



## ADDENDUM NO. 2

Date Issued: October 3, 2024

<b>PROJECT NUMBER:</b>	10-19202-00
<b>PROJECT NAME:</b>	Jennings Community Center
<b>CLIENT NAME:</b>	City of Jennings
<b>PREPARED BY:</b>	KAI Design 2060 Craigshire Dr, St. Louis, MO 63146

- I. This Addendum modifies the Contract Documents and is hereby made a part of the Proposal, Bidding and Contract Documents.*
- II. Bidders must acknowledge receipt of this Addendum in the Bid Proposal Form. Failure to do so may subject Bidder to disqualification.*
- III. All incidental work necessitated by this addendum as required to properly complete the work shall be included in the Bids, even though not specifically stated in the Addendum.*

### GENERAL INFORMATION

TITLE	DESCRIPTION OF CHANGES
	Added: Substitution Request Form.
	Added: Pre-Bid RFI Log.
	Added: Email re: Declaration of Trust - Jennings MO COPS Srs 2021 dated 9/30/24.

### PROJECT MANUAL UPDATES

SECTION #	DESCRIPTION OF CHANGES
00 11 16	Revised bid due date.
00 24 13	Revised dates.

### DRAWING UPDATES

SHEET #	DESCRIPTION OF CHANGES
N/A	None.

END OF DOCUMENT

00 11 16 - INVITATION TO BID

1.1 PROJECT INFORMATION

- A. Notice to Bidders: Qualified bidders may submit bids for project as described in this Document. Submit bids according to the Instructions to Bidders.
  - 1. The laws of the State of Missouri and City of Jennings shall govern submittal, opening, and award of bids.
- B. Project Identification: Jennings City Center Project
  - 1. Project Location: 2315 Ada Wortley Avenue, Jennings, Missouri 63136
- C. Owner: City of Jennings 2120 Hord, Jennings, Missouri 63136
  - 1. Owner's Representative: NAVIGATE Building Solutions Contact: Kevin McGinnis 8419 Manchester Road, MO 63144 Phone: 314-630-7782
- D. Architect: KAI Design, LC 2060 Craigshire Rd, St. Louis, MO 63146
- E. Project Description: Project consists of a New Community Center, approximately 15,000 square feet. Work includes but is not limited to, site clearing and excavation, concrete foundations and flatwork, engineered metal building, landscaping, sanitary and storm sewers, HVAC, electrical, plumbing, and communications work.
  - 1. Project construction cost range is anticipated to be under nine million dollars.
- F. Construction Contract: Bids will be received for the following Work:
  - 1. General Contract (all trades).
    - a. General Building Construction.
    - b. Contract for General Construction (all trades)

1.2 BID SUBMITTAL AND OPENING

- A. Owner will receive sealed lump sum bids until the bid time and date at the location given below. Owner will consider bids prepared in compliance with the Instructions to Bidders issued by Owner, and delivered as follows:
  - 1. Bid Due Date: Tuesday, October 15, 2024
  - 2. Bid Time: 2:00 p.m. local time.
  - 3. Location: Jennings City Hall 2120 Hord Avenue, Jennings, Missouri 63136
  - 4. Bids are to be presented in a sealed envelope addressed to the City Clerk of the City of Jennings, Shaquan Brown, with the Project Number, INV 02012022 clearly marked on the envelope.
  - 5. Bids will not be accepted after 2:00 pm.
- B. Bids will be thereafter publicly opened and read aloud at 2:00 pm.

### 1.3 BID SECURITY

- A. Bid security in form of Bid Bond or certified check shall be submitted with each bid in the amount of \$1,000.00. No bids may be withdrawn for a period of 60 days after opening of bids. Owner reserves the right to reject any and all bids and to waive informalities and irregularities.

### 1.4 PRE-BID MEETING

- A. Pre-bid Meeting: A Pre-bid meeting for all bidders was held in person at Jennings City Hall on Tuesday, September 24 2024 at 2:00 pm.
- B. Bidders' Questions:
  - 1. Questions answered at the pre bid conference will be published in an addendum prior to the bid date.
  - 2. All RFI's and substitution requests must be submitted by, Wednesday, October 9th @ 5:00 pm.
  - 3. Architect will provide responses in a subsequent Addendum to bidders' questions and substitution requests.

### 1.5 DOCUMENTS

- A. Online Procurement and Contracting Documents: Obtain access on or after Tuesday, September 17, 2024 by contacting the City of Jennings website. While online access is available to all, bids will only be accepted from prime bidders.
  - 1. [www.cityofjennings.org](http://www.cityofjennings.org)
- B. Bid documents will also be available for viewing and download from, Southern Illinois Builders Association (SIBA) <http://www.sibaagc.org> (membership/fees may apply), McGraw-Hill Construction/DODGE On-Line [www.construction.com](http://www.construction.com) (membership/fees may apply) and MOKAN [planroom@mokanccac.org](mailto:planroom@mokanccac.org)
- C. Printed bid and contracting documents can be obtained at Cross Rhodes Print and Technologies 2731 S. Jefferson, St. Louis, MO 63118

### 1.6 TIME OF COMPLETION [ AND LIQUIDATED DAMAGES]

- A. Successful bidder shall begin the Work on receipt of the Notice to Proceed and shall complete the Work within the Contract Time. Work is subject to liquidated damages in the amount of \$1000.00 per day beyond the specified completion date.

### 1.7 BIDDER'S QUALIFICATIONS

- A. Bidders must be properly licensed under the laws governing their respective trades and be able to obtain insurance and bonds required for the Work. A Performance Bond, separate Labor and Material Payment Bond, and Insurance in a form acceptable to Owner will be required of the successful Bidder.

1.8 BUY AMERICAN ACT:

- A. In accordance with the Domestic Product Procurement Act (hereinafter referred to as the Buy American Act) RSMo 34.350-34.359, the bidder is advised that any goods purchased or leased by any public agency where the purchase, lease or contract involves the expenditure of twenty-five thousand dollars (\$25,000) or more, shall be manufactured or produced in the United States. Section 34.350.2(1) of that Act specifies that the term "public agency" includes all political subdivisions of the State of Missouri, which definition includes counties. The requirements of the Buy American Act shall not apply if other exceptions to the Buy American mandate in RSMo 34.353 are met. If the bidder claims there is only one line of the good manufactured or produced in the United States, RSMo 34.353 (2), or that one of the exceptions of RSMo 34.353 (3) applies, the Department Head or Elected Official bears the burden of certification as required prior to the award of a contract.
- B. This project is subject Prevailing Wages per Missouri Annual Wage Order No. 31 (Public Act 86-799) for St. Louis County, MO.

1.9 NOTIFICATION

- A. This Invitation to Bid document is issued by The City of Jennings, Missouri

END OF DOCUMENT 00 11 16

Community Center  
2315 Ada Wortley Avenue  
Jennings, MO

KAI Project No. 10-19202.00  
Addendum 2  
October 2, 2024

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**City of Jennings  
Community Center  
Scope of Work for General Contractor**

The Owner's Representative (CM) referred to below is Navigate Building Solutions, LLC. The Owner referred to below is the City of Jennings. The Contractor referred to below is the General Contractor. This bid package includes, but is not limited to, the following:

1. Scope shall include all work outlined by the project documents (plans and specifications) issued by KAI Design, LLC dated September 17, 2024.
  - a. The scope of work includes the construction of the Jennings Community Center.
2. This contractor shall include in the base bid price a Scope Coordination and Unknown Site Conditions allowance of \$300,000. Allowance shall include all overhead, profit, and fees as is allowed for Change Orders in contract Exhibit D, Modification/Explanation of Change Order Fee. Unit prices provided on the Supplemental Bid Information Form shall be used where applicable to work paid from the Allowance. Any savings to this allowance shall be reconciled via a deduct Change Order which shall include the associated overhead, profit, and fees. This allowance may only be used at the sole discretion of the CM and Owner. This allowance may not be used to address the effects of weather conditions. Allowance amount to be entered on Bid Form. The draft AIA 101 and AIA 201 have been modified from their original versions. Contractor shall read and agree to these documents as part of the bid process.
3. Contractor is aware of the potential for Liquidated Damages. Contractor shall be responsible to maintain scheduled items for the Contractor's work as included in the Master Project Schedule below. Contractor shall reference the City-Contractor Agreement included in the bid documents. Contractor agrees to pay the Owner, or to deduct from the Contract Sum, not as a penalty, but as liquidated damages, the amounts listed in the contract drafts provided.
4. Upon execution of this contract, this contractor must submit to the CM a detailed critical path baseline construction schedule outlining each construction activity and phase. This schedule must fall within the Master Project Schedule outlined below and be submitted no later than two (2) weeks following execution of the contract. Contractor is required to provide updated work schedules at a minimum on a monthly basis with each pay application. Contractor's detailed activity schedule/critical path schedule shall adhere to the Master Project Schedule and shall provide for expeditious and practicable execution of the Work. Should the Contractor fall behind schedule by more than 5 work days due to the fault of this Contractor, the Contractor shall provide a recovery schedule to the CM within 5 days of request by the CM.

**Master Project Schedule Milestone Dates:**

- |   |                             |
|---|-----------------------------|
| 1. Request for Bids                       | September 17, 2024          |
| 2. Pre-Bid Meeting                        | September 24 at 2:00 PM     |
| 3. Bid RFIs Due                           | October 9 at 5:00 PM        |
| 4. Last Bid Addenda Issued (if necessary) | October 11 at 5:00 PM       |
| 5. Receipt of Bids                        | October 15, 2024 at 2:00 PM |
| 6. Supplemental Bid Information Due       | October 16, 2024 at 2:00 PM |
| 7. Final Board Approval                   | October 28, 2024            |

- |  |  |
|--|--|
| 8. Anticipated Notice to Proceed / Mobilization (Day 1)      | November 1, 2024                         |
| 9. Groundbreaking  | Date TBD by Owner                        |
| 10. General Contractor Internal Pre-Punch                    | 5 weeks Prior to Subst. Completion       |
| 11. Substantial Completion / Punchlist Populated (Day ____*) | *Based on Bidder's                       |
| Proposed Duration  |  |
| All Life Safety Inspections & Occupancy                      |  |
| Inspections to be completed on or before                     |  |
| Substantial Completion date. Owner systems                   |  |
| furniture also able to be installed in this 30 day           |  |
| window for connection as needed by this                      |  |
| Contractor.  |  |
| 12. Project Final Completion                                 | 30 Calendar Days After Subst. Completion |

5. The contractual project duration for achieving Substantial Completion shall be proposed by bidders on the Bid Form. The proposed duration will be used as key criteria along with other information on the Bid Form to select and award a General Contractor. The project duration will be incorporated into the Contract between the Owner and the General Contractor.
6. Contractor accepts all risks associated with adverse weather. No time extensions will be granted related to claims of adverse weather. No claims for extra costs will be granted related to adverse weather and/or taking action to deal with adverse weather and/or the effects of adverse weather. All provisions in the A101 and A201 otherwise respecting weather are superseded by this provision and are of no force and effect.
7. Any claims for delay to critical path activities shall be submitted to the Construction Manager within 24 hours of occurrence, identifying the event and the impacted critical path activity. The Construction Manager will review to determine if the claim will be considered a valid delay. Each day claimed shall be tracked on a log for review at the bi-weekly Owner meetings.
8. Contractor is required to provide detailed work schedule (short term schedule) on a weekly basis. Contractor's detailed work schedule shall adhere to the Master Project Schedule and the accepted contractual project duration. Contractor shall meet the requirements of the Master Project Schedule.
9. Provide all supervision, labor, tools, equipment and materials to complete the work.
10. Perform all unloading, loading, distribution and hoisting of materials for this scope of work.
11. Furnish, install, maintain and remove temporary on-site trailers and storage containers as required to perform the work. Trailer shall include a conference room with table and chairs for Owner and Architect meetings, and other meetings as needed.
12. Perform all work in accordance with OSHA standards (including OSHA 10-hour requirement). This Contractor is responsible for OSHA required safety railings (installation, maintenance and removal) including appropriate OSHA approved system for roof edge protection for all trades. Contractor shall maintain copies of all SDS sheets onsite at the job trailer.
13. The Owner will furnish the City of Jennings Building permit, including fire alarm and fire protection. This Contractor (or its subcontractors) is responsible for all other permits, if required and fees

required by state, county, local, regional, and federal authorities, and agencies associated with this scope of work, ie: mechanical, electrical, plumbing through St. Louis County, utility companies (including the Metropolitan Sewer District of St. Louis (MSD), Missouri American Water (MOAM)). This Contractor is required to comply with all permit requirements and inspection requirements associated with such permits. This Contractor is also required to obtain a Business License from the City of Jennings if required.

14. Coordinate all work with the Owner's representative.
15. Bi-weekly meetings at the jobsite will be held with the Owner Representative. The work of this contractor must be performed in accordance with the decisions and schedules formulated at these meetings so as not to delay the work. The Contractor's Project Manager and Foreman/Superintendent must be present at these meetings. This contractor shall keep minutes of these meetings and forward to the CM for review within 2 working days after the meeting.
16. Weekly meetings at the jobsite MUST be held with this contractor and its subcontractor's Foreman/Project Managers to coordinate installation of all systems. The Owner, Architect and the CM shall be invited to all of these meetings and will attend at their discretion. This contractor shall prepare an agenda that includes at a minimum the following topics to be discussed and coordinated with critical path subcontractors, i.e.: Schedule, RFIs, Submittals, factors affecting progress, long lead procurement deliveries, etc. This Contractor must keep minutes of these meetings and forward to the CM and Owner for review weekly.
17. General Contractor and its HVAC, Plumbing, Fire Protection and Electrical subcontractors will be expected to coordinate above-ceiling work prior to installation, including the creation of drawing overlays to identify and address interferences prior to installation as needed.
18. This Contractor shall provide all surveying and layout required to complete the work.
19. Review all drawings and specifications and accept responsibility for requirements, general notes, notes, specifications, and details as they relate to this scope of work.
20. General Contractor will install, maintain, and remove all SWPPP scope of work. Contractor will provide all SWPPP reports per MDNR standards. Provide SWPPP reports to the CM on a weekly basis and immediately following each rain event.
21. This Contractor is responsible for locating all public and private utilities.
22. Provide street cleaning to remove dirt, mud, and debris generated by the project site as needed to maintain a clean surface at existing drives, parking lots and public roads. This includes cleaning along Ada Wortley Avenue and Berkay Avenue.
23. Take note of nearest water source and the schedule for water line installation; if no water is available on site, provide alternate means for tire wash down of trucks prior to leaving the site.
24. Provide barricades, signage, flagging and flagman for traffic control and public safety during the execution of the work. Coordination of all road closures (full or partial) with CM and city officials.
25. Protect adjacent properties and utilities as required during the execution of this work. Provide shoring or underpinning as required for safe excavations to meet OSHA requirements and to protect adjacent streets, sidewalks, utilities and existing structure(s). If this requires engineered shoring systems, this Contractor will provide as needed for this scope of work.



26. This Contractor to cleanup all rubbish and debris from site and building on a daily basis. This includes off-site disposal of all rubbish and debris along with excess spoils, unsuitable materials, excess materials such as concrete, sand and masonry materials. Trucks or dumpsters to haul off material by this Contractor.
27. This Contractor shall furnish all dumpsters for the entire project and shall include cost to haul offsite and legally dispose of all construction rubbish and debris.
28. This contractor to broom clean all floors at least once a week to ensure housekeeping stays up to par.
29. This Contractor shall provide a heavy construction cleaning prior to punch list creation so all surfaces can be observed by the design team. Clean exterior and interior surfaces exposed to view; remove temporary labels, stains, putty, soil, paint and foreign substances from all surfaces, including glass and painted surfaces; polish transparent and glossy surfaces; clean equipment and fixtures to a sanitary condition; replace air filters in mechanical equipment; clean roofs, gutters, and downspouts; remove obstructions and flush debris from drainage systems; clean site; sweep paved areas and rake clean other surfaces; remove trash and surplus materials from the site; clean and polish all floors; clean and polish all hardware; and repair all Work damaged during cleaning.
30. Provide final cleaning of all buildings and site prior to occupancy.
31. Contractor will provide temporary construction toilets for the project for all Contractors, visitors, etc.
32. Contractor will provide ice, cups and distribute drinking water as needed for workers performing this scope of work.
33. This Contractor and all subcontractors will be responsible to review all specifications and drawings.
34. Contractor must not burn in the concrete at the carpet tile, vinyl, or other resilient flooring locations. Contractor to ensure floors are kept dry and clean so that the concrete can dry in order to accept adhesive for flooring products. Include moisture mitigation as required by the specifications.
35. The Owner, Architect, and CM will be very stringent on the quality of exposed concrete floors during punch list. It is ultimately in this Contractor's scope of work to protect all finish products through education, signage, and temporary protection. Proper concrete protection from staining must be observed and will be enforced. Steel must not be placed on slab to avoid staining. Diaper hydraulic powered equipment to avoid oil and gasoline staining. Pipe cutting machines shall not be used on the concrete slabs where the exposed concrete finishes are scheduled. Any rubber-tired traffic shall be kept at a minimum and shall be protected with drop cloths.
36. Plan concrete floor pours such that a single pour covers any continuous area of architecturally exposed concrete, stained concrete or polished concrete floors.
37. No lignite to be allowed in any interior or exterior flatwork concrete.
38. Contractor to furnish first aid and safety supplies as needed for this scope of work.
39. Contractor is solely responsible for site/project safety for this scope of work.
40. Contractor to maintain Site Specific Safety Plan which shall be completed and kept in their job trailer at all times.

