



MEETING OF THE CITY COUNCIL  
CITY OF UNIVERSITY CITY  
CITY HALL, Fifth Floor

6801 Delmar Blvd., University City, Missouri 63130  
**Monday, January 26, 2026**  
6:30 p.m.

## AGENDA

**A. MEETING CALLED TO ORDER**

**B. ROLL CALL**

**C. APPROVAL OF AGENDA**

**D. PROCLAMATIONS** (Acknowledgement)

1. Floyd and Cora Henderson – 65<sup>th</sup> Wedding Anniversary
2. Condolences Mr. Herman E. Shaw (dedicated service to the University City School District 1968-2000)

**E. APPROVAL OF MINUTES**

1. January 12, 2026 Draft Regular Meeting Minutes (limited audio available)

**F. APPOINTMENTS to BOARDS AND COMMISSIONS**

1. Jeffrey Glogower is nominated for appointment to the Traffic Commission by Councilmember Steve McMahon.

**G. SWEARING IN TO BOARDS AND COMMISSIONS**

**H. CITIZEN PARTICIPATION (Total of 15 minutes allowed)**

*Request to Address the Council Forms are located on the ledge just inside the entrance of the Council Chamber. Please complete and place the form in the basket at the front of the room.*

The public may also submit a written comment ahead of the meeting. Comments must be received no later than 12:00 p.m. on the day of the meeting. Comments may be sent via email to: [councilcomments@ucitymo.org](mailto:councilcomments@ucitymo.org), or mailed to the City Hall – 6801 Delmar Blvd. – Attention City Clerk. Such comments will be provided to the City Council prior to the meeting. Comments will be made as part of the official record and made accessible to the public online following the meeting. Please note, when submitting your comments, a name and address must be provided. Please also note if your comment is on an agenda or non-agenda item. If a name and address are not provided, the comment provided will not be recorded in the official record.

**I. COUNCIL COMMENTS**

**J. PUBLIC HEARINGS**

**K. CONSENT AGENDA (1 voice vote required)**

1. Aquatic Center Management Agreement with Midwest Pool for the operation of the Heman Park Pools and Splash Pad for the 2026 season.
2. TIPS Contract #23010402, Specialized Preconstruction and Construction Services for Recreational Facility Improvements Exhibit A - Technical Specifications, PRP-2026-001 in the total amount of \$575,000 for Heman Park Athletic Court renovations

**L. CITY MANAGER'S REPORT – (voice vote on each item as needed)**

1. City Manager Updates
  - Legislative Update (Representative Jeff Hales)
2. EDRST Funding - C-17 Commissary Project – 8021 Olive Blvd.
3. Discussion and Direction on CALOP Funding Application

**M. UNFINISHED BUSINESS (2<sup>nd</sup> and 3<sup>rd</sup> readings – roll call vote required)**

1. **Bill 9578** - AN ORDINANCE AUTHORIZING THE CITY OF UNIVERSITY CITY, MISSOURI TO ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS (8021 OLIVE BOULEVARD PROJECT), SERIES 2026, IN A PRINCIPAL AMOUNT NOT TO EXCEED \$8,000,000, FOR THE PURPOSE OF PROVIDING FUNDS TO PAY THE COSTS OF ACQUIRING, CONSTRUCTING AND IMPROVING A FACILITY FOR AN INDUSTRIAL DEVELOPMENT PROJECT IN THE CITY; APPROVING A PLAN FOR THE PROJECT; AND AUTHORIZING THE CITY TO ENTER INTO CERTAIN AGREEMENTS AND TAKE CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH.
2. **Bill 9579** - AN ORDINANCE APPROVING A FINAL PLAT FOR A MINOR SUBDIVISION OF A TRACT OF LAND TO BE KNOWN AS “PURDUE AVENUE LOT SPLIT.”

**N. NEW BUSINESS**

**Resolutions (voice vote required)**

None

**Bills (Introduction and 1<sup>st</sup> reading - no vote required)**

None

**O. COUNCIL REPORTS/BUSINESS**

1. Board and Commission appointments needed
2. Council liaison reports on Boards and Commissions
3. Boards, Commissions and Task Force minutes
4. Other Discussions/Business

**P. CITIZEN PARTICIPATION (continued if needed)**

**Q. COUNCIL COMMENTS**

**R. EXECUTIVE SESSION (roll call vote required)**

Motion to go into a Closed Session according to Missouri Revised Statutes 610.021 (1) Legal actions, causes of action or litigation involving a public governmental body and any confidential or privileged communications between a public governmental body or its representatives or attorneys and (13) Individually identifiable personnel records, performance ratings or records pertaining to employees.

**S. ADJOURNMENT**

The public may also observe via:

Live Stream via YouTube: [https://www.youtube.com/channel/UCyN1EJ\\_-Q22918E9EZimWoQ](https://www.youtube.com/channel/UCyN1EJ_-Q22918E9EZimWoQ)

NOTE (6/20/25 Update):

- **The only entrance for City Council meetings will be via the WEST side door (Trinity Ave.)**

Posted January 23<sup>rd</sup>, 2026.



**PROCLAMATION**  
OF THE  
CITY OF UNIVERSITY CITY

**WHEREAS**; life is a journey, and love is what makes that journey worthwhile; and

**WHEREAS**; Floyd and Cora were united in marriage on January 1, 1961, and are now celebrating their 65th Wedding Anniversary; and

**WHEREAS**; through this union, Floyd and Cora were blessed with two sons, Gregory Henderson and Christopher Henderson, as well as eight grandchildren and three great-grandchildren; and

**WHEREAS**; Floyd and Cora are loving grandparents to Grace Henderson, Ahmad Henderson, Faith Henderson, Abraham Henderson, Christina Henderson, Kimaya Henderson, Kaylee Henderson, and Karina Henderson; and

**WHEREAS**; Floyd and Cora have been faithful residents of the City of University City for fifty-five (55) years; and

**WHEREAS**; Floyd and Cora have raised their children, and for several years helped raise several grandchildren through their formative years, while also providing care for a parent; Wille Vaughn during his golden years in University City; and

**WHEREAS**; Floyd and Cora have demonstrated enduring love, longevity, loyalty, and commitment to one another, their family, their church, friends, neighborhood, and the University City community, exemplifying the ideals of active and engaged citizenship; and

**WHEREAS**; Floyd and Cora have been model residents who have supported numerous community and school district events, programs, and activities throughout their five-plus decades of residency in University City; and

**WHEREAS**; Family and Friends will gather on January 3, 2026 at the Westport Plaza Chalet Hotel to honor, recognize and celebrate this joyous milestone of love and marriage.

**NOW, THEREFORE**, The City Council of University City in the State of Missouri extends our sincere congratulations and best wishes for a very happy 65<sup>th</sup> Wedding Anniversary.

**WHEREOF**, The City Council of University City in the State of Missouri have hereunto set our hands and caused the Seal of the City of University City to be affixed this 3<sup>rd</sup> day of January in the year Two Thousand and Twenty-Six.

SEAL

*John S. Tieman*

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Councilmember John S. Tieman

*Lisa M. Brenner*

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Councilmember Lisa M. Brenner

*Dennis Fuller*

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Councilmember Dennis Fuller

*Stacy Clay*

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Councilmember Stacy Clay

*Steve McMahon*

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Councilmember Steve McMahon

*Bwayne Smotherson*

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Councilmember Bwayne Smotherson

*Terry Crow*

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Mayor Terry Crow

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*LaRette Reese*

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City Clerk, LaRette Reese

ATTEST



## PROCLAMATION OF THE CITY OF UNIVERSITY CITY

**WHEREAS;** Herman E. Shaw devoted more than three decades of distinguished service to The School District of University City, beginning his career in 1968 as Technical Assistant to the Principal at University City Senior High School and later serving as Assistant to the Principal until his retirement in 2000; and

**WHEREAS;** even after retiring, Mr. Shaw remained deeply connected to the University City community, continuing to support students and staff and most recently joining the District at the Homecoming Celebration in October, reflecting a lifelong commitment to the schools he served; and

**WHEREAS;** Mr. Shaw's life and educational journey reflected perseverance and excellence, from attending Lincoln School during segregation to becoming the first African American student to earn a varsity letter at Edwardsville High School, where he graduated in 1953 with ten varsity letters, setting an enduring example of achievement; and

**WHEREAS;** Mr. Shaw attended Illinois State University on a football scholarship, honorably served his country as a member of the United States Army Military Police, and dedicated his life to service, education, and a deep passion for the success of Black children; and

**WHEREAS;** Mr. Shaw served The School District of University City for 32 years as a counselor and respected administrator, becoming a mentor and father-figure to hundreds of students, known for his compassionate leadership, "tough love," and unwavering message of possibility: "If I could do it, you can do it"; and

**WHEREAS;** Mr. Shaw's impact extended beyond the District through his leadership in the Historic Lincoln School Alumni Foundation, service on the Edwardsville Symphony Board, generosity towards families in need, and recognition as a 2023 inductee into the Edwardsville High School Sports Hall of Fame; and

**WHEREAS;** University City honors and remembers Herman E. Shaw for his more than 30 years of dedicated service, mentorship, leadership, and lasting impact on generations of students, staff, and families.

**NOW, THEREFORE,** University City extends its heartfelt condolences to Mr. Shaw's family, friends, colleagues, and the many students whose lives he touched, and affirms that his legacy of excellence and belief in children will continue to inspire the University City community.

**WHEREOF,** The City Council of University City in the State of Missouri have hereunto set our hands and caused the Seal of the City of University City to be affixed this 24<sup>th</sup> day of January in the year Two Thousand and Twenty-Six.

### SEAL

*John S. Tieman*

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Councilmember John S. Tieman

*Lisa M. Brenner*

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Councilmember Lisa M. Brenner

*Dennis Fuller*

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Councilmember Dennis Fuller

*Stacy Clay*

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Councilmember Stacy Clay

*Steven McMahon*

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Councilmember Steve McMahon

*Bwayne Smotherson*

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Councilmember Bwayne Smotherson

*Terry Crow*

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Mayor Terry Crow

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*LaRette Reese*

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City Clerk, LaRette Reese

ATTEST

**MEETING OF THE CITY COUNCIL**  
CITY OF UNIVERSITY CITY  
CITY HALL, Fifth Floor  
6801 Delmar Blvd., University City, Missouri 63130  
**Monday, January 12, 2026**  
**6:30 p.m.**

(*Note:* Due to technical issues, the audio recording of this meeting starts in the middle of Item L (2) of the City Manager's Report; MSD Clear Water Project Presentation (requested by Councilmembers Fuller and Tieman.)

**AGENDA**

**A. MEETING CALLED TO ORDER**

At the Regular Session of the City Council of University City held on Monday, January 12, 2026, Mayor Terry Crow called the meeting to order at 6:32 p.m.

**B. ROLL CALL**

In addition to the Mayor, the following members of Council were present:

Councilmember Stacy Clay; *absent*  
Councilmember John Tieman  
Councilmember Steven McMahon  
Councilmember Lisa Brenner  
Councilmember Dennis Fuller  
Councilmember Bwayne Smotherson

Also, in attendance were Acting City Manager Brooke A. Sharp, City Attorney John Mulligan, Jr., Interim Planning & Zoning Director Becky Ahlvin, Jeff Kokal, Design Project Manager with Jacobs, and Jim Dunajcik, MSD's Assistant Director of Engineering over the Design Division.

**C. APPROVAL OF AGENDA**

Ms. Sharp requested Item K (1), EDRST Funding (C-17 Commissary Kitchen project, be removed

Councilmember Tieman moved to approve, it was seconded by Councilmember Fuller, and the motion carried unanimously.

**D. PROCLAMATIONS (Acknowledgement)**

1. Floyd and Cora Henderson – 65<sup>th</sup> Wedding Anniversary

Mayor Crow announced that the Proclamation had been provided to the family by the City Clerk.

