 BLK 4 LY W OF MO PAC RY ROW

Tract 3:

26-240-14-11-00-0-00-000

WALDO & NORRIS ADD, LOTS 4, 5 & 6
& PT LOT 3 BLK 8 NOT IN ROW

Tract 4:

26-240-14-13-00-0-00-000

WALDO & NORRIS ADD, LOTS 7, 8 & 9
BLK 8 (EX PT IN ROW)

Tract 5:

All that part of Dodgion Street right of way from Truman Road on the north to the railroad right of way on the south.

Tract 6:

All that part of Memorial Street right of way from Kansas Street on the north to Walnut Street on the south.

Tract 7:

26-240-13-01-00-0-00-000

WALDO & NORRIS ADD, SMALL DIAG
PIECE 20.5' X 12.25' IN NW COR LOT
6 BLK 7



N
1 inch = 200 feet

Exhibit A

EXHIBIT B
BOUNDARY DESCRIPTION AND MAP OF COMMUNITY IMPROVEMENT DISTRICT

All that part of Sections 2, 11, 14, 23 and 26, Township 49 North, Range 32 West, in the City of Independence, Missouri, described as follows:

Beginning at the northwest corner of Lot 19-A, Clarendon Place-Replat A, said point being on the easterly right of way line of Noland Road; thence easterly along the north line of said Lot 19-A to the northeast corner thereof; thence southerly along the east line of said Lot 19-A and its southerly extension thereof to the south right of way line of 23rd Street; thence easterly, along said right of way line to a point 10 feet east of the east line of Lot 1, Block 1, Walnut Place; thence southerly, parallel with and 10 feet east of the east line of Lots 1, 8, 9 and 12, of said Block 1 to a point 10 feet east of the southeast corner of said Lot 12; thence westerly, along the south line of said Lot 12, and its extensions thereof to a point on the east line of the west half a vacated alley lying east of and adjacent to Lots 14, 15, 18 and 19, of said Block 1; thence southerly along the east line of said vacated alley to the north right of way line of E. Fair Street; thence westerly, along said right of way line to the east right of way line of Noland Road; thence southerly to a point on the westerly extension of the north line of Lot 6, Block 9 of said Walnut Place, said point being on the east right of way line of Noland Road; thence easterly to the northeast corner of the west 100.75 feet of said Lot 6; thence southerly to the southeast corner of the west 100.75 feet of said Lot 6; thence easterly along the south line of said Lot 6 to the southeast corner thereof; thence southerly, along the east line of Lots 6, 7, 10, 11 and 14, of said Block 9 and the east line of Lots 1 thru 5, Gudgell Park to the southeast corner of said Lot 5; thence southerly to the northeast corner of Lot 6 of said Gudgell Park; thence southerly, along the east line of Lots 6 thru 15 of said Gudgell Park, to the southeast corner of said Lot 15; thence southerly to the northeast corner of Lot 16 of said Gudgell Park; thence southerly, along the east line of Lots 16 thru 23 of said Gudgell Park to the southeast corner of said Lot 23; thence westerly, along the south line of said Lot 23 to the northwest corner of the east 50 feet of Lots 24 and 25 of said Gudgell Park; thence southerly, along the west line of said Lots 24 and 25 to the south line of said Lot 25; thence southerly to the northeast corner of Lot 1, WF Grube's Subdivision; thence southerly, along the east line of Lots 1 and 2 of said WF Grube's Subdivision to the southeast corner of said Lot 2; thence easterly to the northeast corner of the south 55 feet of Lot 20 of said WF Grube's Subdivision; thence southerly, along the east line of Lots 2, 4, 5 and 6 of said WF Grube's Subdivision to the north line of Lot 2 of Andes and Roberts Addition; thence westerly, along the north line of said Lot 2 to the northwest corner thereof; thence southerly, along the west line of Lots 2 and 3 of said Andes and Roberts Addition to the southwest corner of said Lot 3; thence easterly, along the south line of said Lot 3 to the northeast corner of the west 75 feet of Lots 12 and 13 of WF Grube's Subdivision; thence southerly, along the east line of the west 75 feet of said Lots 12 and 13 to the south line of said Lot 12; thence easterly to the northwest corner of Lot 50 of Andes and Roberts Addition; thence southerly, along the west line of Lots 50 thru 59 of said Andes and Roberts Addition to the southwest corner of said Lot 59; thence southwesterly to the northeast corner of Lot 4 of Bellevista Heights; thence southerly, along the east line of said Lot 4 to the southeast corner thereof; thence southerly to the intersection of the southerly right of way line of E. Bellevista Drive and the westerly right of way line of S. High Street; thence southerly along the westerly right of way line of said S. High Street to its intersection with the northerly right of way line of E. Partridge Avenue; thence southwesterly, perpendicular to the said northerly right of way line of E. Partridge Avenue to the southerly right of way line of E. Partridge Avenue; thence northwesterly, along said southerly right of way line to the northwest corner of a tract of land described and recorded in Document 2003I0059991; thence southerly, along the west line of said tract to the north right of way line of the Gulf, Mobile & Ohio Railroad; thence westerly, along said north right of way line to the east right of way line of Noland Road; thence southerly, along the east right of way line of said Noland Road to the south right of way line of the Gulf, Mobile & Ohio Railroad; thence easterly, along said south right of way line, to a point on the north line of the southeast quarter of said Section 14, said point being 104.42 feet east of the northeast corner of Lot 1, Dodgion Business Center;

thence westerly, along the north line of the southeast quarter of said Section 14 to the northeast corner of said Lot 1; thence southeasterly, along the north line of said Lot 1 to the southeast corner thereof; thence westerly, along the south line of said Lot 1, to the westerly right of way line of S. Dodgion Avenue; thence southerly, along the westerly right of way line of said S. Dodgion Avenue to the north right of way line of E. 32nd Street; thence southeasterly to the northeast corner of Lot 1 of Herald House; thence southerly to the southeast corner thereof; thence westerly, along the south line of said Lot 1 to a point that is 292 feet east of the east right of way line of Noland Road; thence southerly 334.3 feet; thence westerly 292 feet to the east right of way of Noland Road; thence southerly, along the east right of way of said Noland Road to the north line of a tract of land described and recorded in Document 1966I0884635; thence easterly, along said north line to the northeast corner thereof; thence southerly, along the east line thereof to the north right of way line of 35th Street; thence southwesterly to the southerly right of way line of 35th Street, said point being on the west line of Lot 3 of Schowengerdt Farm; thence southerly, along the west line of said Lot 3 to the southwest corner thereof; thence easterly, along the south line of said Lot 3 to the northwest corner of Lot 149 of Stewart Heights; thence southerly, along the west line of Lots 149 thru 140 of said Stewart Heights to the north right of way line of 37th Street; thence westerly, along said north right of way line, to the northerly extension of the east line of Lot 1, Edgevale; thence southerly, along said extension and the east line of Lots 1 thru 8 of said Edgevale to the southeast corner of said Lot 8, said point being also the northwest corner of Lot 27 of said Edgevale; thence easterly, along the north line of said Lot 27 to the northeast corner of the west 50 feet of Lots 26 and 27 of said Edgevale; thence southerly, along the east line thereof to the north right of way line of 39th Street; thence southeasterly to the southerly right of way line of 39th Street, said point being on the west line of Lot 29 of Woodridge; thence southerly, along the west line of Lots 29 thru 34 of said Woodridge to the southwest corner of said Lot 34; thence easterly, along the south line of Lots 34 and Lots 28 thru 19 of said Woodridge to the west line of Lot 37 of Brookwood #2; thence southerly, along the west line of Lots 37 thru 38 and 64 thru 72 of said Brookwood #2 to the most southerly corner of said Lot 72; thence southerly to the south right of way line of U.S. Interstate 70, said point being the northwest corner of Lot 17 of Hidden Creek Office Park 4th Plat; thence westerly, along the south right of way line of said U.S. Interstate 70 to the east right of way line of Noland Road; thence southerly, along the east right of way line of said Noland Road to the north right of way line of E. 42nd Street; thence easterly, along the north right of way line of E. 42nd Street to the southwest corner of Lot 17 of Hidden Creek Office Park 4th Plat; thence southwesterly to the southerly right of way line of E. 42nd Street, said point being on the east line of Lot 14 of South Noland Heights; thence southerly, along the east line thereof to the southeast corner thereof; thence westerly, along the south line of Lots 14, 13 and 10 of said South Noland Heights to the northwest corner of Lot 9 of Resurvey of Tract "A" of Tomasha Village; thence southerly, along the west line of Lots 9 and 8 of said Resurvey of Tract "A" of Tomasha Village to the southwest corner of said Lot 8; thence westerly to the northwest corner of the north 100 feet of the south 440 feet of the east 120 feet of Tract "A" of Tomasha Village; thence southerly to the southeast corner thereof; thence westerly to the northwest corner of the north 100 feet of the south 340 feet of the east 150 feet of said Tract "A"; thence westerly to the easterly right of way line of Noland Road; thence southerly, along said easterly right of way line to the south line of Tract "C" of said Tomasha Village; thence easterly, along said south line to the northeast corner of a tract of land described and recorded in Document 1997I0000321 said point being 300 feet east of the southwest corner of said Tract "C"; thence southerly, along the east line of said tract and its southerly extension thereof to the north line of Lot 1 of Independence Plaza; thence easterly, along the north line of Lots 1 and 4 of said Independence Plaza to the northeast corner of said Lot 4, said point being on the east line of a tract of land described and recorded in Document 1967I0905794; thence northerly, along said east line to the south line of Lot 70 of Tomasha Village; thence southeasterly, along the south line of Lots 70 thru 75 of said Tomasha Village to the northeast corner of a tract of land described and recorded in Document 2001E0087248; thence southerly along the east line of said tract to the southerly Independence City limits line; thence westerly, along said City limits line to the northwest corner of Lot 2 of Independence Plaza; thence southerly, along the west line of said Lot 2 to the northerly right of way line of U.S. Highway No. 40; thence southerly, to the southerly right of way line of U.S. Highway No. 40, said point being on the northwesterly line of Lot 5 of the Amended Plat of Hawthorne

Square; thence southerly and westerly along the northwesterly line of said Lot 5 to the east right of way line of Noland Road; thence westerly to the westerly right of way line of Noland Road, said point being on the southerly Independence City limits line; thence westerly, along the said City limits line to the west line of Tract 5 of Plaza 40 Shopping Center Phase 2; thence northeasterly, along the west line of said Tract 5, to the southerly right of way line of U.S. Highway No. 40; thence northerly to the intersection of the northerly right of way line of U.S. Highway No. 40 and the easterly right of way line of Washington Avenue; thence easterly along the northerly right of way line of U.S. Highway No. 40 to westerly right of way line of Noland Road; thence northerly along the westerly right of way of Noland Road to the easterly extension of the south line of Lot 58, Holiday Hills; thence westerly to the southeast corner of Lot 58 of said Holiday Hills; thence northerly, along the east line of Lots 58, 47, 46, 35, 34, 28 and 27 of said Holiday Hills and their northerly extension thereof to the north right of way line of 43rd Street; thence easterly, along said right of way line to the east line of Lot 1 of Holiday Hills; thence northerly, along said east line, to the south line of Tract 6 of Byron Les Commercial Subdivision; thence easterly, along the said south line to the east line thereof; thence northerly, along the said east line and its northerly extension thereof to the north right of way line of 42nd Street Terrace; thence easterly, along the said north right of way line to the southeasterly line of Lot 2 of RAJ-Prashant Subdivision; thence northerly and easterly, along said southeasterly line to the west right of way line of Noland Road; thence northerly, along said west right of way line to the north line of said Lot 2; thence northwesterly, along said north line to the southeast corner of Lot 1 of said RAJ-Prashant Subdivision; thence northerly, along the east line of said Lot 1 to the northeast corner thereof, said point being the northwest corner of a tract of land described and recorded in Document 1990I0969754; thence easterly, along the north line of said tract to the westerly right of way line of Noland Road; thence northerly, along said westerly right of way line to the southerly right of way line of U.S. Interstate 70; thence westerly along the southerly right of way line of U.S. Interstate 70 to the northwest corner of Lot 2A Les Byron Commercial Subdivision, thence northerly, perpendicular to the south right of way line of U.S. Interstate 70 to the north right of way line of U.S. Interstate 70; thence easterly, along the north right of way line of U.S. Interstate 70 to the westerly right of way line of Noland Road; thence northerly, along the westerly right of way line of Noland Road to a point 178.36 feet south of the northeast corner of Lot 4, Reich Commercial Subdivision; thence southwestwardly along the east line of said Lot 4 to the south line of a tract of land described and recorded as Tract 1 in Document 2007E0115714; thence northwesterly, along said south line to the west line of said Lot 4; thence northerly, along said west line to the southerly right of way line of Lynn Court Drive; thence westerly, along the said southerly right of way to the south line of Lot 1 of said Reich Commercial Subdivision; thence westerly, along said south line to the west line of said Lot 1; thence northerly, along the said west line to the northwest corner of said Lot 1, said point being the southwest corner of Lot 5 of Old Town Park; thence northerly, along the west line of Lots 5 thru 1 of said Old Town Park and their northerly extension thereof to the northerly right of way line of 39th Street; thence easterly, along said northerly right of way line to the intersection of the easterly right of way line of Lynn Street; thence northerly, along said easterly right of way line and the east line of Lot 164 of Hall Manor to the south line of Lot 2 of Noland Road View; thence easterly, along said south line to the west line of the east 387 feet of Lots 1 and 2 of said Noland View; thence northerly, along said west line to the north line of said Lot 1; thence easterly, along said north line to the east line of the west 30 feet of Lots 3 and 4 of Mann Addition; thence northerly, along said east line to the south line of Lot 2 of said Mann Addition; thence westerly, along said south line to the west line of said Lot 2; thence northerly, along said west line to the southwest corner of Lot 1 of said Mann Addition; thence westerly, along the westerly extension of the south line of said Lot 1 to a point 93 feet westerly thereof; thence northerly, parallel to the west line of said Lot 1 to the south line of Lot 5 of A & E Addition; thence easterly, along the south line of said Lot 5 to the west line of the east 410 feet of said Lot 5; thence northerly, along said west line to the southeast corner of Lot 9 of A & E Addition; thence northerly, along the east line of said Lot 9 to the southerly right of way line of Noland Court; thence northwesterly along the southerly right of way line of Noland Court to the south line of Lot 10 of A & E Addition; thence westerly, along said south line to the west line of said Lot 10; thence northeasterly, along the west line of Lots 10, 17 and 18 of said A & E Addition to the northwest corner of said Lot 18, said point being the southwest corner of Lot 2 of Noland Road at 35th Street

Addition; thence northeasterly, along the west line of Lot 2 and 1 of said Noland Road at 35th Street Addition to the northwest corner of said Lot 1; thence westerly to the most southerly corner of Lot 1 of Oscar Schowengerdt Addition; thence northerly, along the west line of said Lot 1 to the southerly right of way line of 35th Street; thence westerly, along said southerly right of way line to a point on the southerly extension of the east right of way line of Weatherford Road; thence northerly, along said southerly extension to the southwest corner of Lot 2 of Cargo Largo, said point being on the easterly right of way line of Weatherford road; thence northerly, along the said easterly right of way line to the south line of a tract of land described and recorded as Tract 1 in Document 2011E0007465; thence easterly, along the south line thereof to the southeast corner thereof; thence northerly, along the east line thereof to the north line of Lot 1 of said Cargo Largo; easterly, along the north line of said Lot 1 and the south line of Lot 2 of Mico Addition to the southeast corner of said Lot 2; thence northerly, along the east line of said Lot 2 to the southerly right of way line of 31st Street; thence easterly, along said southerly right of way line to the westerly right of way line of Union Pacific Railroad; thence northerly, along said westerly right of way line to the southeast corner of Lot 11 of South Osage Acres, said point being on the northerly right of way line of Osage Street; thence northeasterly to the intersection of the easterly right of way line of Union Pacific Railroad and the westerly right of way line of Noland Road; thence northwesterly, along the easterly right of way of the Union Pacific Railroad to the south line of Lot 115 of Martha's Vineyard, said point being on the south line of vacated Francis Street; thence easterly, along the north line of said Lot 115 to the southerly extension of the west line of Lots 61 thru 67 of said Martha's Vineyard; thence northerly, along said west line to the south line of said Lot 64; thence westerly to the west line of the east half of a vacated alley lying west of and adjacent to said Lots 64 thru 62; thence northerly, along the said west line to the westerly extension of the north line of said Lot 62; thence easterly to the northwest corner of said Lot 62; thence northerly to the northwest corner of the south 48 feet of said Lot 61; thence easterly, along the north line of the south 48 feet of said Lot 61 and the north line of vacated Main Street to the easterly right of way line of said Main Street; thence northerly, along said easterly right of way line to the north line of Lot 50 of said Martha's Vineyard; thence easterly, along said north line to the east line thereof; thence northerly, along the east line of Lots 50 thru 54 of said Martha's Vineyard to the south line of Lot 1, Block 5 of Hawthorne Place; thence westerly, along said south line to a point 65 feet east of the southwest corner of said Lot 1; thence northerly to the southwest corner of Lot 7, Block 5 of said Hawthorne Place; thence northeasterly, along the south line of Lots 7 and 6 to the southeast corner of said Lot 6; thence northwesterly, along the east line of said Lot 6 to the southeasterly right of way line of Southside Boulevard; thence northerly to the northwesterly right of way line of Southside Boulevard, said point being on the southwesterly line of Lot 6 of Millard's Second Addition; thence northeasterly, along the said northwesterly right of way line to the south line of Lot 8, Block 1 of Hawthorne Place; thence northwesterly, along the south line of said Lot 8 to the west line thereof; thence northerly, along the west line of Lots 8 thru 3, Block 1 of said Hawthorne Place to the northwest corner of Lot 3, Block 1 of said Hawthorne Place; thence easterly, along the north line of said Lot 3 to the east line of the west 52 feet of Lots 1 and 2, Block 1 of said Hawthorne Place; thence northerly, along said west line to the south right of way line of 23rd Street; thence northerly to the north right of way line of 23rd Street, said point being on the west line of the east 149.05 feet of Lots 14 thru 16, Block 5 of Clarendon Place; thence northerly along said west line to the north line of said Lot 14; thence easterly, along the north line of said Lot 14 to the westerly right of way line of Noland Road; thence northerly along said westerly right of way line and its northerly extension thereof to the centerline of Truman Road; thence easterly along the centerline of Truman Road to the northerly extension of the easterly right of way line of Noland Road; thence southerly, along the easterly right of way line of Noland Road to the northwest corner of Lot 19-A, Clarendon Place-Replat A and the Point of Beginning.

