

BILL NO. 34

ORDINANCE NO. 2024-34

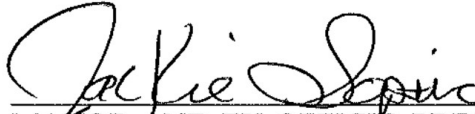
AN ORDINANCE OF THE CITY OF TRENTON, MISSOURI APPROVING A PROPOSAL BY AND BETWEEN THE CITY OF TRENTON, MISSOURI, AND SECURITY BANK OF KANSAS CITY FOR AN AMENDED AND RESTATED LEASE PURCHASE AGREEMENT AND AUTHORIZING THE MAYOR AND CITY CLERK OF THE CITY OF TRENTON, MISSOURI, TO EXECUTE THE SAME BY AND ON BEHALF OF SAID CITY.

BE IT ORDAINED, BY THE CITY COUNCIL OF THE CITY OF TRENTON, MISSOURI, AS FOLLOWS, TO WIT:

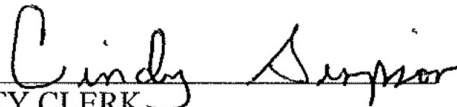
**Section 1.** The Mayor and City Clerk of the City of Trenton, Missouri, are hereby authorized and directed to execute the Amended and Restated Lease Purchase Agreement, between Security Bank of Kansas City and the City of Trenton in and on behalf of the City of Trenton, Missouri, in substantially the form of the agreement attached to this Ordinance as Exhibit A.

**Section 2.** This Ordinance shall be in full force and effect immediately from and after its passage and approval.

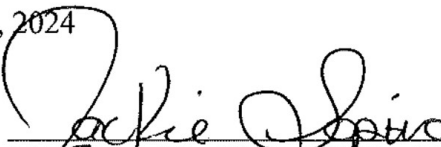
PASSED this 24 day of June, 2024

  
MAYOR AND EX OFFICIO PRESIDENT OF  
THE CITY COUNCIL OF THE CITY OF  
TRENTON, MISSOURI

ATTEST:

  
CITY CLERK

APPROVED this 24 day of June, 2024

  
MAYOR OF THE CITY OF TRENTON,  
MISSOURI

FILED this 24 day of June, 2024

  
CITY CLERK

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**AMENDED AND RESTATED LEASE PURCHASE AGREEMENT**

**between**

**SECURITY BANK OF KANSAS CITY**

**and**

**CITY OF TRENTON, MISSOURI**

**Dated as of June \_\_, 2024**

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## AMENDED AND RESTATED LEASE PURCHASE AGREEMENT

**THIS AMENDED AND RESTATED LEASE PURCHASE AGREEMENT** (the "Lease"), dated as of June \_\_, 2024, is entered into between **SECURITY BANK OF KANSAS CITY**, a state banking corporation organized and existing under the laws of the State of Kansas, as trustee (the "Trustee"), and the **CITY OF TRENTON, MISSOURI**, a third class city and political subdivision organized and existing under the laws of the State of Missouri (the "City").

### WITNESSETH:

**WHEREAS**, the Trustee and the City entered into a Declaration of Trust (the "Original Declaration") and a Lease Purchase Agreement (the "Original Lease"), each dated as of March 1, 2014, pursuant to which the Trustee leased to the City the hereinafter defined Equipment and granted the City an option to purchase the Trustee's interest in the Equipment;

**WHEREAS**, Certificates of Participation (the "Series 2014 Certificates"), each such Certificate evidencing a proportionate interest of the Registered Owner thereof in rights under the Original Lease, were executed and delivered, and the proceeds from the sale of the Series 2014 Certificates were used to provide funds to (i) finance costs related to the construction, furnishing and equipping of (a) a disinfection system for the City's wastewater treatment plant and (b) other treatment equipment improvements at the wastewater treatment plant, along with collection improvements, all part of the City's sewer system, and make other related improvements thereto (collectively, the "Sewer Project"), (ii) finance costs related to the (a) construction, furnishing and equipping of improvements to the City's diesel-powered electric generators to comply with new federal regulations, (b) acquisition and installation of approximately forty-five new electric poles, which poles will connect two of the City's electric distribution systems, all part of the City's Electric System, and make other related improvements thereto (collectively, the "Electric Project," and together with the Sewer Project, collectively referred to herein as the "Project"), including the costs of acquiring and installing certain equipment and related components at the Project (the "Equipment"), (iii) capitalize a portion of the interest coming due on the Series 2014 Certificates, and (iv) pay certain costs connected to the execution and delivery of the Series 2014 Certificates;

**WHEREAS**, the Trustee was obligated to pay the costs of the Project only from funds available from the sale of the Series 2014 Certificates;

**WHEREAS**, the City and the Trustee entered into the Second Supplemental Declaration of Trust (the "Second Supplemental Declaration") and a Second Supplemental Lease Purchase Agreement (the "Second Supplemental Lease"), each dated as of July 1, 2019, further supplementing and amending the Original Declaration and the Original Lease, to provide funds, among other things, to complete the disinfection system portion of the Sewer Project, and authorizing a Refunding Certificate of Participation, Series 2019 (the "Certificates" or "Series 2019 Certificates") in the original principal amount of \$2,239,821.14;