**E. APPROVAL OF MINUTES**

1. December 8, 2025, Draft Regular Meeting Minutes were moved by Councilmember Tieman, it was seconded by Councilmember McMahon, and the motion carried unanimously, with the

**F. APPOINTMENTS TO BOARDS AND COMMISSIONS**

1. Linda Fried is nominated for reappointment to the Urban Forestry Commission by Councilmember Brenner, it was seconded by Councilmember McMahon, and the motion carried unanimously.
2. Carol Jackson is nominated for a special reappointment to serve a 3<sup>rd</sup> term on the Commission on Arts and Letters by Councilmember Smotherson, it was seconded by Councilmember Tieman, and the motion carried unanimously.

**G. SWEARING IN TO BOARDS AND COMMISSIONS**

None

**H. CITIZEN PARTICIPATION (Total of 15 minutes allowed)**

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**Citizen Comments** *(Due to technical issues, there is no audio of this comment section)*

**Karla Brown, 941 Swarthmore Lane, U City, MO**

Ms. Brown expressed concerns about an on-going issue concerning the damaged sidewalk in front of her home. A fallen tree was uprooted during a storm several years ago and the sidewalk has not been properly repaired by the City. She is requesting this issue be corrected as soon as possible.

**Liam Brick, 1079 Wilson Avenue, U City, MO**

The written comments of Hannah and Liam Brick have been attached to the minutes.

**Tom Sullivan, 751 Syracuse, U City, MO**

Mr. Sullivan expressed concerns about a number of streetlight outages.

**I. COUNCIL COMMENTS**

None

**J. PUBLIC HEARINGS**

None

**K. CONSENT AGENDA - (One voice vote required)**

1. EDRST Funding - C-17 Commissary Kitchen Project – 8021 Olive Blvd. **(Removed)**
2. EDRST Funding - Public Safety Equipment
3. Ratification of Interfund Borrowing from General Fund to Solid Waste Fund in the amount of \$300,000.
4. IT Equipment – Annex and Trinity Buildings

Councilmember Smotherson moved to approve Items 2, 3 and 4 of the Consent Agenda, it was seconded by Councilmember Brenner, and the motion carried unanimously.

**L. CITY MANAGER'S REPORT – (Voice vote on each item as needed)**

1. City Manager Updates

None

2. MSD Clear Water Project Presentation (requested by Councilmembers Fuller and Tieman)

*Jeff Kokal, Design Project Manager with Jacobs, and Jim Dunajcik, MSD's Assistant Director of Engineering over the Design Division presented the PowerPoint presentation that was included in the public packet. **(Due to technical issues, there is no audio record of the presentation. The audio starts with MSD's response to the first question which was posted by Councilmember Tieman)***

Councilmember Tieman posed the following questions, composed by him and his neighbors, to Mr. Dunajcik:

**A. -- understand where you're coming from. It is not a decision that we make lightly in any way to identify homes that may need to be removed to construct a project like this, but it is one of the largest combined sewer overflows that have to be removed as part of this project. It is heavy construction, and the number of homes that we have currently identified is commensurate with trying to provide a reasonable buffer that also allows working room for the contractor to perform the work, while maintaining a distance from the remaining property owners.**

**Q. I'm taking this to be an answer of no, that you cannot do this without destroying these homes?**

**A. Unfortunately, the multiple combined sewers on Amherst are surrounded by homes, and to perform the work that needs to be done will impact those homes, yes.**

**Q. So, these homes would be destroyed?**

**A. It is MSD's intent to purchase those homes and remove them for the project.**

**Q. Once these homes are purchased, when will they be leveled?**

**A. As soon as we have purchased the properties, we will put out a contract with a demolition firm to remove them. Those areas will be graded and sodded, and the District will maintain them until such time as the contractor takes over.**

**Q. How long will the block be unsightly?**

**A. You mean during demolition or during the project construction?**

**Q. All of it?**

**A. The demolition task will take maybe a few months from start to finish. The construction is anticipated to take between two to three and a half years, but it will not be continuous throughout that entire time. There will be contractors doing a piece of work and maybe demobilizing, then there will be another contractor with a different specialty doing another piece of work. But over the course of this nine-year project, our estimate at this time is that it will take three and a half years.**

**Q. Will the uprooted trees be replaced?**

**A. My assumption, based on what I know at this point, is that the trees in those areas will be removed.**

**Q. And replaced?**

**A. Well, that's something that we want to talk about. As we proceed forward, something that we have done many times in the past on larger projects where we're in neighborhoods like this is to form some type of neighborhood aesthetics committee that typically consists of the councilmember for that district and appointed members of the public. I just mentioned a sound wall, which we think will be important, so this committee will help us decide what the area looks like both during and after construction; i.e., some kind of landscaping or buffering to help soften the sightlines so that people are not just looking at a heavy industrial site while we are there, and when we're done. Obviously, there will be things left behind when we're done, and we want to make sure that folks have some say in what that is going to look like.**

**Q. You mentioned the sound wall, and I presume there is going to be something akin to a chain link fence around it. How long will residents have to live with that?**

**A. During construction, I anticipate that a fence will be one of the first things the contractor installs, and that it will remain there until they are ready to do the final phase.**

**Q. Will there be lights on the sound wall 24/7?**

**A. No, I would not anticipate that, --**

**A. (Mr. Kokal): The sound wall is dual purpose; it serves as site security to keep the public out of the construction area, and it takes the place of any kind of site fencing. So, from an aesthetic standpoint, in my opinion, it's actually better.**

**Q. This is a quiet neighborhood; I can hear when the light is changing at North and South. So, what kind of noise can we expect from the construction?**

**A. (Mr. Kokal):** We follow St. Louis County's noise regulations and will perform a Noise Model Study just like you would do along the Missouri Department of Transportation's network, highway, or interstate systems. That study has not been conducted yet, but it helps us determine whether the sound barrier should be 10 feet tall, 12 feet tall, etc., to ensure that noise is kept to an acceptable level per the County's standards. As far as lighting is concerned, I don't anticipate that they will be working outside of the allowable hours.

**Q. Will MSD commit to conducting pre-construction condition surveys for all the homes adjacent to the project area, and establish a clear written process for residents to file and resolve claims if construction causes damage to foundations, basements, lateral sewers, or yards?**

**A. Absolutely.** That is going to be a part of the standards specification package that requires the contractor to carry insurance for any claims. The contractor will perform that work on homes typically around a 500-foot radius of the drop shaft location. And depending on the property owner's preference, they will perform recorded or videotaped external and internal inspections.

**Q. How is this going to impact the value of surrounding homes?**

**A. I don't know if I have the expertise to explain anything about home values.** It's heavy construction, but the specifications will speak to the fact that it must be done as respectfully and efficiently as they can. So, all I can say for sure is that, unfortunately, folks who live near the site will notice that we are there. We are in the process of determining what kind of controls they would like to see, but honestly, this is very early in the design process, and this is much earlier than they typically would have a discussion about a project. But I appreciate the invitation to be here.

**Q. One of the major concerns of my neighbors is, how is this project going to impact the value of their homes?**

**A. I would answer that somewhat by saying that this is one of the most upstream areas of the entire watershed, so all of that sanitary waste in streams and ditches throughout the whole community is getting cleaned up.**

**Q. I appreciate that, but my neighbors are worried about the possibility of trying to sell their house when there's a construction site in their backyard. Will MSD commit to working with U City to implement measures such as landscaping, maintenance, and timbery site treatment, to prevent negative impacts on properties that are nearby?**

**A. Absolutely. You will be seeing us a lot.**

**Q. For parcels where homes are demolished, will MSD commit to performing its work in such a way that those sites do not remain fenced, unattractive, or blighted for years?**

**A. Yes.**

**Q. Who will maintain the site after the project is over?**

**A. That's something that we can talk about as we get more into developing the design. In some cases, there is going to be excess space that could be given back to the City for parks or park improvements. It just depends on how compact our construction can be in those locations. If we can keep it very compact, we will leave some kind of fencing, landscaping, and screening, in coordination with the City.**

**Q. Am I to construe from this that you don't know? I mean, because you didn't answer my question, who will maintain the site after the project is over?**

**A. The portions that we retain ownership of, we will take care of. If the City wants any portion of that property that we are unable to use, or is in excess post-construction, that would become the City's. Similar to what we talked about with the Purdue Avenue shaft. It's a large shaft because there's a lot,**

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**Q. There's a lot more construction going on at Purdue than on Amherst?**

**A. -- after construction, will not need all of that space to maintain.**

**Q. It could also be the case that you could explore a partnership with, say, U City in Bloom, or the City itself, in maintaining this area?**

**A. We're open to options.**

**Q. Can MSD commit to putting these projections, communication standards, and post-project land use into writing and sharing that with the affected residents?**

A. Yeah, I think we are going to develop those over time, and what that looks like, I don't know at this point. But once we have 60 or 90 percent of the designs, and we sit down with City staff, Councilmembers, and the public, I think we are all going to get there together as to what any kind of document looks like.

**Q. I presume from your previous comments that you would be open to making sure it's accessible, it's landscaped, and designed as a community asset rather than a utility-only site? This is your goal, right?**

A. We want to leave behind something that is, at a minimum, as aesthetically nonintrusive as possible. Keeping in mind what occurs on those sites, some of that is concrete and metal, but we will screen it to the best of our ability. That's why I mentioned the Aesthetic Committee, so we can kind of get a flavor for what everybody would like to see as a leave-behind; if it's a specific type of fencing or landscaping, if there is something that we can do to use plantings or berms to screen those from as much public view as possible. But something is going to be visible on these sites.

A. (Mr. Kokal): Let me supplement it this way, in areas where we are not in a floodplain, what we leave behind is flush with the ground, so you will see grass. In areas like the Purdue Avenue shaft, where that construction is all in a floodway; even U-Haul is in a floodway, a park is in a floodway, our structures have to be a couple of feet above the floodplain elevation. Because what we don't want to happen is you get a flood that comes down the River des Peres, and it fills the tunnel up with flood water, and then it is not available to handle the sanitary waste. So, when we are in a floodplain, our structures are going to be elevated. They are going to be concrete structures, and we can do things to make them blend in.

Councilmember Tieman stated that he appreciated their candor, and part of what he wanted to do was repeat something that he said earlier. This not only speaks to an engineering project, but it also speaks to the humanity of the people who are involved. That last couple of rows over there is my neighbors; Ann, who plays the flute, and so on, and so on, that's how he wants to put a human face on this project.

Councilmember Tieman stated that he had twenty additional questions, most of which came from his neighbors. But in deference to others and consideration of the agenda, he would like to give these questions to the City Clerk and ask that MSD answer them in writing. (Councilmember Tieman's written questions from residents to MSD have been included with the minutes.)

Councilmember Fuller stated, obviously, this is a project that has to be done, and he totally understands that, but he is concerned about the properties around it. For instance, something he would like them to talk about back at the Board of Directors is a property where the owner is now deceased, and his family is responsible for managing his affairs. How are they going to sell this property at a great price when they have this sewer project going on? Is there any way that the owners of houses surrounding this project could be compensated based on their property values? Councilmember Fuller stated that he even understands MSD's discussion about improving the waterway, but it's not going to do a lot for property values. Some of these folks have got their life's savings into these homes, and no one who bought a house five years ago imagined that its value was going to be less than what they purchased it for. He stated that he does not see how this project is going to appreciate these neighbors' property values, and that's something he would like to have a discussion about somewhere down the road.

Councilmember Fuller then posed the following questions to Mr. Kokal:

**Q. Are the large tunnel sites the Amherst site as well as the Olive/Purdue site, and then the smaller boreholes are going to be over by the Dog Park by Pennsylvania and Schnucks, and the other one in Pagedale? Are all those tunnels going to be the same size?**

A. The main tunnel that runs from Shrewsbury up to the Purdue Avenue shaft is an 18-foot-diameter tunnel. The three connecting tunnels that pick up more permitted CSOs (Combined Sewer Overflows) are a 12-foot-diameter shaft. It's all the same depth in deep infrastructure or construction.