Plus, the following property added to the District:

Tract 1:

26-240-02-10-00-0-00-000

WALDO & NORRIS ADD, BEG NW
COR BLK 1 TH E 560' TH S 190' TH W
10' TH N 10' TH, SWLY ALG NLY LI OF
RR ROW TO PT ON S LI SD BLK 1 TH
W 130', TH N TO POB, (EX PT IN
TRUMAN RD)

Tract 2:

26-240-02-08-00-0-00-000

WALDO & NORRIS ADD, PT LOTS 4, 5
& 6 BLK 4 LY W OF MO PAC RY ROW

Tract 3:

26-240-14-11-00-0-00-000

WALDO & NORRIS ADD, LOTS 4, 5 & 6
& PT LOT 3 BLK 8 NOT IN ROW

Tract 4:

26-240-14-13-00-0-00-000

WALDO & NORRIS ADD, LOTS 7, 8 & 9
BLK 8 (EX PT IN ROW)

Tract 5:

All that part of Dodgion Street right of way from Truman Road on the north to the railroad right of way on the south.

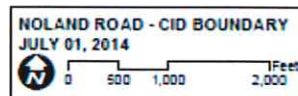
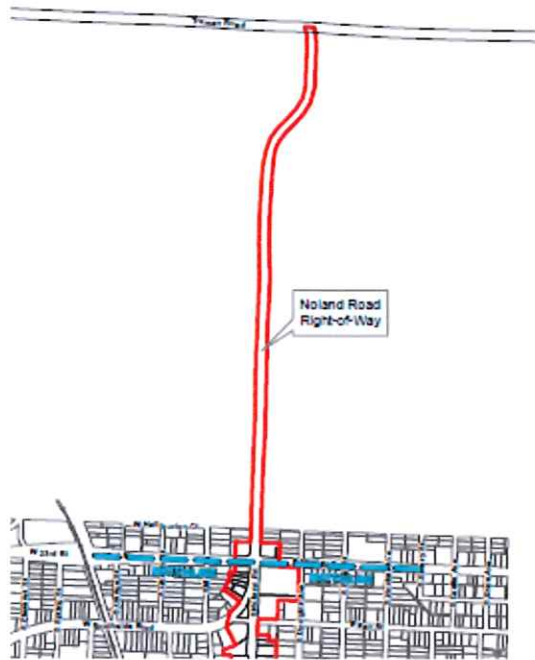
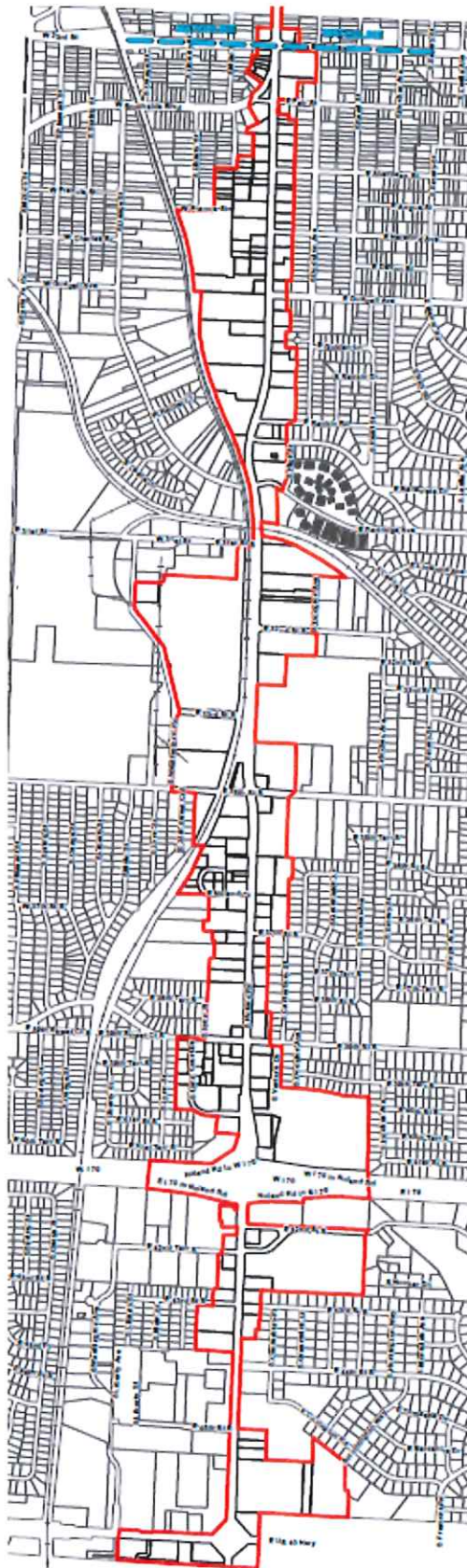
Tract 6:

All that part of Memorial Street right of way from Kansas Street on the north to Walnut Street on the south.

Tract 7:

26-240-13-01-00-0-00-000

WALDO & NORRIS ADD, SMALL DIAG
PIECE 20.5' X 12.25' IN NW COR LOT
6 BLK 7





N
1 inch = 200 feet

Exhibit A

EXHIBIT C
PROPERTY OWNERSHIP AND ASSESSED VALUE OF ADDITIONAL PROPERTY

All Property Owned by the City of Independence, MO		Assessed Value	2023 Assessed Value
Tract 1:	301 East Truman Road (Sermon Center) Independence MO 64050	\$792,028.00	\$956,576.00
Tract 2:	300 East Lexington Road (Sermon Center) Independence MO 64050	\$13,268.00	\$ 19,200.00
Tract 3:	104 South Noland Road (Hiram Young Park) Independence MO 64050	\$85,322.00	\$ 122,816.00
Tract 4:	110 S. Noland Road (Hiram Young Park) Independence MO 64050	\$44,596.00	\$ 64,416.00
Tract 5:	All that Part of Dodgion Street right of way from Truman Road on the north to railroad right of way on the south	\$0.00	\$0.00
Tract 6:	All that part of Memorial Street right of way from Kansas Street on the north to Walnut Street on the south	\$0.00	\$0.00
Tract 7:	No address for small tract bounded by Lexington Street, railroad right of way, Dodgion Street and Noland Road, formerly owned by Land Trust of Jackson Co, MO	\$32.00	\$416.00
Total Assessed Value		\$935,246.00	\$1,163,424.00

EXCERPT OF MINUTES OF MEETING

The Board of Directors, the governing body of the Noland Road Community Improvement District, met on July 20, 2023, at 3:00 p.m., at District's offices, 4315 S. Noland Road, Independence, Missouri, and by telephone. The following officials were present or absent as indicated:

	<u>Present/Absent</u>
Karen Downey, Director, Chairperson	Present
Charlie Franklin, Director	Present (phone)
Ken McClain, Director, Secretary/Asst. Treasurer	Present
Carlos Ledezma, Director, Treasurer/Asst. Secretary	Absent
Gerry Winship, Executive Director (non-director)	Present

A quorum was present and called the meeting to order.

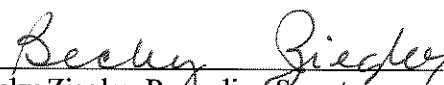
(Other Proceedings)

The matter of authorizing the acquisition and annexation of approximately 10 yards of real property was considered and discussed as set forth below:

Ken commented on rendering of proposed landscaping for the area along the SW ramp (in front of Five Guys and Quality Inn). There is a small strip of land (roughly 10 yards) owned by the hotel and is not in the District's boundaries. It is Counsel's opinion the District should annex this tiny parcel through petition filing. Upon discussion and motion by Charlie Franklin and second by Ken McClain, the Board authorized and directed Counsel to take steps necessary for annexing this parcel into the District.

(Other Proceedings)

There being no other business at this time, upon motion duly made, seconded and carried, the meeting thereupon was adjourned.


Becky Ziegler, Recording Secretary

SECOND PETITION TO THE CITY OF INDEPENDENCE, MISSOURI
TO ADD PROPERTY TO THE
NOLAND ROAD COMMUNITY IMPROVEMENT DISTRICT

SECOND PETITION TO ADD PROPERTY TO THE NOLAND ROAD COMMUNITY IMPROVEMENT DISTRICT

To the City Council of the City of Independence, Missouri ("City"):

The **Noland Road Community Improvement District** ("District") was formed by approval of the Petition for Formation of the District ("Formation Petition") through the adoption of Ordinance No. 18400 on December 15, 2014 ("Formation Ordinance"). The City previously signed a petition ("First Amendment Petition") to add property owned by the City to the District, which property is legally described on Page B-5 attached to this Petition and is shown on the map attached to this Petition on Page B-7 ("First Amendment Petition Property"). The First Amendment Petition, however, was not presented to the City Clerk for approval by the City Council. The District intends to submit the First Amendment Petition and this Petition to the City Clerk for approval by the City Council in the same ordinance. This Petition assumes that the First Amendment Petition Property will be added to the District contemporaneously with the Additional Property (as defined below). The Formation Petition, the Formation Ordinance, and the First Amendment Petition are collectively referred to as the "Formation Documents".

Desai Prashant & RAJ Trust ("Property Owner") is the owner of certain property adjacent to District and respectfully requests this property be added to the District for the mutual benefit of the Property Owner and District. The undersigned, collectively representing:

- (1) the owners collectively owning more than fifty percent by assessed value of the real property that is proposed to be added to the District; and
- (2) more than fifty percent per capita of all owners of the real property that is proposed to be added to the District,

do hereby petition and request that the City add property to the District pursuant to Sections 67.1441, RSMo, as further described in this Petition.

Section 67.1441.2, RSMo, provides that a proper petition to add property to a community improvement district is one which meets the requirements of Section 67.1421, RSMo, which requirements shall only apply as to the real property proposed to be added to the district. Accordingly, this Petition contains the information required by Section 67.1421 as it relates to the property proposed to be added to the District. The Formation Documents remain unmodified except as specified in this Petition relating to the property to be added to the District.

- A. Proposed District Name. No change – see Formation Petition.
- B. Legal Description and Map. A legal description and map of the property to be added to the District ("Additional Property") are attached hereto as **Exhibit A**. A legal description and map of the District, including the Additional Property added to the District by this Petition, is attached as **Exhibit B**.
- C. Five Year Plan. No change – see Formation Documents.
- D. Establishment as Political Subdivision. No change – see Formation Documents.

- E. Appointment of Directors. No change – see Formation Documents.
- F. Total Assessed Value. The estimated total assessed value of Additional Property is \$15,862.00. Parcel ownership and assessed value information of the Additional Property is set forth in Exhibit C.
- G. Blighted Area Determination. No change – see Formation Documents.
- H. Term of Existence. No change – see Formation Documents.
- I. Sales Tax. No change – see Formation Petition. Sales tax authorized by Formation Petition and Formation Ordinance shall apply to the Additional Property.
- J. Real Estate Tax and Business License Tax. No change – see Formation Documents.
- K. Maximum Special Assessment. No change – see Formation Documents.
- L. No Borrowing Capacity Limitation. No change – see Formation Documents.
- M. No Revenue Limitations. No change – see Formation Documents.
- N. No Power Limitation. No change – see Formation Documents.
- O. Petitioner Withdrawal Right Notice. **THE SIGNATURE OF THE SIGNER OF THIS PETITION MAY NOT BE WITHDRAWN FROM THIS PETITION LATER THAN SEVEN (7) DAYS AFTER THE FILING HEREOF WITH THE CITY CLERK.**

**EXECUTION PAGE FOR SECOND PETITION TO ADD PROPERTY TO THE
NOLAND ROAD COMMUNITY IMPROVEMENT DISTRICT**

Name of owner: Revocable Living Trust of Prashant Desai and RAJ
Bhikhubhai J. Bhakta, Trustee

Owner's telephone number: _____

Owner's mailing address: 4142 S. Noland Road, Independence MO 64055

IF SIGNER IS DIFFERENT FROM OWNER:

Name of signer: Paul Desai

State basis of legal authority to sign: _____

Signer's telephone number: 816-305-6056

Signer's mailing address: 2310 Wible Rd, Balcones Hills
CA- 93304

If owner is an individual: ☐ Single ☒ Married
If owner is not an individual, state what type of entity: ☐ Corporation ☐ General Partnership
☐ Limited Partnership ☐ Limited Liability Company
☐ Partnership ☐ Urban Redevelopment
Corporation
☐ Not-for-profit Corporation ☒ Other TRUST

Parcel Numbers: part of parcel # 33-230-10-21-00-0-00-000

(Special Note: All tract numbers listed above represent those parcel taxation identification numbers assigned to those tracts by Jackson County, Missouri and represent those legal descriptions referenced therein, which are incorporated herein by this reference.)

Assessed value: \$15,862.00 (estimated based on the pro rata square footage of the Additional Property compared to the square footage of the entire parcel)

By executing this petition, the undersigned represents and warrants that he or she is authorized to execute this petition on behalf of the property owner named immediately above.

Date: May 22nd, 2024 Signature: [Signature]

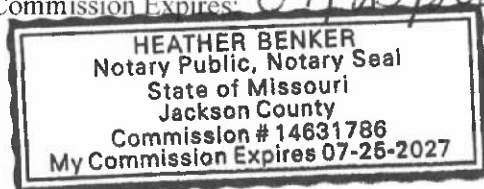
STATE OF MISSOURI)
COUNTY OF Jackson) SS

Before me personally appeared Paul Desai, to me personally known to be the individual described in and who executed the foregoing instrument.

WITNESS my hand and official seal this 22nd day of May, 2024.

[Signature]
Notary Public

My Commission Expires: 07/25/2027



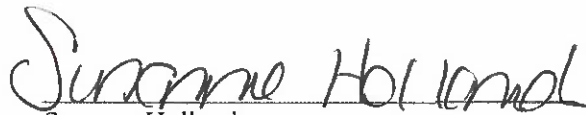
City Clerk Verification

Pursuant to Sections 67.1401 to 67.1571 of the Revised Statutes of Missouri (the "CID Act"), I, the undersigned, City Clerk of the City of Independence, Missouri, state the following:

1. A petition to add property to the Noland Road Community Improvement District was filed with the City Clerk on 8-21-2024
2. I have reviewed the petition and have determined on 8-28-2024, which does not exceed ninety days after receipt of the petition, that the petition substantially complies with the requirements of Section 67.1421.2 and Section 67.1441 of the CID Act.
3. On 8-28-2024, 2024, I delivered the verified petition to the City Council.

(SEAL)

Date 8-28, 2024



Susanne Holland
City Clerk, City of Independence, Missouri



EXHIBIT A
BOUNDARY DESCRIPTION AND MAP OF PROPERTY TO BE ADDED TO THE DISTRICT

Boone 4142
017-22200-400-400001
August 30, 2023

Property Description

Part of Lot 1A, RAJ-PRASHANT – Replat A, Lots 1A & 2A, a subdivision of land in the Southwest Quarter of Section 23, Township 49 North, Range 32 West of the 5th Principal Meridian in City of Independence, Jackson County, Missouri being bounded and described by or under the direct supervision of Jeffrey P. Means P.L.S. 2000147866, for the purpose of a Landscape Annexation Area as follows: Beginning at the northeast corner of said Lot 1A, also being the southwest intersection point of Noland Road and U.S. Interstate Highway Route 70; thence South 01°21'40" East, on the westerly right-of-way line of said Noland Road, 41.80 feet; thence leaving said westerly right-of-way line, South 88°38'20" West, 21.00 feet; thence North 01°21'40" West, 35.00 feet; thence North 89°28'48" West, 150.08 feet; thence North 80°20'18" West, 11.21 feet; thence North 01°21'40" West, 33.14 feet to a point on the southerly right-of-way line of said U.S. Interstate Highway Route 70; thence on said southerly right-of-way line, South 80°57'29" East, 185.04 feet to the Point of Beginning. Containing 4,578 square feet or 0.11 acres, more or less.

Landscape Area



EXHIBIT B
BOUNDARY DESCRIPTION AND MAP OF COMMUNITY IMPROVEMENT DISTRICT

All that part of Sections 2, 11, 14, 23 and 26, Township 49 North, Range 32 West, in the City of Independence, Missouri, described as follows:

Beginning at the northwest corner of Lot 19-A, Clarendon Place-Replat A, said point being on the easterly right of way line of Noland Road; thence easterly along the north line of said Lot 19-A to the northeast corner thereof; thence southerly along the east line of said Lot 19-A and its southerly extension thereof to the south right of way line of 23rd Street; thence easterly, along said right of way line to a point 10 feet east of the east line of Lot 1, Block 1, Walnut Place; thence southerly, parallel with and 10 feet east of the east line of Lots 1, 8, 9 and 12, of said Block 1 to a point 10 feet east of the southeast corner of said Lot 12; thence westerly, along the south line of said Lot 12, and its extensions thereof to a point on the east line of the west half a vacated alley lying east of and adjacent to Lots 14, 15, 18 and 19, of said Block 1; thence southerly along the east line of said vacated alley to the north right of way line of E. Fair Street; thence westerly, along said right of way line to the east right of way line of Noland Road; thence southerly to a point on the westerly extension of the north line of Lot 6, Block 9 of said Walnut Place, said point being on the east right of way line of Noland Road; thence easterly to the northeast corner of the west 100.75 feet of said Lot 6; thence southerly to the southeast corner of the west 100.75 feet of said Lot 6; thence easterly along the south line of said Lot 6 to the southeast corner thereof; thence southerly, along the east line of Lots 6, 7, 10, 11 and 14, of said Block 9 and the east line of Lots 1 thru 5, Gudgell Park to the southeast corner of said Lot 5; thence southerly to the northeast corner of Lot 6 of said Gudgell Park; thence southerly, along the east line of Lots 6 thru 15 of said Gudgell Park, to the southeast corner of said Lot 15; thence southerly to the northeast corner of Lot 16 of said Gudgell Park; thence southerly, along the east line of Lots 16 thru 23 of said Gudgell Park to the southeast corner of said Lot 23; thence westerly, along the south line of said Lot 23 to the northwest corner of the east 50 feet of Lots 24 and 25 of said Gudgell Park; thence southerly, along the west line of said Lots 24 and 25 to the south line of said Lot 25; thence southerly to the northeast corner of Lot 1, WF Grube's Subdivision; thence southerly, along the east line of Lots 1 and 2 of said WF Grube's Subdivision to the southeast corner of said Lot 2; thence easterly to the northeast corner of the south 55 feet of Lot 20 of said WF Grube's Subdivision; thence southerly, along the east line of Lots 2, 4, 5 and 6 of said WF Grube's Subdivision to the north line of Lot 2 of Andes and Roberts Addition; thence westerly, along the north line of said Lot 2 to the northwest corner thereof; thence southerly, along the west line of Lots 2 and 3 of said Andes and Roberts Addition to the southwest corner of said Lot 3; thence easterly, along the south line of said Lot 3 to the northeast corner of the west 75 feet of Lots 12 and 13 of WF Grube's Subdivision; thence southerly, along the east line of the west 75 feet of said Lots 12 and 13 to the south line of said Lot 12; thence easterly to the northwest corner of Lot 50 of Andes and Roberts Addition; thence southerly, along the west line of Lots 50 thru 59 of said Andes and Roberts Addition to the southwest corner of said Lot 59; thence southwesterly to the northeast corner of Lot 4 of Bellevista Heights; thence southerly, along the east line of said Lot 4 to the southeast corner thereof; thence southerly to the intersection of the southerly right of way line of E. Bellevista Drive and the westerly right of way line of S. High Street; thence southerly along the westerly right of way line of said S. High Street to its intersection with the northerly right of way line of E. Partridge Avenue; thence southwesterly, perpendicular to the said northerly right of way line of E. Partridge Avenue to the southerly right of way line of E. Partridge Avenue; thence northwesterly, along said southerly right of way line to the northwest corner of a tract of land described and recorded in Document 200310059991; thence southerly, along the west line of said tract to the north right of way line of the Gulf, Mobile & Ohio Railroad; thence westerly, along said north right of way line to the east right of way line of Noland Road; thence southerly, along the east right of way line of said Noland Road to the south right of way line of the Gulf, Mobile & Ohio Railroad; thence easterly, along said south right of way line, to a point on the north line of the southeast quarter of said Section 14, said point being 104.42 feet east of the northeast corner of Lot 1, Dodgion Business Center;

