

GILMORE & BELL, P.C.
DRAFT 2 – NOVEMBER 13, 2014
FOR DISCUSSION PURPOSES ONLY

LEASE PURCHASE AGREEMENT

between

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

and the

**CITY OF BRENTWOOD, MISSOURI,
as Lessee**

Dated as of December 1, 2014

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LEASE PURCHASE AGREEMENT

THIS LEASE PURCHASE AGREEMENT (the “Lease”), dated as of December 1, 2014, is entered into between **UMB BANK, N.A.**, a national banking association organized and existing under the laws of the United States of America, as Trustee (the “Trustee”), and the **CITY OF BRENTWOOD, MISSOURI**, a fourth-class city and political subdivision organized and existing under the laws of the State of Missouri (the “City”).

RECITALS

1. The City and the Trustee have entered into a Base Lease dated as of December 1, 2014 (the “Base Lease”), pursuant to which the City has leased to the Trustee the real property described on **Schedule 1**, including any existing or future improvements thereon (the “Real Property”).

2. Concurrently herewith the Trustee is entering into a Declaration of Trust (as hereinafter defined), pursuant to which the Trustee will execute and deliver one or more series of Certificates (as hereinafter defined), the proceeds of which will be used to provide funds to pay the costs of (a) capital improvements, including but not limited to renovations to the City’s Recreation Complex and such other capital improvements as the Board of Aldermen deems advisable (collectively, the “Project”), (b) refunding the City’s outstanding Certificates of Participation, Series 2003 (City of Brentwood, Missouri, Lessee) (the “Series 2003 Certificates”), (c) funding a reserve fund for the Series 2014 Certificates and (d) executing and delivering the Series 2014 Certificates.

3. The Trustee desires to lease the Real Property and the Project located thereon (collectively, the “Leased Property”) to the City, all subject to the terms and conditions and for the purposes set forth in this Lease.

4. The City is authorized under the constitution and laws of the State of Missouri to enter into this Lease for the purposes set forth herein,

THEREFORE, for and in consideration of the premises hereinafter contained, the parties hereby agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01. Definitions. Unless the context otherwise specifically requires or indicates to the contrary, the following terms as used in this Lease will have the following meanings:

“**Additional Certificates**” means the Additional Certificates as defined in the Declaration of Trust.

“**Architect**” means any architect, engineer or contractor hired by the City with respect to the Project that is not an employee of the City.

“Authorized Representative” means Authorized Representative as defined in the Declaration of Trust.

“Available Revenues” means, for any Fiscal Year, any balances of the City from previous Fiscal Years encumbered to pay Rent, amounts budgeted or appropriated by the City for such Fiscal Year plus any unencumbered balances of the City from previous Fiscal Years that are legally available to pay Rent during such Fiscal Year, plus all moneys and investments, including earnings thereon, held by the Trustee pursuant to the Declaration of Trust.

“Base Lease” means the Base Lease dated as of December 1, 2014, between the City, as lessor, and the Trustee, as lessee, as amended and supplemented from time to time in accordance with its terms.

“Basic Rent” means the Basic Rent Payments comprised of a Principal Portion and an Interest Portion as set forth on **Exhibit A**, as **Exhibit A** may be revised as provided in **Section 3.09** of the Declaration of Trust and in **Section 4.08** herein.

“Basic Rent Payment” means a payment of Basic Rent.

“Basic Rent Payment Date” means each April 1 and October 1 during the Lease Term, commencing on April 1, 2015.

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

“Certificates” means the Series 2014 Certificates and any Additional Certificates.

“City” means the City of Brentwood, Missouri, a fourth-class city duly created, organized and existing under and by virtue of the laws of the State of Missouri, and its successors.

“Code” means the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder.

“Completion Certificate” means the certificate of the City given in accordance with **Section 5.03**.

“Completion Date” means the date of completion of the Project as that date will be certified as provided in **Section 5.03**.

“Construction Agreement” means one of any agreements between the City and various parties, if any, providing for the renovation and installation of various portions of the Project.

“Continuing Disclosure Agreement” means the continuing disclosure agreement or certificate entered into by the City and a dissemination agent, if any, in connection with the execution and delivery of a series of Certificates, as from time to time amended.

“Costs of Issuance” means all items of expense directly or indirectly payable by or reimbursable to the City and related to the authorization, execution, sale and delivery of the Certificates, including

advertising and printing costs, costs of preparation and reproduction of documents, filing and recording fees, initial fees and charges of the Trustee, legal fees of parties to the transaction and all other initial fees and disbursements contemplated by this Lease and the Declaration of Trust.

“Declaration of Trust” means the Declaration of Trust dated as of December 1, 2014, made by the Trustee, as the same may from time to time be amended or supplemented in accordance with its terms.

“Event of Default” means an Event of Default as described in **Section 12.01**.

“Event of Nonappropriation” means an Event of Nonappropriation as described in **Section 3.04**

“Fiscal Year” means the fiscal year of the City, currently the twelve-month period beginning January 1 and ending on December 31.

“Funds” means the Funds as defined in the Declaration of Trust.

“Government Obligations” means (a) direct noncallable obligations of the United States of America and obligations the timely payment of principal and interest on which is fully and unconditionally guaranteed by the United States of America, (b) trust receipts or certificates evidencing participation or other direct ownership interests in principal or interest payments to be made upon obligations described in clause (a) above that are held in a custody or trust account free and clear of all claims of persons other than the holders of such trust receipts or certificates, and (c) obligations that are noncallable or for which the call date has been irrevocably determined having an investment rating in the highest rating category of either Moody’s or S&P as a result of the advance refunding of such obligations by the deposit of direct noncallable obligations of the United States of America in a trust or escrow account segregated and exclusively set aside for the payment of such obligations and that mature as to principal and interest in such amounts and at such times as will insure the availability of sufficient moneys to timely pay such principal and interest.

“Interest Portion” means the portion of each Basic Rent Payment that represents the payment of interest as set forth on **Exhibit A**.

“Lease” means this Lease Purchase Agreement dated as of December 1, 2014, between the Trustee, as lessor, and the City, as lessee, as amended and supplemented from time to time in accordance with its terms.

“Lease Revenue Fund” means the Lease Revenue Fund as defined in the Declaration of Trust.

“Lease Term” means the Original Term and all Renewal Terms.

“Leased Property” means the Real Property and the Project located thereon.

“Moody’s” means Moody’s Investors Service, Inc., and its successors and assigns, and, if that firm is dissolved or liquidated or no longer performs the functions of a municipal securities rating service, “Moody’s” will be deemed to refer to any other nationally recognized securities rating service designated by the City, with notice to the Trustee.

“**Net Proceeds**” means the amount remaining from the gross proceeds of any insurance claim, condemnation award or sale under threat of condemnation after deducting all reasonable expenses, including attorneys’ fees, incurred in the collection thereof.

“**Opinion of Counsel**” means a written opinion of counsel who is acceptable to the Trustee. The counsel may be an employee of or counsel to the City.

“**Original Term**” means the period from the date of delivery of the Lease until the end of the Fiscal Year then in effect.

“**Outstanding**” means Outstanding as defined in the Declaration of Trust.