**WHEREAS**, in 2021, the City and the Trustee delivered three separate series of certificates of participation to, among other things, refund and prepay the Series 2014 Certificates and by scrivener error terminated the Original Declaration and the Original Lease rather than acknowledging the payment of the Series 2014 Certificates; and

**WHEREAS**, concurrently herewith the Trustee and the City are entering into the Declaration of Trust (as hereinafter defined) pursuant to which the Trustee has amended and restated the terms and

conditions of the Second Supplemental Declaration related to the Certificates (as defined in the Declaration of Trust) and desire to amend and restate the terms and conditions of the Second Supplemental Lease as provided herein to set forth the terms of the Series 2019 Certificates, the security therefor and other provisions respecting the Series 2019 Certificates; and

**WHEREAS**, the Trustee desires to lease the Equipment to the City, all subject to the terms and conditions and for the purposes set forth in this Lease; and

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

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

## **ARTICLE I**

### **DEFINITIONS**

**Section 1.01. Definitions.** In addition to any words and terms defined elsewhere in this Lease, capitalized words and terms as used in this Lease shall have the meanings given to such words and terms in the Declaration of Trust granted by the Trustee, as trustee, and the City. Unless the context otherwise specifically requires or indicates to the contrary, the following terms as used in this Lease shall have the following meanings:

**“Authorized Lender Representative”** means any Vice President or Assistant Vice President of the Lender, the appointment and incumbency of which is designated in writing to the reasonable satisfaction of the Trustee.

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

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

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

**“Basic Rent Payment Date”** means each May 1 and November 1 during the Lease Term, commencing on May 1, 2020.

**“Business Day”** means a day other than (a) a Saturday or Sunday, or (b) a day on which banks located in any city in which the principal corporate trust office of the Trustee or any paying agent is located are required or authorized by law to remain closed.

**“Certificates”** means the Series 2019 Certificates.

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

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

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

“**Completion Date**” means the date of completion of the Project, including the installation of the Equipment, as that date shall be certified as provided in **Section 5.03**.

“**Contract**” means one of any agreements between the City and various parties, if any, providing for the acquisition and installation of various portions of the Equipment.

“**Declaration of Trust**” means the Amended and Restated Declaration of Trust dated as of June \_\_\_, 2024, entered into between the City and the Trustee, as the same may from time to time be amended or supplemented in accordance with its terms.

“**Equipment**” means the improvements described on **Schedule 1**, including any modifications, additions, improvements, replacements or substitutions thereto or therefor.

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

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

“**Fiscal Year**” means the fiscal year of the City, currently the twelve-month period beginning May 1.

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

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

“**Impositions**” means Impositions as defined in **Section 6.01**.

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

“**Lease**” means this Lease Purchase Agreement dated as of June \_\_\_, 2024, between the Trustee, as lessor, and the City, as lessee, as amended and supplemented from time to time in accordance with its terms.



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

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

**“Lender”** means First Internet Public Finance Corp., an Indiana corporation, being the purchaser of the Series 2019 Certificate.

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

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

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

**“Project”** means (i) the construction, furnishing and equipping of (a) a disinfection system for the City’s wastewater treatment plant, (b) a new water main at the wastewater treatment plant and (c) other treatment and collection improvements, all part of the City’s revenue producing sewer system, and (ii) the construction, furnishing and equipping of (a) improvements to the City’s diesel generators to comply with new federal regulations, (b) pole replacements and (c) other production and distribution improvements, all part of the City’s revenue producing electric system.

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

**“Renewal Term”** means each renewal term of this Lease, each having a duration of one year and a term coextensive with the then current Fiscal Year as provided in Section 3.02, except that the last possible Renewal Term shall end on November 1, 2038.

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

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

**“Series 2019 Certificates”** means the Refunding Certificate of Participation, Series 2019, executed and delivered by the Trustee pursuant to the Declaration of Trust.

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

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

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

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

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

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

**Section 1.02. Rules of Construction.** Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, the words importing the singular number shall include the plural and vice versa, and words importing person shall include firms, associations and corporations, including public bodies, as well as natural persons.

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

Reference herein to a particular article, section, exhibit, schedule or appendix shall 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.

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

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

**Section 1.03. Execution of Counterparts.** This Lease may be executed simultaneously in two or more counterparts, each of which shall be deemed to be an original, and all of which together shall constitute but one and the same instrument. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

**Section 1.04. Severability.** If any provision of this Lease shall be held or deemed to be invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever.

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

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

**ARTICLE II**  
**REPRESENTATIONS**

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

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

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

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

(d) The City's financial statements that have been used in connection with any offering of the Certificates present fairly, in accordance with accounting principles generally accepted in the United States and applicable regulations consistently applied throughout the periods involved, the financial position of the City as at their respective dates and the revenues and expenses and changes in fund balances for the periods covered thereby.

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

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

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

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

(i) The Equipment is structurally sound and in compliance with all applicable building and design codes and the City's requirements.