thence westerly, along the north line of the southeast quarter of said Section 14 to the northeast corner of said Lot 1; thence southeasterly, along the north line of said Lot 1 to the southeast corner thereof; thence westerly, along the south line of said Lot 1, to the westerly right of way line of S. Dodgion Avenue; thence southerly, along the westerly right of way line of said S. Dodgion Avenue to the north right of way line of E. 32nd Street; thence southeasterly to the northeast corner of Lot 1 of Herald House; thence southerly to the southeast corner thereof; thence westerly, along the south line of said Lot 1 to a point that is 292 feet east of the east right of way line of Noland Road; thence southerly 334.3 feet; thence westerly 292 feet to the east right of way of Noland Road; thence southerly, along the east right of way of said Noland Road to the north line of a tract of land described and recorded in Document 1966I0884635; thence easterly, along said north line to the northeast corner thereof; thence southerly, along the east line thereof to the north right of way line of 35th Street; thence southwesterly to the southerly right of way line of 35th Street, said point being on the west line of Lot 3 of Schowengerdt Farm; thence southerly, along the west line of said Lot 3 to the southwest corner thereof; thence easterly, along the south line of said Lot 3 to the northwest corner of Lot 149 of Stewart Heights; thence southerly, along the west line of Lots 149 thru 140 of said Stewart Heights to the north right of way line of 37th Street; thence westerly, along said north right of way line, to the northerly extension of the east line of Lot 1, Edgevale; thence southerly, along said extension and the east line of Lots 1 thru 8 of said Edgevale to the southeast corner of said Lot 8, said point being also the northwest corner of Lot 27 of said Edgevale; thence easterly, along the north line of said Lot 27 to the northeast corner of the west 50 feet of Lots 26 and 27 of said Edgevale; thence southerly, along the east line thereof to the north right of way line of 39th Street; thence southeasterly to the southerly right of way line of 39th Street, said point being on the west line of Lot 29 of Woodridge; thence southerly, along the west line of Lots 29 thru 34 of said Woodridge to the southwest corner of said Lot 34; thence easterly, along the south line of Lots 34 and Lots 28 thru 19 of said Woodridge to the west line of Lot 37 of Brookwood #2; thence southerly, along the west line of Lots 37 thru 38 and 64 thru 72 of said Brookwood #2 to the most southerly corner of said Lot 72; thence southerly to the south right of way line of U.S. Interstate 70, said point being the northwest corner of Lot 17 of Hidden Creek Office Park 4th Plat; thence westerly, along the south right of way line of said U.S. Interstate 70 to the east right of way line of Noland Road; thence southerly, along the east right of way line of said Noland Road to the north right of way line of E. 42nd Street; thence easterly, along the north right of way line of E. 42nd Street to the southwest corner of Lot 17 of Hidden Creek Office Park 4th Plat; thence southwesterly to the southerly right of way line of E. 42nd Street, said point being on the east line of Lot 14 of South Noland Heights; thence southerly, along the east line thereof to the southeast corner thereof; thence westerly, along the south line of Lots 14, 13 and 10 of said South Noland Heights to the northwest corner of Lot 9 of Resurvey of Tract "A" of Tomasha Village; thence southerly, along the west line of Lots 9 and 8 of said Resurvey of Tract "A" of Tomasha Village to the southwest corner of said Lot 8; thence westerly to the northwest corner of the north 100 feet of the south 440 feet of the east 120 feet of Tract "A" of Tomasha Village; thence southerly to the southeast corner thereof; thence westerly to the northwest corner of the north 100 feet of the south 340 feet of the east 150 feet of said Tract "A"; thence westerly to the easterly right of way line of Noland Road; thence southerly, along said easterly right of way line to the south line of Tract "C" of said Tomasha Village; thence easterly, along said south line to the northeast corner of a tract of land described and recorded in Document 1997I0000321 said point being 300 feet east of the southwest corner of said Tract "C"; thence southerly, along the east line of said tract and its southerly extension thereof to the north line of Lot 1 of Independence Plaza; thence easterly, along the north line of Lots 1 and 4 of said Independence Plaza to the northeast corner of said Lot 4, said point being on the east line of a tract of land described and recorded in Document 1967I0905794; thence northerly, along said east line to the south line of Lot 70 of Tomasha Village; thence southeasterly, along the south line of Lots 70 thru 75 of said Tomasha Village to the northeast corner of a tract of land described and recorded in Document 2001E0087248; thence southerly along the east line of said tract to the southerly Independence City limits line; thence westerly, along said City limits line to the northwest corner of Lot 2 of Independence Plaza; thence southerly, along the west line of said Lot 2 to the northerly right of way line of U.S. Highway No. 40; thence southerly, to the southerly right of way line of U.S. Highway No. 40, said point being on the northwesterly line of Lot 5 of the Amended Plat of Hawthorne

Square; thence southerly and westerly along the northwesterly line of said Lot 5 to the east right of way line of Noland Road; thence westerly to the westerly right of way line of Noland Road, said point being on the southerly Independence City limits line; thence westerly, along the said City limits line to the west line of Tract 5 of Plaza 40 Shopping Center Phase 2; thence northeasterly, along the west line of said Tract 5, to the southerly right of way line of U.S. Highway No. 40; thence northerly to the intersection of the northerly right of way line of U.S. Highway No. 40 and the easterly right of way line of Washington Avenue; thence easterly along the northerly right of way line of U.S. Highway No. 40 to westerly right of way line of Noland Road; thence northerly along the westerly right of way of Noland Road to the easterly extension of the south line of Lot 58, Holiday Hills; thence westerly to the southeast corner of Lot 58 of said Holiday Hills; thence northerly, along the east line of Lots 58, 47, 46, 35, 34, 28 and 27 of said Holiday Hills and their northerly extension thereof to the north right of way line of 43rd Street; thence easterly, along said right of way line to the east line of Lot 1 of Holiday Hills; thence northerly, along said east line, to the south line of Tract 6 of Byron Les Commercial Subdivision; thence easterly, along the said south line to the east line thereof; thence northerly, along the said east line and its northerly extension thereof to the north right of way line of 42nd Street Terrace; thence easterly, along the said north right of way line to the southeasterly line of Lot 2 of RAJ-Prashant Subdivision; thence northerly and easterly, along said southeasterly line to the west right of way line of Noland Road; thence northerly, along said west right of way line to the north line of said Lot 2; thence northwesterly, along said north line to the southeast corner of Lot 1 of said RAJ-Prashant Subdivision; thence northerly, along the east line of said Lot 1 to the northeast corner thereof, said point being the northwest corner of a tract of land described and recorded in Document 1990I0969754; thence easterly, along the north line of said tract to the westerly right of way line of Noland Road; thence northerly, along said westerly right of way line to the southerly right of way line of U.S. Interstate 70; thence westerly along the southerly right of way line of U.S. Interstate 70 to the northwest corner of Lot 2A Les Byron Commercial Subdivision, thence northerly, perpendicular to the south right of way line of U.S. Interstate 70 to the north right of way line of U.S. Interstate 70; thence easterly, along the north right of way line of U.S. Interstate 70 to the westerly right of way line of Noland Road; thence northerly, along the westerly right of way line of Noland Road to a point 178.36 feet south of the northeast corner of Lot 4, Reich Commercial Subdivision; thence southwesterly along the east line of said Lot 4 to the south line of a tract of land described and recorded as Tract 1 in Document 2007E0115714; thence northwesterly, along said south line to the west line of said Lot 4; thence northerly, along said west line to the southerly right of way line of Lynn Court Drive; thence westerly, along the said southerly right of way to the south line of Lot 1 of said Reich Commercial Subdivision; thence westerly, along said south line to the west line of said Lot 1; thence northerly, along the said west line to the northwest corner of said Lot 1, said point being the southwest corner of Lot 5 of Old Town Park; thence northerly, along the west line of Lots 5 thru 1 of said Old Town Park and their northerly extension thereof to the northerly right of way line of 39th Street; thence easterly, along said northerly right of way line to the intersection of the easterly right of way line of Lynn Street; thence northerly, along said easterly right of way line and the east line of Lot 164 of Hall Manor to the south line of Lot 2 of Noland Road View; thence easterly, along said south line to the west line of the east 387 feet of Lots 1 and 2 of said Noland View; thence northerly, along said west line to the north line of said Lot 1; thence easterly, along said north line to the east line of the west 30 feet of Lots 3 and 4 of Mann Addition; thence northerly, along said east line to the south line of Lot 2 of said Mann Addition; thence westerly, along said south line to the west line of said Lot 2; thence northerly, along said west line to the southwest corner of Lot 1 of said Mann Addition; thence westerly, along the westerly extension of the south line of said Lot 1 to a point 93 feet westerly thereof; thence northerly, parallel to the west line of said Lot 1 to the south line of Lot 5 of A & E Addition; thence easterly, along the south line of said Lot 5 to the west line of the east 410 feet of said Lot 5; thence northerly, along said west line to the southeast corner of Lot 9 of A & E Addition; thence northerly, along the east line of said Lot 9 to the southerly right of way line of Noland Court; thence northwesterly along the southerly right of way line of Noland Court to the south line of Lot 10 of A & E Addition; thence westerly, along said south line to the west line of said Lot 10; thence northeasterly, along the west line of Lots 10, 17 and 18 of said A & E Addition to the northwest corner of said Lot 18, said point being the southwest corner of Lot 2 of Noland Road at 35th Street

Addition; thence northeasterly, along the west line of Lot 2 and 1 of said Noland Road at 35th Street Addition to the northwest corner of said Lot 1; thence westerly to the most southerly corner of Lot 1 of Oscar Schowengerdt Addition; thence northerly, along the west line of said Lot 1 to the southerly right of way line of 35th Street; thence westerly, along said southerly right of way line to a point on the southerly extension of the east right of way line of Weatherford Road; thence northerly, along said southerly extension to the southwest corner of Lot 2 of Cargo Largo, said point being on the easterly right of way line of Weatherford road; thence northerly, along the said easterly right of way line to the south line of a tract of land described and recorded as Tract 1 in Document 2011E0007465; thence easterly, along the south line thereof to the southeast corner thereof; thence northerly, along the east line thereof to the north line of Lot 1 of said Cargo Largo; easterly, along the north line of said Lot 1 and the south line of Lot 2 of Mico Addition to the southeast corner of said Lot 2; thence northerly, along the east line of said Lot 2 to the southerly right of way line of 31st Street; thence easterly, along said southerly right of way line to the westerly right of way line of Union Pacific Railroad; thence northerly, along said westerly right of way line to the southeast corner of Lot 11 of South Osage Acres, said point being on the northerly right of way line of Osage Street; thence northeasterly to the intersection of the easterly right of way line of Union Pacific Railroad and the westerly right of way line of Noland Road; thence northwesterly, along the easterly right of way of the Union Pacific Railroad to the south line of Lot 115 of Martha's Vineyard, said point being on the south line of vacated Francis Street; thence easterly, along the north line of said Lot 115 to the southerly extension of the west line of Lots 61 thru 67 of said Martha's Vineyard; thence northerly, along said west line to the south line of said Lot 64; thence westerly to the west line of the east half of a vacated alley lying west of and adjacent to said Lots 64 thru 62; thence northerly, along the said west line to the westerly extension of the north line of said Lot 62; thence easterly to the northwest corner of said Lot 62; thence northerly to the northwest corner of the south 48 feet of said Lot 61; thence easterly, along the north line of the south 48 feet of said Lot 61 and the north line of vacated Main Street to the easterly right of way line of said Main Street; thence northerly, along said easterly right of way line to the north line of Lot 50 of said Martha's Vineyard; thence easterly, along said north line to the east line thereof; thence northerly, along the east line of Lots 50 thru 54 of said Martha's Vineyard to the south line of Lot 1, Block 5 of Hawthorne Place; thence westerly, along said south line to a point 65 feet east of the southwest corner of said Lot 1; thence northerly to the southwest corner of Lot 7, Block 5 of said Hawthorne Place; thence northeasterly, along the south line of Lots 7 and 6 to the southeast corner of said Lot 6; thence northwesterly, along the east line of said Lot 6 to the southeasterly right of way line of Southside Boulevard; thence northerly to the northwesterly right of way line of Southside Boulevard, said point being on the southwesterly line of Lot 6 of Millard's Second Addition; thence northeasterly, along the said northwesterly right of way line to the south line of Lot 8, Block 1 of Hawthorne Place; thence northwesterly, along the south line of said Lot 8 to the west line thereof; thence northerly, along the west line of Lots 8 thru 3, Block 1 of said Hawthorne Place to the northwest corner of Lot 3, Block 1 of said Hawthorne Place; thence easterly, along the north line of said Lot 3 to the east line of the west 52 feet of Lots 1 and 2, Block 1 of said Hawthorne Place; thence northerly, along said west line to the south right of way line of 23rd Street; thence northerly to the north right of way line of 23rd Street, said point being on the west line of the east 149.05 feet of Lots 14 thru 16, Block 5 of Clarendon Place; thence northerly along said west line to the north line of said Lot 14; thence easterly, along the north line of said Lot 14 to the westerly right of way line of Noland Road; thence northerly along said westerly right of way line and its northerly extension thereof to the centerline of Truman Road; thence easterly along the centerline of Truman Road to the northerly extension of the easterly right of way line of Noland Road; thence southerly, along the easterly right of way line of Noland Road to the northwest corner of Lot 19-A, Clarendon Place-Replat A and the Point of Beginning.

Plus, the following property added to the District:

Tract 1:

26-240-02-10-00-0-00-000

WALDO & NORRIS ADD, BEG NW
COR BLK 1 TH E 560' TH S 190' TH W
10' TH N 10' TH, SWLY ALG NLY LI OF
RR ROW TO PT ON S LI SD BLK 1 TH
W 130', TH N TO POB, (EX PT IN
TRUMAN RD)

Tract 2:

26-240-02-08-00-0-00-000

WALDO & NORRIS ADD, PT LOTS 4, 5
& 6 BLK 4 LY W OF MO PAC RY ROW

Tract 3:

26-240-14-11-00-0-00-000

WALDO & NORRIS ADD, LOTS 4, 5 & 6
& PT LOT 3 BLK 8 NOT IN ROW

Tract 4:

26-240-14-13-00-0-00-000

WALDO & NORRIS ADD, LOTS 7, 8 & 9
BLK 8 (EX PT IN ROW)

Tract 5:

All that part of Dodgion Street right of way from Truman Road on the north to the railroad right of way on the south.

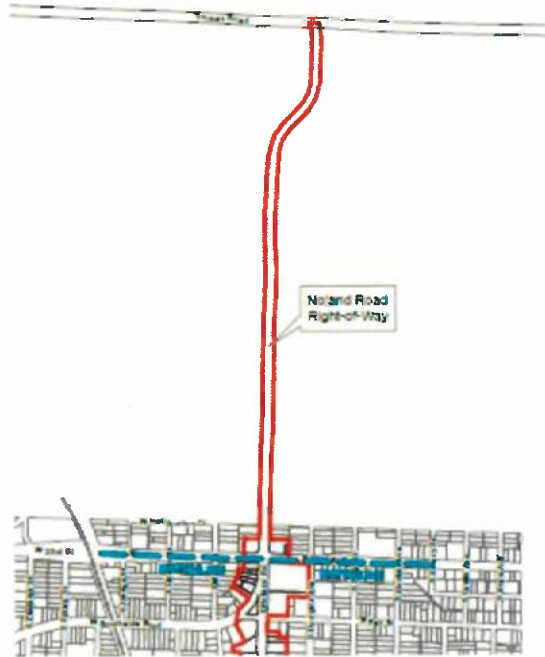
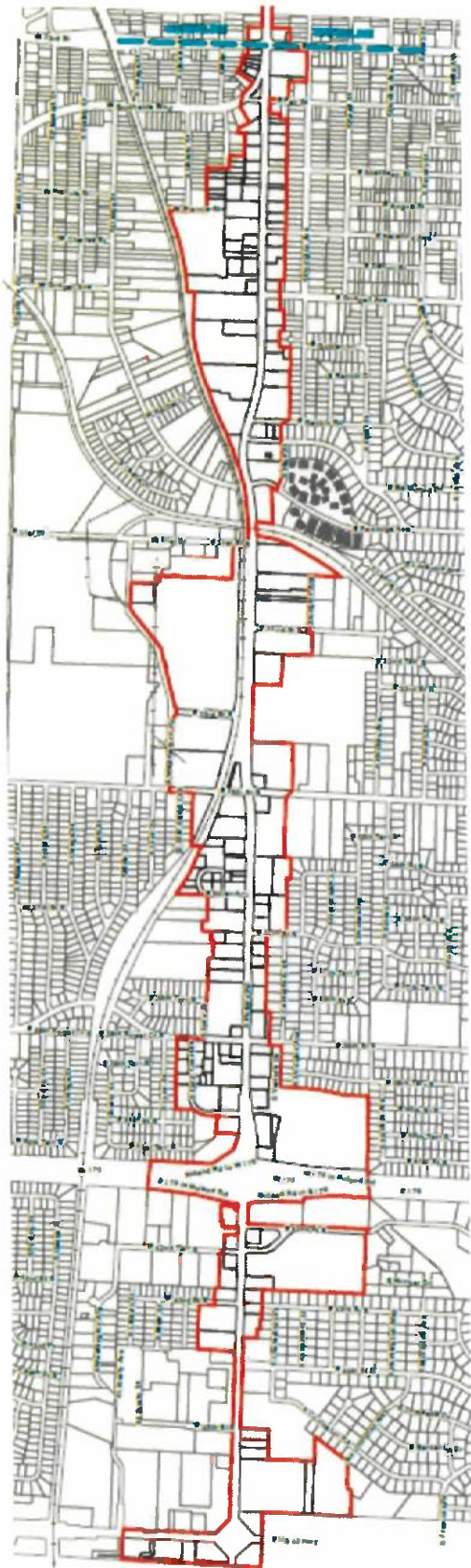
Tract 6:

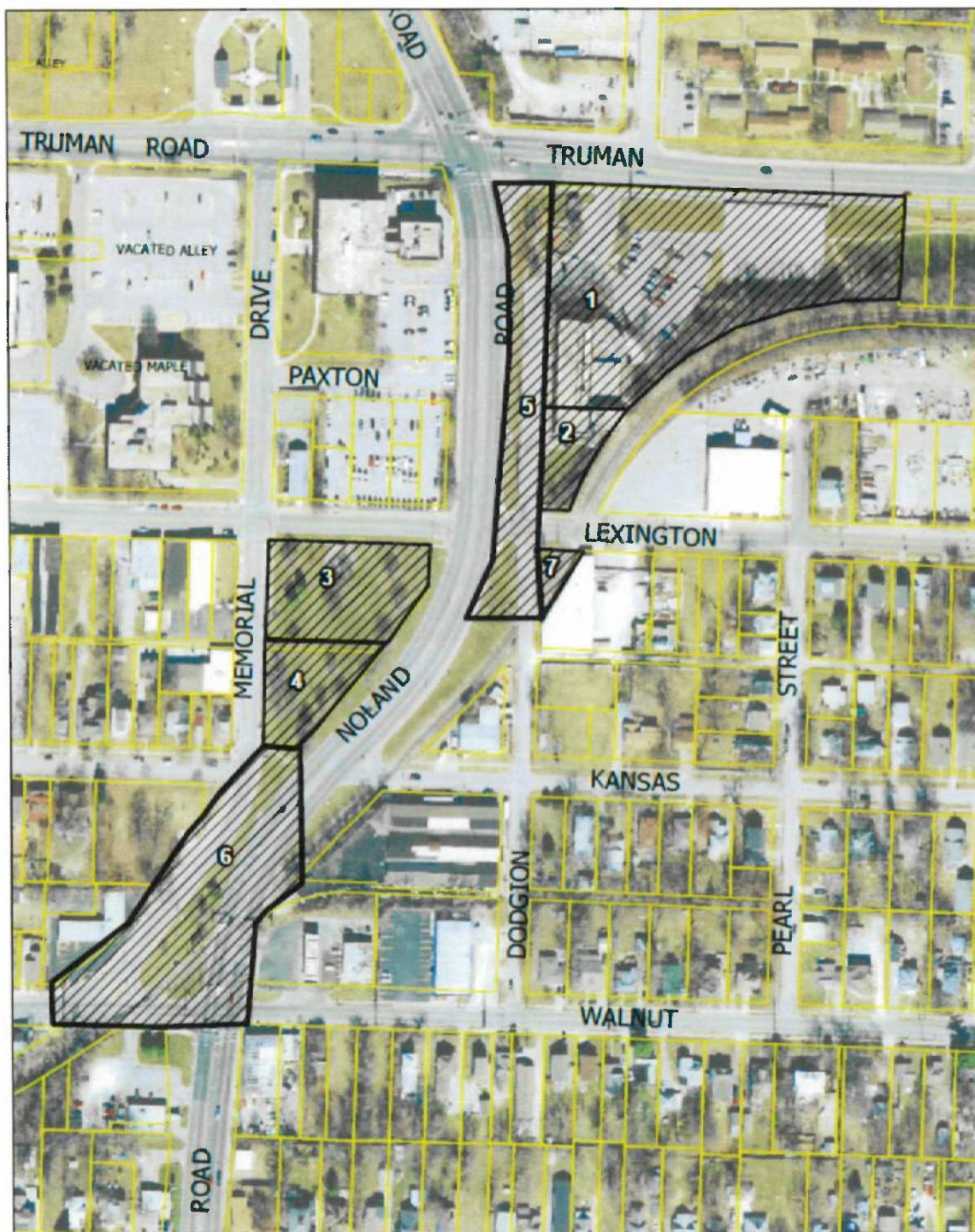
All that part of Memorial Street right of way from Kansas Street on the north to Walnut Street on the south.

Tract 7:

26-240-13-01-00-0-00-000

WALDO & NORRIS ADD, SMALL DIAG
PIECE 20.5' X 12.25' IN NW COR LOT
6 BLK 7





N
1 inch = 200 feet

Exhibit A

EXHIBIT C
PROPERTY OWNERSHIP AND ASSESSED VALUE OF ADDITIONAL PROPERTY

All Property Owned by Desai Prashant & RAJ Trust		Assessed Value
	Portion of 4142 S Noland Rd Independence MO	\$15,862
	Total Assessed Value	\$15,862

City of Independence

AGENDA ITEM COVER SHEET

Agenda Title:

24-093 **1R** An ordinance vacating an existing general utility easement, electric easement, and sanitary sewer easement, all part of 18785 E 39th Street South lying in, on, and across tracts 4&5, of Independence Center a subdivision in Independence, Jackson County, Missouri. **1R**

Recommendations:

Council approval is recommended.

Background:

City Staff have been approached by the owners of the business located at 18785 E 39th Street South requesting the vacation of a general utility easement, electric easement, and sanitary sewer easement. These vacations are necessary for the business to remodel and build a new addition. City Staff have reviewed the requested vacations and are recommending approval of this ordinance.

Emergency Justification:**Fiscal Impact:**

There is no fiscal impact to the City.

Council Action:

Department / Contact	Municipal Services /
---------------------------------	----------------------

REVIEWERS

Lisa Reynolds
Jeremy Cover
Zachary Walker
Susanne Holland

ATTACHMENTS:

1. CHICK-FIL-A VACATION ORDINANCE
2. 2308201_BK I295-1170 EASEMENT VACATION 18785 E 39th Street South Independence MO SIGNED

3. 2308201_PB I-31 PG 17 EASEMENT VACATION 18785 E 39th Street South Independence MO SIGNED
4. 2308201_SANITARY EASEMENT VACATION 18785 E 39th Street South Independence MO SIGNED

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE VACATING AN EXISTING GENERAL UTILITY EASEMENT, ELECTRIC EASEMENT, AND SANITARY SEWER EASEMENT, ALL PART OF 18785 E 39th STREET SOUTH LYING IN, ON, AND ACROSS TRACTS 4 & 5, OF INDEPENDENCE CENTER A SUBDIVISION IN INDEPENDENCE, JACKSON COUNTY, MISSOURI.

WHEREAS the General Utility Easement was recorded in 2008 by instrument number #2008E0070525 of the Jackson County, Missouri Deed Records; and,

WHEREAS the Electric Easement was recorded in 1996 in book #2951 on page #1170

WHEREAS the Sanitary Sewer Easement was dedicated via plat in 1974 in book #134 page #17

WHEREAS the vacation of the easements will support additional development of the property; and,

WHEREAS, the City has received a request for vacation from the property owner.

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

SECTION 1. That the City Council of the City of Independence, Missouri does hereby vacate the Unconstructed Right-Of-Way, Recorded in Book 11940, Page 845 in its entirety and described as follows:

DESCRIPTION OF GENERAL UTILITY EASEMENT TO BE VACATED

BEING PART OF LOTS 4 AND 5 OF INDEPENDENCE CENTER, PART OF THE SOUTH HALF OF SECTION 20, TOWNSHIP 49 NORTH, RANGE 31 WEST, JACKSON COUNTY MISSOURI, SAID PLAT BEING RECORDED IN BOOK 134, PAGE 17, IN THE JACKSON COUNTY, MISSOURI RECORDS AND BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 4; THENCE ALONG THE NORTH LINE OF SAID LOT 4, SOUTH 87 DEGREES 49 MINUTES 48 SECONDS EAST, A DISTANCE OF 64.51 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID NORTH LINE OF LOT 4 AND THE NORTH LINE OF SAID LOT 5, SOUTH 87 DEGREES 49 MINUTES 48 SECONDS EAST, A DISTANCE OF 10.85 FEET; THENCE SOUTH 20 DEGREES 36 MINUTES 01 SECONDS EAST, A DISTANCE OF 85.75 FEET; THENCE SOUTH 69 DEGREES 23 MINUTES 59 SECONDS WEST, A DISTANCE OF 10.00 FEET; THENCE NORTH 20 DEGREES 36 MINUTES 01 SECONDS WEST, A DISTANCE OF 89.95 FEET TO THE POINT OF BEGINNING, CONTAINING 878 SQUARE FEET OR 0.02 ACRES, MORE OR LESS.

DESCRIPTION OF THE ELECTRIC EASEMENT TO BE VACATED

BEING AN EASEMENT CONVEYED IN BOOK 12951 PAGE 1170 AND PART OF LOT 5 OF INDEPENDENCE CENTER, PART OF THE SOUTH HALF OF SECTION 20, TOWNSHIP 49 NORTH, RANGE 31 WEST, JACKSON COUNTY MISSOURI, SAID PLAT BEING RECORDED IN BOOK 134, PAGE 17, IN THE JACKSON COUNTY, MISSOURI RECORDS AND BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF LOT 4 OF SAID SUBDIVISION; THENCE ALONG THE NORTH LINE OF SAID LOT 4 AND LOT 5, SOUTH 87 DEGREES 49 MINUTES 48 SECONDS EAST, A DISTANCE OF 73.04 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID NORTH LINE OF LOT 5, SOUTH 87 DEGREES 49 MINUTES 48 SECONDS EAST, A DISTANCE OF 18.09 FEET; THENCE SOUTH 54 DEGREES 16 MINUTES 49 SECONDS EAST, A DISTANCE OF 70.15 FEET; THENCE SOUTH 02 DEGREES 08 MINUTES 39 SECONDS WEST, A DISTANCE OF 14.68 FEET; THENCE NORTH 87 DEGREES 51 MINUTES 21 SECONDS WEST, A DISTANCE OF 10.00 FEET; THENCE NORTH 02 DEGREES 08 MINUTES 39 SECONDS EAST, A DISTANCE OF 9.32 FEET; THENCE NORTH 54 DEGREES

16 MINUTES 49 SECONDS WEST, A DISTANCE OF 79.87 FEET TO THE POINT OF BEGINNING, CONTAINING 870 SQUARE FEET OR 0.02 ACRES, MORE OR LESS.

DESCRIPTION OF THE SANITARY SEWER EASEMENT TO BE VACATED

BEING PART OF LOT 4 OF INDEPENDENCE CENTER, PART OF THE SOUTH HALF OF SECTION 20, TOWNSHIP 49 NORTH, RANGE 31 WEST, JACKSON COUNTY MISSOURI, SAID PLAT BEING RECORDED IN BOOK 134, PAGE 17, IN THE JACKSON COUNTY, MISSOURI RECORDS AND BEING DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 4; THENCE ALONG THE WEST LINE OF SAID LOT 4, NORTH 02 DEGREES 10 MINUTES 12 SECONDS EAST, A DISTANCE OF 15.00 FEET; THENCE SOUTH 87 DEGREES 49 MINUTES 48 SECONDS EAST, A DISTANCE OF 69.93 FEET TO THE EAST LINE OF SAID LOT 4; THENCE ALONG SAID EAST LINE, SOUTH 02 DEGREES 10 MINUTES 12 SECONDS WEST, A DISTANCE OF 15.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 4; THENCE ALONG THE SOUTH LINE OF SAID LOT 4 NORTH 87 DEGREES 49 MINUTES 48 SECONDS WEST, A DISTANCE OF 69.93 FEET TO THE POINT OF BEGINNING, CONTAINING 1,049 SQUARE FEET OR 0.02 A GRES, MORE OR LESS.

SECTION 2. That the Municipal Services Department is directed to file for record a certified copy of this ordinance in the Office of the Division of Property Records, in and for the County of Jackson, State of Missouri, at Independence.

PASSED THIS _____ DAY OF _____, 2021, BY THE CITY COUNCIL OF THE CITY OF INDEPENDENCE, MISSOURI.

ATTEST:

City Clerk

Presiding Officer of the City Council
of the City of Independence, Missouri

APPROVED - FORM AND LEGALITY:

City Counselor

REVIEWED BY:

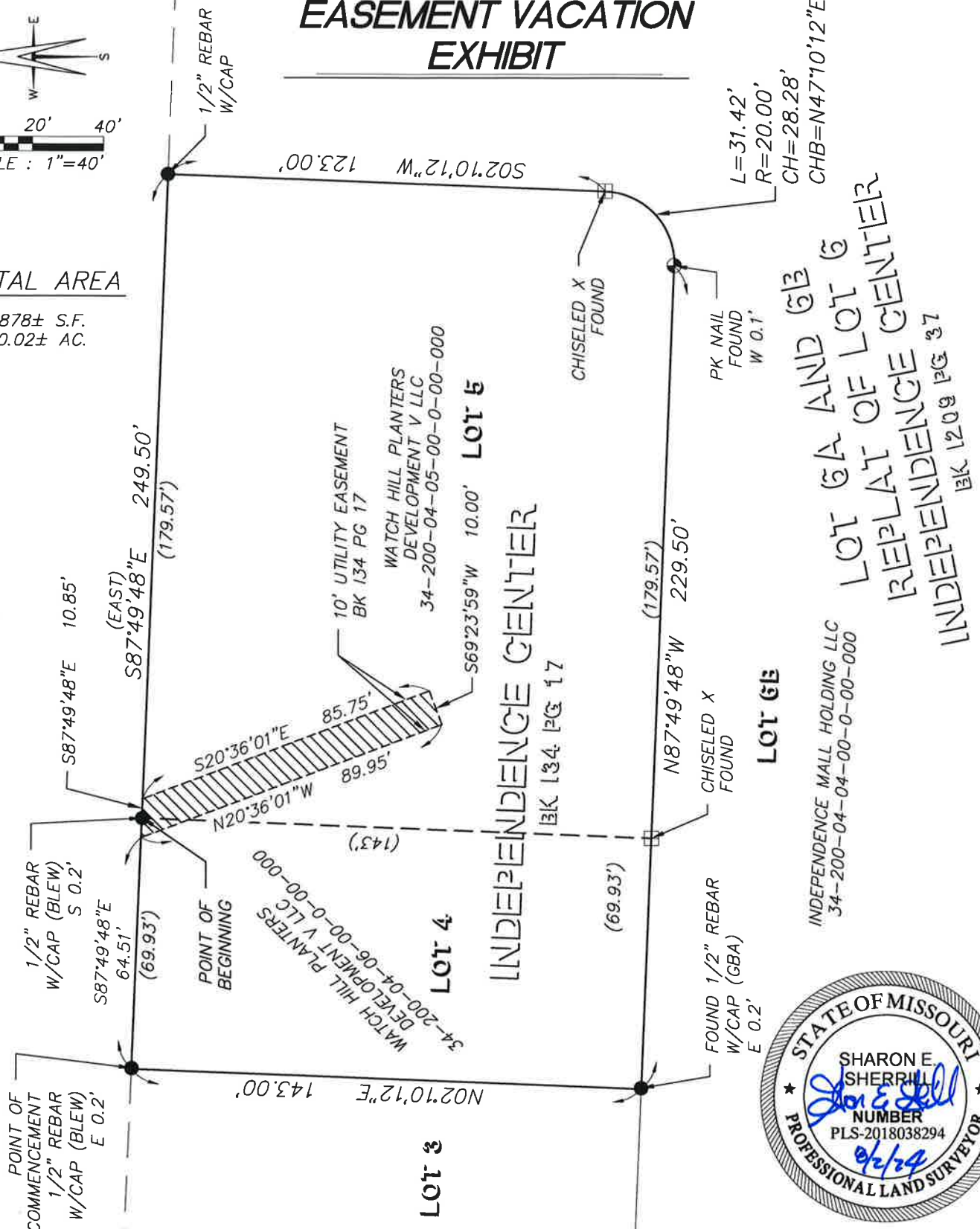
City Manager

Director of Finance and Administration
City of Independence, Missouri

Page 335 of 383

878± S.F.
0.02± AC.

E 39TH STREET (100'w)
(ASPHALT)(PUBLIC)(79'± PAVEMENT WIDTH)



STATE OF MISSOURI

SHARON E. SHERRILL

NUMBER

PLS-2018038294

PROFESSIONAL LAND SURVEYOR

02/24

Surveyors – Engineers – Planners

316 Main Street
Edwardsville, IL 62025

FAX (618) 656-9251
(618) 656-9496



ILLINOIS DESIGN FIRM #184-001238

[illegible]

DISCLAIMER OF RESPONSIBILITY

I hereby specify that the documents intended to be authenticated by my seal are limited to this sheet, and I hereby disclaim any responsibility for all other Drawings, Specifications, Estimates, Reports or other Documents or instruments relating to or intended to be used for any part or parts of the engineering project or survey.

SHEET 1 OF 2

EASEMENT VACATION DESCRIPTION

BEING PART OF LOTS 4 AND 5 OF INDEPENDENCE CENTER, PART OF THE SOUTH HALF OF SECTION 20, TOWNSHIP 49 NORTH, RANGE 31 WEST, JACKSON COUNTY MISSOURI, SAID PLAT BEING RECORDED IN BOOK 134, PAGE 17, IN THE JACKSON COUNTY, MISSOURI RECORDS AND BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 4; THENCE ALONG THE NORTH LINE OF SAID LOT 4, SOUTH 87 DEGREES 49 MINUTES 48 SECONDS EAST, A DISTANCE OF 64.51 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID NORTH LINE OF LOT 4 AND THE NORTH LINE OF SAID LOT 5, SOUTH 87 DEGREES 49 MINUTES 48 SECONDS EAST, A DISTANCE OF 10.85 FEET; THENCE SOUTH 20 DEGREES 36 MINUTES 01 SECONDS EAST, A DISTANCE OF 85.75 FEET; THENCE SOUTH 69 DEGREES 23 MINUTES 59 SECONDS WEST, A DISTANCE OF 10.00 FEET; THENCE NORTH 20 DEGREES 36 MINUTES 01 SECONDS WEST, A DISTANCE OF 89.95 FEET TO THE POINT OF BEGINNING, CONTAINING 878 SQUARE FEET OR 0.02 ACRES, MORE OR LESS.

SOURCE OF EASEMENT

PLAT BOOK 134, PAGE 17
JACKSON COUNTY, MISSOURI RECORDS



SHERRILL ASSOCIATES, INC.