“**Principal Portion**” means the principal portion of the Basic Rent Payments as set forth in **Exhibit A**.

“**Project**” means the project described in the recitals, including any modifications, additions, improvements, replacements or substitutions thereto or therefor.

“**Project Costs**” means all reasonable or necessary expenses related or incidental to the acquisition and construction of the Project, including the expenses of studies, surveys, title policies, architectural and engineering services, legal and other special services, and all other necessary and incidental expenses, including Interest Portions to the Completion Date. Project Costs include Costs of Issuance.

“**Project Fund**” means the Project Fund as defined in the Declaration of Trust.

“**Purchase Price**” means the amount designated as such in **Article X** that the City may pay to the Trustee to purchase the Trustee’s interest in the Leased Property.

“**Real Property**” means the real property described in **Schedule 1**.

“**Renewal Term**” means each renewal term of this Lease, each having a duration of one year and a term coextensive with the then-current Fiscal Year as provided in **Section 3.02**, except that the last possible Renewal Term will end on October 2, 2024.

“**Rent**” means, collectively, Basic Rent and Supplemental Rent.

“**Rent Payment**” means a payment of Rent.

“**Reserve Fund**” means the Reserve Fund as defined in the Declaration of Trust.

“**Reserve Fund Requirement**” means the Reserve Fund Requirement as defined in the Declaration of Trust.

“**Series 2014 Certificates**” means the Series 2014 Certificates as defined in the Declaration of Trust.

“**S&P**” means Standard & Poor’s Ratings Services, a division of McGraw Hill Financial, Inc., its successors and assigns, and if that entity no longer performs the functions of a municipal securities rating

agency, “S&P” will be deemed to refer to any other nationally recognized securities rating agency designated by the City, with notice to the Trustee.

“**Special Tax Counsel**” means Gilmore & Bell, P.C., or any other attorney or firm of attorneys of nationally recognized standing in matters pertaining to the federal tax exemption of interest on bonds or other obligations issued by states and political subdivisions duly admitted to the practice of law before the highest court of any state of the United States of America.

“**State**” means the State of Missouri.

“**Supplemental Declaration of Trust**” means any amendment or supplement to the Declaration of Trust entered into pursuant to **Article VIII** of the Declaration of Trust.

“**Supplemental Lease**” means any amendment or supplement to this Lease entered into pursuant to **Section 13.05**.

“**Supplemental Rent**” means all amounts due hereunder other than Basic Rent.

“**Supplemental Rent Payment**” means a payment of Supplemental Rent.

“**Tax Compliance Agreement**” means the Tax Compliance Agreement entered into by the City and the Trustee in connection with the execution and delivery of each series of Certificates.

“**Trustee**” means the party acting as Trustee under the Declaration of Trust.

“**Underwriter**” means Stifel, Nicolaus & Company, Incorporated, St. Louis, Missouri, the original purchaser of the Series 2014 Certificates.

Section 1.02. Rules of Construction.

(a) Words of the masculine gender will be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context will otherwise indicate, the words importing the singular number will include the plural and vice versa, and words importing person will include firms, associations and corporations, including public bodies, as well as natural persons.

(b) The words “herein,” “hereby,” “hereunder,” “hereof,” “hereto,” “hereinbefore,” “hereinafter” and other equivalent words refer to this Lease and not solely to the particular article, section, paragraph or subparagraph hereof in which such word is used.

(c) Reference herein to a particular article, section, exhibit, schedule or appendix will be construed to be a reference to the specified article or section hereof or exhibit, schedule or appendix hereto unless the context or use clearly indicates another or different meaning or intent.

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

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

Section 1.03. Execution of Counterparts. This Lease may be executed simultaneously in two or more counterparts, each of which will be deemed to be an original, and all of which together will constitute but one and the same instrument.

Section 1.04. Severability.

(a) If any provision of this Lease is held or deemed to be invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances will 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.

(b) The invalidity of any one or more phrases, sentences, clauses or sections in this Lease contained will not affect the remaining portions of this Lease, or any part thereof.

Section 1.05. Governing Law. This Lease will be governed by and construed in accordance with the laws of the State.

ARTICLE II

REPRESENTATIONS

Section 2.01. Representations of the City. The City represents and warrants, as of the date of delivery hereof, as follows:

(a) The City is a fourth-class city duly created, organized and existing under and by virtue of the constitution and laws of the State with full power and authority to enter into the Base Lease and this Lease and the transactions contemplated thereby and hereby and to perform all of its obligations thereunder and hereunder.

(b) The City has full power and authority to enter into the transactions contemplated by the Base Lease and this Lease and has been duly authorized to execute and deliver the Base Lease and this Lease by proper action by its governing body. The Base Lease and this Lease are valid, legal and binding obligations of the City enforceable in accordance with their terms except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws and equitable principles affecting creditor's rights generally.

(c) The lease of the Leased Property by the Trustee to the City, as provided in this Lease, is necessary, desirable, in the public interest and consistent with the permissible scope of the City's authority. The City hereby declares its current need for the Leased Property and its current expectation that it will continue to need and use the Leased Property for the maximum Lease Term.

(d) The City's financial statements that have been used in connection with any offering of the Certificates present fairly, in accordance with generally accepted accounting principles and applicable regulations consistently applied throughout the periods involved, the

financial position of the City as at their respective dates and the revenues and expenses and changes in fund balances for the periods covered thereby.

(e) Neither the execution and delivery of the Base Lease or this Lease, nor the fulfillment of or compliance with the terms and conditions thereof or hereof, nor the consummation of the transactions contemplated thereby or hereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the City is a party or by which the City is bound.

(f) There is no proceeding pending or, to the City's knowledge, threatened in any court or before any governmental authority or arbitration board or tribunal challenging the validity of the proceedings of the governing body of the City authorizing the Base Lease and this Lease or the power or authority of the City to enter into this Lease or the Base Lease or the validity or enforceability of this Lease or the Base Lease or that, if adversely determined, would adversely affect the transactions contemplated by this Lease or the Base Lease or the interest of the Trustee under this Lease or the Base Lease.

(g) To the City's knowledge, the City has not made, done, executed or suffered, and warrants that it will not make, do, execute or suffer, any act or thing whereby the City's interests in any property now or hereafter included in the Leased Property will be or may be impaired, changed or encumbered in any manner whatsoever, except as contemplated by the Base Lease and this Lease.

(h) No event or condition that constitutes, or with the giving of notice or the lapse of time or both would constitute, an Event of Default exists.

(i) Upon completion, the Project will be structurally sound and in compliance with all applicable building and design codes and the City's requirements.

(j) The City has complied or will comply with any public bidding requirements that may be applicable to this Lease and the acquisition, construction and equipping of the Project.

ARTICLE III

DEMISING OF THE PROPERTY; LEASE TERM

Section 3.01. Lease of Leased Property. The Trustee hereby demises, leases, subleases and lets to the City, and the City rents, leases, subleases and hires from the Trustee, the Leased Property in accordance with this Lease for the Lease Term.