*As it relates to more surface construction impacts, the Purdue Avenue shaft will be a large one because they are going to be pulling material out of that shaft and hauling it away. The Amherst shaft is not. It's a shaft that's needed to make the tunnel operational.*

**Q. Say that in terms that a fourth grader could understand, because that's where I'm at.**

**What's the diameter of the shaft at Amherst?**

**A. Twenty feet.**

**Q. What is the diameter of the shaft at Olive?**

**A. Forty-five feet.**

**Q. What's the diameter of the shaft at the Dog Park?**

**A. Twenty foot-ish. The Purdue one is by far the largest.**

**Q. Go up to the Olive site, we have properties up there; the last presentation you talked about?**

**A. Correct.**

**Q. How many of those properties are you anticipating? I was the one who asked that question, but I did not want to know what you were selling them for.**

**A. It's the Purdue Apartments basically, along Purdue Avenue just west of the park.**

**Q. But there are several apartments up there. Are you going to take all eighteen of them, all the way over to Midland?**

**A. No, just east of the River des Peres.**

**Q. Just the ones that face Purdue?**

**A. Correct. For construction, we only need to maintain or keep a fraction of that post-construction.**

**Q. And the diameter of that is not going to infringe on the U-Haul lot or Heman Park?**

**A. No.**

**Q. Is it just going to be those properties?**

**A. Correct.**

Mayor Crow stated that while he's not sure how many of his colleagues have questions, there are two requests to speak from citizens that, at some point, he would like to get to, since they may not want to stay for the rest of Council's agenda.

Councilmember Brenner asked if there would be any restrictions on what could be developed on the excess property? Mr. Kokal stated that typically, it would depend on whether they have any infrastructure on it. If there's an easement for piping or whatnot, there may be deed restrictions on that property, but what they've seen in the past is that customarily the surface use is for park-type facilities.

Mr. Dunajcik stated that he thinks it would be floodplain-dependent, too.

Mr. Kokal stated that's correct, it does play a big part in all of these properties. Most of these areas, like Vernon Avenue, are floodplain dependent because they are right next to the creek, which was strategic on their behalf and where the tunnel alignment sits as well.

Mr. Dunajcik stated that it's also where the CSOs exist in the channel.

Mr. Kokal stated that's correct.

Councilmember McMahon asked what considerations have been given to the tax implications that the City faces? Because it sounds like it will be losing properties off its tax rolls, losing residents, losing sales tax dollars from those residents who would be spending in its stores, and the only thing being offered is to give us back some property that we now have to financially maintain as a park, which used to be privately maintained by residents. So, it's the tumble-down effect where MSD takes the property and leaves the City with a shortfall across a huge swath of its community. What are your views on how your decision to find a solution in 2026 is going to tumble down to the City to pick up the pieces after you've fixed a problem that has existed for a very long time under the Consent Decree? Mr. Dunajcik stated he thinks that's a conversation they will have to have over time as they develop these plans.

We are here to listen, we hear you and want to work through these problems and the issues that have been raised. So, even though they don't have all the answers right now, they will be back to sit down with staff, Council, and the residents.

Councilmember Smotherson asked if MSD would be hiring a company to help the group of people moving out of those apartments to relocate? Mr. Dunajcik stated that they already have a consultant to handle the work associated with their Uniform Relocation Act to make sure MSD is complying with the rules and regulations; that people are made whole, and that they are relocated into something equivalent within the radius of where they currently live.

### **Citizen Comments**

#### **Jeff Hales, 509 Warren, U City, MO**

Representative Hales stated that he thinks this is his first time coming back in over a year, and while it's good to be back, he is deeply bothered by the circumstances of his return. As Yogi Berra once said, *"This feels like déjà vu all over again,"* because in 2015, MSD sprung a plan on the City to construct storage tanks in the middle of a neighborhood in the 3rd Ward.

So, he wants to go on the record, particularly for the folks at MSD, and say that he thinks it's completely unacceptable for them to be approaching members of this community offering a buyout for a project that has not been communicated to the two members of Council in the 2nd Ward, and to him, as their State Representative. It is just not okay.

Representative Hales stated that he has had this same conversation with MDS's communication personnel, because out of all the utilities, MSD is the only one that does not regularly communicate with elected officials, and the result is why we find ourselves here tonight. He stated that a number of his questions have already been asked by Councilmember Tieman, but he is deeply disappointed in how this is going. Nevertheless, he would like to make this perfectly clear: whether it was 2008, July 26th, or 28th of 2022, or any other time the people of this community have experienced flooding, there is a trust deficit that exists, and he thinks that needs to be recognized and acknowledged. Because the way this has gone down is doing nothing to eliminate that trust deficit. He stated that it's not just U City, it's their neighbors in North County, because he can't tell you how many conversations he's had this week with state reps about MSD; what's going on here, and that trust deficit that has gone well beyond U City. Representative Hales stated that he appreciates being back, so thank you.

#### **Michael Reed, 829 Barkley Square, U City, MO**

Mr. Reed stated that 829 Barkley faces Amherst, and he is two houses east of the last house on the plans to be removed. He stated that like many of the people here tonight, he has lived through one of U City's historic floods and wants relief from flooding. So, while he is not against solving this problem, but at what cost, and to whom? He stated that he does not know all the facts, so what he is about to say comes from incomplete information, conversations with neighbors, research, fear, and uncertainty, so he is adding his voice to the chorus of folks asking for real answers.

Mr. Reed stated that this is his understanding: MSD expects this project to reduce flood risks; it's costing enormous amounts of money; it will take nearly a decade to complete; so far five families have been asked or told to sell their homes; one deal has already been completed and the owners are in the process of moving out, and the others are uncertain. So, given those numbers, the money, the time, and the displacement, he hoped that the impact on the flood risk would be substantial. Yet, in a YouTube video he watched last summer, the expectations seemed surprisingly modest. He stated that these are his assumptions, and someone can tell him if he's wrong. This is going to happen, and his block will be forever changed. Leveling five houses is going to be noisy, dirty, disruptive, and the housing values on his block have already fallen. That's the one thing that keeps him up at night. He can't put his house on the market anywhere near the value that he could have a year ago because he has to disclose that a massive 40 foot in diameter hole is about to be built in his neighborhood. Let's be honest here, in all of your expectations for successfully completing this project, what were your expectations for the rest of us homeowners? Pat, a longtime resident, is retired, and he's about to have a massive construction site in his backyard for ten years.

Kim and Jennifer, sisters who have been the cornerstones of our block's beauty, recently invested large amounts of time and money in improving their homes. Jessie, Dave, Kadesha (phonetic), Everett, me, and Julie; I'm guessing you expect that we are all going to just be okay with this because it's for the greater good; that we should be okay with trucks rumbling past at 7 a.m., jackhammers shaking, and dust settling on everything we own for ten years. And we all know what empty lots do to your property value.

Mr. Reed stated that he and his wife searched for two years to find this house; it was a battle finding something that fit all of our needs. It's a tree-lined block. It's quiet, and on summer nights you can step outside and hear the cicadas; there's almost nothing in the winter but peace and quiet. Families walk their kids up and down the block every morning. We moved in thinking this was going to be our forever home, probably like most of the residents in this neighborhood. But let me tell you what this actually means for my household. I cobble together my income from various sources. I perform, teach at Wash U, and teach at Webster University privately in my basement. But most significantly, I'm a voice-over artist, and I've invested thousands of dollars to add a professional studio in my basement. Every day I record out of that basement, I patch into studios in New York, LA, Chicago, and I guarantee them a controlled and quiet environment. That guarantee is how I make a good portion of my living, a guarantee I don't believe I will be able to make for the next ten years. Julie's company went virtual during the pandemic and never turned back. Her ability to do her job by making client calls, Zoom meetings, and meeting deadlines will be compromised. So, do you just expect us to figure it out? What's your expectation of how we are supposed to react to this? Find somewhere else to work? Find another job? Absorb the financial hit?

Mr. Reed stated that he is also going to assume that everyone here who spoke on behalf of MSD is a homeowner. Now, picture your streets, your neighbors, the trees that you see from your windows, the quiet home that you come home to, and imagine that tomorrow your City comes in and says, *"Oh, by the way, five houses on your block are being demolished. For ten years, your street is going to be a construction zone. Your home value, sorry. Your peace, sorry. Your ability to maintain an income, compromised, your ability to sell and start over somewhere else, well, that's destroyed, sorry."* How would you feel? Would you think that's reasonable? Would you say, *"Well, it's for the greater good, we're going to have better water"?* Or would you be standing up here as he is, saying, *"This is my home. This is my life. This is my livelihood"?*

Public good requires sacrifice. So, if this is truly the only path forward that would generally protect lives and property, then he would understand. However, if you're going to spend millions on this project, then you've got to spend money on the people you've left behind, the ones who you seem to be asking to make a massive sacrifice to make things better for all. You need to compensate us and to look after us. Not as an afterthought, not as a gesture, but truly as a moral obligation. You're asking us to sacrifice all these things, and maybe even our sanity for the next ten years, so they deserve answers. Every impacted homeowner on this block deserves mitigation and to be more than collateral damage in your flood control plans.

Mr. Reed stated that he came here tonight because he's scared and clearly emotional about this, so he would like to apologize if he has offended anyone. He stated that he's going to be in his seventies when this thing is done, and he wants to enjoy his home and his neighborhood. He stated that he doesn't have the money or the time to pay a team of lawyers to fight what's likely going to be a losing battle against sizeable power and resources, so all he could do was show up here and just ask that MSD understand the human cost of this. See us, and see our families, not as obstacles to this project, but as people whose lives and ability to make a living hang in the balance. Thank you.

Councilmember Tieman posed the following questions to Mr. Kokal:

**Q. I don't believe MSD discussed noise and odor after the operation is completed, so could you speak on those issues?**

A. As far as odor after construction, that will be handled through an odor control system. So, it's a carbon type system that will treat any odors coming back out of the tunnel.

**Q. So, there will be odors?**

A. Odor control, yes. It will be an improvement compared to today.

**Q. I'm presuming that you're saying there will be odor control?**

A. Yes.

**Q. Will there be pump stations near surface sewers?**

A. To finish answering your first question, as far as post-construction noise, no, there will be nothing appreciable. Again, what will be on site will be like your standard sanitary or storm manifold that discharges water down into the tunnel.

**Q. Will there be pump stations near surface sewers?**

A. There will be no pump stations in U City related to the tunnel project. Near surface sewers, yes. Again, the tunnel only gets so close to all the permitted CSOs; that is the red, yellow, and green dots on those maps. Then your surface sewers show kind of a broad paint brush of a potential corridor, --

**Q. Are those near surface sewers?**

A. Yes. Again, we have to collect all the dots and get them to the tunnel so we can get all that sewage into the tunnel. But there are no pump stations related to this project.

Councilmember Smotherson stated that he absolutely understands Mr. Reed's concerns because he went through this with the wastewater tanks in 2017. But what he wants to make sure everyone is clear about is that MSD is not here to solve flood control. This is not flood control; it is not a part of this project, and they are not here to solve our problems. What MSD has been decreed to do is improve the water quality. So, the bottom line is that MSD is here to solve their problem, not ours.

Mayor Crow stated that, as former Councilmember Hales indicated, if there is any community within St. Louis County that gets the fact that the resolution of this problem would be for the greater good of the community, it would be the folks in U City who truly get it. He stated that he also wanted to make sure that MSD is aware that they are coming into a community that, unless he's missing it, has to be one of the single most politically engaged communities in St. Louis County. So, the fact that they didn't expect these residents to have communications with their Councilmembers strikes him as something that's just hard to understand. But many of them have been here before, **and** this is different from the plan that MSD brought to the City some time ago.