Surveyors — Engineers — Planners

316 Main Street
Edwardsville, IL 62025

(618) 656-9251
FAX (618) 656-9496



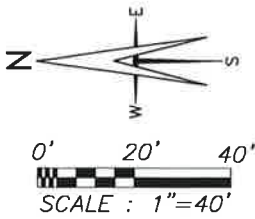
ILLINOIS DESIGN FIRM #184-001238

NO.	DATE	REV.
PROJECT NO.	23082-01	
DRAWN	JAC	CHECKED SES
DATE	8-1-2024	

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SHEET 2 OF 2

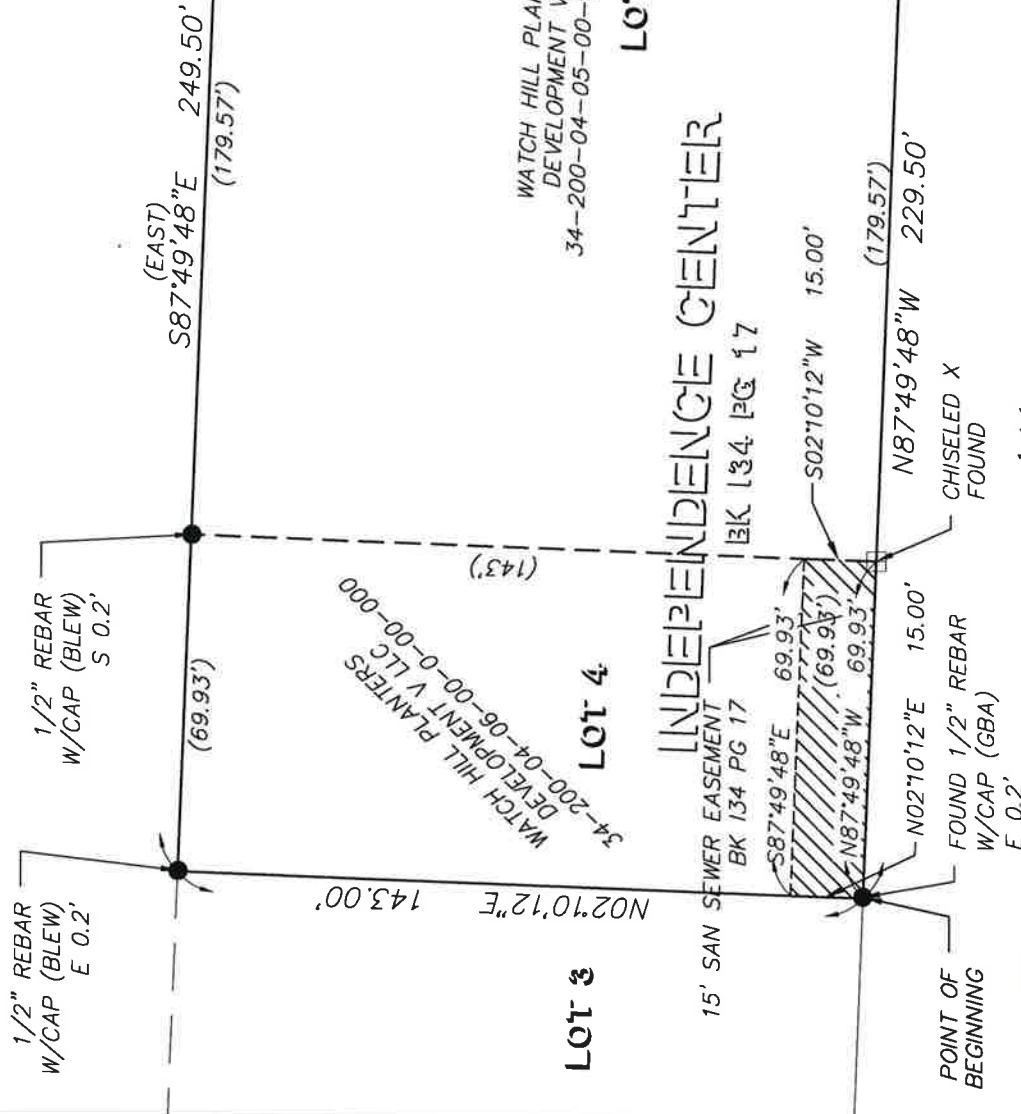


SANITARY SEWER EASEMENT VACATION EXHIBIT

TOTAL AREA

1,049± S.F.
0.02± AC.

E 39TH STREET (100'w)
(ASPHALT)(PUBLIC)(79± PAVEMENT WIDTH)



INDEPENDENCE MALL HOLDING LLC
34-200-04-04-00-00-000



SHERRILL ASSOCIATES, INC.

Surveyors - Engineers - Planners

316 Main Street
Edwardsville, IL 62025

(618) 656-9251
FAX (618) 656-9496



ILLINOIS DESIGN FIRM #184-001238

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SHEET 1 OF 2

SANITARY SEWER EASEMENT VACATION DESCRIPTION

BEING PART OF LOT 4 OF INDEPENDENCE CENTER, PART OF THE SOUTH HALF OF SECTION 20, TOWNSHIP 49 NORTH, RANGE 31 WEST, JACKSON COUNTY MISSOURI, SAID PLAT BEING RECORDED IN BOOK 134, PAGE 17, IN THE JACKSON COUNTY, MISSOURI RECORDS AND BEING DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 4; THENCE ALONG THE WEST LINE OF SAID LOT 4, NORTH 02 DEGREES 10 MINUTES 12 SECONDS EAST, A DISTANCE OF 15.00 FEET; THENCE SOUTH 87 DEGREES 49 MINUTES 48 SECONDS EAST, A DISTANCE OF 69.93 FEET TO THE EAST LINE OF SAID LOT 4; THENCE ALONG SAID EAST LINE, SOUTH 02 DEGREES 10 MINUTES 12 SECONDS WEST, A DISTANCE OF 15.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 4; THENCE ALONG THE SOUTH LINE OF SAID LOT 4 NORTH 87 DEGREES 49 MINUTES 48 SECONDS WEST, A DISTANCE OF 69.93 FEET TO THE POINT OF BEGINNING, CONTAINING 1,049 SQUARE FEET OR 0.02 ACRES, MORE OR LESS.

SOURCE OF EASEMENT

PLAT BOOK 134, PAGE 17
JACKSON COUNTY, MISSOURI RECORDS



SHERRILL ASSOCIATES, INC.

Surveyors — Engineers — Planners

316 Main Street
Edwardsville, IL 62025

(618) 656-9251
FAX (618) 656-9496



ILLINOIS DESIGN FIRM #184-001238

NO.	DATE	REV.
1	3-7-14	AREA
PROJECT NO.	23082-01	
DRAWN	JAC	CHECKED SES
DATE	8-1-2024	

DISCLAIMER OF RESPONSIBILITY

I hereby specify that the documents intended to be authenticated by my seal are limited to this sheet, and I hereby disclaim any responsibility for all other Drawings, Specifications, Estimates, Reports or other Documents or instruments relating to or intended to be used for any part or parts of the engineering project or survey.

SHEET 2 OF 2

City of Independence

AGENDA ITEM COVER SHEET

Agenda Title:

24-094 **1R** An ordinance approving a rezoning from District R-6 (Single-Family Residential) to District R-6/PUD (Single-Family Residential/Planned Unit Development) and approving a preliminary development plan for the property at 2710 S. Westport Road, in Independence, Missouri. **1R**

Recommendations:

Commissioner Dan O'Neil made a motion to recommend **APPROVAL** of this rezoning request with the following conditions be included with the preliminary development plan:

1. The number of dwelling units in the existing buildings is limited to the two existing single family units.

A second to the motion was made by Commissioner Jose Torres. The Independence Planning Commission voted as follows:

Commissioner Nesbitt – No

Commissioner Wiley – No

Commissioner Ashbaugh – Yes

Commissioner O'Neil – Yes

Commissioner Torres - Yes

Commissioner Young – No

Commissioner Ferguson – No

The motion failed to pass 4-3 and such application is forwarded to the City Council for its consideration. Staff concurs with the recommendation of the Planning Commission.

Background:

A request by Rosemary and Robert Hoover to rezone this property from R-6 (Single-Family Residential) to R-6/PUD (Single-Family Residential/Planned Unit Development) and approve a Preliminary Development Plan. To occupy the rear residence requires a zoning designation allowing two residential structures; a use not allowed in R-12 (a duplex district) and only permitted in R-18/PUD and R-30/PUD (which are planned apartment districts). An R-6/PUD can be tailored to allow the property to have two single-family structures, but no multiple-family structures.

PROPERTY HISTORY

Apparently prior to the property being zoned to R-1 (Single-Family Residential) in 1965, the property had two single family residences. The legal nonconforming use was maintained for many years, including where the current owners (Mr. and Mrs. Hoover) requested and received a Letter of Legal Nonconformity. Subsequent to then, a tenant occupied the unit without power for more than six-months, negating the legal nonconformity. Thus, the property may now contain only one single-family residence.

In March of 2023, the applicants made an identical application. The application was

recommended by the Planning Commission but was denied by the City Council. Given the deliberations by the City Council and the content and tenor the testimonies given last year, staff will not be recommending approval for this new application.

In addition, after the denial of the applicants' PUD case in 2023, the non-conformity of the property has not yet been corrected, an active violation on this property is being adjudicated and has been continued to November.

PHYSICAL CHARACTERISTICS OF PROPERTY

The property's depth is roughly twice its width. The principal house, at the front of the lot, sets approximately 80 feet off-of the right-of-way to the north of the existing asphalt driveway, which cuts across the length of the lot. The other house lies to the west of the front residence about 45 feet. Further west, two garages lie to either side of the driveway at the northwest and southwest corners of the property. Most of the southern portion of the property between the southwest garage and the roadway is a large expanse of lawn.

CHARACTERISTICS OF THE AREA

The house sets in a neighborhood largely constructed in the 1950's. The house located immediately to the north is a split-level with a two-car garage. Across the street is a large ranch with a side entry garage. A small white house lies to the south. All these surrounding residences set on large lots.

Consistency with *Independence for All*, Strategic Plan:

An objective of the Independence for All Strategic Plan is 'Build new housing units to fill a market need'. Although this application does not result in more housing units, it does request to preserve the second residence on the lot.

Comprehensive Plan Guiding Land Use Principles:

This site, along with all the properties in the vicinity, is designated for 'Residential Established Neighborhoods' by the City's Comprehensive Plan. Such areas will feature a variety of single-family detached homes, duplexes and multi-family dwellings.

Historic and Archeological Sites:

There are no apparent historic/archeological issues with this property.

Public Utilities:

Water, sanitary sewer, and electrical services are connected to this property.

CIP Investments:

There are no City or Missouri Department of Transportation (MoDOT) capital improvement projects (CIP) planned for this area.

Zoning:

As noted previously, this site has had single-family zoning since at least 1965. Permitted R-6 uses include single-family homes, churches, schools, home-based child-care centers, government buildings, parks, cemeteries, home gardens, and field crops. Being a Planned Unit Development (PUD) district, there will be flexibility in the number of residences allowed on this lots.

Parking and Driving Surface:

The existing legal nonconforming driveway is not being expanded.

Recommendations and decisions for proposed planned unit development rezoning and its accompanying preliminary development plan must be based on consideration of the criteria

listed in Section 14-703-05-H:

1. **The consistency with the Comprehensive Plan.***The City's Comprehensive Plan reflects this Residential Established Neighborhood use, and it will "Protect and enhance the viability, livability, and affordability of the City's residential neighborhoods..."*
2. **The consistency with the PUD standards of Section 14-902, including the statement of purpose.** *This type of application is not expressly addressed in this section as its not new development, but it "ensures that development can be conveniently, efficiently and economically served by existing and planned utility services."*
3. **The nature and extent of Common Open Space in the PUD.** *There is no open space provided with this application.*
4. **The reliability of the proposals for maintenance and conservation of Common Open Space.** *There is no open space provided with this application, the applicant owns the entire property.*
5. **The adequacy or inadequacy of the amount and function of Common Open Space in terms of the densities and dwelling types proposed in the plan.** *There is no open space provided with this application.*
6. **The extent to which the proposed use will adversely affect the capacity of safety portions of the street network or present parking problems in the vicinity of the property. Whether adequate provision for public services, provides adequate control over vehicular traffic, and furthers the amenities of light and air, recreation, and visual enjoyment.** *This proposed project will not adversely affect traffic or the street network in the vicinity of the project. No change to the site layout will occur.*
7. **The extent to which the proposed use will have a substantially adverse effect on adjacent property and the development or conservation of the neighborhood area.** *As this property has had two residences for many years, it's not expected this corrective rezoning will have any adverse impacts on the neighboring properties.*
8. **Whether potential adverse impacts have been mitigated to the maximum practical extent.** *No significant impacts are expected with this application.*
9. **Whether the Preliminary Development Plan represents such a unique development proposal that it could not have accomplished through use of (non-PUD) conventional zoning regulations.** *The existing situation with two single-family structures on one lot requires R-6/PUD zoning because R-12 zoning is for duplexes and R-18/PUD and R-30/PUD zoning permits multiple family structures.*
10. **The sufficiency of the terms and conditions proposed to protect the interest of the public and the residents of the PUD in the case of a plan that proposes development over a period of years.** *This property will continue to be under the same ownership.*

Emergency Justification:

Fiscal Impact:

Council Action:

Department / Contact	Community Development /
---------------------------------	-------------------------

REVIEWERS

Tom Scannell
Jeremy Cover
Zachary Walker
Susanne Holland

ATTACHMENTS:

1. Draft Ordinance 24-125-08
2. Staff Report 24-125-08
3. Narrative
4. Application
5. Notification Letter
6. Address List
7. Affidavit
8. PUD Site Plan
9. Comp Plan Map
10. Zoning Map
11. Planning Commission Meeting Minutes 8-13-24

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE APPROVING A REZONING FROM DISTRICT R-6 (SINGLE-FAMILY RESIDENTIAL) TO DISTRICT R-6/PUD (SINGLE-FAMILY RESIDENTIAL/PLANNED UNIT DEVELOPMENT) AND APPROVING A PRELIMINARY DEVELOPMENT PLAN FOR THE PROPERTY AT 2710 S. WESTPORT ROAD, IN INDEPENDENCE, MISSOURI.

WHEREAS, the application submitted by the City of Independence requesting approval of a rezoning from District R-6 (Single-Family Residential) to District R-6/PUD (Single-Family Residential/Planned Unit Development) and a preliminary development plan at 2710 E. Westport Road was referred to the Planning Commission as required by the Unified Development Ordinance; and,

WHEREAS, the Unified Development Ordinance provides for the approval of a rezoning and preliminary development plan by the City following public hearings by the Planning Commission and City Council; and,

WHEREAS, after due public notice in the manner prescribed by law, the Planning Commission held a public hearing for the consideration of the request on August 13, 2024, and rendered a report to the City Council with its vote not to recommend approval of this application by a vote of 4-3; and,

WHEREAS, after due public notice in the manner prescribed by law, the City Council held a public hearing, and rendered a decision to approve the rezoning and preliminary development plan for the said property; and,

WHEREAS, in accordance with the Unified Development Ordinance, it was determined that the rezoning and preliminary development plan was consistent with the review criteria in Section 14-701-02 and 14-703-05 respectively; and,

WHEREAS, no legal protests were signed, acknowledged, and presented for the application.

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

SECTION 1. That the following legally described tract of real estate is hereby rezoned from District R-6 (Single-Family Residential) to District R-6/PUD (Single-Family Residential/Planned Unit Development) and shall be subject to the regulations of said district:

Section 17, Township 49, Range 32; Part of the Northeast Quarter described as follows: Beginning at the Southeast corner of Lot 12, Westport Manor, also a part on the Northwesternly right-of-line line of Westport Road; thence South 27 degrees West along said right-of-way line 146.75 feet; thence West 225.88 feet; thence North 128.10 feet to the South line of said Lot 12; thence East along said South line 291.72 feet to the Point of Beginning.

SECTION 2. That the Preliminary Development Plan, in the form of photographs of the site, is attached hereto and is incorporated by reference as if fully set out herein, is hereby approved with the following conditions:

1. The number of dwelling units in the existing buildings is limited to the two existing single family units.

SECTION 3. Nonseverability. All provisions of this ordinance are so essentially, and inseparable connected with, and so dependent upon, each other that no such provision would be enacted without all others. If a court of competent jurisdiction enters a final judgement on the merits that is not subject to appeal and that declares any provision or part of this ordinance void, unconstitutional, or unenforceable, then this ordinance, in its collective entirety, is invalid and shall have no legal effect as of the date of such judgement.

SECTION 4. Scrivener's Errors. Typographical errors and other matters of a similar nature that do not affect the intent of this ordinance, as determined by the City Clerk and City Counselor, may be corrected with the endorsement of the City Manager without the need to come before City Council.

SECTION 5. That failure to comply with all the provisions contained in this ordinance shall constitute violations of both this ordinance and Chapter 14, the Unified Development Ordinance, of the Code of the City of Independence, Missouri.

PASSED THIS _____ DAY OF _____, 2024, BY THE CITY COUNCIL OF THE CITY OF INDEPENDENCE, MISSOURI.

Presiding Officer of the City Council
of the City of Independence, Missouri

ATTEST:

City Clerk

APPROVED AS TO FORM AND LEGALITY:

City Counselor

REVIEWED BY:

City Manager

MEETING DATE: August 13, 2024

STAFF: Brian L. Harker, Planner

PROJECT NAME: Hoover Rezoning

CASE NUMBER/REQUEST: Continued Case 24-125-08 – Rezoning/PUD – 2710 S. Westport Road – A request by Rosemary Hoover to rezone the property from R-6 (Single Family Residential) to R-6/PUD (Single Family Residential/Planned Unit Development) and approve a preliminary development plan.

APPLICANTS/OWNERS: Rosemay and Robert Hoover

PROPERTY ADDRESS: 2710 S. Westport Road

SURROUNDING ZONING/LAND USE:

N/S/E/W: R-6 (Single Family Residential)...single-family residences

PUBLIC NOTICE:

- Letters to adjoining property owners – July 19, 2024
- Public Notice published in the Independence Examiner – July 6, 2024
- Signs posted on property – July 6, 2024

FURTHER ACTION:

Following action by the Planning Commission, this rezoning request is scheduled for first reading by the City Council on September 16, 2024 and the public hearing/second reading on October 7, 2024.

RECOMMENDATION

Staff does **NOT** recommend approval of this Rezoning/Preliminary Development Plan request.

If approved, the following condition should be included with the Preliminary Development Plan consisting of the attached PUD Site Plan:

1. The number of dwelling units in the existing buildings is limited to the two existing single family units.

PROJECT DESCRIPTION & BACKGROUND INFORMATION

PROJECT DESCRIPTION: – A request by Rosemary and Robert Hoover to rezone this property from R-6 (Single-Family Residential) to R-6/PUD (Single-Family Residential/Planned Unit Development) and approve a Preliminary Development Plan.