Section 3.02. Lease Term. The Original Term of this Lease will terminate on December 31, 2015. The Lease Term may be continued, solely at the option of the City, at the end of the Original Term or any Renewal Term, for an additional one year, provided that the final Renewal Term will not extend beyond October 2, 2024. At the end of the Original Term and at the end of each Renewal Term, unless the City has terminated this Lease pursuant to **Sections 3.04** or **10.01** and for no other reason, the City will be deemed to have exercised its option to continue this Lease for the next Renewal Term. The terms and conditions during any Renewal Term will be the same as the terms and conditions during the Original Term, except for any difference in the Rent as provided on **Exhibit A**.

Section 3.03. Continuation of Lease Term by the City. The City reasonably believes that legally available funds in an amount sufficient to make all payments of Rent during the Original Term and each of the Renewal Terms can be obtained. The City further covenants that its responsible financial officer will do all things lawfully within his power to obtain and maintain funds from which the Rent may be paid, including making provision for such payments to the extent necessary in each proposed budget or appropriation request submitted for adoption in accordance with applicable provisions of law and to exhaust all available reviews and appeals in the event such portion of the budget or appropriation request is not approved. Notwithstanding the foregoing, the decision to budget and appropriate funds or to extend this Lease for any Renewal Term is to be made in accordance with the City's normal procedures for such decisions by the then-current governing body of the City.

Section 3.04. Nonappropriation. The City is obligated only to pay periodic payments under this Lease as may lawfully be made from Available Revenues. If an Event of Nonappropriation occurs, this Lease will be deemed terminated at the end of the then-current Original Term or Renewal Term. An Event of Nonappropriation will be deemed to have occurred if the City fails to budget, appropriate or otherwise provide for sufficient funds to pay Basic Rent and any reasonably anticipated Supplemental Rent to come due during the immediately following Renewal Term. The City agrees to deliver notice to the Trustee of such termination at least 90 days prior to the end of the then-current Original Term or Renewal Term, but failure to give such notice will not extend the term beyond such Original Term or Renewal Term. If this Lease is terminated in accordance with this Section, the City agrees peaceably to transfer and surrender possession of the Leased Property to the Trustee.

Section 3.05. Enjoyment of Leased Property.

(a) The Trustee will provide the City during the Lease Term with quiet use and enjoyment of the Leased Property. The City will, during the Lease Term, peaceably and quietly have, hold and enjoy the Leased Property, without suit, trouble or hindrance from the Trustee, except as expressly set forth in this Lease. The City may use the Leased Property for any governmental or proprietary purpose of the City, subject to the limitations contained in this Lease.

(b) Notwithstanding any other provision in this Lease, the Trustee will have no responsibility to cause the Project to be constructed or to maintain, repair or insure the Leased Property. The City will comply with all statutes, laws, ordinances, orders, judgments, decrees, regulations, directions and requirements of all federal, state, local and other governments or governmental authorities, now or hereafter applicable to the Leased Property, as to the manner and use or the condition of the Leased Property. The City will also comply with the mandatory requirements, rules and regulations of all insurers under the policies required to be carried by the provisions of **Article VII**. The City will 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 City to comply with the provisions of this Section. Notwithstanding any provision contained in this Section, however, the City may, at its own cost and expense, contest or review by legal or other appropriate procedures the validity or legality of any such governmental statute, law, ordinance, order, judgment, decree, regulation, direction or requirement, or any such requirement, rule or regulation of an insurer and during such contest or review, the City may refrain from complying therewith, if the City furnishes, on request, to the Trustee, at the City's expense, indemnity satisfactory to the Trustee.

Section 3.06. Inspection. The Trustee will have the right at all reasonable times and with reasonable notice during business hours to enter into and upon the Leased Property for the purpose of inspecting the Leased Property.

ARTICLE IV

RENT

Section 4.01. Basic Rent.

(a) The City will promptly pay all Basic Rent, subject to **Sections 3.04** and **4.03**, in lawful money of the United States of America on each Basic Rent Payment Date in such amounts as are described on **Exhibit A**. A portion of each Basic Rent Payment is paid as, and represents payment of, interest as set forth on **Exhibit A** (said interest to be attributable to the various Principal Portions in accordance with the per annum rates set forth on **Exhibit A**).

(b) To provide for the timely payment of Basic Rent, the City will pay to the Trustee for deposit in the Lease Revenue Fund not less than fifteen (15) days before each Basic Rent Payment Date, the amount due on such Basic Rent Payment Date.

(c) The City will, in accordance with the requirements of law and its normal budgeting procedures, fully budget and appropriate sufficient funds for the current Fiscal Year to make the Rent Payments scheduled to come due during the Original Term, and to meet its other obligations for the Original Term, and such funds will not be expended for other purposes.

Section 4.02. Supplemental Rent. The City will pay, subject to **Sections 3.04** and **4.03**, as Supplemental Rent (a) all Impositions (as defined in **Article VI**); (b) all amounts required under **Sections 4.04** or **4.06** and all other payments of whatever nature that the City has agreed to pay or assume under this Lease; (c) all expenses, including attorneys' fees and expenses to the extent permitted by law, incurred in connection with the enforcement of any rights under this Lease or the Base Lease by the Trustee; (d) all fees, charges and expenses of the Trustee as further provided in **Section 4.07**; (e) if the amount in the Reserve Fund is less than the Reserve Fund Requirement as a result of the withdrawal of moneys therein in order to make Basic Rent Payments, the amount of such deficiency to the Trustee for deposit in the Reserve Fund on or before the first anniversary of the date of such withdrawal; (f) if the amount in the Reserve Fund is less than the Reserve Fund Requirement as a result of a decrease in value as shown by the valuation required by the Declaration of Trust, the amount of such deficiency to the Trustee for deposit in the Reserve Fund within 90 days of such valuation; and (g) any payments required to be made pursuant to the Tax Compliance Agreement. Amounts required to be paid under this Section will be paid directly to the person or entity owed.

Section 4.03. Rent Payments to Constitute a Current Expense and Limited Obligation of the City. Notwithstanding any other provision hereof, the Trustee and the City understand and intend that the obligation of the City to pay Rent hereunder be limited to payment from Available Revenues and will constitute a current expense of the City. Such obligation will not in any way be construed to be a debt of the City in contravention of any applicable constitutional, or statutory limitation or requirement concerning the creation of indebtedness by the City, nor will anything contained herein constitute a pledge of the general tax revenues, funds or moneys of the City, and all provisions of this Lease will be construed so as to give effect to such intent.

Section 4.04. Advances. If the City fails to either maintain the insurance required by this Lease or keep the Leased Property in good repair, the Trustee may, but is not obligated to, purchase the required insurance and pay the cost of the premiums therefor and maintain and repair the Leased Property and pay the cost thereof. All amounts so advanced by the Trustee will constitute Supplemental Rent for the then-current Original Term or Renewal Term. The City agrees to pay such amounts so advanced by the Trustee with interest thereon from the due date until paid at a rate per annum equal to the prime rate of the Trustee plus 2% or the maximum amount permitted by law, whichever is less. In accordance with Section 427.120 of the Revised Statutes of Missouri, unless the City provides evidence of the insurance coverage required by this Lease, the Trustee may purchase insurance at the City's expense to protect the Trustee's interests hereunder. This insurance may, but need not, protect the City's interests. The coverage that the Trustee may purchase may not pay any claim that the City may make or any claim that may be made against the City in connection with the Leased Property. The City may later cancel any insurance purchased by the Trustee, but only after providing evidence that the City has obtained insurance as required by this Lease. If the Trustee purchases insurance for the Leased Property, the City will be responsible for the costs of that insurance, including the insurance premium, interest and any other charges the Trustee may impose in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance will be added as Supplemental Rent. The costs of the insurance may be more than the cost of insurance the City may be able to obtain on its own.