41. Contractor to grout fill frames per architectural details and notes.
42. Provide code compliant seismic support and bracing as required for installation of acoustical ceiling systems per contract documents.
43. Provide fire stop systems as required for the installation of this scope of work.
44. Provide stenciling of rated walls according the AHJ requirements.
45. Include cost to furnish and install toilet accessories as indicated.
46. Include wall blocking as needed for ALL toilet accessories, TV's, etc. regardless of OFCI, OFOI, or CFCI status.
47. Contractor to provide and maintain weather protection for material and work as required by the project schedule. Contractor to also provide any cold or hot weather measures for weather sensitive materials like concrete, masonry, roofing materials, air/vapor barrier, etc. This shall include but is not limited to tenting and heating for masonry installation. Delays will not be awarded for construction activities impacted by hot/cold temperatures. If wet site conditions are hindering the progress onsite and access for trades, this Contractor shall provide temporary rock access to those areas to maintain the project schedule.
48. Include water pumping and dewatering necessary to proceed with work being performed under this bid package. Refer to Geotechnical Report for anticipated groundwater.
49. This Contractor is responsible for securing the building once it is reasonably possible to do with temporary or permanent measures at the close of every day. Any temporary openings in walls are to be secured at the end of the work day.
50. This Contractor to supply, install, maintain, move and remove temporary site fence with gates. See Site Logistics Plan in bid documents.
51. Provide and remove temporary rock parking for visitors to the site, temporary construction parking, staging, and laydown areas. Location of all staging/trailer placement/access to be coordinated and approved by the CM. See Site Logistics Plan in bid documents.
52. Contractor is responsible for any coordination of staging or relocation for materials for this scope of work after initial unloading.
53. Soil testing, concrete testing and the Special Inspections listed on structural plans shall be performed by Owner's consultant and paid for by Owner. Contractor will assist and coordinate/schedule with the agency to perform onsite testing work as needed/required by the documents. If the agency must re-test or re-inspect for failed tests/inspections or if the Contractor fails to notify the testing agency of a cancelled test/inspection, this Contractor shall compensate the Owner for such tests.
54. The Owner may opt to utilize a third-party exterior envelope testing agency. General Contractor to assist with such testing.
55. The Owner may opt to utilize a third-party Commissioning agent. General Contractor to assist with such agent.
56. No smoking shall be allowed inside the building once interior construction begins.

57. Full-time onsite superintendent is required when any Work is taking place. Contractors shall consider the size and complexity of this project when determining the balance of the project's project management staff. Contractor shall assign staff as needed to maintain project progress and oversight. Contractor shall assign project manager/engineer/superintendent to the project with relative similar industry and project-type experience, availability, and workload capacity.
58. The contractor shall use a web-based Project Management software program for coordination of project RFIs, submittals, change orders, etc. Contractor shall be the administrator and maintain all records in the program, and shall grant access to the Owner, CM and design team members. Include the cost associated with the use of such program. The contractor will not be allowed to change systems during the duration of the project.
59. This Contractor shall produce a submittal log at the beginning of the project that is populated with all of the required submittals for this scope of work and assign due dates for submission to the Architect and due dates for return from the Architect. This log must be submitted to the CM and Architect for review on a weekly basis. See Contract Agreement for submittal timelines as required by phase.
60. The Project Milestone Dates identify when all submittals shall be submitted for review. This milestone does not relieve the Contractor of completing select submittals sooner, as needed to meet the overall project schedule for installation of the work.
61. This Contractor shall maintain an RFI log for this scope of work. This log must be submitted to the CM and Architect for review on a bi-weekly basis. Log to include:
  - a. RFI number
  - b. Topic of RFI
  - c. Date submitted
  - d. Date requested response by
  - e. Date returned
  - f. Status- Open or Closed
62. Within two weeks after award, this Contractor shall submit any proposed revisions to Site Logistics Plan for review. The Owner, CM, Contractor, and Architect will meet to review and discuss site logistics and finalize an agreed upon plan of action for construction parking, office/storage containers, temporary toilets, temporary site fence, etc.
63. This Contractor must prepare and make available upon request, a procurement log for this scope of work for all long lead materials and equipment. Procurement log must include date of order, date of confirmation of order, expected delivery date, actual delivery date, and comments noting any changes to dates and reasons for change.
64. This Contractor shall organize and arrange for pre-installation meetings for this scope of work for all major scopes of work with the subcontractors and manufacturers prior to commencement of those activities and invite the Owner, Architect, and CM to all pre-installation meetings (must give at least 2 weeks notice of meetings). This contractor shall keep minutes of those meetings and forward to the CM and Architect for review.
65. This Contractor will be responsible for submitting daily logs containing the number of workers, equipment, work accomplished, daily weather, deliveries, visitors to the site, any inspections passed or failed, problems encountered, and other relevant data as may be required. These reports must be emailed to the CM daily, within 24 hours of work performance.

66. Provide photographs of all below slab, in slab, and in-wall rough in prior to cover-up. Organize photos electronically and label with location on corresponding floor plan. Submit 'rough in photograph' package at the end of the project. CM may ask for progress photos during project as needed for reference or coordination.
67. This Contractor shall arrange, schedule, organize and video tape as it pertains to this scope of work all equipment start-ups and Owner Training sessions per contract documents. These training sessions shall be recorded professionally by a videographer, including lapel mics for person providing the training, etc. A DVD including copies of each training session (organized as individual Chapters) shall be provided as part of the closeout documents.
68. This Contractor must populate a closeout log and submit to the CM and Architect for review to verify that all required items have been included. Once approved, this log will be used to track required closeout items prior to final payment. This contractor is highly encouraged to submit O&M requirements as soon as possible in advance of final acceptance to help eliminate delay in payment.
69. This Contractor is responsible for any temporary heating/cooling, humidifying/dehumidifying as needed to maintain the project schedule and as needed prior to starting the permanent HVAC equipment. Use of the new HVAC system will not be allowed during construction. Contractor also responsible for any extended warranties needed to provide the Owner with the required contractual warranty durations.
70. This Contractor shall be responsible for the cost of temporary utilities usage for all trades during the course of construction including but not limited to: gas, electric, sewer, water. Contractor is responsible for any backflow preventer costs/water usage costs for hydrant use. Upon Substantial Completion, CM will work with Contractor and Owner to transfer all utilities into the Owner's name.
71. Contractor shall coordinate, furnish and install temporary transformer according to Ameren requirements.
72. Furnish and install concrete transformer pad per Ameren UE Specifications.
73. Clean all HVAC coils and replace all filters with new filters at the time of building turnover to the Owner.
74. All ductwork ends to be sealed before arriving at site and seals at end of runs to be maintained.
75. This Contractor will compile for the Owner a 'record set' of all documents and drawings, as it pertains to this scope of work, for the project at Substantial Completion. This shall be 'red-lined' copies of all project changes throughout the course of the project to identify all systems as they were actually installed on the project for the Owner's records. These must be electronically recorded and submitted to the Owner in pdf format.
76. As-built Surveys will be required by this Contractor at the Completion of the Project, including for Site Utilities, rain gardens, detention basins, etc. to submit to Utility company/department or City/County for final approval. A portion of retainage will be held until all surveyed as-builts have been submitted and accepted by the utility company and authorities having jurisdiction.

77. Contractor is required to hold their alternate pricing that was included in the bid form for 3 months after the bid date, unless noted otherwise in the alternate description. Contractor will notify CM when decisions need to be made regarding the acceptance of bid alternates in order to maintain deliveries, installation, and the master project schedule.
78. The Master Project Milestone Dates include all work proposed in the Bid Alternates. No time extensions will be granted for accepted Alternates.
79. Unit prices provided on the Bid Form and incorporated into the contract shall apply to the condition described in the unit price, regardless of which subcontractor performs the work or when the work is being performed.
80. Construction work shall only be allowed during hours permitted by the City of Jennings. If Contractor opts to work outside of those hours, they must contact the CM/City/Owner to obtain permission.
81. During the warranty period of the project, this Contractor shall document, maintain and update a Warranty Log of all warranty items, weekly, to be shared with the Client and CM. Contractor shall acknowledge the Owner's warranty call within 4 hours and keep the Owner apprised of the resolution status. Any roof or building envelope leaks or elevator issues or any issue that interferes with regular building operations shall be considered as urgent / emergencies. Contractor to provide a 24-hour on-call service for such urgent or emergency items.
82. Builder's Risk to be carried by the General Contractor. Deductibles to be paid by General Contractor.
83. Contractor is required to maintain access to the work as needed to maintain schedule.
84. No change orders will be issued for material cost increases or impacts of tariffs that occur during the project.
85. This Contractor shall provide an opportunity for a ground-breaking ceremony. General Contractor to provide a twelve-inch high mound of loose dirt, three feet wide and forty feet long to be removed after ceremony.
86. If this contractor chooses to backfill foundation walls prior to that time which is approved/allowed by the structural engineer, this Contractor is responsible for designing, installing, rental (and eventual removal) of all temporary shoring of foundation walls prior to backfill.
87. Provide housekeeping pads.
88. Proof roll subgrade prior to placing base rock for paving.
89. Asphalt lifts shall be no greater than 3" thick. Provide minimum 3 asphalt mobilizations.
90. Provide site bollards complete with footing, anchoring, concrete fill, painting and plastic covers.
91. Provide all interior and exterior signage shown on plans and indicated in specifications, including site and parking signage.
92. No change orders will be awarded for additional forming or additional concrete in overexcavated footings.

93. All areas must be left at the end of each day so that there is no standing water. Grade temporary swales to drain site, if necessary, to achieve this requirement.
94. Strip topsoil, stockpile, and stabilize until ready for use. Spread topsoil to the depth required by civil and landscape drawings and landscape specifications.
95. Pressure test and chlorinate site water lines. Provide test reports to Owner verifying acceptable pressures and chlorination. Coordinate with utility company / fire district and obtain approval from those parties as required.
96. Verify that all plumbing fixtures are mounted at ADA height required by AHJ.
97. Include all caulking and sealants for all systems and materials furnished and installed on the bid documents.
98. Provide access panels needed for all work installed under this contract.
99. Provide a mockup per documents of the building envelope materials and construction techniques. The mockup should reflect the project document details and be installed exactly as indicated on the drawings. The purpose of the mockup is to not only review and achieve an approval of the materials, but also to ensure the transition of the materials results in a good watertight condition. Contractor to follow the mockup guidelines outlined in the project documents. If the Contractor questions a detail provided, it should be submitted as an RFI and discussed with the project team prior to the construction of the mockup.
100. Contractor must include Professional Liability and errors and omissions insurance for the design-build scopes of work (delegated design) that are required by specifications to designed by a professional engineer. Drawings and calculations shall be signed and sealed by a Professional Engineer registered in the State of Missouri.
101. Review with the Owner/Fire Marshall before ordering the knox box.
102. The CONTRACTOR shall provide two project signs. The sign will include the Owner's logo, design team logos, CM logo and the CONTRACTOR logo. They shall also include the project name and expected completion timeframe. No other project signs will be allowed on the project for advertisement. The sign needs to a minimum of 4' by 8'. The sign will be installed at locations to be approved by the Owner.
103. All disturbed landscape areas must be replaced to their pre-construction condition at the end of the project unless noted otherwise on the Project Documents. This includes areas disturbed by this Contractor outside of the parcel boundary, on adjacent properties, and along the ROW.
104. Contractor will submit to the CM a detailed Schedule of Values for review and approval prior to the submission of the first pay application.
105. Contractor to include all low voltage cabling as shown on the drawings and also to each workstation in proposed systems furniture identified on the floor plans.
106. The Contractor and all sub-contractors are required to stay within the limits of construction. No equipment, material, vehicles, personnel, etc. are allowed outside the limits of construction.
107. Provide tree protection fencing as indicated on plans prior to mobilization in any area. Tree protection fencing to remain in place for duration of work activities in area.

108. Participation goals for the project are as follows:

- a. Each bidder is required to complete the Supplemental Bid form identifying the proposed subcontractors and minority and women business enterprise participation in each category of work.
  - i. It is the prospective Bidder's responsibility to make a sufficient portion of the work available to sub-contractors to meet the goal, consistent with the availability and capacities of MBE and WBE firms.
  - ii. MBE/WBE firms included in the Bidder's submittal, either as General Contractor or Sub-Contractors, must be certified by one or more of the following agencies on or before the date of the submission of qualifications (including but not limited to):
    - Missouri Division of Purchasing and Materials Management
    - City of St. Louis: Disadvantage Business Enterprise Program
    - St. Louis Minority Business Council



**SUBSTITUTION  
REQUEST**  
(During the Bid Period)

Project: \_\_\_\_\_ Substitution Request Number: \_\_\_\_\_  
 \_\_\_\_\_  
 From: \_\_\_\_\_  
 To: \_\_\_\_\_ Date: \_\_\_\_\_  
 \_\_\_\_\_  
 A/E Project Number: \_\_\_\_\_  
 Re: \_\_\_\_\_ Contract For: \_\_\_\_\_

Specification Title: \_\_\_\_\_ Description: \_\_\_\_\_  
 Section: \_\_\_\_\_ Page: \_\_\_\_\_ Article/Paragraph: \_\_\_\_\_

Proposed Substitution: \_\_\_\_\_  
 Manufacturer: \_\_\_\_\_ Address: \_\_\_\_\_ Phone: \_\_\_\_\_  
 Trade Name: \_\_\_\_\_ Model No.: \_\_\_\_\_

Attached data includes product description, specifications, drawings, photographs, and performance and test data adequate for evaluation of the request; applicable portions of the data are clearly identified.

Attached data also includes a description of changes to the Contract Documents that the proposed substitution will require for its proper installation.

The Undersigned certifies:

- Proposed substitution has been fully investigated and determined to be equal or superior in all respects to specified product.
- Same warranty will be furnished for proposed substitution as for specified product.
- Same maintenance service and source of replacement parts, as applicable, is available.
- Proposed substitution will have no adverse effect on other trades and will not affect or delay progress schedule.
- Proposed substitution does not affect dimensions and functional clearances.
- Payment will be made for changes to building design, including A/E design, detailing, and construction costs caused by the substitution.

Submitted by: \_\_\_\_\_  
 Signed by: \_\_\_\_\_  
 Firm: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Telephone: \_\_\_\_\_

**A/E's REVIEW AND ACTION**

- Substitution approved - Make submittals in accordance with Specification Section 01 25 00 Substitution Procedures.
- Substitution approved as noted - Make submittals in accordance with Specification Section 01 25 00 Substitution Procedures.
- Substitution rejected - Use specified materials.
- Substitution Request received too late - Use specified materials.

Signed by: \_\_\_\_\_ Date: \_\_\_\_\_

Supporting Data Attached:  Drawings  Product Data  Samples  Tests  Reports  \_\_\_\_\_



RFI #	Description	Response	Addenda #
001	Given the past information regarding the city and issues with funding previous projects. Can the city provide information regarding the status of the funding for the project and would they be willing to put funds for this project into an escrow account to ensure funding is in place thru the entirety of the project.	See email dated 9/30/24 from City of Jennings Finance Director with balance in bond account and copy of Declaration of Trust. The funds from the bond can only be used for this project.	2
002	Is the pedestrian bridge weathering steel or does the bridge have a galvanized steel finish? The specs call out both.	The bridge is weathering steel. The galvanizing reference is for the form deck used for the concrete deck.	2
003	Wanting to have the following companies approved as alternate providers for the pedestrian bridge, and I can send backups as needed: a. True North Steel b. Contech Engineering c. Pioneer Bridges	The listed manufacturers are acceptable as long as the product meets the specification.	2
004	Specs call out 4.5" storefront while the details show 6", please confirm.	The storefront system should be 4.5".	2
005	can the QCP requirement for the cabinets be waived on this project?	Recommend maintaining the requirement for AWI Quality Certification Program.	2
006	Would the engineer be willing to waive the AISC requirements found under Structural Steel Framing 05 12 00 Quality Assurance 1.7 "A" & "B"?		
007	Substitution request to use Elite Storage Products LLC to division 10 lockers.		
008	The fire alarm specification lists Notifier by Honeywell. Are any other brands allowed? If so, would we be able to submit on the brand Gamewell-FCI by Honeywell as an equal?		
009	Substitution request to use Taraflex Sports flooring.		
010	AS-402 shows a Pre-Engineered Canopy. What kind of roofing is to be installed here? The details do not show any enlarged walls sections. The canopy cut says "pre-engineered roof" and does not indicate "RF-1" on the exterior materials legend.		
011	Is it acceptable to construct cabinetry to AWI standards in lieu of having a supplier that is AWI certified?		
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## Kevin McGinnis

---

**From:** Reje Pitchford <rpitchford@cityofjennings.org> on behalf of Reje Pitchford  
**Sent:** Monday, September 30, 2024 1:07 PM  
**To:** Katie Aholt; Kevin McGinnis  
**Cc:** Shaquan Brown; Gary Johnson  
**Subject:** Fw: Declaration of Trust - Jennings MO COPS Srs 2021

Hello all,

Please find attached the balance amount in the bond account.