Current Zoning:	R-6 (Single-Family Residential)	Proposed Zoning:	R-6/PUD (Single-Family Residential/Planned Unit Development)
------------------------	---------------------------------	-------------------------	--

Current and Continued Use:	Two single-family Residences		
Residential Buildings:	1,370-square feet	Property Size:	0.07 acres
	1,170-square feet		

Zoning History 1965 – 1980: R-1 (Single-Family Residential)
 1980 - 2009: R-1b (Single-Family Residential)
 2009 - Present: R-6 (Single-Family Residential)

PROPERTY HISTORY

Apparently prior to the property being zoned to R-1 (Single-Family Residential) in 1965, the property had two single family residences. The legal nonconforming use was maintained for many years, including where the current owner (Mr. Hoover) requested and received a Letter of Legal Nonconformity. Subsequent to then, a tenant occupied the unit without power for more than six-months, negating the legal nonconformity. Thus, the property may now contain only one single-family residence.

In March of 2023, the applicants made an identical application. The application was recommended by the Planning Commission but was denied by the City Council. Given the deliberations by the City Council and the content and tenor the testimonies given last year, staff will not be recommending approval for this new application.

In addition, after the denial of the applicants' PUD case in 2023, the non-conformity of the property has not yet been corrected, an active violation on this property is being adjudicated and has been continued to November.

PROPOSAL

To occupy the rear residence requires a zoning designation allowing two residential structures; a use not allowed in R-12 (a duplex district) and only permitted in R-18/PUD and R-30/PUD (which are planned apartment districts). A R-6/PUD can be tailored to allow the property to have two single-family structures, but no multiple-family structures.

PHYSICAL CHARACTERISTICS OF PROPERTY

The property's depth is roughly twice its width. The principal house, at the front of the lot, sets approximately 80 feet off-of the right-of-way to the north of the existing asphalt driveway, which cuts across the length of the lot. The other house lies to the west of the front residence about 45 feet. Further west, two garages lie to either side of the driveway at the northwest and southwest corners of the property. Most of the southern portion of the property between the southwest garage and the roadway is a large expanse of lawn.

CHARACTERISTICS OF THE AREA

The house sets in a neighborhood largely constructed in the 1950's. The house located immediately to the north is a split-level with a two-car garage. Across the street is a large ranch with a side entry garage. A small white house lies to the south. All these surrounding residences set on large lots.

ANALYSIS

Consistency with *Independence for All*, Strategic Plan:

An objective of the Independence for All Strategic Plan is 'Build new housing units to fill a market need'. Although this application does not result in more housing units, it does request to preserve the second residence on the lot.

Comprehensive Plan Guiding Land Use Principles:

This site, along with all the properties in the vicinity, is designated for 'Residential Established Neighborhoods' by the City's Comprehensive Plan. Such areas will feature a variety of single-family detached homes, duplexes and multi-family dwellings.

Historic and Archeological Sites:

There are no apparent historic/archeological issues with this property.

Public Utilities:

Water, sanitary sewer, and electrical services are connected to this property.

CIP Investments:

There are no City capital improvement projects (CIP) planned for this area.

Zoning:

As noted previously, this site has had single-family zoning since at least 1965. Permitted R-6 uses include single-family homes, churches, schools, home-based child-care centers, government buildings, parks, cemeteries, home gardens, and field crops. If zoned a Planned Unit Development (PUD) district, there could be flexibility in the number of residences allowed on this lots.

Parking and Driving Surface:

The existing legal nonconforming driveway is not being expanded.

REVIEW CRITERIA

Recommendations and decisions for proposed planned unit development rezoning and its accompanying preliminary development plan must be based on consideration of the criteria listed in Section 14-703-05-H:

1. **The consistency with the Comprehensive Plan.**

The City's Comprehensive Plan reflects this Residential Established Neighborhood use, and it will "Protect and enhance the viability, livability, and affordability of the City's residential neighborhoods..." This rezoning is a mechanism to resolve the nonconforming issue but isn't proper planning or land development.

2. **The consistency with the PUD standards of Section 14-902, including the statement of purpose.**

This type of application is not expressly addressed in this section as its not new development, but it could "ensures that development can be conveniently, efficiently and economically served by existing and planned utility services."

3. **The nature and extent of Common Open Space in the PUD.**

There is no open space provided with this application.

4. **The reliability of the proposals for maintenance and conservation of Common Open Space.**
There is no open space provided with this application, the applicant owns the entire property.
5. **The adequacy or inadequacy of the amount and function of Common Open Space in terms of the densities and dwelling types proposed in the plan.**
There is no open space provided with this application.
6. **The extent to which the proposed use will adversely affect the capacity of safety portions of the street network or present parking problems in the vicinity of the property. Whether adequate provision for public services, provides adequate control over vehicular traffic, and furthers the amenities of light and air, recreation, and visual enjoyment.**
The project proposes little to no adverse effect to traffic or the street network in the vicinity of the project. No changes to the site layout are proposed. This rezoning is a mechanism to resolve the nonconforming issue but isn't proper planning or land development.
7. **The extent to which the proposed use will have a substantially adverse effect on adjacent property and the development or conservation of the neighborhood area.**
Since this property has had two (and at times three) residences for many years, if rezoned, it is not expected that adverse impacts would occur on the neighboring properties.
8. **Whether potential adverse impacts have been mitigated to the maximum practical extent.**
The intent of the nonconforming section of the UDO is to place reasonable limits on nonconformities that have the potential to adversely affect surrounding properties and to promote maintenance, reuse and rehabilitation of existing buildings.
9. **Whether the Preliminary Development Plan represents such a unique development proposal that it could not have accomplished through use of (non-PUD) conventional zoning regulations.**
The existing situation with two single-family structures on one lot requires R-6/PUD zoning because R-12 zoning is for duplexes and R-18/PUD and R-30/PUD zoning permits multiple family structures. This rezoning is a mechanism to resolve the nonconforming issue but isn't proper planning or land development.
10. **The sufficiency of the terms and conditions proposed to protect the interest of the public and the residents of the PUD in the case of a plan that proposes development over a period of years.**
This property will continue to be under the same ownership.

EXHIBITS

1. Narrative
2. Application
3. Notification letter
4. Mailing list
5. Mailing affidavit
6. PUD Site Plan
7. Comprehensive Plan map
8. Zoning map

5-29-2024

To: Planning Commission

The property located at 2710 S. Westport Rd. currently has 2 residences on it. This situation has existed for many years. We were requested by the City to pursue re-zoning of this property from R-6 to a proposed zoning to R-6/PUD to accommodate these two existing houses.

Rosemary Hoover

Application Type (check all that apply)

Land Use	Land Subdivision	Site Development	Use Permit	Other
☐ Rezoning ☒ PUD Rezoning	☐ Preliminary Plat ☐ Final Plat ☐ Minor Subdivision	☐ Final Site Plan ☐ Preliminary Dev Plan ☐ Final Dev Plan (PUD)	☐ Special Use ☐ Homebased Business ☐ Short-Term Rental	☐ Admin. Adjustment ☐ Variance ☐ Street Name Change ☐ Special Sign Permit

Project Information and Location

Project Name: _____

Project Address/Location: 2710 Westport Rd., Indep., MO. 64052

Sq. Ft. of Building: R-6 Acreage: 0.70 Number of Lots/Tracts: 1 Steam Buffer (Yes or No): NO

Existing Zoning: R-6 Proposed Zoning: R-6/PUD Existing Land Use: Two single Family Proposed Land Use: Two single Family

Basic Application Requirements (See the Planning & Zoning Application Guide for additional requirements)

☐ Completed & Signed Application Form	☐ One 24" x 36" set of plans for Land Sub. & Site Dev.
☐ Application Fee	☐ One PDF copy of a plat map or site plan
☐ Cover Letter Describing Details of Project	☐ Legal Description of the property in question

Contact Information

Applicant <u>Rosemary Hoover</u> Name <u>3365 Blue Ridge Blvd</u> Address <u>Independence, MO. 64052</u> Phone <u>816-254-8686</u> Email <u>rhoover1000@gmail.com</u> Architect/Engineer/Surveyor/Other: _____	Owner <u>Robert E. Hoover</u> Name <u>3365 Blue Ridge Blvd, Indep. MO</u> Address <u>64052</u> Phone <u>816-254-6167</u> Email <u>rhoover1000@gmail.com</u> Architect/Engineer/Surveyor/Other: _____
Name <u>Robert Parks</u> Company <u>Weiskirch + Parks Engineers</u> Address <u>111 N. Main, Indep. MO 64050</u> Phone <u>816-254-5000</u> Email <u>WPKC@WPEKC.com</u>	Name _____ Company _____ Address _____ Phone _____ Email _____

The applicant hereby agrees that the information provided above is accurate.

Rosemary Hoover 5-29-24 Robert Hoover 5-29-24
 Applicant's Signature Date Owner's Signature Date

Appendix B - Property Owner Notification Letter

City of Independence, Missouri

Date: 7-19-2024

Case No. 24-125-08

Dear Property Owner:

This letter is to notify you that an application has been submitted for consideration by the Planning Commission and City Council. A full public hearing will be held by the Planning Commission and the City Council will consider new information on the dates and times below.

Proposed Case Type (Check One):

- ☐ Rezoning ☒ Rezoning/PUD ☐ Special Use Permit
☐ Preliminary Development Plan

Proposed project description: Rezoning property from R-6 to R-6/PUD to accommodate 2 existing homes.

Applicant: Robert Hoover and Rosemary Hoover

Location of Property: 2710 S. Westport Road

Planning Commission Meeting Date: August 13, 2024, at 6:00 p.m.

City Council Meeting Date: October 7, 2024, at 6:00 p.m.

Location of public hearings: City Council Chambers, City Hall
111 E Maple Ave, Independence, Missouri, 64050

All interested persons are invited to attend and will have an opportunity to be heard at the full public hearing (Planning Commission).

REZONINGS ONLY: You may file a protest petition with the Community Development Department. For more information or to get copies of a petition, please contact Planning staff at 816-325-7421.

Rosemary Hoover
Applicant (or Owner/Agent)

For more information, contact the Community Development Department at 816-325-7421.

July, 19, 2024

Dear Neighbors,

This note is to let you know we have applied to have our one lot at 2710 Westport Rd. rezoned to accommodate the two houses that were built on this lot in the 1940's. They were built before the area was incorporated into Independence. They have been maintained and occupied as two single family residences ever since. In 1965 the neighborhood was zoned "R-1" (Single-family residential) which is now "R-6"

In 2004 Robert Hoover, owner, was given a "Legal Nonconforming Use Certificate" for this property which meant it was grandfathered in as an exception to the zoning code as a large lot with two pre-existing, legal single-family houses on it. This certificate has expired and can not be renewed, leaving us out of compliance with the current R-6 zoning code. A zoning change to R-6/PUD (for this lot only) would allow two perfectly good houses to remain and two lovely families to stay in their homes. We feel that the denial of this application would constitute a hardship for these families and a devaluation of the property for the owners. There are no plans to change or add anything to this property--- only to be allowed to keep what is there without demolishing one of the houses.

Sincerely, 
The Hoovers

Owner	Address	City	State	Zip Code
BATZ MARIA TERESA & MARIO C	2711 S WESTPORT RD	INDEPENDENCE	MO	64052
BERNEY SANDRA L	2715 S WESTPORT RD	INDEPENDENCE	MO	64052
COLVIN JASON L & JAMIE LEE	2701 S WESTPORT RD	INDEPENDENCE	MO	64052
FENT KELLY J	9513 E 27TH ST	INDEPENDENCE	MO	64052
HOOVER ROBERT E	3365 BLUE RIDGE BLVD	INDEPENDENCE	MO	64052
JACO WALLACE LLC & JACO VALLEY LLC	9104 WELLSLEY WAY	RALEIGH	NC	27613
LARKIN STERLING JACK	1110 N DICKINSON RD	INDEPENDENCE	MO	64050
NAVE MARK E	2720 WESTPORT RD	INDEPENDENCE	MO	64052
NOLAND DAVID A & JENNIFER	2700 WESTPORT RD	INDEPENDENCE	MO	64052
OWSLEY LORETTA	9509 E 27TH ST	INDEPENDENCE	MO	64052
PEARCE BARBARA	2718 S WESTPORT RD	INDEPENDENCE	MO	64052
PETREE JAMES E	2717 S WESTPORT RD	INDEPENDENCE	MO	64052
REDMAN THOMAS G & MARY A	2704 WESTPORT RD	INDEPENDENCE	MO	64052
ROSEQUIST CLAYTON M	9409 E 27TH STREET SOUTH	INDEPENDENCE	MO	64052
RS RENTAL I LLC	31 HUDSON YARDS	NEW YORK	NY	10001
WOODS MURIEL E	9505 E 27TH ST S	INDEPENDENCE	MO	64052
WRIGHT GINA M	9405 E 27TH ST	INDEPENDENCE	MO	64052

Appendix C - Property Owner Notification Affidavit

STATE OF MISSOURI

COUNTY OF JACKSON

Case No. 24-125-08

I, Rosemary Hoover, of lawful age being first duly sworn upon oath, state:

That I am the (agent, owner, attorney) for the property for which the application was filed and did, not later than fifteen (15) days prior to the date of the public hearing scheduled before the Planning Commission, mail notices to all persons owning property within 185 feet of the subject property. **The list of property owners to whom notice has been mailed is attached.**

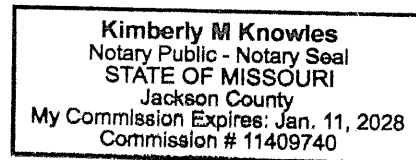
These notices were mailed on the 19 day of July, 2024.

Rosemary Hoover
Signature of Agent, Owner or Attorney

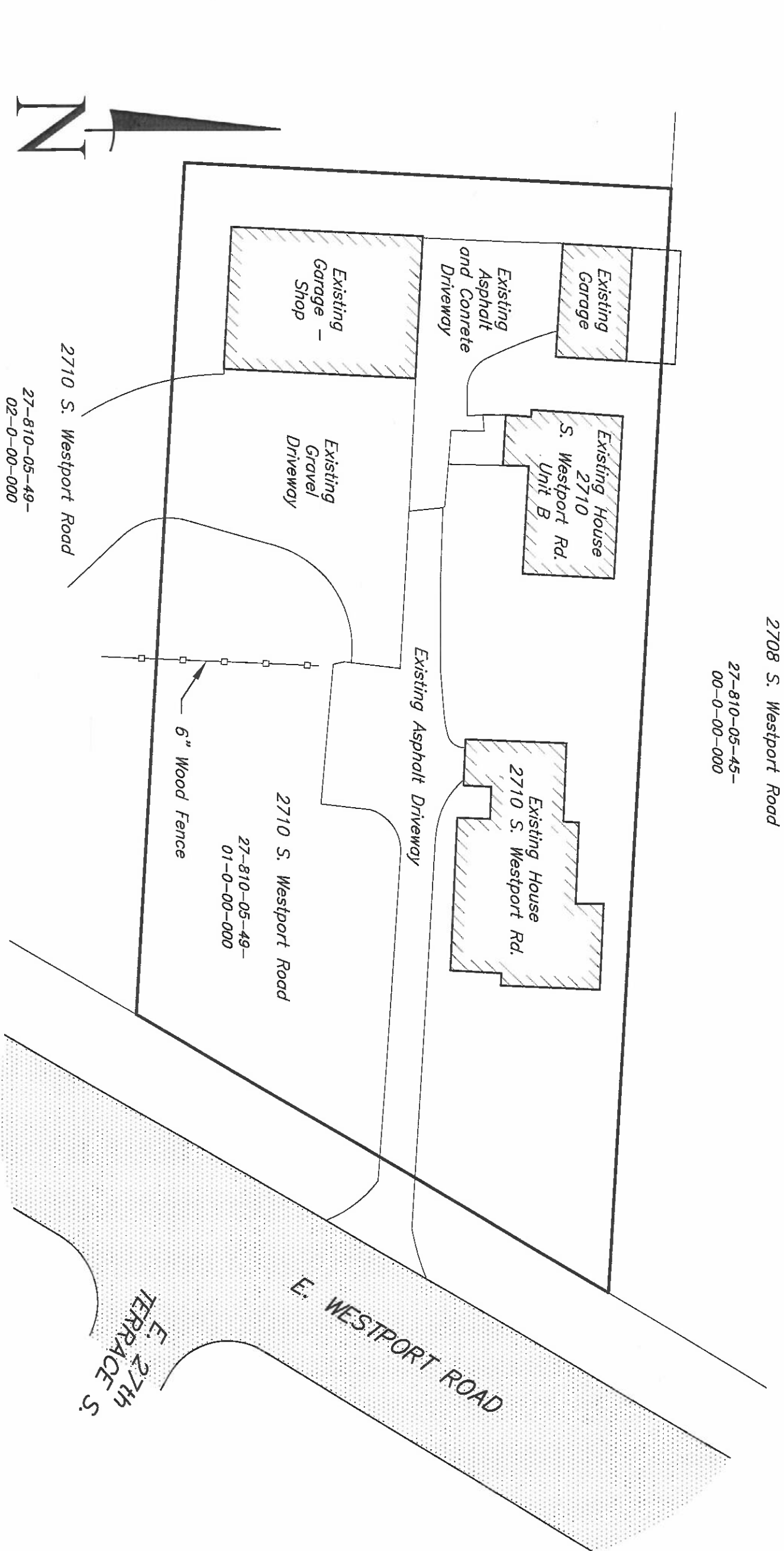
Subscribed and sworn to before me this 19th day of July, 2024.

Kimberly M Knowles
Notary Public

Jan 11, 2028
Commission Expiration Date



PUD SITE PLAN



SCALE: 1"=30'





WEISKIRCH & PARKS ENGINEERS, INC.
MO. CERTIFICATE OF AUTHORITY
No. 001060
111 NORTH MAIN, SUITE #10
INDEPENDENCE, MISSOURI 64050
(816)254-5000 FAX: (816)252-9712
WPKC@MPEKC.COM

Legend

Proposed Land Use (Comp Plan)

Residential Neighborhoods

Residential Urban Neighborhoods

Mixed Use

Neighborhood Commercial

Community Commercial

Regional Commercial

Office

Business Park

Industrial

Civic / Public

Community Attractions & Tourism

Parks

Agricultural

Invalid Rule

[Help](#)

[Trust Center](#)

[Legal](#)

[Contact Esri](#)

[Report Abuse](#)





Legend

- O-1/PUD
- R-1
- R-12
- R-12/HL
- R-12/PUD
- R-18/PUD
- R-2
- R-2/PUD
- R-30/PUD
- R-4
- R-4/PUD
- R-6
- R-6/HL
- R-6/I-1/U
- R-6/PUD
- R-A

[Help](#) [Trust Center](#) [Legal](#) [Contact Esri](#)
[Report Abuse](#)





Planning Commission Minutes

August 13, 2024 6:00 PM

City Hall, 111 E. Maple Avenue (Ground Floor), Council Chambers

CALL TO ORDER

A meeting of the Planning Commission was held at 6:00 PM on 8/13/2024, in the 111 E Maple Avenue City Council Chambers, Independence, MO 64050. The meeting was called to order.