Mayor Crow stated that he remembers MSD coming into these chambers ten years ago, sitting at that table (indicating), telling them that they had two choices, A or B, and that they needed the City's answer in a month. There were no conversations or any type of dialogue; neither of those options ever came to fruition, and there has literally been no communication since then. He stated while they understand the problem that MSD has, he wants to make sure MSD understands that this Council does not believe that they are coming to this community with clean hands, and that's an issue that MSD will have to resolve.

Mayor Crow stated this community does not intend to take the financial burden for what MSD is planning to do. They certainly love their parks, but are already having a hard enough time maintaining what they have. They also like their tax base, which they have been growing, yet this plan is designed to reduce that tax base by taking property off their rolls. U City has residents who love their neighborhoods, love their homes, yet this plan is asking them to take a hit, not just financially, but emotionally, for a long period of time. He stated that this is not the same Council you had ten years ago, and while they appreciate the problem that MSD has, and want to work with the greater community to solve this problem, they expect MSD to deal with this Council and their residents with respect and open communication. Thank you.

**3. CUP-24-04 - A Conditional Use Permit (CUP) application to allow for a gasoline station and convenience store. (Circle K – 7430 Olive Blvd.)**

Ms. Sharp stated staff is recommending that Council consider a Conditional Use Permit (CUP) to allow for a gasoline station and convenience store. She stated that additional details will be presented by the Interim Planning & Zoning Director, Becky Ahlvin.

Ms. Ahlvin stated Circle K will be located at the southeast corner of Olive and North Hanley Road, which was previously occupied by Pete's Market. The permit was approved by the Planning Commission on September 25, 2024, with the following conditions:

- a) The property at 7430 Olive Blvd shall be kept up to all the City's property maintenance standards, and

- b) The buildings and signage at 7449 Olive Blvd. shall be raised, and the debris and storage tanks shall be removed prior to the issuance of an Occupancy Permit for 7430 Olive Blvd.

Ms. Ahlvin stated that additional public safety conditions, as outlined in Police Chief Larry Hampton's memo, have been attached to the CUP and included in the Council's packet.

Councilmember Fuller moved to approve, it was seconded by Councilmember Tieman.

Councilmember McMahon asked if the Chief's public safety memo should also be construed as conditions to the CUP? Ms. Ahlvin stated that is correct.

Councilmember McMahon stated he thinks that a lot of what the Chief has brought forth in his memo is some of the reasons why the City had begun to move forward to address issues with this business. So, if these conditions are not complied with, what recourse does the City have? Mr. Mulligan stated that these conditions are certainly enforceable, and there are several options available. The City could take action to revoke the CUP, and it could also take action to prosecute the business for violating those conditions.

Mr. Smotherson asked Ms. Ahlvin if she was aware of whether the Applicant had plans to sell 7449 Olive Blvd. after they had complied with the condition to raise the building and remove all signage and debris? Ms. Ahlvin stated that she did not, but would reach out to Circle K for an answer.

Mayor Crow stated that Elizabeth Lum, whom he believes is Circle K's attorney, has made a request to speak, so maybe she will be able to answer that question.

### **Citizen Comments**

#### **Elizabeth Lum, 7711 Carondolet, Suite 800, Clayton, MO**

Ms. Lum stated that she is counsel for the Applicant Circle K, and while it's taken them some time to get here, they would like to thank the City and Chief Hampton for their cooperation. To answer Councilmember Smotherson's question, she stated that there is a broker representing Circle K, and she believes they have had a couple of calls and emails about the property. So, it is currently being marketed, and she thinks they have some plans to do something with it, although she does not know how minted those are. Ms. Lum stated that also with her tonight are Matt Fogarty with Premier Civil Engineering, who created the designs, Preston Amos and Tim Kauffmann with AKG Development, and Jason Kettering (phonetic) with Circle K, who may be able to answer any questions you have. Thank you.

Councilmember Fuller asked if the removal of the tank was also included in raising the property? (Unidentified Speaker: Yes.)

Mayor Crow thanked Chief Hampton for working with crime mitigation on this application and stated that after having conversations with several of his colleagues, he wants to make sure Circle K is aware that the reason the decision was made to put this business under a CUP is because it has not been a good corporate citizen for several years. Mayor Crow stated that while his assumption is that this petition will probably be approved, it will be without his support. Nevertheless, he looks forward to Circle K becoming a better corporate citizen at this new location. That said, what he can assure you is that members of this Council will be paying close attention to what is, or is not, going on at this business.

Voice vote on Councilmember Fuller's motion to approve carried unanimously, with the exception of Mayor Crow.

**4. Facility Use Agreement – Farmers Market**

Ms. Sharp stated staff is recommending that Council consider a one-year renewal agreement with the Farmers Market. This is a Facility Use Agreement that will allow them continued use of the parking lot at Centennial Commons for their Thursday and Saturday markets, and the Heman Park Community Center during the winter months for special holiday markets. Ms. Sharp then noted the following updates related to the Market:

- The Farmer's Market has been able to secure a U City address, making them eligible for the residential rate and reducing their cost from \$800 per month to \$400 per month.
- During the off-season, Centennial Commons does not open until 8 a.m., so the Market has requested that a member of staff be on site Saturday mornings from 6 a.m. to 8 a.m. so that they can have access to the restrooms. The City has agreed to provide a member of staff, but the cost will be covered by the Market, not to exceed \$800 per year. That number was calculated using the average rate for workers at Centennial Commons times the number of Saturdays this service will be needed.
- This agreement was presented to the Parks Commission, which recommended that the Market be allowed to utilize the Special Event Rules instead of the Park Pavilion Rules, which will allow them to continue their very popular petting zoo.

Ms. Sharp stated that last year, the City conducted a trial with the Market, allowing them to utilize Centennial Commons. The Market believes this new location has worked out well for them, as they have been able to reach new customers and expand their business.

Councilmember Brenner moved to approve, it was seconded by Councilmember Fuller, and the motion carried unanimously.

**M. UNFINISHED BUSINESS - *(Roll call vote required on 2<sup>nd</sup> and 3<sup>rd</sup> readings)***

None

**N. NEW BUSINESS**

***Resolutions - (Voice vote required)***

None

***Bills - (No vote required on introduction and 1<sup>st</sup> reading)***

*Introduced by Councilmember McMahon*

1. **Bill 9578** - AN ORDINANCE AUTHORIZING THE CITY OF UNIVERSITY CITY, MISSOURI TO ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS (8021 OLIVE BOULEVARD PROJECT), SERIES 2026, IN A PRINCIPAL AMOUNT NOT TO EXCEED \$8,000,000, FOR THE PURPOSE OF PROVIDING FUNDS TO PAY THE COSTS OF ACQUIRING, CONSTRUCTING AND IMPROVING A FACILITY FOR AN INDUSTRIAL DEVELOPMENT PROJECT IN THE CITY; APPROVING A PLAN FOR THE PROJECT; AND AUTHORIZING THE CITY TO ENTER INTO CERTAIN AGREEMENTS AND TAKE CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH. Bill Number 9578 was read for the first time.

*Introduced by Councilmember Smotherson*

2. **Bill 9579** - AN ORDINANCE APPROVING A FINAL PLAT FOR A MINOR SUBDIVISION OF A TRACT OF LAND TO BE KNOWN AS "PURDUE AVENUE LOT SPLIT." Bill Number 9579 was read for the first time.

**O. COUNCIL REPORTS/BUSINESS**

1. Board and Commission appointments needed
2. Council liaison reports on Boards and Commissions
3. Boards, Commissions, and Task Force minutes
4. Other Discussions/Business

Mayor Crow stated as you know, the City Manager has announced his retirement, effective February 6th. Council has retained MGT, which is the successor to Gov.HR, the agency that led to the hiring of Mr. Rose. Lee Szymborski, the Senior Vice President of MGT, will be conducting a nationwide search for Mr. Rose's replacement and developing a timeline for the consultants to meet with senior members of staff and Council. There will also be a public forum, hopefully later this month, that will be held at the community center. Please note that all resumes will be reviewed and approved by members of Council seated after the April election, not this sitting Council. Any questions about this process should be directed to him or the City Clerk.

**P. CITIZEN PARTICIPATION (continued if needed)**

**Q. COUNCIL COMMENTS**

Mayor Crow stated he thinks everyone is aware that a vast majority of the City's budget goes to public safety, so he would like to pass along the Council's condolences to Officer Wamsganz, who was the handler for their canine Officer Ryno, who had been with the department for ten years before his death.

Council would also like to pass along their sincere condolences to the family of Ethel Mariam, who passed away on January 1st of this year at the age of 102. Ms. Mariam was an avid swimmer who was known for swimming laps every day at Heman Park and walking 1 mile every day. Her adventurous spirit led her to be one of the first female volunteers in the U.S. Navy during WWII. After enlisting, she transferred to WAVES, a part of the Navy Reserves, and later worked as an accountant in Bainbridge, Maryland. She served in the Reserves for 38 years, rising to the rank of Captain. In 2023, Captain Ethel Mariam was honored at the rededication of the Heman Park Memorial Fountain, hosted by the U City Parks 100 Commission. Mayor Crow asked everyone to pause in remembrance of Ms. Mariam and her service to our country.

Mr. Tieman moved to adjourn the Regular Session, it was seconded by Councilmember McMahon, and the motion carried unanimously.

**R. ADJOURNMENT**

Mayor Crow thanked everyone for their participation and closed the Regular Session at 8:11 p.m.

LaRette Reese  
City Clerk, MRCC

**From:** [Hannah Briick](#)  
**To:** [Council Comments Shared](#); [Liam Briick](#)  
**Subject:** Jan 12 Comment  
**Date:** Monday, January 12, 2026 7:15:53 AM

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CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Good Morning!

Please see below for our comment for tonight's meeting. Looking forward to seeing you then!

Hannah

Dear Mr. Mayor and Members of the City Council,

My name is Hannah Briick and my husband Liam Briick and I both reside at 1079 Wilson Ave.

We hope that your winter holidays were full of love and blessings and that your new year is off to a strong start.

We want to express our continued appreciation for your ongoing efforts with the HMGP FEMA Flood Buyout Program. Economic Development Manager Interim Planning & Zoning Director Becky Ahlvin recently updated us that the city is waiting on title work for two properties, then the package will be complete. We are hopeful that the city can send this to SEMA quickly so that SEMA can review and return the project for the city to move forward.

As you know, there are still many steps ahead of us all in this long process. Liam and I are starting the new year with hope that we can finally move on from this years-long process. Your continued support and dedication to moving this project along means 2026 can be that year for us.

We are looking forward to continuing to attend City Council meetings to receive additional updates about the project's progress. We are determined to show our support and keep you accountable to us and our Wilson Ave neighbors. Thank you for your time this evening.

Warmly,  
Hannah & Liam Briick

**John S. Tieman, Ph. D.**

**854 Barkley Square  
University, Missouri 63130-2806**

**(314) 307-7270  
tiemanucity@gmail.com**

13 January 2025

To: LaRette Reese  
City Clerk  
University City

Dear Ms. Reese:

As I mentioned at the City Council meeting last night, I have a number of questions from residents that, because of time, I did not ask. I appreciate your help in forwarding these to the Metropolitan Sewer District, who agreed to answer these folks in writing. There were two sets of questions.

/////////

The following questions are from Janet Kourik at 7598 Amherst Avenue,  
kourikJL@sbcglobal.net .

Please delineate the perimeter of the entire project site.

Please explain how MSD will prevent or mitigate impact of sound pollution for residents.

Please explain how MSD will prevent or mitigate impact of air pollution such as dust, VOC compounds, vapors, toxic chemicals and other hazards used in the project.

Please explain how MSD will prevent or mitigate additional pollution of the environment.