Thank you,

### Reje' Pitchford

Finance Director | City of Jennings  
2120 Hord Avenue | Jennings, MO 63136  
Office: 314-388-1164 ext 225  
[www.cityofjennings.org](http://www.cityofjennings.org)



---

**From:** Gusic, Admir <AGusic@bokf.com>  
**Sent:** Friday, September 27, 2024 11:31 AM  
**To:** Reje Pitchford <rpitchford@cityofjennings.org>; Gary Johnson <MayorJohnson@cityofjennings.org>  
**Subject:** RE: Declaration of Trust - Jennings MO COPS Srs 2021

**[CAUTION]** External Sender:

Here it is.

Portfolio Name	Portfolio Number	Sweep Sum	Market Value (t
JENNINGS MO COPS SR 2021 LS REV FDPUSD	2000-0005590.1	1.86	
JENNINGS MO COPS SR 2021 PROJ FDPUSD	2000-0005590.2	11,215,064.31	11,215,

**From:** Reje Pitchford <rpitchford@cityofjennings.org>

**Sent:** Friday, September 27, 2024 11:10 AM

**To:** Gusic, Admir <AGusic@bokf.com>; Gary Johnson <MayorJohnson@cityofjennings.org>

**Subject:** Re: Declaration of Trust - Jennings MO COPS Srs 2021

**[External Email]** This email originated from outside of the company. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Admir,

Thank you for this. If possible are you able to send me the remaining balance on the account right now as well?

Thank you,

**Reje' Pitchford**

Finance Director | City of Jennings

2120 Hord Avenue | Jennings, MO 63136

Office: 314-388-1164 ext 225

[www.cityofjennings.org](http://www.cityofjennings.org)



**From:** Gusic, Admir <AGusic@bokf.com>

**Sent:** Friday, September 27, 2024 10:08 AM

**To:** Reje Pitchford <rpitchford@cityofjennings.org>

**Subject:** Declaration of Trust - Jennings MO COPS Srs 2021

Attached is Declaration of Trust and Base Lease for City of Jennings Missouri Certificates of Participation Series 2021.

Thanks,

**Admir Gusic, CTMC**  
Vice President | Corporate Trust & Escrow Services  
BOK Financial  
200 North Broadway, Suite 1710  
St. Louis, MO 63102  
314.379.5280 | Office  
913.802.5812 | Fax  
314.809.0720 | Mobile  
[AGusic@bokf.com](mailto:AGusic@bokf.com) | Email



Services provided by BOKF, NA, Member FDIC. BOKF, NA is the banking subsidiary of BOK Financial Corporation.

\*\*\*\*\*

The company reserves the right to amend statements made herein in the event of a mistake. Unless expressly stated herein to the contrary, only agreements in writing signed by an authorized officer of the Company may be enforced against it.

\*\*\*\*\*

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**DECLARATION OF TRUST**

**By**

**BOKE, N.A.**

**Dated as of June 1, 2021**

**\$11,190,000**  
**Certificates of Participation**  
**(City of Jennings, Missouri, Lessee)**  
**Series 2021**

**Evidencing a Proportionate Interest of the Owners Thereof**  
**in Basic Rent Payments to be Made by the**  
**City of Jennings, Missouri,**  
**Pursuant to an Annually-Renewable Lease Purchase Agreement**

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## DECLARATION OF TRUST

**THIS DECLARATION OF TRUST** (this “Declaration of Trust”), dated as of June 1, 2021, is made by **BOKE, N.A.**, a national banking association organized and existing under the laws of the United States of America, as settlor and trustee (the “Trustee”).

### RECITALS:

**1.** The City of Jennings, Missouri (the “City”), and the Trustee have entered into a Base Lease dated as of June 1, 2021 (the “Base Lease”), pursuant to which the City has leased to the Trustee the real property described on **Schedule 1** hereto and the improvements now or hereafter located thereon (collectively, the “Leased Property”).

**2.** Concurrently herewith, the Trustee and the City have entered into a Lease Purchase Agreement dated as of June 1, 2021 (as the same may be amended or supplemented in accordance with its terms from time to time, the “Lease”), pursuant to which the Trustee will lease to the City the Leased Property and will grant the City an option to purchase the Trustee’s interest in the Leased Property.

**3.** Certificates of Participation (City of Jennings, Missouri, Lessee), Series 2021, substantially in the form of **Exhibit A** hereto (the “Series 2021 Certificates”), each such Series 2021 Certificate evidencing a proportionate interest of the registered owner thereof in rights under the Lease, will be executed and delivered hereunder, and the proceeds from the sale of the Series 2021 Certificates will be used to provide funds to pay the costs of (a) acquiring real property (the “Project Site”) and designing, constructing, furnishing, equipping and improving a new municipal complex and community center thereon (together with the Project Site, the “Project”) and (b) executing and delivering the Series 2021 Certificates.

**4.** The Trustee is making this Declaration of Trust to set forth the terms of the Series 2021 Certificates and Additional Certificates as hereinafter defined and authorized (the Series 2021 Certificates and the Additional Certificates being hereinafter referenced collectively as the “Certificates”), the security therefor and other provisions respecting the Certificates.

### DECLARATION CLAUSES

**NOW, THEREFORE**, to secure the payment of the Principal Portions of Basic Rent Payments, premium, if any, and Interest Portions of Basic Rent Payments represented by the Certificates, and to secure the performance and observance of all covenants and conditions therein and herein contained and to declare the terms and conditions upon, and subject to which, the Certificates are intended to be sold, held, secured and enforced, and in consideration of the premises set forth herein and of the purchase and acceptance of the Certificates by the Owners thereof, the Trustee has executed and delivered this Declaration of Trust and declares that it will hold all of the assets, property and interests received by it under the terms of this Declaration of Trust, the Base Lease and the Lease and all agreements and instruments contemplated hereby or thereby (except the Rebate Fund and any compensation, indemnification or other amounts that are due directly to the Trustee hereunder or thereunder) (collectively, the “Trust Estate”), as trustee, upon the terms and trusts herein set forth for the equal and proportionate benefit, security and protection of all present and future Owners of the Certificates, without privilege, priority or distinction as to the lien or otherwise of any of the Certificates over any of the other Certificates;

**PROVIDED, HOWEVER**, that, if the Principal Portions of Basic Rent Payments, premium, if any, and Interest Portions of Basic Rent Payments represented by the Certificates due or to become due with respect to the Certificates are paid or provision has been made therefor in accordance with **Article X**,

at the times and in the manner mentioned in the Certificates according to the true intent and meaning thereof, and provision has also been made for paying all sums payable under the Lease by the City in accordance with **Article X**, then this Declaration of Trust and the rights hereby granted will cease, determine and be void except as provided in **Article X**;

**THIS DECLARATION OF TRUST FURTHER WITNESSETH**, and it is expressly declared, that all Certificates are to be sold, executed and delivered and all said rights and interests are to be dealt with and disposed of under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed, and the Trustee has agreed and covenanted, and does hereby agree and covenant, with the respective Owners of the Certificates as follows:

## ARTICLE I

### DEFINITIONS

**Section 1.01. Definitions.** In addition to words and terms defined in **Section 1.01** of the Lease (which definitions are hereby incorporated by reference) and elsewhere in this Declaration of Trust, the following words and terms used in this Declaration of Trust will have the following meanings, unless some other meaning is plainly intended:

**“Additional Certificates”** means any Certificates executed and delivered pursuant to **Section 3.09**.

**“Authorized Representative”** means the Mayor or any other person designated by the City Council as an Authorized Representative to act on behalf of the City pursuant to an ordinance or resolution filed with the Trustee.

**“Beneficial Owner”** means any Registered Owner of any Certificates and any person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Certificates (including persons holding Certificates through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Certificates for federal income tax purposes.

**“Blanket Letter of Representations”** means the Blanket Letter of Representations from the City to the Securities Depository.

**“Cede & Co.”** means Cede & Co., as nominee of the Securities Depository, and any successor nominee of the Securities Depository with respect to the Certificates.

**“Certificate Payments”** means the payments to be made to the Owners of the Certificates, whether representing Interest Portion only or Principal Portion and Interest Portion of Basic Rent under the Lease.

**“Certificates”** means the Series 2021 Certificates and any Additional Certificates.

**“City”** means the City of Jennings, Missouri, a third-class city duly created, organized and existing under and by virtue of the laws of the State, and its successors or assigns.

**“Directive”** means an instrument in writing executed in one or more counterparts by the Owners of Certificates, as determined from the records of the Registrar kept pursuant to **Section 3.06**, or their lawful

attorneys-in-fact, representing not less than a majority of the aggregate unpaid Principal Portion represented by the then-Outstanding Certificates.

**“Event of Default”** means an Event of Default as described in **Section 9.01**.

**“Event of Lease Default”** means an Event of Default under **Section 12.01** of the Lease.

**“FAST Agent”** means the Trustee when acting as agent for the Securities Depository in accordance with the rules established by the Securities Depository for Fast Automated Securities Transfers.

**“Fiscal Year”** means the fiscal year of the City, currently the 12-month period beginning on April 1 and ending on March 31.

**“Funds”** means, collectively, the funds created and held under this Declaration of Trust and all accounts therein.

**“Investment Securities”** means any securities or investments that are lawful for the investment of moneys held in funds or accounts under the laws of the State.

**“Lease Revenue Fund”** means the fund by that name established pursuant to **Section 6.01**.

**“Lease Revenues”** means the Basic Rent Payments, Supplemental Rent Payments and all other amounts due and owing pursuant to or with respect to the Lease, including prepayments, insurance proceeds, condemnation proceeds, and any and all interest, profits or other income derived from the investment thereof in any fund or account established pursuant to this Declaration of Trust.

**“Notice by Mail”** or **“Notice”** of any action or condition **“by Mail”** means a written notice meeting the requirements of this Declaration of Trust mailed by first-class mail to the Owners of specified Certificates, at the addresses shown on the registration books maintained by the Registrar pursuant to **Section 3.06**.

**“Outstanding”** means, as of the date of determination, all Certificates theretofore executed and delivered pursuant to this Declaration of Trust except (a) Certificates theretofore canceled by the Trustee or surrendered to the Trustee for cancellation, (b) Certificates for the transfer or exchange of or in lieu of or in substitution for which other Certificates have been executed and delivered by the Trustee pursuant to this Declaration of Trust and (c) Certificates paid or deemed to be paid pursuant to **Article X**.

**“Owner”** or **“Registered Owner”** of a Certificate means the registered owner of such Certificate as shown on the register kept by the Registrar pursuant to **Section 3.06**.

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

**“Prepayment Date”** means any date set for prepayment of the Principal Portion of Basic Rent represented by Certificates.

**“Prepayment Price”** means, with respect to any Certificate (or portion thereof), the amount specified in **Section 5.02**.

**“Proceeds”** means the aggregate moneys initially paid to the Trustee for each series of the Certificates.

**“Project”** means acquiring real property and designing, constructing, furnishing, equipping and improving a new municipal complex and community center thereon.

**“Project Fund”** means the fund by that name established pursuant to **Section 6.01**.

**“Rebate Fund”** means the fund by that name established pursuant to **Section 6.01**.

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

**“Registrar”** means the Trustee when acting in that capacity, or its successor as Registrar.

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

**“Series 2021 Certificate Purchase Agreement”** means the Certificate Purchase Agreement among the City, the Trustee and the Series 2021 Underwriter, pursuant to which the Series 2021 Underwriter agrees to purchase the Series 2021 Certificates.

**“Series 2021 Certificates”** means the \$11,190,000 aggregate principal amount of Certificates of Participation (City of Jennings, Missouri, Lessee), Series 2021, evidencing a proportionate interest of the Owners thereof in Basic Rent Payments to be made by the City pursuant to the Lease, executed and delivered pursuant to this Declaration of Trust.

**“Series 2021 Tax Compliance Agreement”** means the Tax Compliance Agreement dated as of June 1, 2021, entered into by the City and the Trustee in connection with the execution and delivery of the Series 2021 Certificates.

**“Series 2021 Underwriter”** means Stifel, Nicolaus & Company, Incorporated, St. Louis, Missouri, the original purchaser of the Series 2021 Certificates.

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

**“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, including the Series 2021 Tax Compliance Agreement.

**“Trust Estate”** means the assets, property and interests held by the Trustee pursuant to this Declaration of Trust and the Lease.

**“Trustee”** means BOKF, N.A., St. Louis, Missouri, and its successor or successors and their respective assigns.

## **Section 1.02. General 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 otherwise indicates, words importing the singular number will include the plural and vice versa, and words importing persons will include individuals,

corporations, limited liability companies, partnerships, joint ventures, associations, joint-stock companies, trusts, unincorporated organizations and governments and any agency or political subdivision thereof.

(b) The words “herein,” “hereby,” “hereunder,” “hereof,” “hereto,” “hereinbefore,” “hereinafter” and other equivalent words refer to this Declaration of Trust as a whole 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 word “including,” the listing is not intended to be a listing that excludes items not listed.

(e) The table of contents, captions and headings in this Declaration of Trust are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Declaration of Trust.

**Section 1.03. Severability.**

(a) If any provision of this Declaration of Trust 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, 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 Declaration of Trust contained will not affect the remaining portions of this Declaration of Trust, or any part thereof.

**Section 1.04. Date of Declaration of Trust.** The dating of this Declaration of Trust as of June 1, 2021, is intended as and for the convenient identification of this Declaration of Trust only and is not intended to indicate that this Declaration of Trust was executed and delivered on said date, this Declaration of Trust being executed and delivered and becoming effective simultaneously with the initial execution and delivery of the Certificates.

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

**ARTICLE II**

**COVENANT AS TO BASE LEASE AND LEASE**

**Section 2.01. Covenant as to Base Lease and Lease.** The Trustee covenants and agrees that, except in accordance with the terms of this Declaration of Trust, the Base Lease and the Lease, it will not take any action that would result in the occurrence of an Event of Default and it will not agree to any abatement, reduction, abrogation, waiver, diminution or other modification in any manner or to any extent whatsoever of the obligations of the City under the Base Lease and the Lease to pay Basic Rent and to meet its other obligations as provided in the Lease.

## ARTICLE III

### THE CERTIFICATES

**Section 3.01. Title of Certificates.** No Certificates may be executed and delivered under this Declaration of Trust except in accordance with this Article. The Certificates will be designated "Certificates of Participation (City of Jennings, Missouri, Lessee)" with such further appropriate particular designation added to or incorporated in such title for the Certificates of any particular series as the Trustee may determine.

**Section 3.02. General Provisions Concerning the Certificates.**

(a) The Certificates and the form of assignment to appear thereon will be in substantially the form set forth in **Exhibit A**, with necessary or appropriate variations, omissions and insertions as permitted or required hereby or by any Supplemental Declaration of Trust.

(b) The Certificates will be fully-registered certificates transferable to subsequent owners only on the books kept by the Registrar pursuant to **Section 3.06**. Each Certificate will be in the denomination of \$5,000 or any integral multiple thereof.

(c) Each of the Certificates will represent the Interest Portion and Principal Portion of Basic Rent payable with respect thereto and will be on a parity basis with the other Certificates as to the entire Trust Estate.

(d) The Certificates of each series will be numbered from 1 upward, will be dated and the Principal Portion will be payable, subject to prior prepayment, upon the terms and conditions hereinafter set forth, and will represent Interest Portions of Basic Rent calculated at certain rates as set forth in this Declaration of Trust or any Supplemental Declaration of Trust authorizing such series of Certificates.

(e) The Interest Portion of the Basic Rent represented by each Certificate will be payable from the date thereof or the most recent date to which said Interest Portion has been paid. The Interest Portion of the Basic Rent represented by the Series 2021 Certificates will be paid on each March 1 and September 1, commencing on September 1, 2021. The Interest Portion of the Basic Rent represented by any Additional Certificates will be paid as provided in the Supplemental Declaration of Trust authorizing such Additional Certificates.

(f) Payment of the Interest Portion of the Basic Rent represented by any Certificates will be made to the person appearing on the registration books of the Registrar as the Owner thereof on the Record Date, such Interest Portion to be paid to such Owner by check or draft drawn on the Trustee and mailed to such Owner's address as it appears on the registration books of the Registrar on the Record Date. Upon written request and at the expense of any Registered Owner, payment of the Interest Portion of the Basic Rent represented by any Certificate may be made by electronic transfer to the bank for credit to the ABA routing number and account number at the location designated by such Registered Owner to the Trustee no later than 15 days prior to the Record Date. Any such request shall also include an acknowledgement that an electronic transfer fee may be applicable.

(g) The Interest Portion of the Basic Rent represented by any Certificates will be computed with respect to such Certificates on the basis of a 360-day year of twelve 30-day months.

(h) The Principal Portion of the Basic Rent and prepayment premium, if any, represented by the Certificates will be payable (whether at maturity or upon prepayment or acceleration) by check, draft

or electronic transfer to the Owners of such Certificates upon presentation and surrender of such Certificates at the designated corporate trust office of the Trustee or such other office as the Trustee designates.

(i) Payment of Certificate Payments and of the Prepayment Price of Certificates will be made in such coin or currency of the United States of America as, at the time of payment, is legal tender for public and private debts.

**Section 3.03. Execution of Certificates.** The Certificates will be executed by and in the name of the Trustee by the manual signature of an authorized signatory of the Trustee.