Section 4.05. Credit against Basic Rent Payment Obligation. The City will receive credit against its obligation to pay the Interest Portion or Principal Portion of Basic Rent to the extent moneys are on deposit in the Lease Revenue Fund and are available to pay the Interest Portion or the Principal Portion of Basic Rent represented by the Certificates.

Section 4.06. Net Lease; Rent Payments to be Unconditional.

(a) This Lease is intended to be net, net, net to the Trustee, subject to **Sections 3.04, 4.03 and 4.05**. The obligations of the City to pay the Basic Rent Payments and to perform and observe the other covenants and agreements contained herein will be absolute and unconditional in all events without abatement, diminution, deduction, setoff or defense, for any reason, including any failure of the Project to be constructed or installed, any defects, malfunctions, breakdowns or infirmities in the Project or any accident, condemnation or unforeseen circumstances.

(b) Nothing in this Lease will be construed as a waiver by the City of any rights or claims the City may have against the Trustee under this Lease or otherwise, but any recovery upon such rights and claims will be from the Trustee separately, it being the intent of this Lease that the City will be unconditionally and absolutely obligated to perform fully all of its obligations, agreements and covenants under this Lease, including its obligation to pay Basic Rent and Supplemental Rent. The City may, however, at its own cost and expense and in its own name or in the name of the Trustee, prosecute or defend any action or proceeding or take any other action involving third persons that the City deems reasonably necessary in order to secure or protect its right of possession, occupancy and use hereunder. In such event the Trustee hereby agrees, subject to receipt by the Trustee of satisfactory indemnity in accordance with **Section 11.03** of the Declaration of Trust, to cooperate fully with the City and to take all action necessary to effect the substitution of the City for the Trustee in any such action or proceeding if the City will so request.

Section 4.07. Compensation of the Trustee. The City will, from time to time, upon the written request of the Trustee, (a) pay to the Trustee reasonable compensation for its services as agreed to

by the City and the Trustee from time to time (which compensation will not be limited by any provision of law in regard to the compensation of a trustee of an express trust) and (b) reimburse the Trustee for all reasonable advances and expenditures, including but not limited to, advances to and reasonable fees and expenses of independent appraisers, accountants, consultants, counsel, agents and attorneys or other experts employed by it in the exercise and performance of its powers and duties hereunder. Compensation under this Section (except the initial fee which is included in Costs of Issuance) is to be paid as Supplemental Rent as set forth in **Section 4.02**. The Trustee will have a first lien against the Trust Estate for its reasonable costs, fees, expenses and advancements hereunder.

Section 4.08. Increased Basic Rent. Notwithstanding any other provision of this Lease, the Trustee and the City may enter into a Supplemental Lease or Supplemental Leases that increase the amount of Basic Rent payable by the City on any Basic Rent Payment Date to provide funds to pay the costs of (a) repairing, replacing or restoring the Leased Property, (b) improving, upgrading or modifying the Leased Property, (c) completing the Project, (d) additional improvements to the Project or the acquisition of additional real property to be included in the Leased Property or the acquisition, purchase construction or equipping of additions to or expansions or remodeling or modification of the Leased Property, and (e) refunding any or all of the Certificates. Each such Supplemental Lease will include an amended **Exhibit A** reflecting separately the Principal Portion and the Interest Portion of Basic Rent allocable to the original Lease and to each Supplemental Lease due on each Basic Rent Payment Date as well as the total Basic Rent on each Basic Rent Payment Date.

ARTICLE V

RENOVATION AND INSTALLATION OF THE PROJECT

Section 5.01. Renovation and Installation.

(a) The City represents, warrants, covenants and agrees as follows:

(1) It has entered into or will enter into Construction Agreements providing for the construction of the Project in accordance with the plans and specifications or will construct the Project with City employees in accordance with the plans and specifications;

(2) It will cause the Project to be completed with all reasonable dispatch in accordance with the applicable provisions of this Lease;

(3) All contracts entered into or to be entered into by the City relating to such work will be in accordance with all applicable requirements of the laws of the State and will have the performance bonds required by **Section 7.01(a)(6)**;

(4) It has obtained or will obtain all necessary or required permits, licenses, consents and approvals that are material for the operation and maintenance of the Leased Property and will comply with all lawful requirements of any governmental body regarding the use or condition of the Leased Property, whether existing or later enacted or foreseen or unforeseen or whether involving any change in governmental policy or requiring structural or other change to the

Leased Property and irrespective of the cost of so complying;

(5) It will pay all fees, costs and expenses incurred in completing the Project or, to the extent there are moneys in the Project Fund available therefor, will request the Trustee to make such payments from the Project Fund in the manner hereinafter and in the Declaration of Trust provided; and

(6) It will ask, demand, sue for and use its best efforts to recover and receive such sums of money, debts or other demand to which it may be entitled under any contract, order, receipt, guaranty, warranty, writing or instruction in connection with the purchase, construction and installation of the Project, and it will use its best efforts, to the extent economically reasonable, to enforce the provisions of any contract, agreement, obligation, bond or other security in connection therewith, and any such amounts received in connection with the foregoing, after deduction of expenses incurred in recovering such amounts, will be paid to the Trustee for deposit in the Project Fund if the Completion Date has not occurred or for deposit in the Lease Revenue Fund if the Completion Date has occurred.

(b) If the Project or any portion thereof is delayed or fails to occur for any reason, there will be no diminution in or postponement of the payments to be made by the City hereunder.

(c) The Trustee is not the agent or representative of the City, and the City is not the agent of the Trustee, and this Lease will not be construed to make the Trustee liable to materialmen, contractors, subcontractors, craftsmen, laborers or others for goods or services delivered by them in connection with the Project, or for debts or claims accruing to the aforesaid parties against the City. This Lease will not create any contractual relation either expressed or implied between the Trustee and any materialmen, contractors, subcontractors, craftsmen, laborers or any other person supplying any work, labor or materials in connection with the Project. Notwithstanding anything herein or in the Declaration of Trust to the contrary, during the Lease Term, the Trustee will not be deemed to exercise control over or be an operator or owner of the Project and will not be responsible or liable for the operation, use and maintenance of the Project.

Section 5.02. Payment for Construction of the Project.

(a) Costs and expenses of every nature incurred in the construction of the Project that qualify as Project Costs will be paid by the Trustee from the Project Fund upon receipt by the Trustee of a completed request of the City signed by an Authorized Representative and, except as provided in **Section 6.04** of the Declaration of Trust, the Architect and containing the statements, representations and certifications set forth in the form of such request attached to the Declaration of Trust as **Exhibit B**.