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

(k) No member of the governing body of the City or any other officer of the City has any significant or conflicting interest, financial, employment or otherwise, in the City or the Equipment or in the transactions contemplated by the Lease.

(l) The City has, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds for the current fiscal year to make the Basic Rent scheduled to come due during the current Renewal Term and to meet its other obligations for such Renewal Term, and such funds have not been expended for other purposes.

### ARTICLE III

#### DEMISING OF THE PROPERTY; LEASE TERM

**Section 3.01. Lease of Equipment.** The Trustee hereby demises, leases and lets to the City, and the City rents, leases and hires from the Trustee, the Equipment in accordance with this Lease for the Lease Term. The Equipment has previously been installed and is currently being used by the City.

**Section 3.02. Lease Term.** The Original Term of this Lease shall terminate the last day of the current Fiscal Year. The Lease Term may be continued, solely at the option of the City, at the end of the Original Term or any Renewal Term for an additional one year, provided that the final Renewal Term shall not extend beyond November 1, 2038. At the end of the Original Term and at the end of each Renewal Term, unless the City has terminated this Lease pursuant to **Sections 3.04** or **10.01** and for no other reason, the City shall be deemed to have exercised its option to continue this Lease for the next Renewal Term. The terms and conditions during any Renewal Term shall be the same as the terms and conditions during the Original Term, except for any difference in the Rent as provided on **Exhibit A**.

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

**Section 3.04. Nonappropriation.** The City is obligated only to pay periodic payments under this Lease as may lawfully be made from Available Revenues. If an Event of Nonappropriation occurs, this Lease shall be deemed terminated at the end of the current Original Term or Renewal Term. An

Event of Nonappropriation shall be deemed to have occurred if the City fails to budget, appropriate or otherwise provide for sufficient funds to pay Basic Rent and any reasonably anticipated Supplemental Rent to come due during the immediately following Renewal Term. The City agrees to deliver notice to the Trustee of such termination at least 90 days prior to the end of the current Original Term or Renewal Term, but failure to give such notice shall not extend the term beyond such Original Term or Renewal Term. If this Lease is terminated in accordance with this Section, the City agrees peaceably to transfer and surrender possession of the Equipment to the Trustee.

**Section 3.05. Enjoyment of Equipment.** The Trustee shall provide the City during the Lease Term with quiet use and enjoyment of the Equipment, and the City shall during the Lease Term peaceably and quietly have, hold and enjoy the Equipment, without suit, trouble or hindrance from the Trustee, except as expressly set forth in this Lease. The City shall have the right to use the Equipment for any essential governmental or proprietary purpose of the City, subject to the limitations contained in this Lease.

Notwithstanding any other provision in this Lease, the Trustee shall have no responsibility to cause the Equipment to be acquired or installed or to maintain or repair the Equipment. The City shall comply with all statutes, laws, ordinances, orders, judgments, decrees, regulations, directions and requirements of all federal, state, local and other governments or governmental authorities, now or hereafter applicable to the Equipment, as to the manner and use or the condition of the Equipment. The City shall also comply with the mandatory requirements, rules and regulations of all insurers under the policies required to be carried by the provisions of **Article VII**. The City shall pay all costs, expenses, claims, fines, penalties and damages that may in any manner arise out of, or be imposed as a result of, the failure of the City to comply with the provisions of this Section. Notwithstanding any provision contained in this Section, however, the City shall have the right, at its own cost and expense, to contest or review by legal or other appropriate procedures the validity or legality of any such governmental statute, law, ordinance, order, judgment, decree, regulation, direction or requirement, or any such requirement, rule or regulation of an insurer and during such contest or review, the City may refrain from complying therewith, if the City furnishes, on request, to the Trustee, at the City's expense, indemnity satisfactory to the Trustee.

**Section 3.06. Inspection.** The Trustee and its agents shall have the right at all reasonable times and with reasonable notice during business hours to enter into and upon the property on which the Equipment is located for the purpose of inspecting the Equipment.

## ARTICLE IV

### RENT

**Section 4.01. Basic Rent.** The City shall promptly pay all Basic Rent, subject to **Sections 3.04** and **4.03**, in lawful money of the United States of America on each Basic Rent Payment Date in such amounts as are described on **Exhibit A**. A portion of each Basic Rent Payment is paid as, and represents payment of, interest as set forth on **Exhibit A** (said interest to be attributable to the various principal components in accordance with the per annum rates set forth on **Exhibit A**).

To provide for the timely payment of Basic Rent, the City shall pay to the Trustee for deposit in the Lease Revenue Fund not less than five Business Days before each Basic Rent Payment Date, the amount due on such Basic Rent Payment Date.

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

**Section 4.02. Supplemental Rent.** The City shall pay, subject to Sections 3.04 and 4.03, as Supplemental Rent (a) all Impositions (as defined in Article VI); (b) all amounts required under Sections 4.04 or 4.06 and all other payments of whatever nature which the City has agreed to pay or assume under this Lease; (c) all expenses, including attorneys' fees and expenses to the extent permitted by law, incurred in connection with the enforcement of any rights under this Lease by the Trustee; (d) all fees, charges and expenses of the Trustee as further provided in Section 4.07, and (e) any payments required to be made pursuant to the Tax Compliance Agreement. Amounts required to be paid under this Section shall be paid directly to the person or entity owed.