ROLL CALL

Upon roll call, the following members were present - Laurie Dean Wiley, Eric Ashbaugh, Edward Nesbitt, Dan O'Neill, Virginia Ferguson, Jose Torres, Michael Young.

CONSENT AGENDA

The Consent Agenda consists of routine items of business to be acted upon by the Planning Commission with little or no public discussion. The staff or committee recommendation for each item is included in the Planning Commission packet. Any item may be removed by a commissioner or staff member to become part of the regular agenda.

Motion

Commissioner Dan O'Neill made a motion to approve the Consent Agenda. Commissioner Laurie Dean Wiley seconded the motion. The motion was approved Yes 7, No 0, Abstained 0.

1. Planning Commission Minutes – July 23, 2024

CASES TO BE CONTINUED - STAFF RECOMMENDS THESE CASES BE CONTINUED TO THE SEPTEMBER 10, 2024 MEETING.

1. **Continued Case 24-100-12 – Rezoning – 21101 E. 78 Hwy** - A request by Carajoto, LLC to rezone the property from R-6 (Single Family Residential) to I-1 (Industrial).

Motion

Commissioner Laurie Dean Wiley made a motion to continue the case to the September 10, 2024 meeting. Commissioner Dan O'Neill seconded the motion. The motion was approved Yes 7, No 0, Abstained 0.

2. **Continued Case 24-150-01 – Comprehensive Plan Amendment – 21101 E. 78 Hwy –**
A request by Anthony Privitera to amend the Future Land Use Plan map for 21101 E. 78 Hwy.

Motion

Commissioner Dan O'Neill made a motion to continue the case to the September 10, 2024 meeting. Commissioner Laurie Dean Wiley seconded the motion. The motion was approved Yes 7, No 0, Abstained 0.

ELECTION OF OFFICERS

Motion

Commissioner Eric Ashbaugh made a motion for suspension of rules and to move the Election of Officers prior to the Public Hearing to provide experience for those newly elected. Commissioner Laurie Dean Wiley seconded the motion. The motion was approved Yes 7, No 0, Abstained 0.

Commissioner Eric Ashbaugh made a motion to nominate Laurie Dean Wiley to be Chair. Commissioner Dan O'Neill seconded the motion. The motion was approved Yes 4, No 3, Abstained 0.

Commissioner Virginia Ferguson made a motion to nominate Edward Nesbitt as Chair. No Second. The motion was denied Yes 3, No 4, Abstained 0.

Chairperson Laurie Dean Wiley made a motion to nominate Eric Ashbaugh as Vice-Chair. Commissioner Virginia Ferguson seconded the motion. The motion was approved Yes 6, No 1, Abstained 0.

Chairperson Wiley announced a five-minute recess to realign the Dias.

PUBLIC HEARINGS

1. **Continued Case 24-125-08 – Rezoning/PUD – 2710 S. Westport Road –** A request by Rosemary Hoover to rezone the property from R-6 (Single Family Residential) to R-6/PUD (Single Family Residential/Planned Unit Development) and approve a preliminary development plan.

Staff Presentation

Brian Harker presented the case. Mr. Harker presented the Commission with a vicinity map, noting the area and surrounding zoning. He presented the Commission with an aerial map indicating the project area and explained the surrounding land uses. Mr. Harker reviewed the condition of approval.

Applicant Comments

Rosemary Hoover, 3365 Blue Ridge Blvd., described why she felt her case was denied by City Council last year and respectfully asked that the re-zoning be approved.

Public Comments

No public comments.

Commissioner Comments

In response to Vice-Chair Ashbaugh's question, Mr. Harker stated their recommendation is based on previous comments made by multiple people at the Public Hearing and deliberations at the City Council Hearing, and it was not based on only one opinion or person's comment.

In response to Chairperson Wiley's question, Mr. Harker confirmed that at one time there was no electricity or heat at the property. Mr. Harker stated there are currently open code violations. The applicant returned to the podium and stated she was not aware of any code violations.

Motion

Commissioner Dan O'Neill made a motion to approve the case. Commissioner Jose Torres seconded the motion. The motion was denied Yes 3, No 4, Abstained 0.

OTHER BUSINESS

1. **Case 24-400-16 – Short-Term Rental – 601 S Main Street** – A request by Nicholas Brady to operate a Short-Term Rental.

Staff Presentation

Brian Harker presented the case. Mr. Harker presented the Commission with a vicinity map, noting the area and surrounding zoning. He presented the Commission with an aerial map indicating the project area and explained the surrounding land uses. Mr. Harker reviewed the conditions of approval.

Applicant Comments

Sharon & Gerad Brady, 19503 Navidad Bend Court, Cypress, TX, parents of the applicant, Nicholas Brady. Mrs. Brady described their excitement for this venture and showing their support for their son. They have processes in place to meet the City requirements and make sure they are being good neighbors. As well as bringing guests to the City of Independence to learn about it's history.

In response to Commissioner Nesbitt's question, Mrs. Brady confirmed their status for adding additional parking. She stated they will be adding a garage door opener and keypad to the existing garage. The guests will be made aware of the no parking area and cameras will be in place to help monitor this. Mr. Harker confirmed they will have the updated responsible agent listed on the license.

In response to the public comments, Mrs. Brady stated the platforms used would help hold one person responsible when renting out. She also explained the landscaping plans if approved and that the ramp would be removed. Mr. Brady addressed the tree's condition.

Public Comments

Anisha Zarigoza, 605 S Main Street, expressed her concern for privacy since there is no separation between her home and the potential rental. Ms. Zarigoza also mentioned a tree in the front yard in poor condition.

Nancy Bar, 519 S Main, expressed concern about adding pavement to the backyard for the additional parking as well as her concern about bringing short-term renters to the neighborhood.

Motion

Commissioner Edward Nesbitt made a motion to approve the case with Staff recommendations. Commissioner Dan O'Neill seconded the motion. The motion was approved Yes 6, No 1, Abstained 0.

2. **Case 24-400-17 - Short-Term Rental – 3021 S Ralston Ave** – A request by Terimbere Holdings LLC to operate a Short-Term Rental.

Staff Presentation

Brian Harker presented the case. Mr. Harker presented the Commission with a vicinity map, noting the area and surrounding zoning. He presented the Commission with an aerial map indicating the project area and explained the surrounding land uses. Mr. Harker reviewed the conditions of approval.

Applicant Comments

Arnauld Nakaha, 744 S 160 W American Fork, UT, described his history of rentals and his business process for short-term renting.

In response to Commissioner Ashbaugh & Nesbitt's questions, Mr. Nakaha addressed the condition of the curb in front and the fence line.

Public Comments

No public comments.

Motion

Commissioner Eric Ashbaugh made a motion to approve the case with Staff recommendations. Commissioner Edward Nesbitt seconded the motion. The motion was approved Yes 7, No 0, Abstained 0.

3. **Case 24-400-18 - Short-Term Rental – 4444 S. College Ave** – A request by Shawn Foster to operate a Short-Term Rental.

Staff Presentation

Brian Harker presented the case. Mr. Harker presented the Commission with a vicinity map, noting the area and surrounding zoning. He presented the Commission with an aerial map indicating the project area and explained the surrounding land uses. Mr. Harker reviewed the conditions of approval.

Applicant Comments

Shawn Foster, 3909 S Phelps Road, explained the home has been in his family since the 1950s and maintaining peace and not having issues is very important. He lives five minutes from the property and further described his experience and other rental properties he currently oversees.

In response to the citizen's concern, Mr. Foster stated he was not concerned about the dogs as long as they are behind the fence and not running free.

In response to Vice-Chair Ashbaugh's question, Mr. Foster stated he does not anticipate any issues meeting the Staff's conditions for approval.

Public Comments

Haley Tonavasa, 4440 S. College Ave., owns dogs and was concerned about the guests being disturbed by them. She also had letters from neighbors in opposition to the rental. The addresses are 4441 S. College Ave. & 4445 S. College Ave.

Motion

Commissioner Edward Nesbitt made a motion to approve the case with changes to #5 of the Staff Report to show 3 bedrooms and #4 to allow 8 person's total. Commissioner Eric Ashbaugh seconded the motion. The motion was approved Yes 7, No 0, Abstained 0.

4. **Case 24-400-19 - Short-Term Rental – 2311 S. Norwood Ave** – A request by Sadie Redmond to operate a Short-Term Rental.

Staff Presentation

Brian Harker presented the case. Mr. Harker presented the Commission with a vicinity map, noting the area and surrounding zoning. He presented the Commission with an aerial map indicating the project area and explained the surrounding land uses. Mr. Harker reviewed the conditions of approval.

Applicant Comments

Deshaun Amua, 11001 E 24th St., they own four other homes on that street and would like to turn this property into a short-term rental.

Public Comments

No public comments.

Motion

Commissioner Edward Nesbitt made a motion to approve the case with Staff recommendations.

Commissioner Dan O'Neill seconded the motion. The motion was approved Yes 7, No 0, Abstained 0.

ROUNDTABLE - NEXT MEETING AUGUST 27, 2024

Chairperson Laurie Dean Wiley thanked everyone for their vote. She looks forward to working with everyone in this role. She encouraged everyone to complete their Mid-America Regional Council Training.

Rick Arroyo welcomed Commissioner Michael Young to the committee. Mr. Arroyo presented Cindy McClain with a plaque, thanking her for her nearly nine years of service.

ADJOURNMENT

Meeting adjourned at 8:19pm

City of Independence

AGENDA ITEM COVER SHEET

Agenda Title:

24-095 **1R** An ordinance adopting amendments to the Fiscal Year 2023-2024 budget, which was approved by Ordinance No. 19453. **1R**

Recommendations:

Staff recommends approval of this item.

Background:

This ordinance will increase appropriations in the amount of \$5,633,581.47 in the 2023-24 Operating Budgets of various departments and funds for budget changes that occurred during the current fiscal year that have been requested by operating departments.

Background information for each individual appropriation adjustment is included in an attached document along with an appropriation adjustment amount, the source of funds for the appropriation adjustment and the location of where the appropriation adjustment will be recorded.

Emergency Justification:**Fiscal Impact:**

Increased appropriations due to increased revenues will result in \$0 net impact. Appropriations from the Unassigned Fund Balance will result in an impact of \$5,479,318.29 for the funds and departments listed below:

Department	Fund	Amount
Various	002	217,552.56
Fire	002	1,402,935.97
Department		
Police	002	23,522.22
Forfeiture		
Fund		
Health &	005	184,910.14
Animal		
Services		
Parks	012	647.94
Recreation		
Tourism		
Municipal	013	12,527.79
Services		

Police	016	1,367.25
Department		
Fire	017	38.51
Department		
Municipal	030	14,001.17
Services		
Municipal	040	1,237.10
Services		
Non-	092	2,847,426.50
Departmental		
Non-	093	773,151.14
Departmental		

Council Action:

Department /	City Manager /
Contact	

REVIEWERS

Jeremy Cover
Meagan Borth
Zachary Walker
Susanne Holland

ATTACHMENTS:

1. Appropriations Ordinance Year-End
2. Appropriations Background for FY Ending 2024

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE ADOPTING AMENDMENTS TO THE FISCAL YEAR 2023-2024
BUDGET, WHICH WAS APPROVED BY ORDINANCE NO. 19453.

WHEREAS, the adopted Operating and Capital budgets for the 2023-24 fiscal year were approved by the City Council by Ordinance No. 19453; and,

WHEREAS, since that time some circumstances have arisen that necessitate changes to the appropriations established in the adopted budget; and,

WHEREAS, these changes are listed in detail in terms of background, purpose, and funding source in the attached agenda item cover sheet;

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

SECTION 1. Increased appropriations in the subsequent funds for additional lease and vehicle maintenance costs General Fund (No. 002) amount of \$217,552.56 from the General Fund Unassigned Fund Balance; Increased appropriations in the Health Property Tax Levy (005) in the amount of \$132.97 from the Health Property Tax Levy Unassigned Fund Balance; Increased appropriations in the Parks Improvement Sales Tax Fund (012) in the amount of \$647.94; Increased appropriations in the Stormwater Sales Tax Fund (013) in the amount of \$12,527.79; Increased appropriations in the Police Public Safety Sales Tax Fund (016) in the amount of \$1,367.25; Increased appropriations in the Fire Sales Tax Fund (017) in the amount of \$38.51; Increased appropriations in the Sanitary Sewer Fund (030) in the amount of \$1,4001.17; Increased appropriations in the Water Fund (040) in the amount of \$1,237.10.

SECTION 2. Increased appropriations in the General Fund (002) in the amount of \$1,402,935.97 for Fire Department overtime and other pays from the General Fund Unassigned Fund Balance.

SECTION 3. Increased appropriations in the Health Property Tax Levy (005) for various expenses in the amount of \$184,777.17 from Health Property Tax Levy Unassigned Fund Balance.

SECTION 4. Increased revenues and increased appropriations in the Central Garage Fund (090) in the amount of \$119,159 for vehicle lease costs, maintenance and inventory supplies.

SECTION 5. Increased appropriations in the Workers Compensation Fund (092) in the amount of \$2,847,426.50 for legal, professional and personnel services and workers compensation claims from the Workers Compensation Fund Unassigned Fund Balance.

SECTION 6. Increased appropriations in the Risk Management Fund (093) in the amount of \$773,151.14 for liability claims and personnel service from the Risk Management Fund Unassigned Fund Balance.

SECTION 7. Increased appropriations in the amount of \$23,522.22 from Police Forfeiture revenues in the General Fund (No. 002) to Police Forfeiture expenditures in the General Fund (No. 002).

SECTION 8. Increased revenues in the amount of \$22,899.50 from grants and donations for Health & Animal Services programs and services in the Grants Fund (No. 015) and appropriated a total of \$22,899.50 the Health & Animal Services Grants account in the Grants Fund (No. 015).

SECTION 9. Increased revenues in the amount of \$10,196.00 from grants and donations for Police programs and services in the Grants Fund (No. 015) and appropriated a total of \$10,196.00 the Police Grants account in the Grants Fund (No. 015).

SECTION 10. Increased revenues in the amount of \$2,008.68 in the General Fund (002) and increased appropriations in the amount of \$2008.68 in the General Fund (002).

PASSED THIS _____ DAY OF _____, 2024, BY THE CITY COUNCIL OF
THE CITY OF INDEPENDENCE, MISSOURI.

ATTEST:

City Clerk

APPROVED - FORM AND LEGALITY:

City Counselor

REVIEWED BY:

City Manager

Presiding Officer of the City Council
of the City of Independence, Missouri

I hereby certify that there is a balance, otherwise unencumbered, to the credit of the appropriation to which the foregoing expenditure is to be charged, and a cash balance, otherwise unencumbered, in the treasury, to the credit of the fund from which payment is to be made, sufficient to meet the obligation hereby incurred.

Source is: As Indicated Above

Director of Finance and Administration
City of Independence, Missouri

**City of Independence, Missouri
Supplemental Appropriation Ordinance
Fiscal Year 2023-24**

Section 1:

Fund: Various

Department: Various

Source: Increased Revenues & Fund Balance

Description: Increased expenditures for additional lease costs and/or CG maintenance costs totaling \$247,505.29 as follows:

Increased appropriations are requested for various General Fund Departments in the amount of \$217,552.56.

0024023-5209
0024411-5209
0024412-5209
0024431-5209
0024460-5209
0024513-5209
0024621-5209
0024631-5209
0024641-5209
0024651-5209
0025011-5209
0025011-5239
0025111-5209
0026014-5209
0026015-5209
0026015-5239

Increased appropriations are requested for the Health Property Tax Levy Fund in the amount of \$132.97.

0054746-5209
0054705-5209

Increased appropriations are requested for the Parks Improvement Sales Tax Fund in the amount of \$647.94.

0126041-5209

Increased appropriations are requested for the Stormwater Sales Tax Fund in the amount of \$12,527.79.

0135262-5209

Increased appropriations are requested for the Police Public Safety Sales Tax Fund in the amount of 1,367.25.
0164564-5209

Increased appropriations are requested for the Fire Sales Tax Fund in the amount of \$38.51.
0174671-5209

Increased appropriations are requested for the Sanitary Sewer Fund in the amount of \$1401.17.
0305215-5209
0305220-5209
0305230-5209
0305240-5209

Increased appropriations are requested for the Water Fund in the amount of \$1237.10.
0404840-5209

Section 2:

Fund: General Fund

Department: Fire

Source: Increased Revenues

Description: Increased expenses related to overtime and other pays for Fire Department employees. Appropriations for the total amount totaling \$1,402,935.97 are requested.
0024621-5103

Section 3

Fund: Health Property Tax Levy

Department: Health and Animal Services

Source: Fund Balance

Description: Increased expenses of \$184,777.17 for emergency repairs to the animal shelter heating system, various services to the department and personnel expenses. A portion of the amounts for the repairs to the heating system are reimbursable.

0054705-5211
0054705-5226
0054705-5240
0054705-5100

Section 4:

Fund: Central Garage

Department: Municipal Services

Source: Increased Revenues

Description: Increased appropriations of \$119,159 for lease costs and maintenance and inventory supplies for services provided to various city departments. Expenses in this fund are offset by direct charges to the departments.

0905121-5309

0905121-5312

0905121-5314

Section 5:

Fund: Workers Compensation Fund

Department: Finance/City Manager

Source: Fund Balance

Description: Increased appropriations of \$2,847,426.50 for legal, professional and personnel services and workers compensation claims are requested.

0926592 5222

0926592 5226

0926592 5100

0926592 5110

0926592 5111

0926592 5112

0926592 5113

0926592 5114

0926592 5115

0926592 5124

Section 6:

Fund: Risk Management Fund

Department: Finance/City Manager

Source: Fund Balance

Description: Increased appropriations of \$773,151.14 for liability claims and personnel services are requested.

0934293-5240

0934293-5100

0934293-5110

0934293-5111

0934293-5112

0934293-5113

0934293-5114

0934293-5115

0934293-5124

Section 7:

Fund: General Fund

Department: Police

Source: Police Forfeiture Funds

Description: The Police Department requests the use of Police Forfeiture Funds for additional appropriations in the amount of \$23,522.22 for Ceremonial Honor Guard equipment.

Section 8:

Fund: Grants Fund

Department: Health & Animal Services

Source: Increased Revenues – Various Grants & donations

Description: The Health & Animal Services Department was awarded incentive funding for state investment in local public health services (CORE). Appropriations for the total amount of these grants and donations, totaling \$22,899.50, is requested.

0154755-5100

0154755-5110

0154755-5111

0154755-5114

0154755-5115

0154755-5122

0154755-5124

0154755-5213

0154755-5309

01547555402

015-015-3211-CRE24

Section 9:

Fund: Grants Fund

Department: Police

Source: Increased Revenues – Various Grants & donations

Description: The Police Department was awarded additional funding for High Intensity Drug Trafficking Area (HIDTA) DEA Task Force. Appropriations for the total amount of these grants and donations, totaling \$10,196, is requested.