(b) In making disbursements for Project Costs, the Trustee may conclusively rely upon each written requisition certificate executed by an Authorized Representative without inquiry or investigation. It is understood that the Trustee will *not* make any inspections of the Leased Property nor any improvements thereon, make any provision to obtain completion bonds, mechanic's or materialmen's lien releases or otherwise supervise any phase of the construction or installation of the Project. The approval of each requisition certificate by an Authorized Representative will constitute unto the Trustee an irrevocable determination that all conditions precedent to the payment of the specified amounts from the Project Fund have been completed.

Section 5.03. Completion Date; Excess Funds. The Completion Date will be evidenced to the Trustee upon receipt by the Trustee of a certificate signed by an Authorized Representative (the "Completion Certificate") stating (a) the date on which the Project was substantially completed, (b) that the Project has been purchased, constructed, made and installed in accordance with the plans and specifications therefor and in conformance with all applicable zoning, planning, building, environmental and other similar governmental regulations, (c) that, except for Project Costs described in clause (d), all Project Costs have been paid, and (d) the amounts, if any, to be retained in the Project Fund for the payment of Project Costs, if any, not yet due or Project Costs whose liability the City is contesting, and amounts that otherwise should be retained and the reasons they should be retained. The Completion Certificate may state that it is given without prejudice to any rights of the City that then exist or may subsequently come into being against third parties. The Trustee shall transfer, without further authorization, any amounts remaining in the Project Fund that are not needed to pay any remaining Project Costs to the Lease Revenue Fund.

Section 5.04. Warranties. The Trustee hereby assigns to the City for and during the Lease Term, all of its interest in all warranties, guarantees or other contract rights against any architect, contractor, subcontractor or supplier, expressed or implied, issued on or applicable to the Project, and the Trustee hereby authorizes the City to obtain the customary services furnished in connection with such warranties, guarantees or other contract rights at the City's expense. The City's sole remedy for the breach of such warranties, guarantees or other contract rights will be against any architect, contractor, subcontractor or supplier, and not against the Trustee, nor will such matter have any effect whatsoever on the rights of the Trustee with respect to this Lease, including the right to receive full and timely Basic Rent Payments and Supplemental Rent Payments. The City expressly acknowledges that the Trustee does not make nor has it made any representation or warranty whatsoever as to the existence or availability of such warranties, guarantees or other contract rights of the manufacturer or supplier of any portion of the Leased Property.

Section 5.05. Disclaimer of Warranties. THE TRUSTEE MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION OR FITNESS FOR A PARTICULAR PURPOSE OR FITNESS FOR USE OF THE PROJECT OR ANY PART THEREOF, OR WARRANTY WITH RESPECT THERETO. IN NO EVENT WILL THE TRUSTEE BE LIABLE FOR ANY INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGE IN CONNECTION WITH OR ARISING OUT OF THIS LEASE OR THE EXISTENCE, FURNISHING, FUNCTIONING OR THE CITY'S USE OF THE PROJECT OR ANY PART THEREOF.

Section 5.06. Deficiency of Project Fund. If the Project Fund is insufficient to pay fully all Project Costs and to complete fully the Project lien free, the City will pay, in cash, the full amount of any such deficiency by making payments directly to the contractors and to the suppliers of materials and services as the same becomes due. The Trustee is not obligated to pay and will not be responsible for any such deficiency, and the City will save the Trustee whole and harmless from any obligation to pay such deficiency. The City's obligation to pay any such deficiency will be limited to its current budgeted appropriations for the Project, and the City will have no obligation to appropriate additional funds therefor and may amend the Project to reduce or eliminate such deficiency.

ARTICLE VI

IMPOSITIONS

Section 6.01. Impositions. The City will bear, pay and discharge, before the delinquency thereof, as Supplemental Rent, all taxes and assessments, general and special, if any, that may be lawfully taxed, charged, levied, assessed or imposed upon or against or be payable for or in respect of the Leased Property, including any 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 water and sewer charges, assessments and other general governmental charges and impositions whatsoever, foreseen or unforeseen, that if not paid when due would impair the security of the Trustee or encumber the Leased Property (all of the foregoing being herein referred to as “Impositions”).

Section 6.02. Contest of Impositions. The City may, in its own name or in the Trustee’s name, contest the validity or amount of any Imposition that the City is required to bear, pay and discharge pursuant to the terms of this Article by appropriate legal proceedings instituted at least 10 days before the contested Imposition becomes delinquent. The City may permit the Imposition so contested to remain unpaid during the period of such contest and any appeal therefrom unless the Trustee notifies the City that, in the Opinion of Counsel, by nonpayment of any such items the interest of the Trustee in the Leased Property will be endangered or the Leased Property or any part thereof will be subject to loss or forfeiture. In that event, the City shall promptly pay such taxes, assessments or charges or provide the Trustee with full security against any loss that may result from nonpayment in form satisfactory to the Trustee. The Trustee agrees to cooperate with the City in connection with any and all administrative or judicial proceedings related to Impositions. The City will hold the Trustee whole and harmless from any costs and expenses the Trustee may incur with respect to any Imposition.

ARTICLE VII

INSURANCE; INDEMNITY

Section 7.01. Insurance Required.

(a) The City will, during the Lease Term, cause the Leased Property to be kept continuously insured against such risks customarily insured against for facilities such as the Leased Property and will pay (except as otherwise provided herein), as the same become due, all premiums in respect thereof, such insurance to include the following policies of insurance:

(1) Insurance insuring the Leased Property against loss or damage by fire, lightning and all other risks covered by the extended coverage insurance endorsement then in use in the State in an amount not less than the Principal Portion of the Certificates then Outstanding and issued by such insurance company or companies authorized to do business in the State as may be selected by the City. The policy or policies of such insurance will name the City and the Trustee as insureds, as their respective interests may appear. All proceeds from such policies of insurance will be applied as provided in **Article IX**.

(2) To the extent appropriate, during the renovation of the Project and in lieu of the insurance required in subparagraph (1) of this Section, builder's risk-completed value insurance insuring the Project against fire, lightning and all other risks covered by the extended coverage endorsement then in use in the State to the full insurable value of the Project (subject to reasonable loss deductible clauses) issued by such insurance company or companies authorized to do business in the State as may be selected by the City. Such policy or policies of insurance will name the City and the Trustee as insureds, as their respective interests may appear, and all payments received under such policy or policies by the City will be paid over to the Trustee.

(3) Comprehensive general accident and public liability insurance (including coverage for all losses whatsoever arising from the ownership, maintenance, operation or use of any automobile, truck or other motor vehicle), under which the Trustee and the City are named as insureds, in an amount not less than \$500,000 combined single limit for bodily injuries and property damage.

(4) Workers' compensation and unemployment coverages to the extent, if any, required by the laws of the State.

(5) Owner's policy of title insurance, issued on ALTA forms by a title insurance underwriter acceptable to the Underwriter, insuring the Trustee's leasehold estate created by the Base Lease, in the amount of \$_____, subject only to exceptions acceptable to the Underwriter, with endorsements and affirmative coverages reasonably required by the Underwriter, including comprehensive, nonmerger, validity of sublease, creditors' rights, survey or in the absence of a survey, location, access, and contiguity endorsements, and otherwise in form and substance satisfactory to the Underwriter.