**Section 4.03. Rent Payments to Constitute a Current Expense and Limited Obligation of the City.** NOTWITHSTANDING ANY OTHER PROVISION HEREOF, THE TRUSTEE AND THE CITY UNDERSTAND AND INTEND THAT THE OBLIGATION OF THE CITY TO PAY RENT HEREUNDER BE LIMITED TO PAYMENT FROM AVAILABLE REVENUES AND SHALL CONSTITUTE A CURRENT EXPENSE OF THE CITY AND SHALL NOT IN ANY WAY BE CONSTRUED TO BE A DEBT OF THE CITY IN CONTRAVENTION OF ANY APPLICABLE CONSTITUTIONAL OR STATUTORY LIMITATION OR REQUIREMENT CONCERNING THE CREATION OF INDEBTEDNESS BY THE CITY, NOR SHALL ANYTHING CONTAINED HEREIN CONSTITUTE A PLEDGE OF THE GENERAL TAX REVENUES, FUNDS OR MONEYS OF THE CITY, AND ALL PROVISIONS OF THIS LEASE SHALL BE CONSTRUED SO AS TO GIVE EFFECT TO SUCH INTENT.

**Section 4.04. Advances.** In the event the City shall fail to keep the Equipment in good repair, the Trustee may, but shall be under no obligation to, maintain and repair the Equipment and pay the cost thereof. All amounts so advanced by the Trustee shall constitute Supplement Rent for the then current Original Term or Renewal Term, and the City covenants and agrees to pay such amounts so advanced by the Trustee with interest thereon from the due date until paid at the Trustee's current prime rate plus 2% per annum or the maximum amount permitted by law, whichever is less. In accordance with Section 427.120 of the Revised Statutes of Missouri, unless the City provides evidence of the insurance coverage required by this Lease, the Trustee may purchase insurance at the City's expense to protect the Trustee's interests hereunder. This insurance may, but need not, protect the City's interests. The coverage that the Trustee may purchase may not pay any claim that the City may make or any claim that may be made against the City in connection with the Equipment. The City may later cancel any insurance purchased by the Trustee, but only after providing evidence that the City has obtained insurance as required by this Lease. If the Trustee purchases insurance for the Equipment, the City will be responsible for the costs of that insurance, including the insurance premium, interest and any other charges the Trustee may impose in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance will be added as Supplemental Rent. The costs of the insurance may be more than the cost of insurance the City may be able to obtain on its own.

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

**Section 4.06. Net Lease; Rent Payments to be Unconditional.** THIS LEASE IS INTENDED TO BE NET, NET, NET TO THE TRUSTEE, SUBJECT TO SECTIONS 3.04, 4.03 AND 4.05, AND THE OBLIGATIONS OF THE CITY TO MAKE PAYMENT OF THE RENT PAYMENTS AND TO PERFORM AND OBSERVE THE OTHER COVENANTS AND AGREEMENTS CONTAINED HEREIN SHALL BE ABSOLUTE AND UNCONDITIONAL IN ALL EVENTS WITHOUT ABATEMENT, DIMINUTION, DEDUCTION, SETOFF OR DEFENSE, FOR ANY REASON, INCLUDING ANY FAILURE OF THE EQUIPMENT TO BE CONSTRUCTED OR INSTALLED, ANY DEFECTS, MALFUNCTIONS, BREAKDOWNS OR INFIRMITIES IN THE EQUIPMENT OR ANY ACCIDENT, CONDEMNATION OR UNFORESEEN CIRCUMSTANCES.

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

**Section 4.07. Compensation of the Trustee.** The City shall, from time to time, upon the written request of the Trustee, (a) pay to the Trustee reasonable compensation for its services as agreed to by the City and the Trustee from time to time (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust) and (b) reimburse the Trustee for all reasonable advances, fees, charges and expenditures, including but not limited to, advances to and reasonable fees and expenses of independent appraisers, accountants, consultants, counsel, agents and attorneys or other experts employed by it in the exercise and performance of its powers and duties hereunder. Compensation under this Section (except that the initial fee is to be included in Costs of Issuance) is to be paid as Supplemental Rent as set forth in **Section 4.02**. The Trustee will have a first lien against the Trust Estate for its reasonable costs, fees, expenses and advancements hereunder.