**Section 3.04. Transfer of Certificates.** Any Certificate may be transferred upon the books required to be kept pursuant to the provisions of **Section 3.06**, by the person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of such Certificate for cancellation, accompanied by delivery of a duly executed written instrument of transfer in a form approved by the Trustee. The Trustee or the Securities Depository may also require the payment by the Owner requesting such transfer of any tax or other governmental charge required to be paid with respect to such transfer. If any Owner fails to provide a correct taxpayer identification number to the Trustee, the Trustee may impose a charge against such Owner sufficient to pay any governmental charge required to be paid as a result of such failure. In compliance with Section 3406 of the Code, such amount may be deducted by the Trustee from amounts otherwise payable to such Owner hereunder or under the Certificates.

**Section 3.05. Exchange of Certificates.** Certificates may be exchanged at the designated corporate trust office of the Trustee for a like aggregate principal amount of Certificates of the same series, maturity, interest rate and tenor. The Trustee will require the payment by the Owner requesting such exchange of any tax or other governmental charge required to be paid with respect to such exchange. No exchange of any Certificate will be required of the Trustee after such Certificate has been called for prepayment.

**Section 3.06. Registration Books.**

(a) The Registrar will keep or cause to be kept at its designated corporate trust office, books for the registration and transfer of the Certificates, which will at all reasonable times be open to inspection by the City or the Owners (or a designated representative thereof) of 10% or more in principal amount of Certificates then-Outstanding, such ownership and the authority of any such designated representative to be evidenced to the satisfaction of the Registrar, and, upon presentation for such purpose, the Registrar will, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on said books, Certificates as hereinbefore provided.

(b) The person in whose name any Certificate is registered on the registration books maintained by the Registrar on the Record Date will be deemed the Owner thereof for all purposes hereof, and payment of or on account of the Interest Portions and Principal Portions of Basic Rent, represented by such Certificate will be made only to or upon the order in writing of such Registered Owner, which payments will be valid and effectual to satisfy and discharge the liability under the Lease as represented by such Certificate to the extent of the sum or sums so paid.

**Section 3.07. Certificates Mutilated, Lost, Destroyed or Stolen.**

(a) If any Certificate has become mutilated, the Trustee, at the expense of the Owner of said Certificate, will execute and deliver a new Certificate of like tenor, series, maturity, interest rate and number in exchange and substitution for the Certificate so mutilated (except that such number may be preceded by a distinguishing prefix), but only upon surrender to the Trustee of the Certificate so mutilated. Every

mutilated Certificate so surrendered to the Trustee will be canceled by it and periodically destroyed in accordance with then applicable record retention requirements. If any Certificate has been lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Trustee and, if such evidence is satisfactory to the Trustee and indemnity of the Trustee and the City satisfactory to the Trustee has been given, the Trustee, at the expense of the Owner of the Certificate, will execute and deliver a new Certificate of like tenor, series, maturity, interest rate and number as the Trustee determines in lieu of and in substitution for the Certificate so lost, destroyed or stolen. The Trustee may require payment of a sum not exceeding the actual cost of preparing each new Certificate executed and delivered under this Section and of the expenses that may be incurred by the Trustee under this Section.

(b) Any Certificate executed and delivered under this Section in lieu of any Certificate alleged to be lost, destroyed or stolen will be equally and proportionately entitled to the benefits of this Declaration of Trust with all other Certificates secured by this Declaration of Trust. The Trustee will not be required to treat both the original Certificate and any replacement Certificate as being Outstanding for the purpose of determining the principal amount of Certificates that may be Outstanding hereunder or for the purpose of determining any percentage of Certificates Outstanding hereunder, but both the original and replacement Certificate will be treated as one and the same. Notwithstanding any other provision of this Section, in lieu of delivering a new Certificate for a Certificate that has been mutilated, lost, destroyed or stolen and that has matured, is about to mature or has been selected for prepayment, the Trustee may make payment of such Certificate.

### **Section 3.08. Series 2021 Certificates.**

(a) There will be initially prepared, executed and delivered under this Declaration of Trust a series of Certificates in the aggregate principal amount of \$11,190,000, which series of Certificates will be designated "Certificates of Participation (City of Jennings, Missouri, Lessee), Series 2021." The Series 2021 Certificates shall be dated the date of original delivery thereof, and will be payable on the dates, in the principal amounts (subject to prepayment as described in **Section 5.02**), and with the Interest Portions accruing at the rates set forth on **Exhibit C**.

(b) Prior to or simultaneously with the execution and delivery of the Series 2021 Certificates by the Trustee, the following documents will be filed with the Trustee:

(1) A copy, certified by the City Clerk, of the ordinance adopted by the governing body of the City authorizing the execution of the Base Lease and the Lease and approving the execution and delivery of the Series 2021 Certificates to or upon the order of the Series 2021 Underwriter.

(2) Executed counterparts of this Declaration of Trust, the Base Lease, the Lease, the Series 2021 Certificate Purchase Agreement, the Continuing Disclosure Undertaking and the Series 2021 Tax Compliance Agreement.

(3) An opinion of Special Tax Counsel as to the validity of the Series 2021 Certificates and the exemption from federal income taxation of the Interest Portion of Basic Rent Payments represented by the Series 2021 Certificates.

(4) Evidence of the insurance required by **Article VII** of the Lease.

(5) An Opinion of Counsel stating that the Series 2021 Certificates are exempt from registration under the Securities Act of 1933, as amended, and this Declaration of Trust is exempt from qualification under the Trust Indenture Act of 1939, as amended.



(6) Such other certificates, statements, receipts, opinions and documents required by this Declaration of Trust or the Lease, or as the Trustee may reasonably require for the delivery of the Series 2021 Certificates.

(c) When the documents specified above have been filed with the Trustee, and when the Series 2021 Certificates have been executed as required by this Declaration of Trust, the Trustee will deliver the Series 2021 Certificates to or upon the order of the Series 2021 Underwriter or will hold the Series 2021 Certificates as FAST Agent for the benefit of the Beneficial Owners, but only upon payment of the purchase price of the Series 2021 Certificates. The Proceeds of the sale of the Series 2021 Certificates, including accrued interest and premium, if any, paid to the Trustee will be deposited and applied as provided in **Article VI**.

### **Section 3.09. Additional Certificates.**

(a) Upon the execution and delivery of a Supplemental Lease that provides for an increase in the amount of Basic Rent payable under the Lease and so long as no Event of Default or Event of Nonappropriation exists, Additional Certificates evidencing the right of the Owners thereof to receive the Principal Portion and the Interest Portion of such additional Basic Rent may be executed and delivered under and equally and ratably secured by this Declaration of Trust on a parity with the Series 2021 Certificates and any other Additional Certificates at any time and from time to time, upon compliance with the conditions provided in this Section for the purposes set forth in **Section 4.08** of the Lease.

(b) Before any Additional Certificates may be executed and delivered under the provisions of this Section, the City will:

(1) adopt an ordinance authorizing the execution and delivery of such Additional Certificates, fixing the amount and terms thereof and describing the Certificates to be refunded, if any;

(2) consent in writing to the Trustee's execution of a Supplemental Declaration of Trust for the purpose of executing and delivering such Additional Certificates; and

(3) authorize the Trustee to enter into an amendment to the Lease with the City to provide for Basic Rent Payments at least sufficient to pay the Principal Portion, premium, if any, and Interest Portion of the Certificates then to be Outstanding (including the Additional Certificates to be executed and delivered) as the same becomes due, and for such other matters as are appropriate because of the execution and delivery of the Additional Certificates proposed to be delivered.

(c) Such Additional Certificates will have the same designation as the Series 2021 Certificates, except for an identifying series letter or date. The Principal Portion and the Interest Portion of Basic Rent represented by such Additional Certificates will be payable on the dates, in the amounts and (with respect to such Interest Portion) at the rates as may be provided by the Supplemental Declaration of Trust authorizing such Additional Certificates. **Exhibit C** will be amended by such Supplemental Declaration of Trust to reflect separately the Principal Portion of Basic Rent allocable to each series of Certificates. Such Additional Certificates will be on a parity with and will be entitled to the same benefit and security of this Declaration of Trust as the Series 2021 Certificates and any other Additional Certificates.

(d) The Additional Certificates will be executed substantially in the form and manner as provided in this Article, but prior to or simultaneously with the delivery of such Additional Certificates by the Trustee, the following items will be filed with the Trustee:

(1) A copy, certified by the City Clerk, of the ordinance passed by the governing body of the City authorizing such Supplemental Lease and authorizing the execution and delivery of the Additional Certificates, fixing the amount and terms thereof and describing the Certificates to be refunded, if any.

(2) An executed counterpart of the Supplemental Declaration of Trust authorizing such Additional Certificates.

(3) An executed counterpart of the Supplemental Lease.

(4) An executed counterpart of any certificate purchase agreement relating to the Additional Certificates.

(5) An opinion of Special Tax Counsel to the effect that the execution and delivery of such Additional Certificates will not result in the Interest Portion of Basic Rent evidenced by any Certificates then-Outstanding becoming includable in gross income of the Owners thereof for federal income tax purposes.

(6) Such other certificates, statements, receipts, opinions and documents required by this Declaration of Trust or the Lease or as the Trustee may reasonably require for the delivery of the Additional Certificates.

(e) When the documents mentioned in paragraph (d) of this Section have been filed with the Trustee, and when such Additional Certificates have been executed and registered as required by this Declaration of Trust, the Trustee will deliver such Additional Certificates to or upon the order of the purchaser named in the certificate purchase agreement relating to such Additional Certificates, if any, or hold the Additional Certificates as FAST Agent for the benefit of the Beneficial Owners, but only upon payment of the purchase price of such Additional Certificates by the purchaser of such Additional Certificates. The Proceeds of Additional Certificates, including accrued interest, if any, paid to the Trustee will be deposited as provided in the Supplemental Declaration of Trust.

### **Section 3.10. Book-Entry-Only System.**

(a) The Certificates will initially be registered on the Certificate register maintained by the Trustee in the name of Cede & Co., and Beneficial Owners will not receive certificates representing their respective interests in the Certificates, except in the event of Replacement Certificates as provided below. It is anticipated that during the term of the Certificates, the Securities Depository will make book-entry transfers among the Participants and receive and transmit notices with respect to and payments representing the Principal Portion of Basic Rent and the Interest Portion of Basic Rent with respect to the Certificates until and unless the Trustee executes and delivers Replacement Certificates to the Beneficial Owners as described below.

(b) The Trustee agrees to give the various written notices to the Securities Depository in accordance with the Blanket Letter of Representations, delivered to the Securities Depository in connection with the original execution and delivery of the Certificates.

(c) If the Securities Depository determines to discontinue providing its services with respect to the Certificates and the City cannot obtain a qualified successor Securities Depository, or if Participants holding a majority position in the Outstanding Certificates determine not to use the book-entry system of the Securities Depository, the Trustee will execute and deliver one or more certificates (the "Replacement Certificates") to the Participants in principal amounts, series and maturities corresponding to the identifiable

Beneficial Owners' interests in the Certificates, with such adjustments as the Trustee may find necessary or appropriate as to accrued interest and previous calls for prepayment. In such event, all references to the Securities Depository herein will relate to the period of time when at least one Certificate is registered in the name of the Securities Depository or its nominee. Upon the delivery of Replacement Certificates, all references herein to obligations imposed upon or to be performed by the Securities Depository will be deemed to be imposed upon and performed by the Trustee, to the extent applicable, with respect to such Replacement Certificates. The Trustee may rely on information from the Securities Depository and its Participants as to the names and addresses of and principal amounts held by the Beneficial Owners of the Certificates. The cost of printing Replacement Certificates will be paid by the City.

**Section 3.11. Successor Securities Depository.** If the Securities Depository resigns, is unable to properly discharge its responsibilities or is no longer qualified to act as a securities depository and registered clearing agency under the Securities and Exchange Act of 1934, as amended, or other applicable state or federal statute or regulation, the Trustee, with the written consent of the City, may appoint a successor Securities Depository, provided the Trustee receives written evidence satisfactory to the Trustee with respect to the ability of the successor Securities Depository to discharge its responsibilities. Any such successor Securities Depository will be a securities depository that is a registered clearing agency under the Securities and Exchange Act of 1934, as amended, or other applicable state or federal statute or regulation. Upon the appointment of a successor Securities Depository, the former Securities Depository will surrender the Certificates, together with assignments duly executed in accordance with **Section 3.04**, to the Trustee for transfer to the successor Securities Depository, and the Trustee will cause the execution and delivery of the Certificates to the successor Securities Depository in appropriate denominations and form as provided herein.

**Section 3.12. Cancellation and Destruction of Certificates upon Payment.**

(a) All Certificates that have been paid or prepaid or that the Trustee has purchased or that have otherwise been surrendered to the Trustee under this Declaration of Trust, either at or before maturity, if not exchanged pursuant to **Section 3.05**, will be canceled by the Trustee immediately upon the payment, prepayment or purchase of such Certificates and the surrender thereof to the Trustee. The Trustee will execute a certificate in duplicate describing the Certificates to be canceled and will file an executed counterpart of such certificate with the City, if requested in writing.

(b) All Certificates canceled under any of the provisions of this Declaration of Trust will be destroyed by the Trustee in accordance with then applicable record retention requirements.

## ARTICLE IV

### PARTICULAR COVENANTS AND PROVISIONS

**Section 4.01. Covenant of Trustee as to Performance of Obligations.** The Trustee covenants that it will promptly remit to the Owner of each Certificate its interest in each installment of Basic Rent to the extent received by the Trustee, at the places, on the dates and in the manner provided herein and in the Certificates.

**Section 4.02. Covenant to Perform Undertakings.** The Trustee covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Declaration of Trust, in any and every Certificate executed and delivered hereunder and in all proceedings of the Trustee pertaining thereto. The Trustee covenants that it is duly authorized to execute and deliver the Certificates and to enter into this Declaration of Trust and to perform its obligations hereunder.

**ARTICLE V**

**PREPAYMENT**

**Section 5.01. General.** The Certificates are subject to prepayment pursuant to this Article and any Supplemental Declaration of Trust to the extent that prepayments of Basic Rent are required, allowed or provided for under the Lease.

**Section 5.02. Prepayment Provisions with Respect to the Series 2021 Certificates.**

(a) *Optional Prepayment.* The Series 2021 Certificates that evidence Principal Portions of Basic Rent payable to Certificate Owners on or after March 1, 2031 will be subject to optional prepayment, as a whole or in part, on or after March 1, 2028, at a Prepayment Price equal to 100% of the Principal Portion of Basic Rent represented by the Series 2021 Certificates being prepaid, plus the Interest Portion of Basic Rent accrued to the Prepayment Date, from amounts paid by the City upon the exercise of its option to purchase the Trustee’s interest in the Leased Property or partially prepay Basic Rent Payments pursuant to the terms of the Lease.

(b) *Extraordinary Optional Prepayment.* The Series 2021 Certificates are subject to optional prepayment on any date, as a whole but not in part, at a Prepayment Price equal to 100% of the Principal Portion of Basic Rent represented thereby plus the Interest Portion of Basic Rent accrued to the Prepayment Date, in the event of substantial damage to or destruction or condemnation (other than by the City or any entity controlled by or otherwise affiliated with the City) of, or loss of title to, substantially all the Leased Property, or if 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 the Lease becomes unenforceable, and the City purchases the Trustee’s interest in the Leased Property pursuant to **Section 10.01** of the Lease.

(c) *Mandatory Prepayment.* The Series 2021 Certificates maturing on March 1, 2031, March 1, 2034, March 1, 2037, March 1, 2040, March 1, 2043 and March 1, 2046 (the “Term Certificates”) shall be subject to mandatory prepayment at a Prepayment Price equal to 100% of the Principal Portion of Basic Rent represented by the Series 2021 Certificates being prepaid, plus the Interest Portion of Basic Rent accrued to the Prepayment Date, in the following principal amounts:

**March 1, 2031 Term Certificates**

<b>Prepayment Date (March 1)</b>	<b>Principal Portion</b>
2029	\$350,000
2030	365,000
2031*	380,000

\* Final Maturity

**March 1, 2034 Term Certificates**

<b><u>Prepayment Date (March 1)</u></b>	<b><u>Principal Portion</u></b>
2032	\$395,000
2033	410,000
2034*	425,000

\* Final Maturity

**March 1, 2037 Term Certificates**

<b><u>Prepayment Date (March 1)</u></b>	<b><u>Principal Portion</u></b>
2035	\$445,000
2036	460,000
2037*	480,000

\* Final Maturity

**March 1, 2040 Term Certificates**

<b><u>Prepayment Date (March 1)</u></b>	<b><u>Principal Portion</u></b>
2038	\$500,000
2039	520,000
2040*	540,000

\* Final Maturity

**March 1, 2043 Term Certificates**

<b><u>Prepayment Date (March 1)</u></b>	<b><u>Principal Portion</u></b>
2041	\$560,000
2042	585,000
2043*	610,000

\* Final Maturity

### March 1, 2046 Term Certificates

<u>Prepayment Date</u> <u>(March 1)</u>	<u>Principal Portion</u>
2044	\$630,000
2045	650,000
2046*	670,000

\* Final Maturity

The Trustee shall in each year in which such Term Certificates are to be prepaid pursuant to the terms of the foregoing paragraph make timely selection of such Term Certificates or portions thereof and shall give notice thereof as hereinafter provided without further instructions from the City.