Please provide the location of a comparable job site so that we may observe its implementation.

How will the project protect the people and financial value of the remaining housing units

Please explain the current long-term schedule for entire project i.e. site preparation, delivery of major equipment, blasting and drilling, construction, completion, and clean-up,

Please explain the detailed timeline for the first steps in the project such as buyouts, demolition of housing, preparing the job-site to protect the neighborhood, bringing in supplies, heavy equipment, managing environmental impacts, starting drilling, etc.

When will offers for all needed housing units be distributed? Who will coordinate between the residents, government entities, realtors, demolition team, MSD, and other

stakeholders?

How will assessment be made i.e. assessors, adjustments for improvements, sweat equity, adjustments for length of residency, adjustments for changing school districts, costs of new occupancy permits, costs to transfer digital services, etc.? What is the negotiation process?

How will residents be compensated for common situations such as rent, lease, own, mortgages, paid-off, etc.?

What elements are included in relocation packages i.e. moving, utilities costs, adjustments for mortgage rates, adjustments for closing costs of fully owned units, adjustments for rental deposits and pet fees, relocation costs and transition assistance services?

How will the remaining residents be compensated for loss of property value, changes to quality of life, and other disruptions?

/////////

The following questions are from Michael James Reed and Julie Layton, who live at 829 Barkley Square, mikejim@mac.com .

Why do perfectly nice homes and families have to be displaced because of Project Clearwater?

During this construction project, what is the plan for the remaining homes on the block?

What will the site look like during demolition and Construction? Will it just be a fenced-off empty lot?

Will all the trees be lost as well?

When all this is done, what will it look like? Will there always be lights and noise on a block that is used to being serene and tree-lined?

Is MSD taking any measure to insure that our homes won't be worthless as a result of this project?

/////////

As always, my deepest thanks –

John Tieman

**City Council Meeting  
University City, Missouri  
12 January 2026**

**Honorable Mayor, My Fellow Council Members, To The Civil Servants  
And Citizens Of University City:**

**I will be out of town at the time of the next City Council meeting. So this will be the last time I will be on this dais with Mr. Rose. After decades of public service, Mr. Rose will retire in less than a month.**

**In his "Republic", Plato says that the best outcome, for those who serve in public office, is that the office makes him or her a better person. While Plato doesn't explicitly say it, public office should enrich a person with understanding, insight, patience, humility, a sense of purpose. Our popular cynicism notwithstanding, this indeed is what happens to many. It has been my privilege, and indeed my honor, to know one such public servant, Mr. Gregory Rose, our City Manager.**

**Mr. Rose, Gregory, there will be many who will speak of your decades of service, your competence, your accomplishments. I would like to add this personal note. I will miss our monthly meetings. I will miss your quiet wisdom. And I will just miss you. I really don't know how to thank someone for devoting their life to public service. I really don't know how to thank someone for just being a nice guy and decent human being. So I'll just conclude with, simply, thank you.**

**John S. Tieman  
Council Member  
Second Ward**

**CITY OF UNIVERSITY CITY COUNCIL MEETING  
AGENDA ITEM**



NUMBER: <i>For City Clerk Use</i>	CA20260126-01
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**SUBJECT/TITLE:**

Approval of an Aquatic Center Management Agreement with Midwest Pool for the operation of the Heman Park Pools and Splash Pad for the 2026 season

**PREPARED BY:**

Jim Krischke

**DEPARTMENT / WARD**

Parks, Recreation and Public Area Maintenance

**AGENDA SECTION:**

Consent Agenda

**CAN ITEM BE RESCHEDULED?**

No

**CITY MANAGER'S RECOMMENDATION OR RECOMMENDED MOTION:**

City Manager recommends approval.

**FISCAL IMPACT:**

The contract cost, includes the addition of the splash pad and additional promotions. The full cost for 2026 is \$9,625.00 higher than 2025 budgeted costs of \$375,000.00 or ~2.5%. This contract also provides the city with renewal options for one year successive terms.

AMOUNT:	\$384,625	ACCOUNT No.:	01-50-51_6010
FROM FUND:	Aquatics-Professional Services	TO FUND:	

**EXPLANATION:**

An assessment of the operations and management of the Heman Park Pool was conducted by the Parks and Recreation staff, in which it was determined that the contracting of the operations and management of the pool would not only provide better oversight and expertise, but would allow City staff to focus on other areas of the departments operations.

**STAFF COMMENTS AND BACKGROUND INFORMATION:**

As part of the Contract, the Contractor shall furnish sufficient and competent personnel for the operation of a safe and sanitary facility at all times the facility is in use, including, without limitation, managers, assistant managers, lifeguard and maintenance personnel whose responsibilities would include the opening and closing of the pool for the year; daily operations (pool chemicals, pool cleaning, building and ground maintenance); and to provide oversight during recreational swimming, instruction/lessons, programs, and rentals. The City would continue to provide cashier and concession operations.

CIP No.	NA
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**RELATED ITEMS / ATTACHMENTS:**

Contract

**LIST CITY COUNCIL GOALS (S):**

Community Quality of Life and Amenities

RESPECTFULLY SUBMITTED:	City Manager, Gregory Rose	MEETING DATE:	01/26/2026
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# **City of University City Aquatic Center Management Agreement**

THIS CONTRACT is made as of the \_\_\_ day of \_\_\_\_\_, by and between the CITY OF UNIVERSITY CITY, a Missouri municipal corporation, hereinafter called the "City," and MIDWEST POOL MANAGEMENT OF AMERICA, LTD, a for-profit company, hereinafter called "Midwest Pool Management" or the "Contractor."

**WHEREAS**, the City owns Heman Park Pools and Splash Pad located at 7210 Olive Blvd., University City, MO 63130; and

**WHEREAS**, the City desires to retain the Midwest Pool Management to manage the operations of their aquatic facility; and

**WHEREAS**, the Midwest Pool Management possesses the expertise and experience necessary to provide pool management services to the City.

**NOW, THEREFORE**, for and in consideration of mutual covenants herein contained, it is agreed as follows:

## **Section 1. Representations and Warranties of Midwest Pool Management.**

Midwest Pool Management hereby represents and warrants as follows:

- a) Under this agreement, Midwest Pool Management will manage the operations of the Heman Park Pools and Splash Pad as per the scope of duties outlined in Section 2.
- b) Midwest Pool Management will coordinate its activities with the City's designated representative in an effort to reduce duplication of services.
- c) Midwest Pool Management is a for-profit company, the principal purpose of which is the operations and management of aquatic facilities in the Midwest.
- d) Midwest Pool Management warrants and represents that its services provided under this Contract will at all times be performed and delivered in a competent, skillful and workmanlike manner and will in all respects be fit for their intended purposes.
- e) Midwest Pool Management warrants and represents that it is duly qualified to do business in Missouri and that it possesses all necessary statutory authority to transact business in the state.

## **Section 2. Services to be provided by Midwest Pool Management.**

Midwest Pool Management shall provide the following managerial and operational services:

### **2.1. Operations Schedule of Pools.**

A. Midwest Pool Management shall provide for the operation of the Heman Park Pools and Splash Pad from May 23, 2026 – September 7, 2026:

May 23rd through August 16th  
Lap Swim – 6:00 am to 9:00 am Mon-Sun  
Open Swim  
12:00 pm to 8:00 pm M-F  
12:00 pm to 8:00 pm Sat, Sun and Holidays

**Back to School Hours**

August 17<sup>th</sup> through September 7<sup>th</sup>  
Lap Swim – 6:00 am to 9:00 am Mon-Sun  
Open Swim

4:00 pm to 8:00 pm M-F  
12:00 pm to 8:00 pm Sat, Sun and Holidays

**Special Events:**

Member Only Pre-Opening Swim Party – May 22<sup>nd</sup>  
Family Movie/Swim Night – July 17<sup>th</sup>  
Puppy Pool Party – September 12th

## 2.2 Spring Opening.

The Contractor shall begin preparations no later than three (3) weeks prior to the scheduled opening day of the Heman Park Swimming Pools (Splash Pad to be opened by others). All start-up services shall be completed on or before one (1) week prior to opening day, and shall include the following:

1. Complete inspection of all plumbing, exposed filter room piping, chemical tubing and electrical. Provide written report to the City.
2. Test and inspect all filtration equipment and provide written report to the City.
3. Check inventory and provide a written inventory report to the City.
4. Pump out pool, acid clean and power wash.
5. Verify filter rooms are clean and free of obstructions.
6. Fill all pools and chemically balance.
7. Inspect and test features for the City and provide written report to the City.
8. Re-circulate water through filtration equipment.
9. Backwash as necessary in order to have pool ready for operation.
10. Have pools ready for operation at least ten (10) days before opening date.
11. Report to the City all operational deficiencies.
12. Inspect all attractions (nuts/bolts, pumps and motors (lubricate pump motors, slide sections, parts, etc.). Provide a written report regarding the conditions for all features.
13. Install and/or remove plugs from plumbing as required and store plugs on premises.
14. Clean all pool areas within enclosure, power wash decking, slide towers, features, entry way and concession areas.
15. Place pool furniture, guard chairs, umbrellas, ADA chairs, ladder, and other movable equipment on deck area.
16. Open, clean and prepare facility for operation (Locker Rooms, Pool Manager area, Lifeguard Room, decks, trash cans, picnic tables, lounge chairs, etc.).

17. Vacuum all swimming pools and splash pad daily during pre-opening preparations.
18. Conduct a scheduled walkthrough with the City Representative(s) prior to opening.
19. Provide all first aid and lifesaving supplies/equipment etc.
20. Furnish, store and inject necessary chemicals for operation of the pools. The City will provide a certificate of sales tax exemption.

### **2.3 Operation of the Heman Park Pools and Splash Pad.**

The operations and management shall include, but not limited to, the Manager, Assistant Manager(s), pool technicians, lifeguards, and conduct swim lessons/classes. Functions of the operations and management shall include but not limited to:

1. Clean Heman Park Swimming Pools and Splash Pad, including guard room and control desk manager area, bathhouse, all areas within the fencing, monitor restrooms, and the premise within twenty-five (25) feet of facility in a clean and orderly condition by the proper collection of waste, garbage, and all other debris. To be completed following the daily closing of the Heman Park Swimming Pools and Splash Pad, to the public.
2. Enforce all rules and regulations stipulated by the City and at the request of the City. Suggest and advise about additional rules and regulations for the operation of the Heman Park Swimming Pools and Splash Pad.
3. Maintain and produce records and reports, including maintenance sheets, water quality sheets, chemical consumption, water slide reports and Safety Data Sheets (SDS) as required by the State, St. Louis County and the City.
4. Inspect and test chemicals every morning and every 2 hours throughout the day to maintain safe chemical levels, add as necessary.
5. Maintain any additional records reasonably required by the City.
6. Furnish and supply first-aid kits and lifesaving equipment/devices adequate to meet all first-aid requirements of the Heman Park Swimming Pools and Splash Pad. The first aid kit should carry supplies for a minimum of 100 persons and at minimum include: adhesive bandages, sterile pads, gauge pads, eye pads, tape, dressings, elastic bandages, antiseptic, ammonia inhalants, rescue blanket, scissors, tweezers, latex gloves, clean wipes, eye wash, elastic gauze, butterfly closure, and large bandage patch. First aid kit should also include a pocket mask with a one-way valve, and a bodily fluid exposure kit. The Contractor shall also provide first responder first-aid kits, including rubber gloves and pocket mask with one way valve, for all on duty personnel. Safety equipment to include spine board, head immobilizer, straps, spine boards, ring buoys, reaching pole, shepherds crook, rescue tubes, pocket masks, safety line, and cervical collars.
7. Secure Heman Park Swimming Pools and Splash Pad, upon closing.
8. The Contractor shall retain a written record of all problems brought to its attention. The City will review this log. A daily log of communication shall be kept in the control desk manager area for the managers and City representative(s) to review daily.
9. Complete a daily safety inspection of entire facility and document results. Inspect and test safety equipment and document results daily.
10. Work with the City in handling complaints users may have reporting all complaints to the appropriate City representative(s).
11. Conduct in-service training per guidelines of Ellis, Red Cross, Star Guard, or YMCA.
12. Keep detailed records of any pull-outs describing the circumstances surrounding the incident and denoting the specific location of the pull-out.