## ARTICLE V

### THE EQUIPMENT

**Section 5.01. Acquisition and Installation.** The City represents, warrants, covenants and agrees as follows:

- (a) It has entered into Contracts providing for the acquisition and installation of the Equipment in accordance with the plans and specifications;
- (b) It has caused the acquisition and installation of the Equipment to be completed with all reasonable dispatch;

(c) All Contracts entered into or to be entered into by the City relating to such work shall be in accordance with all applicable requirements of the laws of the State;

(d) It has obtained or shall obtain all necessary or required permits, licenses, consents and approvals that are material for the purchase, installation, operation and maintenance of the Equipment and shall comply with all lawful requirements of any governmental body regarding the use or condition of the Equipment, whether existing or later enacted or foreseen or unforeseen or whether involving any change in governmental policy or requiring structural or other change to the Equipment and irrespective of the cost of so complying;

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

**Section 5.02. Warranties.** The Trustee hereby assigns to the City for and during the Lease Term, all of its interest in all warranties, guarantees or other contract rights against any architect, contractor, subcontractor or supplier, expressed or implied, issued on or applicable to the Equipment, and the Trustee hereby authorizes the City to obtain the customary services furnished in connection with such warranties, guarantees or other contract rights at the City's expense. The City's sole remedy for the breach of such warranties, guarantees or other contract rights shall be against any architect, contractor, subcontractor or supplier, and not against the Trustee, nor shall such matter have any effect whatsoever on the rights of the Trustee with respect to this Lease, including the right to receive full and timely Basic Rent Payments and Supplemental Rent Payments. The City expressly acknowledges that the Trustee does not make nor has it made any representation or warranty whatsoever as to the existence or availability of such warranties, guarantees or other contract rights of the manufacturer or supplier of any portion of the Equipment.

**Section 5.03. DISCLAIMER OF WARRANTIES.** THE TRUSTEE MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION OR FITNESS FOR PARTICULAR PURPOSE OR FITNESS FOR USE OF THE EQUIPMENT OR ANY PART THEREOF, OR WARRANTY WITH RESPECT THERETO. IN NO EVENT SHALL THE TRUSTEE BE LIABLE FOR ANY INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGE IN CONNECTION WITH OR ARISING OUT OF THIS LEASE OR THE EXISTENCE, FURNISHING, FUNCTIONING OR THE CITY'S USE OF THE EQUIPMENT OR ANY PART THEREOF.

## ARTICLE VI

### IMPOSITIONS

**Section 6.01. Impositions.** The City shall bear, pay and discharge, before the delinquency thereof, as Supplemental Rent, all taxes and assessments, general and special, if any, which may be lawfully taxed, charged, levied, assessed or imposed upon or against or be payable for or in respect of the



Equipment, including any taxes and assessments not of the kind enumerated above to the extent that the same are lawfully made, levied or assessed in lieu of or in addition to taxes or assessments now customarily levied against real or personal property, and further including all water and sewer charges, assessments and other general governmental charges and impositions whatsoever, foreseen or unforeseen, which if not paid when due would impair the security of the Trustee or encumber the Equipment (all of the foregoing being herein referred to as "Impositions").

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

## ARTICLE VII

### INSURANCE; INDEMNITY

**Section 7.01. Insurance Required.** The City shall, during the Lease Term, cause the Equipment to be kept continuously insured against such risks customarily insured against for facilities such as the Equipment and shall pay (except as otherwise provided herein), as the same become due, all premiums in respect thereof, such insurance to include the following policies of insurance:

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

(b) Comprehensive general accident and public liability insurance (including coverage for all losses whatsoever arising from the ownership, maintenance, operation or use of any automobile, truck or other motor vehicle), under which the City and the Trustee are named as insureds, in amounts equal to the City's customary insurance practice for bodily injury (including death) but in no event less than the limitation on awards for liability in effect from time to time under Section 537.610, R.S.Mo., and for property damage arising out of or in any way relating to the condition or the operation of the Equipment (subject to reasonable loss deductible clauses not to exceed \$25,000);

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

Not less than 15 days prior to the expiration dates of the expiring policies, originals or copies of the policies required by this Section or certificates evidencing such insurance shall be delivered by the City to the Trustee. All policies of such insurance, and all renewals thereof, shall contain a provision that such insurance may not be cancelled by the issuer thereof without at least 30 days' written notice to the City and the Trustee.

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

The City may elect to be self-insured for all or any part of the foregoing requirements of this **Section 7.01** if (i) the City annually obtains a written evaluation with respect to such self-insurance program from an individual or firm selected by the City and acceptable to the Trustee qualified to survey risks and to recommend insurance coverage for entities engaged in operations similar to those of the City and having a favorable reputation for skill and experience in making such surveys and recommendations (an "Insurance Consultant"), (ii) the evaluation is to the effect that the self-insurance program is sound, (iii) unless the evaluation states that such reserves are not necessary, the City maintains adequate reserves for the self-insurance program, and (iv) in the case of workers' compensation, adequate reserves created by the City for such self-insurance program are maintained in such amount and manner as are acceptable to the State. The City will pay any fees and expenses of such Insurance Consultant in connection therewith.