If permitted by law, moneys deposited in the Lease Revenue Fund in excess of amounts necessary to pay amounts representing the Principal Portions and Interest Portions with respect to the Term Certificates coming due on or prior to the next ensuing Basic Rent Payment Date may be used at any time to purchase Term Certificates in the open market, to the extent practical, at the written instruction of the City at a price agreed to by the City not in excess of 100% of the principal amount thereof and to pay interest accrued on such Term Certificates so purchased at the specified rate thereon to the date of purchase.

At its option, to be exercised on or before the 45th day next preceding any mandatory prepayment date, the City may (1) deliver to the Trustee for cancellation Term Certificates in any aggregate principal amount desired or (2) receive a credit in respect to the mandatory prepayment obligation provided above for the respective Term Certificates of the same maturity which prior to such date shall have been purchased or prepaid (other than through the operation of such mandatory prepayment provisions as aforesaid) and canceled by the Trustee and not theretofore applied against such mandatory prepayment obligation. Each Term Certificate so delivered or previously purchased or prepaid as described in the immediately preceding sentence shall be credited at 100% of the principal amount thereof against the obligation to prepay Term Certificates of the same maturity on the next succeeding mandatory prepayment date pursuant to this subsection and any excess of such amount shall be credited on future mandatory prepayment obligations for Term Certificates pursuant to this subsection in chronological order. If the City intends to exercise the option granted by clauses (1) or (2) above, the City shall, on or before the 45th day next preceding each mandatory prepayment date, furnish the Trustee a certificate signed by an Authorized Representative indicating to what extent said provisions of clauses (1) and (2) are to be complied with, with respect to such mandatory prepayment requirement and the Term Certificates to be canceled.

**Section 5.03. Selection of Certificates for Prepayment; Notice to Trustee.** If less than all the Outstanding Certificates are called for optional prepayment, Certificates will be prepaid in such order of stated payment dates as is determined by the City. Within a stated payment date, the Trustee will select the Certificates or any given portion thereof to be prepaid in such equitable manner as the Trustee determines in principal amounts of \$5,000 or integral multiples thereof. In case of any optional prepayment, at the election of the City, the City will, at least 45 days prior to the Prepayment Date (unless a shorter notice will be satisfactory to the Trustee), give written notice to the Trustee directing the Trustee to call Certificates for prepayment and give notice of prepayment and specifying the Prepayment Date, the series, the principal amount and maturities of Certificates to be called for prepayment, the applicable Prepayment Price and the provision or provisions of this Declaration of Trust pursuant to which such Certificates are to be called for prepayment.

**Section 5.04. Partial Prepayment of Certificates.** Upon surrender of any Certificate prepaid in part only, the Trustee will execute and deliver to the Owner thereof, at the expense of the City, a new Certificate or Certificates of the same series and maturity, equal in aggregate principal amount to the unprepaid portion of the Certificate surrendered.

**Section 5.05. Notice of Prepayment.**

(a) Unless otherwise provided herein, notice of prepayment will be given by the Trustee, not more than 60 days and not less than 30 days prior to the Prepayment Date, to the City and the Owner of each Certificate affected at the address shown on the registration books of the Registrar on the date such notice is mailed. Each notice of prepayment will identify the Certificates to be prepaid and state (1) the Prepayment Date, (2) the place of prepayment, (3) the Prepayment Price, (4) that the Interest Portion of the Basic Rent represented by the Certificates designated for prepayment will cease to accrue from and after such Prepayment Date and (5) that on said date the Prepayment Price will become due and payable on each of said Certificates. The Trustee is authorized, at the direction of the City, to include a statement in the notice of prepayment to the effect that prepayment is conditioned upon the receipt by the Trustee of funds with which to pay the Prepayment Price. The failure of the Owner of any Certificate to be so prepaid to receive notice of prepayment mailed as herein provided or any defect therein will not affect or invalidate the validity of any proceedings for the prepayment of such Certificate.

(b) The Trustee is also directed to comply with any mandatory standards then in effect for processing redemptions of municipal securities established by the Securities and Exchange Commission. Failure to comply with such standards will not affect or invalidate the prepayment of any Certificate to be prepaid.

(c) The Trustee, as long as a book-entry system is used for the Certificates, will send notices of prepayment only to the Securities Depository, as the Owner of the Certificates. Any failure of the Securities Depository to advise any of the Participants, or of any Participant or any nominee to notify any Beneficial Owner of the Certificates, of any such notice and its content or effect will not affect the validity or sufficiency of the proceedings relating to the prepayment of the Certificates called for prepayment.

**Section 5.06. Effect of Prepayment.**

(a) Notice of prepayment having been duly given as aforesaid, and upon funds for payment of the Prepayment Price of such Certificates (or portions thereof) being held by the Trustee, on the Prepayment Date designated in such notice, the Certificates (or portions thereof) so called for prepayment will become due and payable at the Prepayment Price specified in such notice and the Interest Portion of Basic Rent represented by the Certificates so called for prepayment will cease to accrue, said Certificates (or portions thereof) will cease to be entitled to any benefit or security under this Declaration of Trust and the Owners of such Certificates will have no rights in respect thereof except to receive payment of the Prepayment Price.

(b) All Certificates prepaid pursuant to the provisions of this Article will be canceled upon surrender thereof and destroyed by the Trustee pursuant to **Section 3.12**.

## ARTICLE VI

### DELIVERY OF CERTIFICATES; ESTABLISHMENT OF FUNDS; APPLICATION OF PROCEEDS

**Section 6.01. Establishment of Funds.** There are hereby established the following separate funds:

- (a) Project Fund.
- (b) Lease Revenue Fund.
- (c) Rebate Fund.

These Funds (except the Rebate Fund) will be held by the Trustee in trust for the benefit of the Certificate Owners. The money in these Funds will be deposited or applied as hereinafter provided.

**Section 6.02. Application of Proceeds of Series 2021 Certificates.** The net proceeds of the Series 2021 Certificates (less \$2,410.78 withheld by the Series 2021 Underwriter for the reimbursement of certain Costs of Delivery of the Series 2021 Certificates) will be deposited as follows:

- (a) with Old Republic Title Company of St. Louis, Inc., the sum of \$[\*750,000.00\*] and used to acquire the Leased Property; and
- (b) in the Project Fund, the sum of \$[\*11,409,561.87\*] and used as provided in **Section 6.04**.

#### **Section 6.03. Application of Lease Revenues.**

- (a) Lease Revenues will be deposited, as received pursuant to the Lease, as follows:
  - (1) Basic Rent will be deposited to the Lease Revenue Fund.
  - (2) Optional prepayments of the Principal Portion of Basic Rent (in amounts equal to the applicable Prepayment Price) will be deposited to the Lease Revenue Fund.
  - (3) Payments of Supplemental Rent pursuant to **Section 4.02** of the Lease will be applied as provided therein.
- (b) Undesignated payments of Rent that are insufficient to discharge the full amount then due shall be deposited to the Lease Revenue Fund and applied first to the Interest Portion of Basic Rent, next to the Principal Portion of Basic Rent and finally to Supplemental Rent.

#### **Section 6.04. Disbursements from the Project Fund.**

(a) Money in the Project Fund will be used to pay for Project Costs, which include Costs of Delivery. Payment will be made from moneys in the Project Fund upon receipt by the Trustee of a requisition certificate therefor signed by an Authorized Representative, which requisition certificate will contain the statements, representations and certificates set forth in the form thereof attached hereto as **Exhibit B** and will be otherwise substantially in such form.



(b) In making disbursements from the Project Fund, the Trustee may conclusively rely upon each written requisition certificate executed by the Authorized Representative without inquiry or investigation. It is understood that the Trustee will *not* make any inspections of the Project, make any provision to obtain completion bonds, mechanic's or materialmen's lien releases or otherwise supervise any phase of the construction or furnishing of the Project. The approval of each requisition certificate by the 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. The Trustee will make disbursements from the Project Fund for which any such request is made as soon as practical after the receipt of a properly executed requisition certificate. The Trustee shall be fully protected in making the disbursements contained in the requisition certificates provided to it and shall have no duty or obligation to confirm that such requested disbursements constitute Project Costs or Costs of Delivery.

(c) The Completion Date of the Project and the payment of all Project Costs (other than Project Costs for which sufficient amounts are retained in the Project Fund) will be evidenced by the filing with the Trustee of the Completion Certificate pursuant to **Section 5.03** of the Lease. As soon as practicable following the receipt by the Trustee of the Completion Certificate, any balance remaining in the Project Fund (other than amounts for Project Costs for which the Trustee has been authorized by the Authorized Representative to retain in the Project Fund) will be transferred and deposited without further authorization as provided in **Section 5.03** of the Lease.

(d) In the event of the acceleration of all of the Certificates pursuant to **Section 9.02**, any moneys then remaining in the Project Fund will be transferred and deposited to the credit of the Lease Revenue Fund and will be used to pay Basic Rent.

**Section 6.05. Application of Moneys in the Lease Revenue Fund.** Except as otherwise provided herein, all amounts in the Lease Revenue Fund will be used and withdrawn by the Trustee solely to pay Basic Rent represented by the Certificates when due and payable or on a Prepayment Date.

**Section 6.06. Repayment to the City.** After payment in full of all Basic Rent Payments through the maximum Lease Term for all of the Outstanding Certificates or the earlier purchase of the Trustee's interest in the Leased Property pursuant to **Section 10.01** of the Lease, all amounts remaining in the Lease Revenue Fund will be paid to the City.

**Section 6.07. Payments Due on Days other than Business Days.** In any case where the date of maturity of Principal Portions of Basic Rent Payments, premium, if any, or Interest Portions of Basic Rent Payments represented by the Certificates or the date fixed for prepayment of any Certificates is not a Business Day, then payment of Principal Portions of Basic Rent Payments, premium, if any, or Interest Portions of Basic Rent Payments represented by the Certificates need not be made on such date but may be made on the next succeeding Business Day with the same force and effect as if made on the date of maturity or the date fixed for prepayment, and no interest will accrue for the period after such date.

**Section 6.08. Nonpresentment of Certificates.** If any Certificate is not presented for payment when the Principal Portion of Basic Rent represented thereby becomes due, either at maturity or otherwise, or at the date fixed for prepayment thereof, if funds sufficient to pay such Certificate have been made available to the Trustee, all liability of the Trustee and the City to the Owner thereof for the payment of such Certificate will forthwith cease, determine and be completely discharged. Thereupon it will 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 Certificate, who will thereafter be restricted exclusively to such fund or funds for any claim of whatever nature under this Declaration of Trust or on, or with respect to, said Certificate. If any Certificate is not presented for payment within one year following the date when such Certificate becomes due, whether by maturity or otherwise, the Trustee will repay, without liability for interest thereon, to the

City the funds theretofore held by the Trustee for payment of such Certificate. Such Certificate will, subject to the defense of any applicable statute of limitation, thereafter be an unsecured obligation of the City, and the Owner thereof will be entitled to look only to the City for payment, and then only to the extent of the amount so repaid, and the City will not be liable for any interest thereon and will not be regarded as a trustee of such money.

**Section 6.09. Separate Accounting of Funds Allocable to each Series of Certificates.** The Trustee will maintain separate accounts for funds and securities attributable to each series of Certificates in the Funds held by the Trustee hereunder so that the calculations for each series of Certificates can be made separately for such series. Any transfer of funds or securities or earnings thereon from one fund or account to another will be made to the appropriate account or subaccount of the same series of Certificates to which such funds or securities are attributed. If, at any time, a payment is made to any such fund that is less than the amount due and payable to such fund, the amount payable will be credited *pro rata* to each such separate account within such fund, based on the amount owed to each such account.

**Section 6.10. Rebate Fund.** Moneys will be deposited in and disbursed from the Rebate Fund in accordance with written instructions from the City to the Trustee, prepared in accordance with the provisions of the Tax Compliance Agreement.

## ARTICLE VII

### DEPOSITARIES OF MONEYS, SECURITY FOR DEPOSITS AND INVESTMENT OF FUNDS

**Section 7.01. Moneys to be Held in Trust.** Except with respect to the Rebate Fund, all moneys deposited with or paid to the Trustee for account of the Funds under this Declaration of Trust will be held by the Trustee in trust and will be applied only in accordance with this Declaration of Trust and the Lease and until used or applied as herein provided, will constitute part of the Trust Estate and will not be subject to any lien other than the lien of this Declaration of Trust. The Trustee will not be under any liability for interest on any moneys received hereunder except as provided herein.

**Section 7.02. Investment of Moneys.**

(a) Moneys held in the Funds will, subject to the requirements of the Tax Compliance Agreement and as hereinafter provided, be invested and reinvested by the Trustee, pursuant to written direction of the City, signed by an Authorized Representative, in Investment Securities that mature or are subject to redemption by the owner prior to the date such funds will be needed. In the absence of such instructions, the Trustee is directed to invest moneys in accordance with the standing instructions provided to it on the date of original delivery of the Series 2021 Certificates. 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 will not exceed the interest income on the investment.

(b) The Trustee will sell and reduce to cash a sufficient amount of such Investment Securities held by the Trustee in any Fund hereunder whenever the cash balance in such Fund is insufficient for the purpose of such Fund. Any such Investment Securities will be held by or under the control of the Trustee and will 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 will be credited to such Fund, and any loss resulting from such Investment Securities will be charged to such Fund.

(c) For purposes of determining the amount in any Fund, the value of any investments will be computed at the market value thereof (excluding accrued interest), the purchase price thereof (excluding accrued interest) or principal amount, whichever is lowest.

(d) The Trustee may, in making or disposing of any investment permitted by this Section, deal with itself (in its individual capacity) or with any one or more of its affiliates, whether it or such affiliate is acting as an agent of the Trustee or for any third person or dealing as principal for its own account.

## ARTICLE VIII

### AMENDMENT OF THE DECLARATION OF TRUST, THE LEASE OR THE BASE LEASE

#### **Section 8.01. Amendments Permitted.**

(a) This Declaration of Trust, the Lease and the Base Lease and the rights and obligations of the City and of the Owners of the Certificates and of the Trustee may be modified or amended from time to time and at any time by an amendment or supplement hereto or thereto that the parties hereto or thereto may enter into when the written consent of the Trustee and the City, if not a party hereto or thereto, and the Owners of a majority in aggregate Principal Portion of Basic Rent Payments represented by the Certificates then-Outstanding has been filed with the Trustee. No such modification or amendment will (1) extend the stated maturity of any Certificate, or reduce the amount of principal represented thereby, or extend the time of payment or reduce the amount of any Prepayment Price provided in this Declaration of Trust for the payment of any Certificate, or reduce the rate of interest with respect thereto, or extend the time of payment of interest with respect thereto, or alter the optional Prepayment Date of any Certificate, without the consent of the Owner of each Certificate so affected, (2) reduce the aforesaid percentage of Certificates the consent of the Owners of which is required to effect any such modification or amendment or, except in connection with the delivery of any Additional Certificates, permit the creation of any lien on the moneys in the Lease Revenue Fund or the Project Fund or deprive the Owners of the trust created by this Declaration of Trust with respect to the moneys in the Lease Revenue Fund or the Project Fund, or (3) create a preference or priority of any Certificate or Certificates over any other Certificate or Certificates without the consent of the Owners of all the Certificates then-Outstanding. Promptly after the execution by the Trustee of any amendment pursuant to this subsection (a), the Trustee will give Notice by Mail, setting forth in general terms the substance of such amendment to the Owners at the addresses listed on the registration books kept by the Trustee pursuant to **Section 3.06**. Any failure to give such notice, or any defect therein, will not, however, in any way impair or affect the validity of any such amendment.

(b) Notwithstanding subsection (a), this Declaration of Trust, the Lease or the Base Lease and the rights and obligations of the City, of the Trustee and of the Owners of the Certificates may also be modified or amended from time to time and at any time by an agreement that the parties hereto or thereto may enter into without the consent of any Certificate Owners, only to the extent permitted by law and only for any one or more of the following purposes:

(1) to add to the covenants and agreements of the Trustee in this Declaration of Trust, other covenants and agreements thereafter to be observed, to pledge or assign additional security for the Certificates (or any portion thereof), or to surrender any right or power herein reserved to or conferred upon the City; provided, however, that no such covenant, agreement, pledge, assignment or surrender will in the sole judgment of the Trustee materially adversely affect the interests of the Trustee or the Owners of the Certificates;

(2) to add to the covenants and agreements of the City in the Base Lease or the Lease, other covenants and agreements thereafter to be observed or to surrender any right or power therein reserved to or conferred upon the Trustee or the City; provided, however, that no such covenant, agreement or surrender will in the sole judgment of the Trustee materially adversely affect the interests of the Owners of the Certificates;

(3) to make such provisions for the purpose of curing any ambiguity, inconsistency or omission, or of curing or correcting any defective provision, contained in this Declaration of Trust, the Base Lease or the Lease, or in regard to matters or questions arising under this Declaration of Trust, the Base Lease or the Lease as the Trustee and the City may deem necessary or desirable and not inconsistent with said agreements, or as may be requested by the City or the Trustee and that will not, in any such case in the sole judgment of the Trustee materially adversely affect the interests of the Owners of the Certificates;

(4) to modify, amend or supplement this Declaration of Trust in such manner as to permit the qualification hereof under the Trust Indenture Act of 1939, as amended, or any similar federal statute hereafter in effect, and to add such other terms, conditions and provisions as may be permitted by said act or similar federal statute, and that will not in the sole judgment of the Trustee materially adversely affect the interests of the Owners of the Certificates;

(5) to provide for any additional procedures, covenants or agreements necessary to maintain the exclusion of the Interest Portion of Basic Rent from gross income for purposes of federal income taxation;

(6) to provide for the execution and delivery of Additional Certificates; or

(7) to make any other change that in the sole judgment of the Trustee does not have a materially adverse effect on the rights of the Certificate Owners.