13. Accident/Incident reports shall be given to the appropriate City representative(s) daily. The Contractor shall notify the appropriate City representative(s) of such Accident/Incident as soon as it occurs.
15. The Contractor shall open and close the facility each day of the pool season; turn on all pumps, motors, slides, features, etc. required for the day-to-day operations; and turn off at end of each night.
16. Inspect water levels and turn on fill lines as needed.
18. Vacuum all pool areas daily. Each pool shall be vacuumed entirely, a minimum of twice per week. Pools shall be vacuumed before the public enters the pool. This includes before the public enters for swim lessons or swim/dive team practices, etc.
19. Hair lint pots shall be cleaned daily.
20. Restroom/Locker Rooms shall be maintained on an hourly basis while pool is open to the public (trash/debris ,etc.); with replacement of supplies including but not limited to: soap, paper towels, toilet paper, etc.
21. Wash all gutters, pool decks, splash pad, etc. daily. All areas **must** be power washed a minimum of twice per week, with the concessions area power washed daily. All work shall be completed immediately following the closing of the Heman Park Swimming Pools and Splash Pad, to the public and all scheduled staff must remain until all daily tasks have been completed.
22. Complete a daily safety inspection of entire facility and document results. Inspect and test safety equipment and document results daily.
23. A Certified Pool Operator will make a daily visit to inspect filter areas and chemical feed systems.

#### **2.4 Fall Closing / Winterizing.**

At the end of the swimming season, as herein specified or as extended by mutual agreement between the parties, Midwest Pool Management will be responsible for winterizing and closing the pools and perform and furnish the following services to the Heman Park Pools (Splash Pad to be winterized by others):

1. Clean and remove pool furniture, guard chairs, umbrellas, ADA chairs, ladder and other movable equipment as needed and store on premises.
2. Drain hoses and store on premises.
3. Store all first-aid equipment.
4. Clean locker rooms, manager's office, lifeguard room and storage room, deck areas, concession area, slides, and play features, etc.
5. Inspect and test pumps and motors and notify the City of any malfunctioning equipment. Provide a written report regarding conditions for all features.
6. Drain filtration equipment.
7. Install and/or remove all plugs from plumbing and store plugs on premises. City to provide winterization plugs.
8. Backwash filters, check for any defects, clean hair lint pots, etc.
9. Drain all chemical feeders and re-lubricate.
10. Clean chlorinator if necessary, and feed pipe going to the filler tank.
11. Leave all valves at appropriate settings.
12. Remove skimmer baskets and clean and store on premises.
13. Inspect all pool machinery and equipment and list parts required for the next season's operation to the City.

14. Inspect and test all pool plumbing and electric (ensure electric panels are not tripped and by way of flipping switches, everything works/runs); notify the City of all deficiencies.
15. An end of season inspection shall be conducted immediately upon conclusion of the season, and a written report turned into the Director of Parks, Recreation and Public Areas Maintenance or designee.
16. The Contractor shall perform reasonable inspections of all equipment and advise the City of needed repairs and/or replacement of defective, worn, or damaged equipment in the year-end written report. At the City's request, the Contractor shall provide specifications for the repairs and/or replacement and present to the City.
17. Conduct a scheduled walkthrough with the City representative(s) prior to winterization. The Contractor shall furnish the City with this documentation, no later than October 31<sup>st</sup> following the close of season, stating the Heman Park Swimming Pools (Splash Pad to be winterized by others), have been winterized in accordance with this Contract.
18. Conduct monthly reviews of winterized pools and submit to the City reports of such inspections.

**The cost of any necessary winterizing plugs will be borne by the City.**

## **2.5 Operational Supplies/Utilities.**

Midwest Pool Management shall furnish all necessary pool chemicals for the pool operation during the season for the Heman Park Pools and Splash Pad.

The City shall furnish water, telephone, electric, gas and pay for the same. The City shall provide four (4) sets of access control cards and keys for locks that access the pools, bathhouse and equipment areas. All are to be returned to the City upon the conclusion of the pool season.

The City will be responsible for stocking concession stand and front desk entry.

Upon any change in Federal or State guidelines, which govern Midwest Pool Management's operation and/or employees, or upon any unusual increases in cost for supplies or services under the language in this contract, Midwest Pool Management may present a new contract amount, in writing to the City. The City will have thirty (30) days to accept or reject the amount.

## **2.6 Maintenance Equipment.**

The Contractor shall purchase, provide, maintain and repair cleaning equipment necessary for the operations of the complex. This shall include, but not be limited to, pool vacuums, power washers, vacuum heads, poles and hoses, brushes, etc. This does not include chemical feed pumps, chemical controllers, pool pumps or motors or other filtration equipment.

### **Section 3. Personnel.**

#### **Staffing levels:**

Manager or Assistant Manager  
9 – 12 Lifeguards  
1 Pool Operations Technician

The City reserves the right to amend the hours of open swim operation as outlined in the paragraph above. At the City's request, Midwest Pool Management shall provide personnel for lifeguard and swim instruction services for amended open swim hours or other special programs and events not listed in the paragraph above. The City will be invoiced for this time at the hourly rates outlined on Exhibit B.

Upon consultation with City representatives, Midwest Pool Management shall have the authority to temporarily close the Heman Park Pools and Splash Pad during inclement weather (heavy rain, high wind or lightning, temperature below 73 degrees) and shall be prepared to reopen it when the weather permits. Midwest Pool Management shall have all necessary personnel available seven (7) days per week, twenty-four (24) hours per day to attend to any problems that may arise. If the Heman Park Pools and Splash Pad is to be closed for the day, the City will inform Midwest Pool Management to close to the public.

Midwest Pool Management shall furnish personnel for the operation of the Heman Park Pools and Splash Pad. All lifeguards will hold a minimum qualification of an advanced lifeguard certificate from Starguard, Red Cross or equivalent. Said personnel will be furnished in a manner to operate the Heman Park Pools and Splash Pad in the safest manner possible and in the best interest of the City. All personnel will be uniformly identified at all times. The cost for Manager t-shirts is included in this contract. All personnel employed by Midwest Pool Management in the performance of fulfilling this Contract for the operation of the Heman Park Pools and Splash Pad shall be employees of Midwest Pool Management and not of the City. All personnel employed by Midwest Pool Management shall be paid in accordance with the minimum State and Federal Wage and Hour Laws.

Midwest Pool Management shall be responsible for the payment of all employment taxes, Social Security taxes, worker's compensation insurance, and unemployment insurance related to the employment of said personnel. Midwest Pool Management shall give City residents first priority when hiring for all positions.

### **Section 4. Method of Payment.**

A. Midwest Pool Management has submitted a firm Management Fee and a firm Maintenance Fee, which includes all overhead and insurance costs required for the season, as outlined in the scope of services. The Management Fee and Maintenance Fee shall be paid monthly as outlined on Exhibit A.

B. Midwest Pool Management has submitted a "not-to-exceed" Salary Budget (as defined below) amount on Exhibit B of this Contract for staff salaries and associated payroll taxes for the open swim hours detailed in Section 2.1 of this Contract at the staffing levels detailed in Section 3 of this Contract. There is no additional staffing expense to the City except as requested by the City to provide staffing for special programming, private rentals or hours outside of the scope detailed in Section 2.1. The Salary Budget shall be invoiced monthly, with payroll records subject to review by the City. The Salary Budget will be recapped in September of each year and reconciled with actual hours worked at the rates outlined in Exhibit B.

Upon any change in Federal or State guidelines, which govern Midwest Pool Management's operation and/or employees, the Midwest Pool Management may present a new contract amount in writing to the City. The City has 30 days to accept or reject the new amount.

### **Section 5. Licenses and Permits.**

The City shall be responsible for obtaining and paying the costs of all necessary permits and licenses required by any applicable laws, rules and/or regulations (including the statutes of the State of Missouri and the ordinances of the City, necessary for the operation of the facility provided, however, Midwest Pool Management shall be responsible for obtaining a business license.

### **Section 6. Health and Safety Standards.**

Midwest Pool Management shall meet all Local, State and Federal requirements as they relate to its operation. Midwest Pool Management shall be responsible for maintaining the condition of the pool water in conformity with the standards specified by the governing health department.

The City shall have the ultimate authority and responsibility for compliance with the Virginia Graeme Baker Pool and Spa Safety Act and the Americans with Disability Act. Midwest Pool Management shall communicate with the City about any violations it observes under the Acts.

### **Section 7. Services to be Provided by the City.**

The City will be responsible for the maintenance and replacement of the buildings, structures, utilities and surrounding areas including shrubbery, except policing for trash, waste, garbage and other debris.

The City shall provide Midwest Pool Management access control cards and keys for locks that access the facility. All are to be returned to the City upon the conclusion of the pool season.

## **Section 8. Term.**

This Contract shall be effective upon approval and execution of this Contract on \_\_\_\_\_ and shall terminate on December 31, 2026. Upon the expiration of this Contract, the City shall have the option to renew this Contract for successive one-year periods under the same terms and conditions provided that the City shall give written notice to Midwest Pool Management on or before December 1 of its intention to renew. Any necessary adjustments in the Management Fee and Salary Budget shall be negotiated between the City and Midwest Pool Management, and agreed upon in writing, signed by both parties.

## **Section 9. Insurance.**

Midwest Pool Management shall procure and maintain, for the duration of this Contract, insurance of the types and minimum amounts as follows and name City as an additional named insured. This coverage will be provided on a primary ad non-contributory basis.

### **9.1 Worker's Compensation Insurance.**

Midwest Pool Management shall procure and maintain during the Term of this Contract, Workers' Compensation Insurance in compliance with all applicable Missouri and Federal laws, for all of its employees engaged to perform work under this Contract, and in case any such work is sublet, Midwest Pool Management shall require subcontractors similarly to provide Workers' Compensation Insurance for all such employees engaged in such work, unless such employees are covered by the protection afforded by Midwest Pool Management's Workers' Compensation Insurance. In the event any class of employees engaged in hazardous work under this Contract is not protected under the Missouri Workers' Compensation statute, Midwest Pool Management shall provide, and shall cause any subcontractor to provide, adequate Employer's Liability Insurance for the protection of its employees not otherwise protected.

### **9.2 Comprehensive General Liability Insurance.**

Midwest Pool Management shall procure and maintain Commercial General Liability Insurance including Blanket Contractual, Broad Form Property Damage, Complicated Operations and Independent Contractor's Liability all applicable to Personal Injury, Bodily Injury and Property Damage to a combined single limit of \$4,000,000 for each occurrence subject to a \$4,000,000 annual aggregate for Completed Operations and Personal Injury other than Bodily Injury.

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### **9.3 Comprehensive Automobile Liability Insurance.**

Midwest Pool Management shall procure and maintain Comprehensive Automobile Liability Insurance including owned, hired and non-owned automobiles, Bodily Injury

and Property Damage to a combined single limit of \$4,000,000.00 for each occurrence.

#### **9.4 Satisfactory Coverage.**

The insurance which Midwest Pool Management is required to obtain and maintain pursuant to this Section 9 shall be written by a company or companies licensed to do business in the State of Missouri. Insurance is to be placed with insurer with a Bests' rating of no less than an "A" rating. Midwest Pool Management shall not allow any policies to be canceled or permit the policies to lapse during the Term of this Contract.