0154550-5102-HIDTA

0154550-5236-HIDTA

015-0153219-HIDTA

Section 10:

Fund: General Fund

Department: Police

Source: Increased Revenue

Description: The Police Department received \$2,008.68 in additional revenue from the sale of departmental challenge coins. Additional appropriations for the total amount of this revenue, totaling \$2,008.68 is requested.

0024513-5309

002-0023398-4500

City of Independence

AGENDA ITEM COVER SHEET

Agenda Title:

Notification of an amendment to the MARC Nutrition Site Grant FY25 Funding

Recommendations:

Staff recommends approval of this item.

Background:

This item is for information only. Due to MARC's accounting requirements, MARC is shifting the \$95,285 grant funding from FY24 to FY25. On April 4, 2024, Council approved Ord.19536 for an amendment to the FY24 MARC Nutrition Site Agreement to add additional funding of \$95,285. The funds are for the purchase of kitchen and dining room equipment and furniture to be used for congregate meals at the Palmer Center. Council approved the FY25 grant with Ord. 19602 on August 19, 2024. This brings the new total for the FY25 grant to \$183,292.

Emergency Justification:**Fiscal Impact:**

No financial impact.

Council Action:

Department / Contact	Parks, Recreation and Tourism /
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REVIEWERS

Morris Heide
Meagan Borth
Zachary Walker
Susanne Holland

ATTACHMENTS:

1. FY25 MARC Nutrition Site Amended Agreement
2. Ord. No19602 MARC Grant FY25 Original Grant 8.19.24
3. Ord. 19536

AMENDMENT COMMUNITY CENTER SERVICES AGREEMENT
Contract #07670-CoI-25

This First Amendment to the Agreement (the "Amendment"), by and between the Mid-America Regional Council, hereinafter referred to as "MARC", and the City of Independence (hereinafter referred to as Contractor), with offices located at 111 E. Maple, Independence, Missouri, is effective this 24th day of July, 2024.

WITNESSETH:

WHEREAS, MARC and Contractor are parties to that certain Agreement dated as of July 1, 2024 (the "Agreement"); and

WHEREAS, MARC and Contractor wish to amend certain terms and provisions of the Agreement as set forth herein;

NOW, THEREFORE, in consideration of the representations, warranties, covenants and agreements set forth in the Agreement and this Amendment and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Definitions.** All capitalized terms used in this Amendment and not otherwise defined herein shall herein have the meaning ascribed to such terms in the Agreement.

2. **Amendment.** Paragraph 3 of the Agreement, regarding **A. Maximum Obligation**, is hereby deleted in its entirety and replaced with the following:

A. **Maximum Obligation** - Contractor and MARC expressly understand and agree that in no event will the total compensation paid under this agreement exceed individual amounts for each type of service, as listed below, which shall constitute full and complete compensation for Contractor's services hereunder:

- **Senior Center Administration -** **Not to exceed \$128,285***
Funded with Title IIIC1; CFDA #93.045

*Not more than \$45,741 may be used to pay for all the components of a new serving line; no more than \$15,480 may be used to pay for new dining room tables; no more than \$11,635 may be used to pay for a new freezer; and no more than \$22,429 may be used to pay for new dining room chairs. All will be purchased under either congregate nutrition Title IIIC1 and/or home delivered nutrition Title IIIC2 ARPA funds.

- **Transportation Service for Participants to and from the Center - \$6.58/one-way trip** **Not to exceed \$18,365**
Funded, in part, with Title IIIB; CFDA #93.044 & Social Services Block Grant,
CFDA #93.667

- **Frozen Home Delivered Meal Delivery - \$1.86/frozen meal** **Not to exceed \$26,642****
Funded, in part, with Title IIIC2, CFDA #93.045 & Social Services Block Grant, CFDA
#93.667

** Where applicable, reimbursement for picking up bulk orders of meals from the re-pack facility before completing last mile delivery will be a minimum of \$175/month, plus \$150 for each additional delivery over one (1) delivery, up to a maximum of \$625/month, for each month in which bulk frozen meals are picked up.

- **Evidence-based Disease Prevention/Health Promotion (DPHP) programs –**
Not to exceed \$10,000***

***These services include the delivery of group-based disease prevention and health promotion courses. The courses are licensed by entities approved by the Administration for Community Living and/or the Missouri Department of Health and Senior Services and are known to improve health and other outcomes among participants. Awards include the following compensation rates:

Evidence-based DPHP program facilitation at \$25-\$200/completer
Evidence-based DPHP program training at \$200-\$600 Leader Training

Total Contractual Commitment: **Not to exceed \$183,292**

For audit purposes, all voluntary contributions collected through the provision of any of these services will be considered federal funds.

Contractor, as a federal subrecipient, is responsible for a minimum of 25% of the total cost of these programs, except for evidence-based programs, in the form of in-kind contributions. Subrecipient proposed no indirect costs. Therefore, indirect costs will be considered unallowable costs.

Where appropriate, Contractor shall be held fiscally responsible for noncompliance resulting in losses of perishable goods, and/or excessive trip/wait time as determined by MARC.

3. **Governing Law.** This Amendment shall be interpreted under and governed by the laws of the State of Missouri. Whenever there is no applicable state statute or decisional precedent governing the interpretation of this Amendment, the federal common law shall govern.

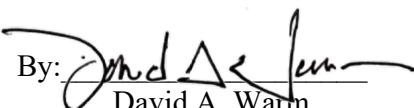
4. **Controlling Agreement.** To the extent that the terms and conditions of this Amendment conflict with the terms and conditions of the Agreement, this Amendment and the Agreement shall be deemed to conform to the terms and conditions of this Amendment.

5. **Binding Effect.** All the covenants, terms and conditions set forth in this Amendment shall be binding upon and shall inure to the benefit of all the parties hereto and their respective heirs, legal representatives, successors and assigns.

IN WITNESS WHEREOF, the parties hereto have signed this Amendment effective as of the date first above written.

Mid-America Regional Council

City of Independence, MO

By: 
David A. Warm
Executive Director

By: _____

Printed Name: _____

Title: _____

Date: _____

Date: 7/30/2024

EXHIBIT A

**DETAIL OF FEDERAL FINANCIAL ASSISTANCE FUNDING
By Program and Code of Federal Domestic Assistance (CFDA) Number
State Fiscal Year 2024 Funding Allocation**

**As Passed to the Missouri Department of Health and Senior Services, which in Turn is Passed
through to MARC**

**Federal Awarding Agency: Department of Health and Human Services – Administration for
Community Living (ACL)**

Federal Award Name: Older Americans Act Title III

Part III-B: Supportive Services; CFDA #93.044; \$ 2,840
CFDA Title – Special Programs for the Aging Title III, Part B, Grants for Supportive Services and Senior Centers
Federal Awards – 2301MOOASS

Part III-C1: Congregate Meals; CFDA #93.045 \$ 128,285
CFDA Title – Special Programs for the Aging Title III, Part C, Nutrition Services
Federal Awards – 2301MOOACM

Part III-C2: Home Delivered Meals; CFDA #93.045 \$ 41,195
CFDA Title – Special Programs for the Aging Title III, Part C, Nutrition Services
Federal Awards – TBA

Part III-D: Preventive Health; CFDA #93.043 \$ 9,250
CFDA Title – Special Programs for the Aging Title III, part D, Disease Prevention and Health Promotion Services
Federal Awards – TBD

Part III-E: National Family Caregiver Support Program; CFDA #93.052 \$ 750
CFDA Title: National Family Caregiver Support Title III, Part E
Federal Awards - TBD

Other HHS-Funded Programs:

**Federal Agency Name: Department of Health and Human Services/ Administration for
Children and Families (ACF)**

Federal Award Name: Social Services Block Grant

Social Services Block Grant: CFDA #93.667 \$ 885
CFDA Title – Social Services Block Grant

Total Amount of Federal Awards Obligated by this Action: tba

Total Amount of Federal Awards Obligated to Subrecipient Under this Agreement: \$157,085

BILL NO. 24-084

ORDINANCE NO. 19602

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ACCEPT A GRANT FROM MID-AMERICA REGIONAL COUNCIL IN THE AMOUNT OF \$88,007 FOR THE CITY'S SENIOR ADULT NUTRITION SITE PROGRAM FOR FISCAL YEAR 2024-2025, AND EXECUTE THE AMENDMENT COMMUNITY CENTER SERVICES AGREEMENT; MAKING THE NECESSARY APPROPRIATIONS; AUTHORIZING FUTURE CHANGE ORDERS FOR ADDITIONAL FUNDING AND/OR TIME EXTENSIONS; AND, AUTHORIZING CERTAIN FUTURE APPROPRIATIONS.

WHEREAS, the Mid-America Regional Council (MARC) has been conducting a Senior Adult Nutrition site in Independence at the Palmer Center at 218 N. Pleasant under authority of Ordinance No. 19241; and,

WHEREAS, the City of Independence has deemed it appropriate to continue to provide a nutrition center at Palmer Center; and,

WHEREAS, for Fiscal Year 2024-25 the Mid-America Regional Council awarded the City of Independence Thirty-Three Thousand and NO/100 Dollars (\$33,000.00) in grant funding for administering the Senior Adult Nutrition Site program; and,

WHEREAS, for Fiscal Year 2024-25, the Mid-America Regional Council awarded the City of Independence additional reimbursements up to Eighteen Thousand, Three Hundred Sixty-Five and NO/100 Dollars (\$18,365.00) for participant transportation services to and from the Palmer Center's Senior Adult Nutrition Site; and,

WHEREAS, for Fiscal Year 2024-25, the Mid-America Regional Council awarded the City of Independence additional reimbursement up to Twenty-Six Thousand Six Hundred Forty-Two and No/100 Dollars (\$26,642.00) for Frozen Home Delivered Meal Delivery; and

WHEREAS, for Fiscal Year 2024-25, the Mid-America Regional Council awarded the City of Independence additional reimbursements up to Ten Thousand and NO/100 Dollars (\$10,000.00) for Evidence-Based Disease Prevention/Health Promotion Programs; and,

WHEREAS, the adopted budget for Fiscal Year 2024-25 originally included an appropriation of Thirty-Three Thousand and NO/100 Dollars (\$33,000.00) in the Parks, Recreation, Tourism Department Operating Budget within the Senior Adult Services Division for anticipated annual grant funding from Mid-America Regional Council;

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

SECTION 1. That the City Manager of the City of Independence, Missouri, is hereby authorized and directed to execute, for and on behalf of said City, the Community Center Services Agreement (Contract #07670-CoI-25) with the Mid-America Regional Council for the provision of a nutrition site at the Palmer Center under the guidelines of the MARC Commission on Aging Policies and Procedures Manual, from July 1, 2024 through June 30, 2025, for a subsidy of up to Thirty Three Thousand and NO/100 Dollars (\$33,000.00), plus additional reimbursements up to a maximum of up to Eighteen Thousand, Three Hundred Sixty-Five and NO/100 Dollars (\$18,365.00) for participant transportation

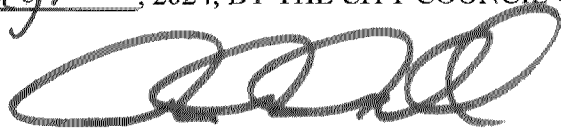
services, Twenty-Six Thousand Six Hundred Forty-Two and No/100 Dollars (\$26,642.00) for Frozen Home Delivered Meal Delivery, and Ten Thousand and NO/100 Dollars (\$10,000.00) for Evidence-Based Disease Prevention/Health Promotion Programs, a copy of the agreement being attached hereto, incorporated herein by reference thereto, and made a part hereof as though fully set out herein.

SECTION 2. That appropriations are hereby increased in the Parks, Recreation and Tourism Department Operating Budget within the Parks & Recreation Grant Fund in the amount of \$58,007.00 for participant transportation to and from the Nutrition Site (\$18,365.00), Frozen Home Delivered Meal Delivery (\$26,642.00), and costs associated with offering Evidence-Based Disease Prevention/Health Promotion Programs (\$10,000.00), from grant reimbursement revenues received from the Mid-America Regional Council.

SECTION 3. That the City Manager is further authorized to approve future change orders, extensions, amendments or addendums to this agreement without Council approval, or an extension of time for completing the terms of the grant or for the receipt of additional funding for this same grant project, provided there are no changes in the terms and/or conditions or responsibilities to the City and provided each and every such change order, extension, amendment or addendum is approved by the City Manager, does not add more than 90% to the length of time of the grant or more than 50% to the original funding, is identified as being authorized by this ordinance and a copy is filed with the City Clerk.

SECTION 4. That the City Manager is hereby authorized to increase appropriations by the amount of any increased grant awards authorized by change order, extension, amendment or addendum for any increased funding under the terms of the previous section, provided a copy of that action is also provided to the Finance Department.

PASSED THIS 19th DAY OF Aug., 2024, BY THE CITY COUNCIL OF THE CITY OF INDEPENDENCE, MISSOURI.



Presiding Officer of the City Council
of the City of Independence, Missouri

ATTEST:

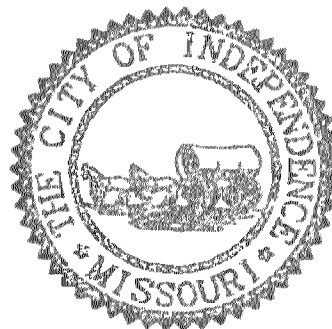

City Clerk

APPROVED AS TO FORM AND LEGALITY:


City Counselor

REVIEWED BY:


City Manager



BILL NO. 24-018
ORDINANCE NO. 19536

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ACCEPT AN AMENDMENT TO A GRANT FROM MID-AMERICA REGIONAL COUNCIL INCREASING THE AMOUNT IN THE GRANT TO \$184,702 FOR THE CITY'S SENIOR ADULT NUTRITION SITE PROGRAM FOR FISCAL YEAR 2023-2024, AND EXECUTE THE AMENDMENT COMMUNITY CENTER SERVICES AGREEMENT; MAKING THE NECESSARY APPROPRIATIONS; AUTHORIZING FUTURE CHANGE ORDERS FOR ADDITIONAL FUNDING AND/OR TIME EXTENSIONS; AND, AUTHORIZING CERTAIN FUTURE APPROPRIATIONS.

WHEREAS, the Mid-America Regional Council (MARC) has been conducting a Senior Adult Nutrition site in Independence at the Palmer Center at 218 N. Pleasant under authority of Ordinance No. 19479; and,

WHEREAS, the City of Independence has deemed it appropriate to continue to provide a nutrition center at Palmer Center; and,

WHEREAS, The City Manager of The City of Independence, Missouri was authorized and directed to execute, for and on behalf of said City, the Community Center Services Agreement (Contract #07670-CoIMO24) with the Mid-America Regional Council for the provision of a nutrition site at the Palmer Center under the guidelines of the MARC Commission on Aging Policies and Procedures Manual, from July 1, 2023 through June 30, 2024, for a subsidy of up to Thirty Three Thousand and NO/100 Dollars (\$33,000.00), plus additional reimbursements up to a maximum of Twenty Thousand and NO/100 Dollars (\$20,000.00) for participant transportation services, Six Thousand and NO/100 Dollars (\$6,000.00) for In-Home Assessments and Assessments/Reassessments for Home Delivered Meals, Sixty Thousand and No/100 Dollars (\$60,000.00) for Participation in Enhanced Frozen Meal Delivery System/Frozen Home Delivered Meal Delivery, Ten Thousand and NO/100 Dollars (\$10,000.00) for Evidence-Based Disease Prevention/Health Promotion Programs under authority of Ordinance No. 19479; and,

WHEREAS, for Fiscal Year 2023-24, the Mid-America Regional Council awarded the City of Independence additional reimbursements up to Ninety-Five Thousand, Two Hundred Eighty-Five and NO/100 Dollars (\$95,285.00) for New Equipment; and,

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

SECTION 1. That the City Manager of the City of Independence, Missouri, is hereby authorized and directed to execute, for and on behalf of said City, the Amendment Community Center Services Agreement (Contract #07670-CoIMO24) with the Mid-America Regional Council for the provision of a nutrition site at the Palmer Center under the guidelines of the MARC Commission on Aging Policies and Procedures Manual, from July 1, 2023 through June 30, 2024, for a subsidy of up to Thirty Three Thousand and NO/100 Dollars (\$33,000.00), plus additional reimbursements up to a maximum of Twenty Thousand and NO/100 Dollars (\$20,000.00) for participant transportation services, Six Thousand and NO/100 Dollars (\$6,000.00) for In-Home Assessments and Assessments/Reassessments for Home Delivered Meals, Sixty Thousand and No/100 Dollars (\$60,000.00) for Participation in Enhanced Frozen Meal Delivery System/Frozen Home Delivered Meal Delivery, Ten Thousand and NO/100 Dollars (\$10,000.00) for Evidence-Based Disease Prevention/Health Promotion Programs, and Ninety-Five

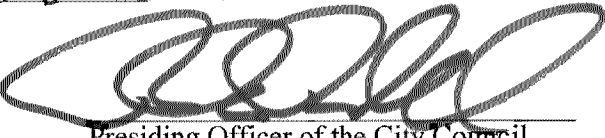
Thousand, Two Hundred Eighty-Five and NO/100 Dollars (\$95,285.00) for New Equipment, a copy of the amended agreement being attached hereto, incorporated herein by reference thereto, and made a part hereof as though fully set out herein.

SECTION 2. That appropriations are hereby increased in the Parks, Recreation and Tourism Department Operating Budget within the Parks & Recreation Grant Fund in the amount of \$95,285 grant reimbursement revenues received from the Mid-America Regional Council.

SECTION 3. That the City Manager is further authorized to approve future change orders, extensions, amendments or addendums to this agreement without Council approval, or an extension of time for completing the terms of the grant or for the receipt of additional funding for this same grant project, provided there are no changes in the terms and/or conditions or responsibilities to the City and provided each and every such change order, extension, amendment or addendum is approved by the City Manager, does not add more than 90% to the length of time of the grant or more than 50% to the original funding, is identified as being authorized by this ordinance and a copy is filed with the City Clerk.

SECTION 4. That the City Manager is hereby authorized to increase appropriations by the amount of any increased grant awards authorized by change order, extension, amendment or addendum for any increased funding under the terms of the previous section, provided a copy of that action is also provided to the Finance Department.

PASSED THIS 4th DAY OF April, 2024, BY THE CITY COUNCIL OF THE CITY OF INDEPENDENCE, MISSOURI.



Presiding Officer of the City Council
of the City of Independence, Missouri

ATTEST:


City Clerk

APPROVED AS TO FORM AND LEGALITY:


City Counselor

REVIEWED BY:


City Manager