**Section 8.02. Effect of Amendments.** Upon the execution of any amendments hereto, pursuant to this **Article VIII**, this Declaration of Trust will be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations under this Declaration of Trust of the Trustee and all Owners of Certificates Outstanding will thereafter be determined, exercised and enforced hereunder subject in all respects to such modification and amendment, and all the terms and conditions of any such amendment will be deemed to be part of the terms and conditions of this Declaration of Trust for any and all purposes.

**Section 8.03. Endorsement of Certificates; Preparation of New Certificates.** Certificates delivered after the execution of any amendment pursuant to this **Article VIII** may, and if the Trustee so determines will, bear a notation by endorsement or otherwise in form determined by the Trustee as to any modification or amendment provided for in such amendment. In that case, upon presentation of a Certificate for such purpose at the designated corporate trust office of the Trustee, a suitable notation will be made on such Certificate. If the amendment so provides, new Certificates so modified as to conform, in the opinion of the Trustee, to any modification or amendment contained in such amendment, will be prepared and executed by the Trustee, and upon demand of the Owners of any Certificates then-Outstanding will be exchanged at the designated corporate trust office of the Trustee, without cost to any Certificate Owner, for Certificates then-Outstanding, upon surrender for cancellation of such Certificates in equal aggregate principal amounts of the same maturity, interest rate and tenor.

**Section 8.04. Amendment of Particular Certificates.** The provisions of this Article will not prevent any Certificate Owner from accepting any amendment as to the particular Certificates held by him, provided that due notation thereof is made on such Certificates.

**Section 8.05. Opinion of Counsel.** Anything to the contrary in this **Article VIII** notwithstanding, before the Trustee or the City consents to any modification or amendment of this Declaration of Trust, the Base Lease or the Lease, an opinion of Special Tax Counsel will be delivered to the Trustee stating that such amendment (a) is permitted by this Declaration of Trust and the instrument modified or amended (if other than this Declaration of Trust), (b) complies with its terms, (c) will, upon execution and delivery thereof, be valid and binding upon the City in accordance with the terms of the instrument modified or amended, and (d) will not adversely affect the exclusion from gross income for purposes of federal income taxation of the Interest Portion of Basic Rent Payments represented by the Certificates. In any instance in which the Trustee may be required to determine that a modification or amendment will not materially adversely affect the interest of the Owners of the Certificates, prior to consenting to such modification or amendment, the Trustee will be entitled to require that there be delivered to it an Opinion of Counsel to the effect that no such materially adverse effect would result from such modification or amendment. The Trustee will be fully protected and will incur no liability in relying upon such Opinion of Counsel in making such determination. The Trustee may, but shall not be obligated, to enter into any Supplemental Declaration of Trust or Supplemental Lease which affects the Trustee's own rights, duties or immunities under this Declaration of Trust or the Lease or otherwise.

## ARTICLE IX

### DEFAULT PROVISIONS AND REMEDIES OF TRUSTEE AND OWNERS OF CERTIFICATES

**Section 9.01. Defaults.** The occurrence of any of the following events, subject to the provisions of **Section 9.09**, is hereby defined as an "Event of Default:"

- (a) Default in the due and punctual payment of any Interest Portion of Basic Rent represented by a Certificate; or
- (b) Default in the due and punctual payment of the Principal Portion of Basic Rent represented by a Certificate, whether at the stated payment date thereof or the Prepayment Date set therefor in accordance with the terms hereof; or
- (c) Any Event of Lease Default.

**Section 9.02. Acceleration.** Upon the occurrence of an Event of Default, the Trustee may, and upon receipt of a Directive will, by notice in writing delivered to the City, declare the Principal Portion and Interest Portion of Basic Rent represented by all Certificates Outstanding to the end of the then-current Fiscal Year immediately due and payable.

#### **Section 9.03. Other Remedies.**

(a) Upon the occurrence of an Event of Lease Default or Event of Nonappropriation, the Trustee may exercise any remedies available under the Lease and, to the extent consistent therewith, may sell, lease or manage any portion of the Leased Property or the Trustee's interest in the Leased Property, subject to Permitted Encumbrances, and apply the net proceeds thereof in accordance with **Section 9.05**

and, whether or not it has done so, may pursue any other remedy available to it under the Lease or at law or in equity.

(b) No remedy by the terms of this Declaration of Trust conferred upon or reserved to the Trustee or to the Certificate Owners is intended to be exclusive of any other remedy, but each and every such remedy will be cumulative and will be in addition to any other remedy given to the Trustee or to the Certificate Owners hereunder or now or hereafter existing at law or in equity or by statute.

(c) 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 of any such default or acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed expedient.

(d) No waiver of any default hereunder whether by the Trustee or by the Certificate Owners will extend to or will affect any subsequent default or will impair any rights or remedies consequent thereon.

#### **Section 9.04. Rights of Certificate Owners.**

(a) If an Event of Default or an Event of Nonappropriation has occurred and is continuing and if instructed to do so by a Directive and if indemnified as provided in **Sections 9.07** and **11.01(m)**, the Trustee will be obligated to exercise such one or more of the rights and the remedies conferred by this Article as the Trustee, upon the advice of counsel, deems to be in the interests of the Certificate Owners; provided that such Directive will not be otherwise than in accordance with the provisions of law and of this Declaration of Trust, and provided further that the Trustee will have the right to decline to follow any such Directive if the Trustee in good faith determines that the proceedings so directed would involve it in personal liability.

(b) Any other provision herein to the contrary notwithstanding, the Owners of not less than a majority in aggregate principal amount of Certificates then-Outstanding will have the right, at any time, by a Directive, to direct the time, method and place of conducting all proceedings to be taken in connection with the enforcement of this Declaration of Trust, or for the appointment of a receiver or any other proceedings hereunder; provided that (1) such Directive will not be otherwise than in accordance with the provisions of law and of this Declaration of Trust, and (2) the Trustee has been indemnified as provided in **Sections 9.07** and **11.01(m)** and will have the right to decline to follow any such Directive if the Trustee in good faith determines that the proceedings so directed would involve it in personal liability.

#### **Section 9.05. Application of Moneys.**

(a) All moneys received by the Trustee pursuant to any right given or action taken under the provisions of this Article will, after payment of the costs and expenses of the proceedings resulting in the collection of such moneys and of the expenses, liabilities and advances (including, without limitation, attorneys' fees and expenses) incurred or made by the Trustee, be deposited into the Lease Revenue Fund and all moneys in the Lease Revenue Fund will be applied as follows:

(1) Unless the Principal Portions of Basic Rent represented by all the Certificates have become or have been declared due and payable, all such moneys will be applied:

FIRST - To the payment to the persons entitled thereto of the Interest Portions of Basic Rent represented by the Certificates in the order of the maturity of the installments of such interest and, to the payment, ratably, according to the amount due on such installments, to the persons entitled thereto, without any discrimination or privilege; and

SECOND - To the payment to the persons entitled thereto of the unpaid Principal Portions of Basic Rent represented by any Certificates that have become due (other than Principal Portions of Basic Rent represented by Certificates with respect to the payment of which moneys are held pursuant to the provisions of this Declaration of Trust) in the order of such due dates, with interest from the respective dates upon which they became due and, if the amount available will not be sufficient to pay in full the Principal Portions of Basic Rent represented by Certificates 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 except as to any difference in the respective rates of interest specified respecting the Certificates.

(2) If the Principal Portions of Basic Rent represented by all the Certificates have become due or have been declared due and payable, all such moneys will be applied to the payment of the Principal Portions and the Interest Portions of the Basic Rent then due and unpaid upon the Certificates 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 Certificate over any other Certificate, ratably, according to the amounts due respectively for principal and interest, to the persons entitled thereto, without any discrimination or privilege except as to any difference in the respective rates of interest specified respecting the Certificates.

(3) If the Principal Portions of the Basic Rent represented by all the Certificates have been declared due and payable and if such declaration will thereafter have been rescinded and annulled under the provisions of this Article then subject to the provisions of subparagraph (2) of this Section in the event that the Principal Portions of Basic Rent represented by all the Certificates will later become due or be declared due and payable, the moneys will be applied in accordance with the provisions of subparagraph (1) of this Section.

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

(c) Whenever the Principal Portion and the Interest Portion of all Certificates have been paid under the provisions of this Section, all expenses and charges of the Trustee (including, without limitation, attorneys' fees and expenses) have been paid and any other obligations under the Lease have been paid in full, any balance remaining in the Funds will be paid to the City.

**Section 9.06. Remedies Vested in Trustee.** All remedies and rights of action (including the right to file proof of claims) under this Declaration of Trust or under any of the Certificates may be enforced by the Trustee without the possession of any of the Certificates or the production thereof in any trial or other proceedings relating thereto and any such suit or proceeding instituted by the Trustee will be brought in its name as Trustee without the necessity of joining as plaintiffs or defendants any Owners of the Certificates. Any recovery of judgment or other amounts will be for the equal benefit of the Owners of the Outstanding Certificates.

**Section 9.07. Rights and Remedies of Certificate Owners.** No Owner of any Certificates will have any right to institute any suit, action or proceeding in equity or at law for the enforcement of the Base Lease, the Lease or this Declaration of Trust, for the execution of any trust thereof, for the appointment of a receiver or to enforce any other remedy thereunder or hereunder, unless (a) an Event of Default or an Event of Nonappropriation has occurred; (b) the Owners have given a Directive to the Trustee and have offered the Trustee reasonable opportunity either to proceed to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name; (c) such Certificate Owners have provided to the Trustee indemnification satisfactory to the Trustee; and (d) the Trustee thereafter fails or refuses to exercise the powers hereinbefore granted or to institute such action, suit or proceedings in its, his, her or their name or names. Such notification, request and indemnity are hereby declared in every case at the option of the Trustee to be conditions precedent to the execution of the powers and the trusts of this Declaration of Trust and to any action or cause of action for the enforcement of this Declaration of Trust or for the appointment of a receiver or for any other right or remedy hereunder. No one or more Owners of the Certificates will have any right in any manner whatsoever to affect, to disturb or to prejudice the lien of this Declaration of Trust by its, his, her or their action or to enforce any right or remedy hereunder except in the manner herein provided and all proceedings at law or in equity will be instituted, had and maintained in the manner herein provided and for the equal benefit of the Owners of all Certificates then-Outstanding. Nothing in this Declaration of Trust contained will, however, affect or impair the right of any Certificate Owner to enforce the payment of the Principal Portion and the Interest Portion of the Basic Rent represented by any Certificate at and after the maturity thereof.

**Section 9.08. Termination of Proceedings.** If the Trustee has proceeded to enforce any right or remedy under the Base Lease, the Lease or this Declaration of Trust 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 Owners and the Trustee will be restored to their former respective positions and rights thereunder and hereunder and all rights, remedies and powers of the Trustee will continue as if no such proceeding had been taken.

**Section 9.09. Waivers of Defaults.** The Trustee will waive any Event of Default and its consequences and rescind any declaration of maturity of principal upon the written request of the Owners of (a) a majority in aggregate Principal Portion of Basic Rent Payments represented by all Certificates then-Outstanding with respect to which a default in the payment of Principal Portion of Basic Rent represented thereby exists; or (b) a majority in aggregate Principal Portion of Basic Rent Payments represented by all Certificates then-Outstanding in the case of any other default; provided, however, that there will not be waived (1) any Event of Default respecting the payment of the Principal Portion of Basic Rent represented by any Certificate at its maturity date, or (2) any Event of Default respecting the payment of the Interest Portion of Basic Rent represented by any Certificate, unless prior to such waiver or rescission, all arrears of principal and interest when due, as the case may be, and all fees, charges and expenses of the Trustee in connection with such default, including, without limitation, attorneys' fees and expenses, have been paid or provided for and, in case any such waiver or rescission or in case any proceeding(s) taken by the Trustee on account of any such default have been discontinued or abandoned or determined adversely, then and in every such case the Trustee, the City and the Certificate Owners will be restored to their former positions and rights hereunder, respectively, but no such waiver or rescission will extend to any subsequent or other default or impair any right consequent thereon.

**Section 9.10. Notices of Defaults and Nonappropriations.** Within 30 days after the occurrence of any Event of Default hereunder or an Event of Nonappropriation under the Lease of which the Trustee is required to take notice or if notice of default or nonappropriation has been given as provided in **Section 11.01(f)**, the Trustee will give written notice thereof to the City and Notice by Mail to the Owners of all Certificates then-Outstanding (unless such Event of Default has been cured or waived; provided, however, that, except in the case of an Event of Default in the payment of the Principal Portion or Interest



Portion of Basic Rent Payments represented thereby, the Trustee will be protected in withholding such notice if and so long as the Trustee in good faith determines that the withholding of such notice is in the interests of such Owners).

## ARTICLE X

### DEFEASANCE

#### **Section 10.01. Discharge of Declaration of Trust.**

(a) When (1) the obligations of the City under the Lease have been satisfied in connection with the exercise by the City of its option to purchase the Leased Property in accordance with **Article X** of the Lease by the irrevocable deposit in escrow of moneys or Government Obligations (maturing as to principal and interest in such amounts and at such times as are necessary to make any required payments without reinvestment of any earnings thereon) or both moneys and Government Obligations, and (2) the City has delivered to the Trustee (A) an Opinion of Counsel to the effect that the conditions for such discharge contained herein and in **Section 10.02** have been satisfied or irrevocably provided for and (B) if sufficiency of the deposited moneys and Government Obligations is dependent upon investment earnings, an accountant's certificate verifying the sufficiency of such moneys or Government Obligations or both so deposited for the payment of the Principal Portion and Interest Portion of the Certificates and any applicable Prepayment Price to be paid with respect to the Certificates, and (3) the City has deposited sufficient moneys to pay the fees, charges and expenses of the Trustee (or has made provision satisfactory to the Trustee for their payment), thereupon the obligations created by this Declaration of Trust will cease, determine and become void except for the right of the Certificate Owners and the obligation of the Trustee to apply such moneys and Government Obligations to the payment of the Certificates as herein set forth; provided, however, that all provisions hereof relating to the compensation or indemnification of the Trustee will survive the satisfaction and discharge of this Declaration of Trust.

(b) After all amounts owing to the Certificate Owners or otherwise due and payable hereunder have been paid hereunder and under the Lease, the Trustee will turn over to the City any surplus in the Lease Revenue Fund and all balances remaining in any other funds or accounts other than moneys and Government Obligations held for the payment of the Certificates at maturity or on prepayment, which moneys and Government Obligations will continue to be held by the Trustee in trust for the benefit of the Certificate Owners and will be applied by the Trustee to the payment, when due, of the Principal Portions and any premium and Interest Portions of Basic Rent represented by the Certificates.

**Section 10.02. Deposit of Moneys or Securities.** If moneys or Government Obligations as hereinabove provided, are deposited with and held by the Trustee or other commercial bank or trust company, the Trustee or other commercial bank or trust company will within 30 days after such moneys or Government Obligations have been deposited with it give Notice by Mail to the Owners at the addresses listed on the registration books kept by the Registrar pursuant to **Section 3.06**, setting forth (a) the maturity date or Prepayment Date, as the case may be, of the Certificates, (b) a description of the moneys and/or Government Obligations, if any, so held by it, and (c) that this Declaration of Trust has been released in accordance with the provisions of this Section. Whenever in this Declaration of Trust or the Lease it is provided or permitted that there be deposited with or held in trust by the Trustee or other commercial bank or trust company moneys or Government Obligations in the necessary amount to pay or prepay any Certificates, the moneys or Government Obligations so to be deposited or held may include moneys or Government Obligations held by the Trustee in the Funds established pursuant to this Declaration of Trust (exclusive of the Project Fund and the Rebate Fund) the principal of and interest on which when due together with any moneys held by the Trustee for such purpose will provide moneys sufficient to pay the

Principal Portions and Interest Portions of the Basic Rent represented by the Certificates as the same becomes due, except that, in the case of Certificates that are to be prepaid prior to maturity and in respect of which irrevocable notice of such prepayment has been given as in **Article V** provided or irrevocable provision satisfactory to the Trustee has been made for the giving of such notice, the amount to be deposited or held will be the Prepayment Price with respect to such Certificates and all unpaid interest to the Prepayment Date.

## **ARTICLE XI**

### **THE TRUSTEE**

#### **Section 11.01. Duties, Immunities and Liabilities of Trustee.**

(a) The Trustee will, prior to an Event of Default or Event of Nonappropriation, and after the curing of all Events of Default or Events of Nonappropriation that may have occurred, perform only such duties as are specifically set forth in this Declaration of Trust. The Trustee will have no implied duties. The permissive right or power to take any action may not be construed as a duty to take action under any circumstances, and the Trustee will not be liable except in the event of its negligence or willful misconduct. The Trustee will, during the existence of any Event of Default or Event of Nonappropriation, exercise such of the rights and powers vested in it by this Declaration of Trust, and 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 his own affairs.

(b) The Trustee will not be obligated to risk its own funds in the administration of the Trust Estate. Notwithstanding any provision herein to the contrary, the Trustee need not take any action under this Declaration of Trust that may involve it in any expense or liability until indemnified to its satisfaction for any expense or liability, including liability related to environmental contamination, it reasonably believes it may incur.