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

**Section 7.03. Release and Indemnification.** To the extent permitted by law, the City shall indemnify, protect, hold harmless, save and keep the Trustee and its officials, officers, shareholders, employees, directors, attorneys and agents harmless from and against any and all liability, obligation, loss, claim, tax (other than income taxes or other taxes on or attributable to Rent Payments, if any, which are received by the Trustee in its individual capacity) and damage whatsoever and all expenses in connection therewith (including attorneys' fees and expenses) that are not caused by the negligence or willful misconduct of the Trustee, its agents or employees arising out of or as the result of (a) the entering into of this Lease and the Declaration of Trust, (b) the acquisition and installation of the Equipment, (c) injury, actual or claimed, of whatsoever kind or character, to property or persons, occurring or allegedly occurring in, on or about the Equipment during the Lease Term, and/or (d) the breach of any covenant by the City herein or any material misrepresentation by the City contained herein; provided that the City shall have the right to conduct the Trustee's defense through counsel designated by the City and approved by the Trustee, which approval shall not be unreasonably withheld. The indemnification arising under this Section shall continue in full force and effect notwithstanding the full payment of all obligations under this Lease and the Declaration of Trust or the termination of this Lease for any reason.

## ARTICLE VIII

### COVENANTS OF THE CITY

**Section 8.01. Maintenance and Modification of Equipment by the City.** The City will at its own expense (a) keep the Equipment in a safe condition, (b) with respect to the Equipment, comply with all applicable health and safety standards and all other industrial requirements or restrictions enacted or promulgated by the State, or any political subdivision or agency thereof, or by the government of the United States of America or any agency thereof, and (c) keep the Equipment in good repair and in good operating condition and make from time to time all necessary repairs thereto and renewals and replacements thereof; provided, however, that the City will have no obligation to operate, maintain, preserve, repair, replace or renew any element or unit of the Equipment the maintenance, repair, replacement or renewal of which becomes uneconomical to the City because of damage, destruction or obsolescence, or change in economic or business conditions, or change in government standards and regulations. The City shall not permit or suffer others to commit a nuisance in or about the Equipment or itself commit a nuisance in connection with its use or occupancy of the Equipment. The City will pay all costs and expenses of operation of the Equipment.

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

During the Lease Term, the Equipment will be used by the City only for the purpose of performing essential governmental or proprietary functions of the City consistent with the permissible scope of the City's authority.

#### **Section 8.02. Tax Covenants.**

(a) The City covenants for the benefit of the purchasers and Owners of the Certificates from time to time Outstanding that so long as any of the Certificates remain Outstanding, it will not take any action or permit any action to be taken or omit to take any action or permit the omission of any action reasonably within its control which action or omission will cause any Certificates to be "arbitrage bonds" within the meaning of Section 148 of the Code, which will cause any Certificates to be subject to treatment under Section 141 of the Code as "private activity bonds."

(b) The City covenants and agrees that it will pay or provide for the payment from time to time of all amounts required to be rebated to the United States pursuant to Section 148(f) of the Code and any Treasury Regulations applicable to the Certificates from time to time, and as provided in the Tax Compliance Agreement. Notwithstanding anything to the contrary contained herein, the arbitrage-related instructions set forth in the Tax Compliance Agreement may be amended or replaced if, in the written opinion of Special Counsel, such amendments will not adversely affect the federal tax status of any Certificates Outstanding.

(c) The foregoing covenants shall remain in full force and effect notwithstanding the defeasance of the Certificates pursuant to **Article X** of the Declaration of Trust or any other provision of the Declaration of Trust, until the final maturity date of all Certificates Outstanding.

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

## ARTICLE IX

### CASUALTY AND CONDEMNATION

**Section 9.01. Damage, Destruction and Condemnation.** The City shall bear the risk of loss with respect to the Equipment during the Lease Term. If (a) the Equipment or any portion thereof is destroyed, in whole or in part, or is damaged by fire or other casualty or (b) title to, or the temporary use of, the Equipment or any part thereof shall be nonexistent or deficient or taken under the exercise or threat of the power of eminent domain by any governmental body or by any person, firm or corporation acting pursuant to governmental authority, the City will cause the Net Proceeds of any insurance claim, condemnation award or sale under threat of condemnation to be applied to the prompt replacement, repair, restoration, modification or improvement of the Equipment, unless the City shall have exercised its option to purchase the Trustee's interest in the Equipment by making payment of the Purchase Price as provided herein. Any balance of the Net Proceeds remaining after such work has been completed shall be paid to the City and shall be held and appropriated by the City for the exclusive purpose of paying Rent under this Lease.

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

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

**Section 9.03. Eminent Domain.** (a) Under Missouri statutes, the City has the power to condemn property for its purposes, and the City acknowledges that condemnation of the Equipment would adversely affect the Trustee. The City and the Trustee have reached agreement on the terms of the acquisition of the Equipment, at City's option, and to the use of the Equipment, all as set forth in this Lease. Any acquisition of the Trustee's interest in the Equipment or rights to its use by the City (whether pursuant to the exercise of eminent domain powers or otherwise) shall be pursuant to and in accordance with the Lease, including payment of Rent Payments and the applicable Purchase Price. If the City allows the Lease to expire without exercising its option to purchase (whether by failure to exercise its option to extend the Lease for a Renewal Term, failure to exercise its option to purchase at the conclusion

of the maximum Lease Term or failure to cure an Event of Default), that action shall constitute an irrevocable determination by the City that the Equipment is not required by it for any public purpose for the term of this Lease.

The City hereby covenants and agrees, to the extent it may lawfully do so, that if for any reason it exercises the power of eminent domain with respect to the Equipment, the appraisal value of the Equipment shall not be less than the Rent Payments then due plus the then applicable Purchase Price.