(6) Performance and labor and material payment bonds with respect to the Construction Agreements in the full amount of the Construction Agreements from surety companies qualified to do business in the State.

Notwithstanding Subsection (d) below, the insurance required pursuant to this Subsection shall be maintained with an insurance company selected by the City with a rating of at least "A" by A.M. Best or S&P.

(b) Not less than 15 days prior to the expiration dates of the expiring policies, originals or copies of the policies required by this Section or certificates evidencing such insurance will be delivered by the City to the Trustee. All policies of such insurance, and all renewals thereof, will contain a provision that such insurance may not be cancelled by the issuer thereof without at least 30 days' written notice to the City and the Trustee (except that policies under subparagraph (a)(4) may be cancelled after no less than 10 days written notice). No later than 120 days after the end of each Fiscal Year, the City will provide a current certificate evidencing that the City is in compliance with the requirements of this Section to the Trustee.

(c) Nothing in this Lease will be construed as preventing the City from satisfying the insurance requirements herein set forth by using blanket policies of insurance or self-insurance provided each and all of the requirements and specifications of this Lease respecting insurance are complied with.

(d) The City may elect to be self-insured (for liability only) for all or any part of the foregoing requirements of this **Section 7.01** if (1) the maintenance of a separate segregated self-insurance trust fund funded in an amount determined (initially and on at least an annual basis) by an independent actuary employing accepted actuarial techniques and (2) the establishment and maintenance of a claims processing and risk management program. No later than 120 days after the end of each Fiscal Year, the City shall cause an independent actuary to submit a written report to the Trustee setting forth a determination, employing accepted actuarial techniques, of an adequate amount of reserves to be maintained in the City's self insurance trust fund. The City shall immediately deposit any amount necessary to cause the self insurance trust fund to be funded in the amount determined by the actuary. The City may not self-insure against casualty losses to any real or personal property owned, leased or used by it, including plant, property and equipment.

Section 7.02. Enforcement of Contract and Surety Bonds. In the event of material default of any contractor or subcontractor under a Construction Agreement or any other contract made in connection with the acquisition, construction and installation of the Project, or in the event of a material breach of warranty with respect to any materials, workmanship or performance, the City will promptly proceed, either separately or in conjunction with others, to pursue diligently the remedies of the City against the contractor or subcontractor in default and against each surety on a bond securing the performance of such contract. Any amounts recovered by way of damages, refunds, adjustments or otherwise in connection with the foregoing, after deduction of expenses incurred in such recovery and after reimbursement to the City of any amounts theretofore paid by the City not previously reimbursed to the City for correction or remedying of the default that gave rise to the proceedings against the contractor or subcontractor or surety, will be paid to the Trustee for deposit in the Project Fund if received before the Completion Date and, if such funds are received after the Completion Date, for deposit in the Lease Revenue Fund to be used solely for the purpose of paying Basic Rent under this Lease.

Section 7.03. Release and Indemnification. To the extent permitted by law, the City will indemnify, protect, hold harmless, save and keep the Trustee harmless from and against any and all liability, obligation, loss, claim, tax (other than income taxes or other taxes on or attributable to Rent Payments, if any, that are received by the Trustee in its individual capacity) and damage whatsoever and all expenses in connection therewith (including, without limitation, attorneys' fees and expenses) that are not caused by the gross negligence or willful misconduct of the Trustee, its agents, directors, attorneys or employees arising out of or as the result of (a) the entering into of the Base Lease, this Lease or the Declaration of Trust, (b) the acquisition, construction and installation of the Project, (c) injury, actual or claimed, of whatsoever kind or character, to property or persons, occurring or allegedly occurring in, on or about the Leased Property during the Lease Term, and/or (d) the breach of any covenant by the City herein or any material misrepresentation by the City contained herein; provided that (1) the City may conduct the Trustee's defense through counsel designated by the City and approved by the Trustee, which approval shall not be unreasonably withheld and, (2) the Trustee may retain separate counsel, at the expense of the City, if counsel selected by the City fails to actively and competently pursue a defense. The indemnification arising under this Section will continue in full force and effect notwithstanding the full payment of all obligations under this Lease or the termination of this Lease or the Base Lease and the Declaration of Trust for any reason.

ARTICLE VIII

COVENANTS OF THE CITY

Section 8.01. Maintenance and Modification of Leased Property by the City.

(a) The City will at its own expense (1) keep the Leased Property in a safe condition, (2) with respect to the Leased Property, comply with all applicable health and safety standards and all other industrial requirements or restrictions enacted or promulgated by the State, or any political subdivision or agency thereof, or by the government of the United States of America or any agency thereof, and (3) keep the Leased Property in good repair and in good operating condition and make from time to time all necessary repairs thereto and renewals and replacements thereof; provided, however, that the City will have no obligation to operate, maintain, preserve, repair, replace or renew any element or unit of the Leased Property the maintenance, repair, replacement or renewal of which becomes uneconomical to the City because of damage, destruction or obsolescence, or change in economic or business conditions, or change in government standards and regulations. The City will not permit or suffer others to commit a nuisance in or about the Leased Property or itself commit a nuisance in connection with its use or occupancy of the Leased Property. The City will pay all costs and expenses of operation of the Leased Property.

(b) The City may, also at its own expense, make from time to time any additions, modifications or improvements to the Leased Property that it deems desirable for its business purposes and that do not materially impair the structural strength or effective use, or materially decrease the value, of the Leased Property. All additions, modifications or improvements made by the City pursuant to this Section will (1) be made in a workmanlike manner and in strict compliance with all laws and ordinances applicable thereto, (2) when commenced, be pursued to completion with due diligence and (3) when completed, be deemed a part of the Leased Property.

Section 8.02. Tax Covenants. The City covenants and agrees that (a) it will comply with the provisions of the Tax Compliance Agreement and with all applicable provisions of the Code, including Sections 103 and 141 through 150, necessary to maintain the exclusion from gross income for federal income tax purposes of the Interest Portion of the Basic Rent and (b) it will not use or permit the use of any proceeds of Certificates or any other funds of the City nor take or permit any other action, or fail to take any action, if any such action or failure to take action would adversely affect the exclusion from gross income for federal income tax purposes of the Interest Portion of the Basic Rent. The City will, in addition, adopt such other ordinances or resolutions and take such other actions as may be necessary to comply with the Code and with all other applicable future laws, regulations, published rulings and judicial decisions, in order to ensure that the Interest Portion of the Basic Rent will remain excluded from gross income for federal income tax purposes, to the extent any such actions can be taken by the City.

Section 8.03. The City's Continuing Existence. The City will do or cause to be done all things necessary to preserve and keep in full force and effect its existence as a body corporate and politic.

Section 8.04. Continuing Disclosure. The City hereby covenants and agrees that it will comply and carry out all of the provisions of the Continuing Disclosure Agreement. Notwithstanding any other provision of this Lease, failure of the City to comply with the Continuing Disclosure Agreement will not be considered a default or an Event of Default under this Lease. The Trustee may, however, pursuant to the Declaration of Trust (and, at the request of the Owners of Certificates of at least 25% aggregate principal amount of Outstanding Certificates and if indemnified to its satisfaction, will) or any

Owners of Certificates may take such actions as may be necessary and appropriate, including seeking specific performance by court order, to cause the City to comply with its obligations under the Continuing Disclosure Agreement.