(c) The Trustee is not responsible for any recitals contained in this Declaration of Trust or in the Certificates, or for the recording, filing, rerecording or refiling of this Declaration of Trust or security agreements (excluding the continuation of Uniform Commercial Code financing statements) in connection therewith, or for insuring the Leased Property or for collecting any insurance moneys or for the sufficiency of the security for the Certificates. The Trustee makes no representations as to the value or condition of the Trust Estate or any part thereof, or as to the validity or sufficiency of this Declaration of Trust or of the Certificates. The Trustee will not be accountable for the use or application by the City of any of the Certificates or the proceeds thereof or of any money paid to or upon the order of the City under any provision of this Declaration of Trust or the Lease.

(d) The Trustee will not be required to give any bond or surety or report to any court despite any statute, custom or rule to the contrary.

(e) The Trustee may execute any of the duties under this Declaration of Trust by or through agents, attorneys, trustees or receivers, and the Trustee will not be responsible for any misconduct or negligence on the part of any agent, attorney, trustee or receiver appointed with due care by it hereunder.

(f) The Trustee will not be required to take notice or be deemed to have notice of any default, or Event of Default, Event of Nonappropriation or other fact or event under this Declaration of Trust other than the City's failure to pay Basic Rent Payments required by **Section 4.01** of the Lease, unless the Trustee is specifically notified in writing of the default or Event of Default, Event of Nonappropriation, fact or

event by the City or the Owners of not less than 25% of the unpaid Principal Portion of Basic Rent Payments represented by the Certificates then-Outstanding.

(g) The Trustee may consult legal counsel, may conclusively rely on the opinion or advice of such legal counsel and will not be liable for any act or omission taken or suffered pursuant to the opinion or advice of such counsel. The fees and expenses of the counsel will be deemed to be a proper expense of the Trustee.

(h) Unless specifically required by the terms of this Declaration of Trust, the Trustee need not take notice of or enforce any other document or relationship, including any contract, settlement, arrangement, plan, assignment, pledge, release, decree or the like, other than the Lease, but its duties will be solely as set out in this Declaration of Trust.

(i) The Trustee may be removed at any time by (1) a Directive, or (2) so long as no Event of Default or Event of Nonappropriation has occurred or condition exists that with the giving of notice or the passage of time or both would constitute an Event of Default, an instrument in writing delivered to the Trustee and signed by the City. The Trustee will give written notice of any removal pursuant to this subsection (i) to the City. The Trustee will resign at any time the Trustee ceases to be eligible in accordance with subsection (l) of this Section, or becomes incapable of acting, or is adjudged as bankrupt or insolvent, or a receiver of the Trustee or its property is appointed, or any public officer takes control or charge of the property or affairs of the Trustee for the purpose of rehabilitation, conservation or liquidation, and thereupon a successor Trustee will be appointed by either (A) a Directive, or (B) so long as no Event of Default or Event of Nonappropriation has occurred or condition exists that with the giving of notice or the passage of time or both would constitute an Event of Default, the City.

(j) The Trustee may at any time resign by giving written notice of such resignation to the City and by giving the Owners Notice by Mail of such resignation at the addresses listed on the registration books kept by the Registrar pursuant to **Section 3.06**. Upon receiving such notice of resignation, a successor Trustee will be appointed by either (1) a Directive, or (2) so long as no Event of Default or Event of Nonappropriation has occurred or condition exists that with the giving of notice or the passage of time or both would constitute an Event of Default, the City.

(k) Any removal or resignation of the Trustee and appointment of a successor Trustee will become effective only upon acceptance of appointment by the successor Trustee. If no successor Trustee has been appointed and has accepted appointment within 45 days of giving notice of removal or notice of resignation as aforesaid, the resigning or removed Trustee or any Certificate Owner (on behalf of himself and all other Certificate Owners) may petition any court of competent jurisdiction for the appointment of a successor Trustee, and such court may thereupon, after such notice (if any) as it may deem proper, appoint such successor Trustee. Any successor Trustee appointed under this Declaration of Trust will signify its acceptance of such appointment by executing and delivering to the City and to its predecessor Trustee a written acceptance thereof, and thereupon such successor Trustee, without any further act, deed or conveyance, will become vested with all the moneys, estates, properties, rights, powers, trusts, duties and obligations of such predecessor Trustee held by it as security for the Certificates, including its interest in the Base Lease and the Lease, with like effect as if originally named Trustee herein and the duties and obligations of the predecessor Trustee hereunder will thereafter cease and terminate; but, nevertheless at the request of the City or the request of the successor Trustee, such predecessor Trustee will execute and deliver any and all instruments of conveyance or further assurance and do such other things as may reasonably be requested for more fully and certainly vesting in and confirming to such successor Trustee all the right, title and interest of such predecessor Trustee in and to any property held by it under this Declaration of Trust and will pay over, transfer, assign and deliver to the successor Trustee any money or other property subject to the trusts and conditions herein set forth. Upon request of the predecessor or the

successor Trustee, the City will execute and deliver any and all instruments as may be reasonably required for more fully and certainly vesting in and confirming to such successor Trustee all such moneys, estates, properties, rights, powers, trusts, duties and obligations. Upon acceptance of appointment by a successor Trustee as provided in this subsection, such successor Trustee will cause Notice by Mail to all Owners of such acceptance.

(l) Any Trustee appointed under the provisions of this Section in succession to the Trustee will be a state or national trust company, association or bank having the powers of a trust company and being duly authorized to execute trust powers in the State, in good standing in the State, having a combined capital and surplus of at least fifty million dollars (\$50,000,000), and subject to supervision and examination by federal or state authority. If such bank or trust company publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purpose of this subsection the combined capital and surplus of such bank or trust company will be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. In case at any time the Trustee will cease to be eligible in accordance with the provisions of this subsection (l), the Trustee will resign immediately in the manner and with the effect specified in this Section.

(m) Notwithstanding anything elsewhere in this Declaration of Trust, the Lease or the Base Lease contained, before taking any action under this Declaration of Trust (except with respect to acceleration of the Certificates and payment of the Certificates upon such acceleration or any payments of the Certificates when due), the Trustee may require that satisfactory indemnity be furnished to it for the reimbursement of all reasonable fees, costs and expenses (including, without limitation, attorneys' fees and expenses) to which it may be put and to protect it against all liability that it may incur in or by reason of such action, including without limitation liability in connection with environmental contamination, and the cleanup thereof, except liability that is adjudicated to have resulted from its negligence or willful misconduct by reason of any action so taken.

(n) The Trustee may elect not to proceed in accordance with the directions of the Owners of the Certificates without incurring any liability to the Certificate Owners if in the opinion of the Trustee such direction may result in environmental or other liability to the Trustee, in its individual capacity, for which the Trustee has not received indemnity from the Certificate Owners, and the Trustee may rely upon an Opinion of Counsel addressed to the Trustee in determining whether any action directed by Certificate Owners may result in such liability.

(o) The Trustee may inform the Certificate Owners of environmental hazards that the Trustee has reason to believe exist, and the Trustee has the right to take no further action and, in such event no fiduciary duty exists that imposes any obligation for further action with respect to the Trust Estate or any portion thereof if the Trustee, in its individual capacity, determines that any such action would materially and adversely subject the Trustee to environmental or other liability for which the Trustee has not received indemnity pursuant to this Declaration of Trust.

(p) Notwithstanding any other provision of this Declaration of Trust to the contrary, any provision intended to provide authority to act, right to payment of fees and expenses, protection, immunity and indemnification to the Trustee will be interpreted to include any action of the Trustee whether it is deemed to be in its capacity as Trustee, Registrar or paying agent.

(q) The Trustee will not be responsible or liable for any loss suffered in connection with any investment of funds made by it in accordance with **Section 7.02**, except for its own negligence or willful misconduct.

(r) The Trustee will not be responsible for the use of any Certificates executed and delivered hereunder.

(s) Any action taken by the Trustee pursuant to and in accordance with this Declaration of Trust upon the request or authority or consent of any person who, at the time of making such request or giving such authority or consent is the Owner of any Certificate will be conclusive and binding upon all future Owners of the same Certificate and upon Certificates delivered in exchange therefor or upon transfer or in place thereof.

(t) The Trustee will have the right, but will not be required, to demand, in respect of the execution of any Certificate, the withdrawal of any moneys, the release of any property, or any action whatsoever within the purview of this Declaration of Trust, 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 as are deemed desirable for the purpose of establishing the right of the City to any such action.

(u) The Trustee may become the owner of Certificates with the same rights it would have if it were not Trustee, and, to the extent permitted by law, may act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Certificate Owners, whether or not such committee will represent the Owners of a majority in principal amount of the Certificates then-Outstanding.

(v) The Trustee shall cause to be filed continuation statements to the financing statements, if any, under the Uniform Commercial Code of the State, with the appropriate filing office of the State, in such manner as may be required by the Uniform Commercial Code of the State. The City shall be responsible for the reasonable fees and costs, including fees and costs of counsel or other experts, incurred by the Trustee in the preparation and filing of all continuation statements hereunder. Notwithstanding anything to the contrary contained herein, the Trustee shall not be responsible for any initial, amendment, or other filings of any financing statements or the information contained therein (including the exhibits thereto), the perfection of any such security interests, or the accuracy or sufficiency of any description of collateral in such initial filings or for filing any modifications or amendments to the initial filings or any amendments or other changes to Article 9 of the Uniform Commercial Code of the State. The Trustee shall be fully protected in relying on information with respect to such initial filings delivered to it by or on behalf of the City.

(w) The Trustee agrees to accept and act upon instructions or directions pursuant to this Declaration of Trust sent by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods, provided, however, that the City shall provide to the Trustee an incumbency certificate listing designated persons authorized to provide such instructions, which incumbency certificate shall be amended whenever a person is to be added or deleted from the listing. If the City elects to give the Trustee e-mail or facsimile instructions (or instructions by a similar electronic method) and the Trustee in its discretion elects to act upon such instructions, the Trustee's understanding of such instructions shall be deemed controlling. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The City agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties.

(x) The Trustee may establish such funds, accounts and subaccounts as it deems appropriate for carrying out its duties under this Declaration of Trust.

**Section 11.02. Merger or Consolidation.** Any entity into which the Trustee may be merged or converted or with which it may be consolidated or any entity resulting from any merger, conversion or consolidation to which it will be a party or any entity to which the Trustee may sell or transfer all or substantially all of its corporate trust business, provided such company will be eligible under **Section 11.01(l)** will be the successor to such Trustee, without the execution or filing of any paper or any further act, anything herein to the contrary notwithstanding.

**Section 11.03. Liability of Trustee.** The Trustee will not be liable in connection with the performance of its duties hereunder, except for its own negligence or willful misconduct.

**Section 11.04. Right of Trustee to Rely on Documents.**

(a) The Trustee will be protected in acting upon any notice, resolution, ordinance, request, consent, order, certificate, report, opinion, Directive or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties. The Trustee may consult with counsel, who may be counsel of or to the City, with regard to legal questions, and the opinion or advice of such counsel will be full and complete authorization and protection in respect of any action taken, omitted or suffered by it hereunder in good faith and in accordance therewith.

(b) Whenever in the administration of the trusts imposed upon it by this Declaration of Trust the Trustee deems it necessary or desirable that a matter be proved or established prior to taking or omitting or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by a statement signed by the Authorized Representative, and such statement will be full warrant to the Trustee for any action taken, omitted or suffered in good faith under the provisions of this Declaration of Trust in reliance upon such statement, and, prior to the occurrence of a default of which the Trustee has been notified as provided in **Section 11.01(f)** or of which by said section it is deemed to have notice, the Trustee will also be at liberty to accept a similar statement to the effect that any particular dealing, transaction or action is necessary or expedient, but in its discretion the Trustee may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as to it may seem reasonable.

**Section 11.05. Preservation and Inspection of Documents.** All documents received by the Trustee under the provisions of this Declaration of Trust will be retained in its possession until six months after payment in full of all Certificates and the discharge of this Declaration of Trust and will be subject at all reasonable times to the inspection of the City and any Certificate Owner, and their agents and representatives duly authorized in writing, at reasonable hours and under reasonable conditions.

## ARTICLE XII

### MISCELLANEOUS

**Section 12.01. Survival of Provisions.** The obligations of the Trustee with respect to matters arising before the termination of this Declaration of Trust (including any indemnification obligations and any obligation to pay additional interest) will survive the termination of this Declaration of Trust.

**Section 12.02. No Third Party Beneficiaries.** No persons other than the City, the Trustee, the Owners of Certificates and the successors and assigns of such persons, will have any rights whatsoever under this Declaration of Trust.

**Section 12.03. Notices.** It will be sufficient service of any notice, request, complaint, demand or other paper required by this Declaration of Trust or the Lease to be given or filed with the Trustee or the City if the same will be duly mailed by registered or certified mail with postage prepaid (except as indicated in (a) below) addressed as follows, provided that any of the foregoing given to the Trustee will be effective only upon receipt:

(a) To the Owners of the Certificates if the same will be duly mailed by first-class mail, postage prepaid, addressed to each of the Owners of Certificates at the time Outstanding at their addresses as shown by the register maintained pursuant to **Section 3.06**.

(b) If to the City: City of Jennings, Missouri  
2120 Hord Avenue  
Jennings, Missouri 63136  
Attn: Mayor

(c) If to the Trustee: BOKF, N.A.  
200 North Broadway, Suite 1710  
St. Louis, Missouri 63102  
Attention: Corporate Trust Department

A duplicate copy of each notice, certificate or other communication given hereunder, or pursuant to the Lease or the Base Lease to any of the parties mentioned in this Section will be given to all other parties mentioned in this Section (other than the Owners of the Certificates unless a copy is required to be furnished to them by other provisions of this Declaration of Trust). The Trustee or the City may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications will be sent to it.

**Section 12.04. Waiver of Personal Liability.**

(a) All obligations or liabilities under this Declaration of Trust on the part of the Trustee are solely obligations or liabilities of the Trustee in its capacity hereunder as a corporate trustee of the Trust Estate. To the extent permitted by law, the City hereby releases each and every director, officer, agent, attorney or employee of the Trustee from any personal or individual liability under this Declaration of Trust. No director, officer, agent, attorney or employee of the Trustee will at any time or under any circumstances be individually or personally liable under this Declaration of Trust for anything done or omitted to be done by the Trustee hereunder.

(b) All obligations or liabilities under this Declaration of Trust on the part of the City are solely obligations or liabilities of the City as a political subdivision. To the extent permitted by law, the Trustee hereby releases each and every official, member, employee or agent of the City from any personal or individual liability under this Declaration of Trust. No official, member, employee or agent of the City will at any time or under any circumstances be individually or personally liable under this Declaration of Trust for anything done or omitted to be done by the City hereunder.

**Section 12.05. Declaration of Trust Binding Upon Trustee and Successors.** This Declaration of Trust will inure to the benefit of and will be binding upon the Trustee and its successors and assigns, subject to the limitations contained herein.

**Section 12.06. Electronic Transactions.** 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.

[Remainder of Page Intentionally Left Blank]



**IN WITNESS WHEREOF**, the Trustee has caused this Declaration of Trust to be executed by its duly authorized corporate officer, all as of the day and year indicated above.

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

By:   
Name: Victor Zarrilli  
Title: Senior Vice President

**SCHEDULE 1  
TO DECLARATION OF TRUST**

**LEGAL DESCRIPTION OF THE LEASED PROPERTY**

The following described real estate situated in St. Louis County, Missouri, together with all improvements now or hereafter situated thereon:

**EXHIBIT A**

**FORM OF CERTIFICATE OF PARTICIPATION**

Unless this Certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation (“DTC”), to the Trustee or its agent for registration of transfer, exchange or payment, and if any Certificate delivered is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co., or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the Registered Owner hereof, Cede & Co., has an interest herein.

NUMBER \_\_\_\_\_

\$ \_\_\_\_\_

**CERTIFICATE OF PARTICIPATION  
(CITY OF JENNINGS, MISSOURI, LESSEE)  
SERIES 2021**

**Evidencing a Proportionate Interest  
of the Owners thereof  
in Basic Rent Payments to be Made by the  
City of Jennings, Missouri,  
Pursuant to an Annually-Renewable Lease Purchase Agreement**

<u>Interest Rate</u>	<u>Payment Date</u>	<u>Certificate Date</u>	<u>CUSIP</u>
_____ %	_____, 20__	June __, 2021	_____

**Registered Owner: CEDE & CO.**

**Principal Sum: \_\_\_\_\_ DOLLARS**

**THIS IS TO CERTIFY** that the Registered Owner identified above of this Certificate of Participation (this “Certificate”) is the owner of the proportionate interest hereinafter stated in that certain Lease Purchase Agreement dated as of June 1, 2021 (the “Lease”), between BOKF, N.A., a national banking association organized and existing under the laws of the United States of America (the “Trustee”), and the City of Jennings, Missouri, a third-class city and political subdivision of the State of Missouri (the “City”), including payments of Basic Rent to be made thereunder (the “Basic Rent Payments”). The City is authorized to enter into the Lease pursuant to the constitution and statutes of the State of Missouri and an ordinance duly enacted by the governing body of the City. This Certificate is subject to the Declaration of Trust dated as of June 1, 2021, by the Trustee, as amended or supplemented from time to time (the “Declaration of Trust”), which is on file at the designated corporate trust office of the Trustee located in St. Louis, Missouri. Capitalized terms used herein and not otherwise defined have the meanings assigned to such terms in the Declaration of Trust or the Lease.