#### **9.5 Indemnification.**

Midwest Pool Management shall, at its sole cost and expense, indemnify, hold harmless and protect the , including its officers and employees, from and against any and all claims, damages, costs or expenses (including court costs and reasonable attorney's fees) for any claim arising out of Midwest Pool Management's negligent acts under this Contract ; provided, however, that this hold harmless and indemnification shall not apply where such claims, actions, damage, liability, or expenses result from any omission, fault, negligence, or misconduct on the part of the City, its agents, servants, employees, contractors, or licensees. Notwithstanding the foregoing, Midwest Pool Management's indemnity obligations are limited solely to the extent directly caused by Midwest Pool Management's fault or negligence.

Except for Midwest Pool Management's negligent acts or omissions, the City agrees to the fullest extent permitted by law, to indemnify, defend and hold harmless Midwest Pool Management , its agents and employees, from and against any and all claims, damages, losses, suits and expenses attributable to bodily injury, death or damage to property, that arises out of, results from or is any way directly or indirectly caused by any physical or structural condition, situation, state or position of owner's swimming pool, its equipment and surrounding or adjacent property, or caused by any act, error or omission by the City or by anyone employed by it.

#### **Section 10. Independent Contractor.**

Midwest Pool Management is retained by the City only for the purposes of, and to the extent set forth in, this Contract, and the relationship of Midwest Pool Management with the City under this Contract during the Term of this Contract shall be that of an independent contractor and not an employee, partner, member, owner, officer, director or other agent of the City. Midwest Pool Management agrees to devote sufficient time, effort, resources, ability, skill and attention as may be necessary for Midwest Pool Management to perform the services required to be provided to the City under this Contract, but performing such services subject to the provisions of this Contract, all applicable laws, rules, regulations governing the business of Midwest Pool Management and the work to be performed hereunder. Midwest Pool Management shall not be considered by reason of the provisions of this Contract or otherwise as being an employee of the City. This Contract will not be deemed to create a partnership, joint venture, agency or fiduciary relationship between the parties. Midwest Pool Management shall have no right to bind the City to any agreement with any other

person or entity and is not authorized to act for the City in any manner except as expressly set forth in this Contract.

### **Section 11. Notices.**

All notices required or permitted hereunder shall be in writing and shall be deemed delivered when actually received or, if earlier, on the third day following deposit in a United States Postal Service post office or receptacle with proper postage affixed (certified mail, return receipt requested) addressed to the respective other part at the address described below or at such other address as the receiving party may have theretofore prescribed by notice to the sending party.

#### **Midwest Pool Management**

Attn: Crissy Withrow  
President  
3473 Rider Trail S  
Earth City, MO 63045  
cwithrow@midwestpool.com

#### **City of University City**

Attn: City Manager \_\_\_\_\_ 6801 Delmar Blvd.  
University City, MO 63130\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

### **Section 12. Nondisclosure.**

Midwest Pool Management agrees that it will not divulge to third parties without the written consent of the City any information obtained from or through the City in connection with the performance of this Contract.

### **Section 13. Changes.**

No change in this Contract shall be made except in writing prior to the change in work or terms being performed. Midwest Pool Management shall make any and all changes in the work without invalidating this Contract when specifically required to do so in writing by the City. Midwest Pool Management, prior to the commencement of such changed or revised work, shall submit promptly to the City, a written cost or credit proposal for such revised work. No work or change shall be undertaken or compensated for without prior written authorization from the City.

### **Section 14. Termination.**

This Contract may be terminated by either party upon written notice in the event of substantial failure by the other party to perform in accordance with the terms of this Contract. The non-performing party shall have fifteen calendar days from the date of the termination notice to cure or to submit a plan for cure acceptable to the other party.

Subject to the provisions of Section 8, the City shall have the right to terminate this

Contract at any time for any reason by giving Midwest Pool Management written notice to such effect. The City shall pay to Midwest Pool Management in full satisfaction and discharge of all amounts owing to Midwest Pool Management under this Contract an amount equal to the cost of all work performed by the Midwest Pool Management up to such termination date, less all amounts previously paid to the Midwest Pool Management on account of the Contract Price. Midwest Pool Management shall submit to the City its statement for the aforesaid amount, in such reasonable detail as the City shall request, within thirty (30) days after such date of termination. The City shall not be liable to Midwest Pool Management for any damages on account of such termination for loss of anticipated future profits with respect to the remainder of the work.

### **Section 15. Accounting.**

During the period of this Contract, Midwest Pool Management shall maintain books of accounts of its expenses and charges in connection with this Contract in accordance with generally accepted accounting principles and practices. The City shall at reasonable times have access to these books and accounts to the extent required to verify all invoices submitted hereunder by Midwest Pool Management.

### **Section 16. Entire Agreement.**

This Contract contains all the agreements of the parties relating to the subject matter hereof and is the full and final expression of the agreement between the parties. Any oral representations or modifications concerning this instrument are of no force or effect excepting a subsequent modification in writing signed by all the parties hereto.

### **Section 17. Severability.**

All parties agree that should any provision of this Contract be determined to be invalid or unenforceable, such determination shall not affect any other term of this Contract, which shall continue in full force and effect.

### **Section 18. Transferability.**

Neither the City nor Midwest Pool Management shall assign any rights or duties under this Contract without the prior written consent of the other party. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this Contract. Nothing contained in this Section 18 shall prevent Midwest Pool Management from employing independent contractors, associates, and subcontractors to assist in the performance of the Services.

### **Section 19. Satisfactory Performance.**

The City shall have the right to notify Midwest Pool Management of any performance by its employees that is detrimental to the best interest of the City, and Midwest Pool Management agrees to correct such performance within twenty-four (24) hours.

### **Section 20. Third Party Rights.**

Nothing in this Contract is intended to benefit any third party not a party to this Contract,

and no provision in this Contract shall confer any rights upon any such third party.

### **Section 21. Compliance with Applicable Laws and Regulations.**

Midwest Pool Management shall comply with all applicable Federal, State and Local laws and regulations, as they relate to the operation of the Heman Park Pools and Splash Pad, including but not limited to the local health departments, described in more detail in Section 6 of this Contract.

### **Section 22. Venue.**

This Contract shall be governed by the laws of the State of Missouri. Any legal action or proceedings relating to this Contract shall be instituted only in St. Louis County, Missouri.

**IN WITNESS WHEREOF**, the parties have made and executed this Contract in multiple copies, each of which shall be an original.

**CITY OF UNIVERSITY CITY**

**MIDWEST POOL MANAGEMENT**

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**By: Gregory Rose, City  
Manager**

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**By: Crissy Withrow, President**

**ATTEST:**

**ATTEST:**

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**By: LaRette Reese, City  
Clerk**

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**By:  
Name, Title**

## **HEMAN PARK POOLS AND SPLASH PAD POOL MANAGEMENT CONTRACT**

### **EXHIBIT A "MANAGEMENT FEE AND MAINTENANCE FEE"**

The Midwest Pool Management agrees to provide all items as listed in the accompanying specifications as part of the base bid "Management Fee".

#### **2026 Management Fee**

April 15	\$ 6,800.
May 15	\$ 6,800.
June 15	\$ 6,800.
July 15	\$ 6,800.
August 15	\$ 6,800.
September 15	<u>\$ 3,200.</u>
Total Management Fee Bid	\$37,200.

#### **2026 Maintenance Fee**

April 15	\$ 9,800.
May 15	\$ 9,800.
June 15	\$ 9,800.
July 15	\$ 9,800.
August 15	\$ 9,800.
September 15	<u>\$ 4,480.</u>
Total Maintenance Fee Bid	\$53,480.

Taxes. The Contract amount as stated above includes all sales taxes, excise taxes, and other taxes, for all materials and appliances subject to and upon which taxes are levied.

## **HEMAN PARK POOLS AND SPLASH PAD POOL MANAGEMENT PROPOSAL**

### **EXHIBIT B "SALARY BUDGET"**

#### **MAXIMUM BASE SALARY**

##### **2026**

April 15	\$12,000.
May 15	\$67,750.
June 15	\$67,750.
July 15	\$67,750.
August 15	\$67,750.
September 15	\$10,945.

Maximum Salary Budget    \$293,945.

#### **STAFF RATES FOR RECREATION PROGRAMS / SPECIAL EVENTS NOT COVERED UNDER SECTION 3.**

##### **2026**

Manager	\$24.84	per hour
Asst Manager	\$23.63	per hour
Head Lifeguard	\$22.42	per hour
Lifeguard	\$20.60	per hour
Swim Lesson Instructor	\$21.81	per hour
Swim Lesson Director	\$24.84	per hour
Pool Operations Technician	\$35.15	per hour

These rates are not the actual rates paid to staff but include all applicable taxes, workman's compensation and payroll processing fees.



**CITY OF UNIVERSITY CITY COUNCIL MEETING  
AGENDA ITEM**



NUMBER:

For City Clerk Use

**CA20260126-02**

**SUBJECT/TITLE:**

Approval of TIPS Contract #23010402, Specialized Preconstruction and Construction Services for Recreational Facility Improvements Exhibit A - Technical Specifications, PRP-2026-001 in the total amount of \$575,000 for Heman Park Athletic Court renovations

**PREPARED BY:**

**Jim Krischke**

**DEPARTMENT / WARD**

Parks, Recreation and Public Area Maintenance

**AGENDA SECTION:**

**Consent**

**CAN ITEM BE RESCHEDULED?**

**No**

**CITY MANAGER'S RECOMMENDATION OR RECOMMENDED MOTION:**

City Manager recommends approval.

**FISCAL IMPACT:**

St. Louis County Municipal Park Grant Round 25 Funds, in the amount of \$575,000, was approved by the City Council on November 24, 2025. There was a provision at that time for matching city funds up to \$72,000. The construction contract includes all costs associated with the park grant and all costs associated with site preparation for the mini pitch. The US Soccer Fundation grant, approved on December 8, 2025, covers equipment, materials and installation of the mini pitch. No additional funds are expected at this time.

<b>AMOUNT:</b>	<b>\$575,000 contract amount</b>	<b>ACCOUNT No.:</b>	<b>22-50-90_8010</b>
<b>FROM FUND:</b>	<b>Park Improvement</b>	<b>TO FUND:</b>	

**EXPLANATION:**

Staff is recommending that Byrnes and Jones Construction be awarded the contract for the construction of the Heman Park Athletic Court renovations (Basketball, Pickleball and Mini-Pitch) funded by the St. Louis County Municipal Park Grant and US Soccer Foundation Grant.

**STAFF COMMENTS AND BACKGROUND INFORMATION:**

In August 2025, City Council approved a resolution to submit a St Louis County Municipal Park Grant application. In November 2025, City Council approved an agreement, accepting St Louis County Municipal park grant funds. In December 2025, City Council approved a US Soccer Foundation grant for a mini pitch. It is anticipated that the Round 25 Grant funds and the US Soccer Grant in-kind funding will provide full funding for the athletic field renovations in Heman Park. These improvements will enhance the aesthetics of our park and enhance the quality of life for our residents.