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

## ARTICLE X

### OPTION TO PURCHASE; PARTIAL PREPAYMENT

**Section 10.01. Purchase Option.** The City shall have the option to purchase the Trustee's interest in the Equipment, upon giving written notice to the Trustee at least 30 days before the date of purchase, at the following times and on the following terms:

(a) At any time when all Outstanding Certificates are prepayable under the Declaration of Trust, upon payment in full of Rent Payments then due hereunder plus a Purchase Price equal to the remaining Principal Portions of Basic Rent for the maximum Lease Term plus the Interest Portion of Basic Rent accrued to the prepayment date;

(b) On any date upon deposit of funds or Government Obligations or both with the Trustee in accordance with **Article X** of the Declaration of Trust in the amount necessary to provide for the Basic Rent Payments until and on, and the Purchase Price calculated as described in (a) above on the Certificates to the prepayment date, so long as the City provides the Trustee an opinion of Special Tax Counsel to the effect that such deposit of funds or Government Obligations will not adversely affect the federal tax status of any Certificates the payment of which is to be provided for through such deposit; or

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

Upon payment in full of all Rent Payments through November 1, 2038, the City shall be deemed to have purchased the Equipment pursuant to this Section.

**Section 10.02. Partial Prepayment.** The City shall have the option to partially prepay Basic Rent Payments designated on **Exhibit A** as distributable to the Owner of the Series 2019 Certificates,

upon giving written notice to the Trustee at least 30 days before the date of such prepayment, on any date occurring on or after May 1, 2027, at the Prepayment Price equal to the Principal Portion of Basic Rent being so prepaid plus the Interest Portion of Basic Rent accrued thereon to such date. Notwithstanding other provisions of the Original Lease or the Original Declaration of Trust to the contrary, the amounts received by the Trustee for such prepayment are to be applied first to the Interest Portion of Basic Rent distributable to the Owner of the Series 2019 Certificate, and then to reduce the Principal Portion of Basic Rent distributable to such Owner, applied in inverse order of Basic Rent Payments due. Upon any partial prepayment, the amount of each Interest Portion of Basic Rent distributable to Owner of the Series 2019 Certificate coming due thereafter shall be reduced by the amount of such Interest Portion attributable to such prepaid Principal Portion determined by applying the annual interest rate corresponding to such prepaid Principal Portion as shown on **Exhibit A**.

**Section 10.03. Determination of Fair Rent and Purchase Price.** The City hereby agrees and determines that the Rent hereunder during the Original Term and any Renewal Term represents the fair value of the use of the Equipment and that the Purchase Price required to exercise the City's option to purchase the Trustee's interest in the Equipment pursuant to **Section 10.01** represents, as of the end of the Original Term or any Renewal Term, the fair Purchase Price of the Equipment. The City hereby determines that the Rent does not exceed a reasonable amount so as to place the City under an economic practical compulsion to renew this Lease or to exercise its option to purchase the Equipment hereunder. In making such determinations, the City has given consideration to the Costs of the Equipment, the uses and purposes for which the Equipment will be employed by the City, the benefit to the City by reason of the acquisition and installation of the Equipment and the use and occupancy of the Equipment pursuant to the terms and provisions of this Lease and the City's option to purchase the Equipment. The City hereby determines and declares that the acquisition and installation of the Equipment and the leasing of the Equipment pursuant to this Lease will result in Equipment of comparable quality and meeting the same requirements and standards as would be necessary if the acquisition and installation of the Equipment were performed by the City other than pursuant to this Lease. The City hereby determines and declares that the maximum Lease Term does not exceed the useful life of the Equipment.

## **ARTICLE XI**

### **ASSIGNMENT**

**Section 11.01. Assignment and Subleasing by the City.** Except for the security provided for payment of the Series 2021 Certificates or additional certificates delivered on parity with the Series 2021 Certificates of the City which is junior and subordinate to the security for the Series 2019 Certificates, none of the City's right, title and interest in, to and under this Lease and in the Equipment may be assigned or encumbered by the City for any reason; except that the City may sublease any one or more parts of the Equipment if the City obtains and delivers to the Trustee an Opinion of Special Counsel that such subleasing will not adversely affect the federal tax status of any Certificates Outstanding. Any such sublease of all or part of the Equipment shall be subject to this Lease and the rights of the Trustee in, to and under this Lease and the Equipment. The City shall cause the security interest granted to the Trustee in the Lease and the Equipment, pursuant to this Lease and the Declaration of Trust, to be and remain a first priority security interest for so long as the Series 2019 Certificates remain outstanding.