ARTICLE IX

CASUALTY AND CONDEMNATION

Section 9.01. Damage, Destruction and Condemnation.

(a) The City will bear the risk of loss with respect to the Leased Property during the Lease Term. If (1) the Leased Property or any portion thereof is destroyed, in whole or in part, or is damaged by fire or other casualty or (2) title to, or the temporary use of, the Leased Property or any part thereof will be nonexistent or deficient or taken under the exercise or threat of the power of eminent domain by any governmental body or by any person, firm or corporation acting pursuant to governmental authority, the City will cause the Net Proceeds of any insurance claim, condemnation award or sale under threat of condemnation to be applied to the prompt replacement, repair, restoration, modification or improvement of the Leased Property, unless the City has exercised its option to purchase the Trustee's interest in the Leased Property by making payment of the Purchase Price as provided herein. Any balance of the Net Proceeds remaining after such work has been completed will be paid to the City and will be held and appropriated by the City for the exclusive purpose of paying Rent under this Lease.

(b) If the City determines that the repair, restoration, modification or improvement of the Leased Property is not economically feasible or in the best interest of the City, then, in lieu of making such repair, restoration, modification or improvement and if permitted by law, the City will promptly purchase the Trustee's interest in the Leased Property pursuant to **Section 10.01(c)** by paying the Purchase Price. The Net Proceeds will be applied by the City to payment of the Purchase Price. Any balance of the Net Proceeds remaining after paying the Purchase Price will belong to the City.

(c) The City acknowledges the provisions pertaining to eminent domain in **Section 13** of the Base Lease. The Trustee and the City agree that the terms of **Section 13** of the Base Lease are incorporated in and made a part of this Lease to the same extent as if set forth in full at this point. This Section will survive the termination of this Lease for any reason.

Section 9.02. Insufficiency of Net Proceeds. If the Net Proceeds are insufficient to pay in full the cost of any repair, restoration, modification or improvement referred to in **Section 9.01** and the City has not elected to purchase the Trustee's interest in the Leased Property pursuant to **Section 10.01(c)**, the City will complete such replacement, repair, restoration, modification or improvement and pay any costs thereof in excess of the amount of the Net Proceeds. If the City makes any payments pursuant to this Section, the City will not be entitled to any reimbursement therefor from the Trustee nor will the City be entitled to any diminution of Rent.

ARTICLE X

OPTION TO PURCHASE; PARTIAL PREPAYMENT

Section 10.01. Purchase Option. The City may purchase the Trustee's interest in the Leased Property, upon giving written notice to the Trustee at least 45 days before the purchase date (unless a shorter notice is satisfactory to the Trustee), at the following times and on the following terms:

(a) On or after October 1, 20__ upon payment in full of Rent Payments then due hereunder plus a Purchase Price equal to 100% of the remaining Principal Portions of Basic Rent for the maximum Lease Term plus Interest Portions of Basic Rent accrued to the prepayment date.

(b) Upon deposit of moneys or Government Obligations or both with the Trustee in accordance with **Article X** of the Declaration of Trust in the amount necessary to provide for the Basic Rent Payments until and on, and the Purchase Price calculated as described in (a) above on the Certificates, to the prepayment date, which will be on or after October 1, 20__.

(c) In the event of substantial damage to or destruction or condemnation (other than condemnation by the City or any entity controlled by or otherwise affiliated with the City) of, or loss of title to, substantially all of the Leased Property, or as a result of changes in the constitution of the State or legislative or administrative action by the State or the United States, the Base Lease or this Lease becomes unenforceable, on the Basic Rent Payment Date the City specifies as the purchase date in the City's notice to the Trustee of its exercise of the purchase option, upon payment in full of the Rent Payments then due hereunder plus then remaining Principal Portions of Basic Rent for the maximum Lease Term, plus Interest Portions of Basic Rent accrued to the prepayment date.

Section 10.02. Partial Prepayment.

(a) The City may prepay the Basic Rent Payments in part, upon giving written notice to the Trustee at least 45 days before the prepayment date (unless a shorter notice is satisfactory to the Trustee), on any date occurring on or after October 1, 20__, at the prepayment price equal to 100% of the Principal Portion of Basic Rent being so prepaid plus the Interest Portion of Basic Rent accrued thereon to such prepayment date.

(b) The Principal Portion of Basic Rent prepaid pursuant to this **Section 10.02** will be in integral multiples of \$5,000 and will be credited in such order of stated payment dates as is determined by the City. Upon any partial prepayment, the amount of each Interest Portion of Basic Rent coming due thereafter will be reduced by the amount of such Interest Portion attributable to such prepaid Principal Portion determined by applying the annual interest rate corresponding to such prepaid Principal Portion as shown on **Exhibit A**.

Section 10.03. Determination of Fair Rent and Purchase Price. The City hereby agrees and determines that the Rent hereunder during the Original Term and any Renewal Term represents the fair value of the use of the Leased Property and that the Purchase Price required to exercise the City's option to purchase the Trustee's interest in the Leased Property pursuant to **Section 10.01** represents, as of the

end of the Original Term or any Renewal Term, the fair Purchase Price of the Leased Property. The City hereby determines that the Rent does not exceed a reasonable amount so as to place the City under an economic practical compulsion to renew this Lease or to exercise its option to purchase the Leased Property hereunder. In making such determinations, the City has given consideration to the Project Costs, the uses and purposes for which the Leased Property will be employed by the City, the benefit to the City by reason of the acquisition, construction, equipping, making and installation of the Project and the use and occupancy of the Leased Property pursuant to the terms and provisions of this Lease and the City's option to purchase the Leased Property. The City hereby determines and declares that the acquisition, construction and installation of the Project and the leasing of the Leased Property pursuant to this Lease will result in a Leased Property of comparable quality and meeting the same requirements and standards as would be necessary if the acquisition, construction and installation of the Project were performed by the City other than pursuant to this Lease. The City hereby determines and declares that the maximum Lease Term does not exceed the useful life of the Leased Property.

ARTICLE XI

ASSIGNMENT

Section 11.01. Assignment and Subleasing by the City. Except as hereinafter expressly provided, none of the City's right, title and interest in, to and under the Base Lease, this Lease and in the Leased Property may be assigned or encumbered by the City for any reason; except that the City may, sublease any one or more parts of the Leased Property if the City obtains an Opinion of Special Tax Counsel that such subleasing will not adversely affect the exclusion of the Interest Portion of the Basic Rent Payments from gross income for purposes of federal income taxation. Any such sublease of all or part of the Leased Property will be subject to the Base Lease, this Lease and the rights of the Trustee in, to and under the Base Lease, this Lease and the Leased Property.

ARTICLE XII

EVENTS OF DEFAULT

Section 12.01. Events of Default Defined.