**THE REGISTERED OWNER** of this Certificate is entitled to receive, subject to the terms of the Lease and the Declaration of Trust, on the payment date specified above (the “Certificate Payment Date”), or if selected for prepayment, on the Prepayment Date, the principal sum specified above, representing a portion of the Basic Rent Payment designated as principal coming due on the Certificate Payment Date, and to receive the Registered Owner’s proportionate share of Basic Rent Payments designated as interest on March 1 and September 1, commencing on September 1, 2021, to and including the Certificate Payment Date or the Prepayment Date, whichever is earlier. Said proportionate share of the Basic Rent Payments designated as interest is computed on the principal sum specified above from the certificate date specified above or the most recent date to which such interest has been paid, at the interest rate specified above on the basis of a 360-day year of twelve 30-day months.

**SAID AMOUNTS** are payable in such coin or currency of the United States of America as at the time of payment is legal tender for the payment of public and private debts. The amounts representing principal and prepayment premium, if any, are payable by check, draft or electronic transfer upon the presentation and surrender of this Certificate at the designated corporate trust office of the Registrar. The amounts representing interest are payable to the person in whose name this Certificate is registered in the register maintained by the Trustee at the close of business on the 15th day (whether or not a Business Day) of the calendar month next preceding the month in which each interest payment date occurs (a “Record Date”) by check or draft mailed to the Registered Owner at his address as it appears in said register. Upon written request and at the expense of any Registered Owner, payments of the Interest Portion of the Basic Rent represented by any Certificate shall be made by electronic transfer to the bank for credit to the ABA routing number and account number at the location designated by such Registered Owner to the Trustee no later than 15 days prior to the Record Date. Any such request shall also include an acknowledgement that an electronic transfer fee may be applicable.

**BASIC RENT PAYMENTS** are payable solely from available revenues which, for any Fiscal Year, include any balances of the City from previous Fiscal Years encumbered to pay Rent under the Lease, amounts budgeted or appropriated out of the income and revenue of 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 and all moneys and investments, including earnings thereon, except for the Rebate Fund, held by the Trustee pursuant to the Declaration of Trust.

NEITHER THE BASIC RENT PAYMENTS NOR ANY OTHER AMOUNTS DUE UNDER THE LEASE CONSTITUTE A DEBT, A GENERAL OBLIGATION OR, EXCEPT FROM AVAILABLE REVENUES APPROPRIATED BY THE CITY FOR SUCH PURPOSE, A LIABILITY OF THE CITY WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION OR LIMITATION. THE CITY WILL NOT BE OBLIGATED TO PAY THE SAME EXCEPT FROM AVAILABLE REVENUES APPROPRIATED BY THE CITY FOR SUCH PURPOSE. NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE CITY IS PLEDGED TO THE PAYMENT OF THE BASIC RENT PAYMENTS OR ANY OTHER AMOUNTS DUE UNDER THE LEASE. THE REGISTERED OWNER WILL NOT HAVE THE RIGHT TO REQUIRE OR COMPEL THE EXERCISE OF THE TAXING POWER OF THE CITY FOR THE PAYMENT OF THE PRINCIPAL AND INTEREST UNDER THE LEASE REPRESENTED BY THIS CERTIFICATE OR THE MAKING OF ANY OTHER PAYMENTS PROVIDED FOR IN THE LEASE.

This Certificate is one of a duly authorized series of certificates of participation designated “Certificates of Participation (City of Jennings, Missouri, Lessee), Series 2021,” evidencing a proportionate interest in Basic Rent Payments to be made by the City, pursuant to the Lease (the “Series 2021 Certificates”) for the purpose of providing funds to pay costs of (a) the Project and (b) executing and delivering the Series 2021 Certificates. This Certificate has been executed by the Trustee pursuant to and is governed by the terms of the Declaration of Trust. Copies of the Lease and the Declaration of Trust are

on file at the administrative office of the City and at the designated corporate trust office of the Trustee, and reference to the Lease and the Declaration of Trust and any and all amendments and supplements thereto is made for a description of the pledges and covenants of the City securing the Basic Rent Payments, the nature, extent and manner of enforcement of such pledges and covenants and the rights and the terms and conditions upon which the Series 2021 Certificates are delivered thereunder.

The Declaration of Trust permits certain amendments or supplements to the Declaration of Trust and the Lease not prejudicial to the Certificate Owners to be made without the consent of or notice to the Certificate Owners, certain other amendments or supplements thereto to be made with the consent of the Owners of not less than a majority in aggregate principal amount of the Certificates then-Outstanding and other amendments or supplements thereto to be made only with the consent of all Certificate Owners.

If certain conditions are met, the Lease may be amended without the consent of or notice to the Certificate Owners to increase the amount of Basic Rent payable by the City, and additional certificates of participation evidencing interests in such increased Basic Rent may be executed and delivered under the Declaration of Trust. Such certificates of participation would be on a parity with the Series 2021 Certificates.

The Series 2021 Certificates are subject to prepayment as described in the Declaration of Trust.

If any of the Certificates are to be prepaid, notice thereof identifying the Certificates to be prepaid will be given by the Trustee not more than 60 days and not less than 30 days prior to the Prepayment Date to the City and each Registered Owner of Certificates to be prepaid. The failure of the Registered Owner of any Certificate to be so prepaid to receive notice of prepayment mailed as herein provided will not affect or invalidate the prepayment of such Certificate. All Certificates for which notice of prepayment is given will cease to bear interest on the specified Prepayment Date, provided moneys or certain securities for their prepayment are on deposit at the place of payment at that time, will cease to be entitled to any benefit or security under the Declaration of Trust and will no longer be deemed to be outstanding under the Declaration of Trust.

This Certificate will be transferable upon the Certificate register, which will be kept for that purpose at the designated corporate trust office of the Trustee, upon surrender and cancellation of this Certificate together with a written instrument of transfer satisfactory to the Trustee duly executed by the Registered Owner or his, her or its duly authorized attorney and upon payment of the charges provided in the Declaration of Trust. Upon such transfer a new fully-registered Certificate or Certificates of the same maturity and aggregate principal amount will be delivered to the transferee. The Trustee may treat the Registered Owner hereof as the absolute Owner hereof for all purposes, and the Trustee will not be affected by any notice to the contrary.

The Certificates are being delivered by means of a book-entry system with no physical distribution of Certificates to be made except as provided in the Declaration of Trust. One Certificate with respect to each Certificate Payment Date, registered in the nominee name of the Securities Depository, is being delivered. The book-entry system will evidence positions held in the Certificates by the Securities Depository's Participants, beneficial ownership of the Certificates in authorized denominations being evidenced in the records of such Participants. Transfers of ownership will be effected on the records of the Securities Depository and its Participants pursuant to rules and procedures established by the Securities Depository and its Participants. The Trustee will recognize the Securities Depository nominee, while the Registered Owner of this Certificate, as the Owner of this Certificate for all purposes, including (a) payments of the Principal Portion of Basic Rent and the Interest Portion of Basic Rent, (b) notices and (c) voting. Transfers of the Principal Portion and Interest Portion of Basic Rent to Participants of the Securities Depository, and transfers of Principal Portion and Interest Portion of Basic Rent to Beneficial Owners of the Certificates by Participants

of the Securities Depository will be the responsibility of such Participants and other nominees of such Beneficial Owners. The Trustee will not be responsible or liable for such transfers of payments or for maintaining, supervising or reviewing the records maintained by the Securities Depository, the Securities Depository nominee, its Participants or persons acting through such Participants. While the Securities Depository nominee is the Owner of this Certificate, notwithstanding the provision hereinabove contained, payments on this Certificate will be made in accordance with existing arrangements among the City, the Trustee and the Securities Depository.

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

The Certificates may be delivered in the form of fully-registered Certificates in the denomination of \$5,000 or any integral multiple thereof, subject to certain limitations and as otherwise provided in the Declaration of Trust. The Certificates, upon surrender thereof at the designated corporate trust office of the Trustee with a written request for exchange satisfactory to the Trustee duly executed by the Registered Owner or his, her or its duly authorized attorney in writing, may be exchanged for an equal aggregate principal amount of fully-registered Certificates of any authorized denomination of the same series and maturity. No service charge will be made for any transfer or exchange of Certificates, but the Trustee may require payment of any tax or governmental charge in connection therewith.

**THE TRUSTEE** has no obligation or liability to the Registered Owners of the Certificates to make payments of principal or interest with respect to the Certificates. The Trustee's sole obligations are to administer, for the benefit of the Registered Owners thereof, the Funds established under the Declaration of Trust.

**THE CITY** has certified, recited and declared that all acts, conditions and things required by the constitution and statutes of the State of Missouri and the Lease to exist, to have happened and to have been performed precedent to the delivery of the Lease, exist, have happened and have been performed in due time, form and manner as required by law.

**IN WITNESS WHEREOF**, the Trustee has caused this Certificate to be executed by an authorized signatory as of the date set forth above.

**BOKF, N.A., not in its individual capacity but solely as Trustee under the Declaration of Trust dated as of June 1, 2021**

By: \_\_\_\_\_  
Authorized Signatory

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**ASSIGNMENT**

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

---

Please Print or Typewrite Name, Address and  
Employee Identification Number or Social Security Number of Transferee

the within Certificate and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_ Attorney to transfer the within Certificate on the register kept for the registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

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NOTICE: The signature to this assignment must correspond with the name of the Registered Owner as it appears upon the face of the within Certificate in every particular.

Medallion Signature Guarantee:

**EXHIBIT B**

**FORM OF DISBURSEMENT REQUEST  
FOR PROJECT COSTS AND COSTS OF DELIVERY**

Request No. \_\_\_\_\_

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

**WRITTEN REQUEST FOR DISBURSEMENT FROM  
THE PROJECT FUND**

**\$11,190,000  
CERTIFICATES OF PARTICIPATION  
(CITY OF JENNINGS, MISSOURI, LESSEE)  
SERIES 2021**

To: BOKF, N.A., as Trustee  
200 North Broadway, Suite 1710  
St. Louis, Missouri 63102  
Attn: Corporate Trust Department

Pursuant to **Section 6.04** of the Declaration of Trust dated as of June 1, 2021 (the "Declaration of Trust"), the undersigned hereby requests payment from the Project Fund in accordance with this disbursement request (this "Disbursement Request"), and hereby certifies as follows:

1. All capitalized terms used in this Disbursement Request have the meanings specified in the Declaration of Trust.
2. The names of the persons, firms or corporations to whom the payments requested hereby are due, the addresses of said persons, firms or corporations, the amounts to be paid and a description of the costs for which each obligation requested to be paid hereby was incurred are as set forth on **Attachment I** hereto.
3. Said Project Costs or Costs of Delivery have been made or incurred by the City and have been paid by the City, if payment to the City is requested, or, if payment to the City is not requested, are presently due to the persons to whom payment is requested.
4. Said Project Costs or Costs of Delivery are valid under the Declaration of Trust and proper charges against the Project Fund. No part thereof has been, is being or will be made the basis for the withdrawal of any money in any previous, pending or subsequent request filed with the Trustee pursuant to the Declaration of Trust.
5. There has not been filed with or served upon the City any notice of any lien, right to a lien or attachment upon or claim affecting the right of any person, firm or corporation to receive payment of the respective amounts stated in said certificate which has not been released or will not be released simultaneously with the payment of such obligation.
6. No event exists that constitutes, or with the giving of notice of the passage of time or both would constitute, an Event of Default under the Declaration of Trust.
7. Invoices, statements, vouchers or bills for the amounts requested for all services or materials furnished by contractors, except as to any retainage, related to amounts specified in this certificate are attached hereto.



8. Lien waivers for all services or materials included in amounts requested by previous Disbursement Requests, except as to any retainage, have been obtained and are on file with the City.

**CITY OF JENNINGS, MISSOURI**

By: \_\_\_\_\_  
Authorized Representative

**ATTACHMENT I  
TO WRITTEN REQUEST FOR DISBURSEMENT FROM  
THE PROJECT FUND**

**SCHEDULE OF PAYMENTS REQUESTED**

<u>Payee and Address</u>	<u>Amount</u>	<u>Description</u>
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**EXHIBIT C**

**PAYMENT SCHEDULE FOR SERIES 2021 CERTIFICATES\***

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service	Bond Balance	Total Bond Value
06/10/2021						11,190,000	11,190,000
09/01/2021			96,322.50	96,322.50		11,190,000	11,190,000
03/01/2022	380,000	4.000%	214,050.00	594,050.00	690,372.50	10,810,000	10,810,000
09/01/2022			206,450.00	206,450.00		10,810,000	10,810,000
03/01/2023	275,000	4.000%	206,450.00	481,450.00	687,900.00	10,535,000	10,535,000
09/01/2023			200,950.00	200,950.00		10,535,000	10,535,000
03/01/2024	290,000	4.000%	200,950.00	490,950.00	691,900.00	10,245,000	10,245,000
09/01/2024			195,150.00	195,150.00		10,245,000	10,245,000
03/01/2025	300,000	4.000%	195,150.00	495,150.00	690,300.00	9,945,000	9,945,000
09/01/2025			189,150.00	189,150.00		9,945,000	9,945,000
03/01/2026	310,000	4.000%	189,150.00	499,150.00	688,300.00	9,635,000	9,635,000
09/01/2026			182,950.00	182,950.00		9,635,000	9,635,000
03/01/2027	325,000	4.000%	182,950.00	507,950.00	690,900.00	9,310,000	9,310,000
09/01/2027			176,450.00	176,450.00		9,310,000	9,310,000
03/01/2028	335,000	4.000%	176,450.00	511,450.00	687,900.00	8,975,000	8,975,000
09/01/2028			169,750.00	169,750.00		8,975,000	8,975,000
03/01/2029	350,000	4.000%	169,750.00	519,750.00	689,500.00	8,625,000	8,625,000
09/01/2029			162,750.00	162,750.00		8,625,000	8,625,000
03/01/2030	365,000	4.000%	162,750.00	527,750.00	690,500.00	8,260,000	8,260,000
09/01/2030			155,450.00	155,450.00		8,260,000	8,260,000
03/01/2031	380,000	4.000%	155,450.00	535,450.00	690,900.00	7,880,000	7,880,000
09/01/2031			147,850.00	147,850.00		7,880,000	7,880,000
03/01/2032	395,000	4.000%	147,850.00	542,850.00	690,700.00	7,485,000	7,485,000
09/01/2032			139,950.00	139,950.00		7,485,000	7,485,000
03/01/2033	410,000	4.000%	139,950.00	549,950.00	689,900.00	7,075,000	7,075,000
09/01/2033			131,750.00	131,750.00		7,075,000	7,075,000
03/01/2034	425,000	4.000%	131,750.00	556,750.00	688,500.00	6,650,000	6,650,000
09/01/2034			123,250.00	123,250.00		6,650,000	6,650,000
03/01/2035	445,000	4.000%	123,250.00	568,250.00	691,500.00	6,205,000	6,205,000
09/01/2035			114,350.00	114,350.00		6,205,000	6,205,000
03/01/2036	460,000	4.000%	114,350.00	574,350.00	688,700.00	5,745,000	5,745,000
09/01/2036			105,150.00	105,150.00		5,745,000	5,745,000
03/01/2037	480,000	4.000%	105,150.00	585,150.00	690,300.00	5,265,000	5,265,000
09/01/2037			95,550.00	95,550.00		5,265,000	5,265,000
03/01/2038	500,000	4.000%	95,550.00	595,550.00	691,100.00	4,765,000	4,765,000
09/01/2038			85,550.00	85,550.00		4,765,000	4,765,000
03/01/2039	520,000	4.000%	85,550.00	605,550.00	691,100.00	4,245,000	4,245,000
09/01/2039			75,150.00	75,150.00		4,245,000	4,245,000
03/01/2040	540,000	4.000%	75,150.00	615,150.00	690,300.00	3,705,000	3,705,000
09/01/2040			64,350.00	64,350.00		3,705,000	3,705,000
03/01/2041	560,000	4.000%	64,350.00	624,350.00	688,700.00	3,145,000	3,145,000
09/01/2041			53,150.00	53,150.00		3,145,000	3,145,000
03/01/2042	585,000	4.000%	53,150.00	638,150.00	691,300.00	2,560,000	2,560,000
09/01/2042			41,450.00	41,450.00		2,560,000	2,560,000
03/01/2043	610,000	4.000%	41,450.00	651,450.00	692,900.00	1,950,000	1,950,000
09/01/2043			29,250.00	29,250.00		1,950,000	1,950,000
03/01/2044	630,000	3.000%	29,250.00	659,250.00	688,500.00	1,320,000	1,320,000
09/01/2044			19,800.00	19,800.00		1,320,000	1,320,000
03/01/2045	650,000	3.000%	19,800.00	669,800.00	689,600.00	670,000	670,000
09/01/2045			10,050.00	10,050.00		670,000	670,000
03/01/2046	670,000	3.000%	10,050.00	680,050.00	690,100.00		
	11,190,000		6,061,672.50	17,251,672.50	17,251,672.50		

\* 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 five (5) Business Days before each Basic Rent Payment Date, the amount due on such Basic Rent Payment Date.