## ARTICLE XII

### EVENTS OF DEFAULT

**Section 12.01. Events of Default Defined.** Any of the following shall constitute an “Event of Default” under this Lease:

(a) Failure by the City to make any deposits required by **Section 4.01** to pay Basic Rent in the Lease Revenue Fund at the time specified herein;

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

(c) Failure by the City to observe and perform any covenant, condition or agreement on its part to be observed or performed hereunder, other than as referred to in subparagraph (a) or (b) above, for a period of 30 days after written notice specifying such failure and requesting that it be remedied is given to the City by the Trustee unless such party shall agree in writing to an extension of such time prior to its expiration; provided that, if the failure stated in the notice cannot be corrected within the applicable period, such party will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the City within the applicable period and diligently pursued until the default is corrected;

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

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

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

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

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

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

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

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

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

## ARTICLE XIII

### MISCELLANEOUS

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

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

**Section 13.03. Personal Property.** The Trustee and the City agree that the Equipment is and will remain personal property. The Equipment will not be deemed to be affixed to or a part of the real estate on or under which it may be situated, notwithstanding that the Equipment or any part thereof may be or



hereafter become in any manner physically affixed to, buried in or otherwise attached to such real estate or any building thereon. Upon the request of the Trustee, the City will, at the City's expense, furnish a waiver of any interest in the Equipment from any party having an interest in any such real estate or building.

To secure the payment of all of the City's obligations under this Lease, to the extent permitted by law, the Trustee retains a security interest in the Equipment and on all additions, attachments, accessions thereto, substitutions therefor and on any proceeds therefrom. The City shall execute all additional documents, including financing statements, affidavits, notices and similar instruments that are necessary or appropriate to establish and maintain such security interest. The City agrees that financing statements with respect to the Equipment may be filed.

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

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

**Section 13.06. Electronic Transaction.** The parties agree that the transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

**Section 13.07. Amendment and Restatement.** This Lease amends, restates and replaces the Original Lease as previously amended, including as amended by the Second Supplemental Lease, and continues to represent the City's and Trustee's obligations thereunder.

*[remainder of page intentionally left blank]*

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

**SECURITY BANK OF KANSAS CITY,**  
as Trustee

[Seal]

By: \_\_\_\_\_  
Name:  
Title:

ATTEST:

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

**CITY OF TRENTON, MISSOURI**

By: \_\_\_\_\_  
Name:  
Title:

[SEAL]

ATTEST:

\_\_\_\_\_  
Name:  
Title: City Clerk

## **SCHEDULE 1**

### **TO LEASE PURCHASE AGREEMENT**

#### **DESCRIPTION OF EQUIPMENT**

The Equipment includes the following items:

The acquisition and installation of (i) disinfection system upgrades at the wastewater treatment plant plus, piping, manholes and related appurtenances for collection system improvements and other related components, all to be installed in the various buildings already existing or to be constructed at the City's wastewater treatment plant as part of the Sewer Project, together with any other equipment installed as part of the Sewer Project, and (ii) diesel oxidation catalysts, silencers, data loggers, electric poles and other related components, all to be installed in the various buildings already existing or to be constructed as part of the Electric Project, together with any other equipment installed as part of the Electric Project.

**EXHIBIT A**

**SCHEDULE OF RENTAL PAYMENTS AND PURCHASE PRICE**

**SERIES 2019 CERTIFICATES**

<u>Rental Payment Date</u>	<u>Principal Component</u>	<u>Interest Component</u>	<u>Option Purchase Price on Rental Payment Date through but excluding next Rental Payment Date*</u>
5/1/2020	\$ 68,521.24	\$64,730.83	\$2,171,299.90
11/1/2020		39,083.40	
5/1/2021	87,821.94	39,083.40	2,083,477.96
11/1/2021		37,502.60	
5/1/2022	90,983.53	37,502.60	1,992,494.43
11/1/2022		35,864.90	
5/1/2023	94,258.93	35,864.90	1,898,235.50
11/1/2023		34,168.24	
5/1/2024	97,652.26	34,168.24	1,800,583.24
11/1/2024		32,410.50	
5/1/2025	101,167.74	32,410.50	1,699,415.50
11/1/2025		30,589.48	
5/1/2026	104,809.77	30,589.48	1,594,605.73
11/1/2026		28,702.90	
5/1/2027	108,582.93	28,702.90	1,486,022.80
11/1/2027		26,748.41	
5/1/2028	112,491.91	26,748.41	1,373,530.89
11/1/2028		24,723.56	
5/1/2029	116,541.62	24,723.56	1,256,989.27
11/1/2029		22,625.81	
5/1/2030	120,737.12	22,625.81	1,136,252.15
11/1/2030		20,452.54	
5/1/2031	125,083.66	20,452.54	1,011,168.49
11/1/2031		18,201.03	
5/1/2032	129,586.67	18,201.03	881,581.82
11/1/2032		15,868.47	
5/1/2033	134,251.79	15,868.47	747,330.03
11/1/2033		13,451.94	
5/1/2034	139,084.85	13,451.94	608,245.18
11/1/2034		10,948.41	
5/1/2035	144,091.91	10,948.41	464,153.27
11/1/2035		8,354.76	
5/1/2036	149,279.22	8,354.76	314,874.05
11/1/2036		5,667.73	
5/1/2037	154,653.27	5,667.73	160,220.78
11/1/2037		2,883.97	
5/1/2038	160,220.78	2,883.97	0.00
	<u>2,239,821.14</u>	<u>881,228.13</u>	