(a) Any of the following will constitute an "Event of Default" under this Lease:

(1) Failure by the City to pay Basic Rent pursuant to **Section 4.01** hereof at the time specified therein;

(2) Failure by the City to make any Supplemental Rent Payment when due and the continuance of such failure for ten days after written notice specifying such failure and requesting that it be remedied is given to the City by the Trustee;

(3) Failure by the City to observe and perform any covenant, condition or agreement on its part to be observed or performed hereunder, other than as referred to in subparagraph (1) or (2) above, for a period of 30 days after written notice specifying such failure and requesting that it be remedied is given to the City by the Trustee, unless the Trustee will agree in writing to an extension of such time prior to its expiration; provided

that, if the failure stated in the notice cannot be corrected within the applicable period, the Trustee will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the City within the applicable period and diligently pursued until the default is corrected;

(4) Any statement, representation or warranty made by the City in or pursuant to the Base Lease or this Lease or the execution, delivery or performance thereof proves to have been false, incorrect, misleading or breached in any material respect on the date when made;

(5) Any provision of this Lease or the Base Lease at any time for any reason ceases to be valid and binding on the City, or is declared null and void, or the validity or enforceability thereof is contested by the City or any governmental agency or authority if the loss of such provision would materially adversely affect the rights or security of the Trustee; or

(6) The City becomes insolvent or admits in writing its inability to pay its debts as they mature or applies for, consents to, or acquiesces in the appointment of a trustee, receiver or custodian for the City or a substantial part of its property; or in the absence of such application, consent or acquiescence, a trustee, receiver or custodian is appointed by the City or a substantial part of its property and is not discharged within 60 days; or any bankruptcy, reorganization, debt arrangement, moratorium or any proceeding under bankruptcy or insolvency law, or any dissolution or liquidation proceeding, is instituted by or against the State and, if instituted against the City, is consented to or acquiesced in by the City or is not dismissed within 60 days.

(b) Failure of the City to comply with the Continuing Disclosure Agreement will not be an Event of Default under this Lease.

Section 12.02. Remedies on Default. Whenever any Event of Default exists, the Trustee will have the right, without any further demand or notice, to take one or any combination of the following remedial steps:

(a) By written notice to the City, the Trustee may declare all Rent payable by the City hereunder to the end of then-current Original Term or Renewal Term to be due;

(b) With or without terminating this Lease, the Trustee may take possession of the Leased Property (in which event the City will take all actions necessary to authorize, execute and deliver to the Trustee for the remainder of the Trustee's leasehold term under the Base Lease all documents necessary to vest in the Trustee for the remainder of the Trustee's leasehold term under the Base Lease all of the City's interest in the Leased Property), and sell the Trustee's interest in the Leased Property or lease the Leased Property or, for the account of the City, sublease the Leased Property and continue to hold the City liable for the difference between (1) the Rent payable by the City hereunder for the then-current Original Term or Renewal Term, as the case may be, and (2) the net proceeds of any such sale, leasing or subleasing (after deducting all expenses of the Trustee in exercising its remedies under this Lease, including without limitation all expenses of taking possession, removing, storing, reconditioning, and

selling or leasing or subleasing the Leased Property and all brokerage, auctioneers and attorneys' fees and expenses);

(c) The Trustee may terminate any rights the City may have in any moneys held by the Trustee under the Declaration of Trust; and

(d) The Trustee may take whatever action at law or in equity necessary or desirable to enforce its rights in the Leased Property and under this Lease.

Section 12.03. No Remedy Exclusive. No remedy herein conferred upon or reserved to the Trustee is intended to be exclusive and every such remedy will be cumulative and will be in addition to every other remedy given under this Lease now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default will impair any such right or power or will be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Trustee to exercise any remedy reserved to it in this Article it will not be necessary to give any notice, other than such notice as may be required in this Article.

ARTICLE XIII

MISCELLANEOUS

Section 13.01. Notices. All notices, certificates or other communications to be given or to be served upon any party in connection with this Lease will be given in accordance with **Section 12.03** of the Declaration of Trust.

Section 13.02. Title to Personal Property. Title to any portion of the Leased Property that constitutes personal property will vest in the City subject to the Trustee's rights under this Lease and the Base Lease; provided that title thereto will thereafter immediately and without any action by the City vest in the Trustee and the City will immediately surrender possession thereof to the Trustee upon (a) any termination of this Lease without the City exercising its option to purchase pursuant to **Section 10.01** or (b) the occurrence of an Event of Default. It is the intent of the parties hereto that any transfer of title to the Trustee pursuant to this Section will occur automatically without the necessity of any deed, bill of sale, certificate of title or other instrument of conveyance. Nevertheless, the City will execute and deliver any such instruments as the Trustee may request to evidence such transfer.

Section 13.03. Security Interest. To secure the payment of all of the City's obligations under this Lease, to the extent permitted by law, the Trustee retains a security interest in that portion of the Project consisting of personal property or fixtures and on all additions, attachments, accessions thereto, substitutions therefore and on any proceeds therefrom. The City will execute all additional documents, including financing statements, affidavits, notices and similar instruments that are necessary or appropriate to establish and maintain such security interest. The City hereby authorizes the filing of financing statements under the Uniform Commercial Code in connection with any security interest granted hereunder.

Section 13.04. Binding Effect. This Lease will inure to the benefit of and will be binding upon the Trustee and the City and their respective successors and assigns.

Section 13.05. Amendments, Changes and Modifications. This Lease may not be effectively amended, changed, modified, altered or supplemented except with the written consent of the Trustee and the City and as provided in the Declaration of Trust.

Section 13.06. Electronic Transactions. 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 will 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 13.07. No Merger. Neither this Lease nor the Base Lease nor any provisions hereof or thereof shall be construed to effect a merger of the title of the City to the Leased Property under the Base Lease and the City's leasehold interest therein under this Lease.

[Remainder of Page Intentionally Left Blank.]

IN WITNESS WHEREOF, the Trustee and the City have caused this Lease to be executed in their names by their duly authorized representatives as of the date first above written.

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

By: _____
Name: Victor Zarrilli
Title: Senior Vice President

(SEAL)

ATTEST:

By: _____
Name: _____
Title: Assistant Secretary

**CITY OF BRENTWOOD, MISSOURI,
a municipal corporation of the State of Missouri**

By: _____
Name: Pat Kelly
Title: Mayor

(SEAL)

ATTEST:

By: _____
Name: Bola Akande
Title: City Administrator/Clerk

[Lease Purchase Agreement]

SCHEDULE 1
TO LEASE PURCHASE AGREEMENT
DESCRIPTION OF THE REAL PROPERTY

EXHIBIT A

SCHEDULE OF BASIC RENT PAYMENTS

<u>Basic Rent Payment Date</u>	<u>Principal Portion</u>	<u>Interest Rate</u>	<u>Interest Portion</u>	<u>Basic Rent</u>
04/01/2015				
10/01/2015				
04/01/2016				
10/01/2016				
04/01/2017				
10/01/2017				
04/01/2018				
10/01/2018				
04/01/2019				
10/01/2019				
04/01/2020				
10/01/2020				
04/01/2021				
10/01/2021				
04/01/2022				
10/01/2022				
04/01/2023				
10/01/2023				
04/01/2024				
10/01/24				
TOTAL	<u>[\$[Principal].00</u>		\$	\$