**CIP No.**

**NA**

**RELATED ITEMS / ATTACHMENTS:**

Byrnes and Jones Construciton Contract and Project Specifications

Agenda Item Subittal form - November 24, 2025

Agenda Item Submittal form - December 8, 2025

**LIST CITY COUNCIL GOALS (S):**

Ongoing Park Improvements and Enhancements. Community Quality of Life and Amenities

**RESPECTFULLY SUBMITTED:**

**City Manager, Gregory Rose**

**MEETING DATE:**

**1/26/2026**

CITY OF UNIVERSITY CITY, MISSOURI  
PRECONSTRUCTION AND CONSTRUCTION SERVICES  
TIPS CONTRACT # 23010402

SPECIALIZED PRECONSTRUCTION AND CONSTRUCTION SERVICES  
FOR RECREATIONAL FACILITY IMPROVEMENTS  
EXHIBIT A - TECHNICAL SPECIFICATIONS

**CONTRACT DOCUMENTS AND SPECIFICATIONS**

**HEMAN PARK THREE COURT PROJECT**  
PRP-2026-001



December 22, 2025  
Parks and Recreation and Public Area Maintenance  
Department City of University City, Missouri

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BF2 Exhibit B: List of Resources and References  
BF3 Exhibit C: List of proposed Subcontractors & Suppliers  
BF4 Exhibit D: Certification – Non-Segregation  
BF5 Exhibit E: Anti – Collusion Affidavit  
BF6 Exhibit F Affidavit

JSP 1 Job Special Provisions

IC 1 Instructions for Executing Contract

B1 Performance Bond  
B2 Payment Bond

C1 Article I &II Contractor Contract  
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GC 1 General Conditions of the Contract

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ACPWL	Affidavit of Compliance with Prevailing Wage Law
O&H	Overtime and Holidays
EOE	Equal Opportunity Employment
OSHA	OSHA Training
NOA	Notice of Award
NTP	Notice to Proceed

## SCOPE OF WORK

### PART 1 TECHNICAL SPECIFICATIONS

#### 1.1 SCOPE

1.1.1 The purpose of these specifications is to define the standards for the Work. The TIPS Contract Proposal shall include all labor, materials, parts, and equipment necessary for the renovation of the Heman Park Three Court Project as specified and/or implied by these specifications presented in (Exhibit A).

#### 2.1 WORK DESCRIPTION

##### 1. DESCRIPTION

The Contractor shall furnish all necessary supervision, labor, vehicles, and equipment capable of effective and efficient conversion of the Heman Park Three Court Project as outlined within this document. In addition, the contractor shall maintain on site at all times work is being performed, a site supervisor who represents the contractor and can adequately communicate in English, both orally and in writing.

##### 2. EQUIPMENT

The equipment used shall be specified by the contractor and the contractor must describe equipment to be assigned to the project. The contractor shall plan and prepare for the use and positioning of equipment to accomplish the safe, effective, and efficient operation while not damaging improved property.

##### 3. SURVEY AND DESIGN

Furnish all administrative, preconstruction services.

##### 4. DEMOLITION

Demolition of existing basketball poles/ backboards. Installation of new asphalt, new concrete, basketball goals, new fencing, new water lines, new water fountains, new asphalt overlay, and water lines.

##### 5. EARTHWORK

Strip all existing millings from the field surface, perform all heavy earth and subgrade work as needed and laser grade, and sod with cool season grass.

#### 3.1 CONTACT

For more information, questions or clarification please contact:

Todd Strubhart, Deputy Director of Parks Maintenance  
[tstrubhart@ucitymo.org](mailto:tstrubhart@ucitymo.org)



## EXHIBIT A

(314) 567-7997 **OFFICE**

(314) 567-1828 **FAX**

[www.byrneandjones.com](http://www.byrneandjones.com)

13940 St. Charles Rock Road  
Saint Louis, Missouri 63044

DATE: 12.22.2025

City of University City  
6801 Delmar Blvd  
University City, MO 63130

Attn: Todd Strubhart, Deputy Director of Parks, Forestry, Golf, and Street Maintenance  
Re: University City | Heman Park – Athletic Courts Improvements

Dear Mr. Strubhart,

On behalf of **Byrne & Jones Sports & Parks**, we are pleased to submit our proposal for your upcoming park + athletic facility project. As long-standing **members of the American Sports Builders Association (ASBA)** since 2009, and the **National Recreation and Park Association (NRPA)**, we take great pride in delivering industry-leading quality, service, and innovation to every project we undertake.

On the sports side, our team includes **12 ASBA-Certified Builders** and has earned **22 ASBA Excellence Awards**—a testament to our commitment to craftsmanship and excellence. To date, we've successfully completed **over 700 running track projects, more than 600 synthetic turf and natural grass field projects, and over 350 court projects** nationwide. Byrne & Jones Sports General Manager, Jameson Sheley serves on the **Board of Directors** of the ASBA. Few firms can match the depth and diversity of our experience.

On the parks side, we specialize in **playgrounds, splash pads, walking paths, and other park amenities**, bringing the same level of expertise and precision to community-focused spaces. Our parks teams have completed **over 100 parks projects** across the Midwest and include **3 Certified Playground Safety Inspectors**. We are **certified Recreation Install Specialists (RISC)** and a proud **qualified contractor of the National Playground Contractors Association (NPCAI)**.

What truly sets Byrne & Jones apart is our **turnkey capability**. We are the **only company in the Midwest with full in-house expertise** in consulting, planning, and ability to construct **nearly all aspects of any outdoor athletics complex and park and recreation space**. While many competitors specialize in just one area, our integrated approach ensures seamless coordination, efficiency, and accountability from start to finish.

As a **family-owned company for nearly 50 years**, we deliver family-owned service and remain committed to our **core values: Do the Right Thing, Do What It Takes, Mutual Trust and Respect, and We Are Experts**.

We appreciate your consideration and would be honored to partner with you on this project. Please don't hesitate to contact us with any questions or to discuss next steps.

Joseph Schuit  
Director of Sales  
Byrne & Jones Construction | Sports Division  
C: (314) 619 – 3326  
E: [jschuit@byrneandjones.com](mailto:jschuit@byrneandjones.com)



## EXHIBIT A

(314) 567-7997 **OFFICE**  
 (314) 567-1828 **FAX**  
[www.byrneandjones.com](http://www.byrneandjones.com)

13940 St. Charles Rock Road  
 Saint Louis, Missouri 63044

<b>PROJECT</b>	Heman Park Courts – TIPS	<b>DATE</b>	12/22/2025
<b>TO</b>	University City	<b>PLANS</b>	Conceptual
<b>FROM</b>	Byrne & Jones Parks Construction	<b>SPECS</b>	ASBA, ASTM

Byrne & Jones Construction is pleased to provide a quotation for the project listed above to include the scope of work listed below:

### ***General Conditions***

- Temporary facilities (portable toilet, orange construction fence)
- Mobilization of all construction equipment
- Unloading and storage of all site furnishings
- Preconstruction deliverables, surveying & layout
- Public & private utility locates
- Site cleaning

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### ***Basketball Courts – (1,965 SY)***

- Excavate to a depth of 8inches in the area that the new courts fall outside of the existing gravel lot
- All spoils hauled off site for disposal at an approved facility
- Proof roll subgrade to determine if subgrade is suitable for construction
- Install 8-inch-thick type 5 aggregate base in one lift
- Fine grade existing gravel/milling lot in preparation for asphalt pavement
- Install 2-inch-thick asphalt base course in one lift
- Install 2-inch-thick asphalt surface course in one lift
- Apply court coloring and striping for 3 basketball courts to the new asphalt surface
- Furnish & install (6) heavy-duty playground basketball hoop w/ steel backboard
- 8' vinyl coated chain link fence totaling 170 LF with 2 gates
- Stormwater runoff to drain towards creek

***Basketball Court Investment = \$299,798***

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### ***Pickleball Courts – (1,640 SY)***

- Demo of existing basketball goals
- Excavate to a depth of up to 36inches for the new court footings
- All spoils hauled off site for disposal at an approved facility
- Install new pickleball court footings and sleeves
- Sweep clean loose debris from existing asphalt surface
- Apply SS-1h tack coat bonding agent to existing asphalt surface prior to overlay
- Install 2-inch-thick asphalt surface course in one lift – (this includes the mini pitch area)
  - ***Includes Gorilla Mix with Ground Tire Rubber to the asphalt surface for the overlay of the pickleball courts to help protect against reflective cracking. Any existing cracks in surface will show in overlayed surface over time.***
- Apply court coloring and striping to the new asphalt surface after the asphalt has cured
- Furnish & install (3) First Team Guardian In-Ground Pickleball Post System w/ internal winch
- 8' (ends) and 4' (sides & dividers) vinyl coated chain link fence totaling 388 LF with 2 gates

***Pickleball Investment = \$168,280***

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**Concrete Sidewalk – (1,200 SF)**

- Excavate to a depth of up to 8-inches for the new concrete sidewalk
- All spoils hauled off site for disposal at an approved facility
- Install 4-inches of type 5 aggregate base
- Install 4-inch-thick concrete sidewalk with broom finish

**Concrete Sidewalk Investment = \$22,859**

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**Water Line – (215 LF)**

- Excavate and backfill using native soil
- Furnish and install 215 LF new  $\frac{3}{4}$ " Type K copper from existing water line to two drinking fountains
- Hook up to owners furnished drinking fountains
- Plumbing permits included; backflow device not included

**Water Line Investment = \$38,063**

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**Project Contingency – (8% of total base bid) = \$46,000**

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**Total Base Bid = \$575,000**

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**CONSTRUCTION TIMELINE TO COMPLETION**

- Asphalt Overlay = by May 1, 2026
- Pickleball Courts = by June 1, 2026
- Basketball Courts = by July 1, 2026
- Necessary Paperwork = by August 1, 2026
- Final Walk-through, Punchlist = by September 1, 2026

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**NOTES/EXCLUSIONS**

1. Price based on mutually agreeable contract language
2. Price based on asphalt material price good until August 31, 2026
3. Sales tax excluded
4. Price based on one mobilization
5. TIPS Cooperative Contract #23010402
6. 1 year workmanship warranty
7. Note that asphalt must be cured for 30 days prior to coloring application
8. **Please Note – Where designed/existing slopes are less than 2%, ponding will occur on the surface of the asphalt after installation; ponding in these areas is not covered under the material and workmanship warranty**
9. **Any existing cracking under overlayed surface will show in overlayed surface over time**
10. Public & private utility locates to be called in for this work
11. Price includes performance & payment bond



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**NOTES/EXCLUSIONS (Cont.)**

12. Price excludes any electric/lighting work at this time
13. Price does not include any utility relocation
14. Price includes seed and straw in disturbed area. Sod and watering, if needed, would come from contingency funds.
15. Price based on normal working hours and days with complete access to the job site
16. Price does not include any rock breaking or blasting
17. Price does not include any removal or disposal of any contaminated or unsuitable soils
18. Any modification to rock, and material type must be mutually agreed upon
19. Price does not include any pavement repairs due to construction traffic
20. Price does not include any work not specified in the above scope of work
21. Soil Stabilization is not included in this proposal
22. This Proposal Document is valid for 60 days from the date listed on the proposal

If you have any questions, please feel free to contact me at (314) 873-6519 or [jkelly@byrneandjones.com](mailto:jkelly@byrneandjones.com).

Best Regards,

*Jack Kelly*

**Jack Kelly, CPSI**

Byrne & Jones Construction – Parks Division

P: (314) 282-9170 C: (314) 873-6519

**ACCEPTED BY:**

Print Name, Title

Signature

Date

## EXHIBIT B

## LIST OF RESOURCES AND REFERENCES

## Proposed On-Site Superintendent

Proposed Equipment to be Used: (All equipment listed shall be readily available to be used on this project on an as needed basis.)

## **EXHIBIT C**

## LIST OF PROPOSED SUBCONTRACTORS AND SUPPLIERS

The proprietary names and the suppliers of principal items or systems of materials and equipment proposed for the Work:

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Names of the Subcontractors or other persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for the principal portions of the Work, and the type of work to be performed:

(All remaining work will be done by the Bidder with his own forces.)

## **CITY OF UNIVERSITY CITY, MISSOURI**

## **SUBCONTRACTOR APPROVAL FORM**

This report must accompany and be part of the sealed bid proposal.

Name of Bidder:

### **Bidder Contact Information:**

## Address

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City	State	Zip
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Phone Email

The above- named bidder intends to subcontract for materials, services, supplies, specialty contractors, etc., in the following fashion:

Names & contact information of	Nature of	\$ Value of
Subcontractors	Participation	Subcontract
_____	_____	\$_____
_____	_____	\$_____
_____	_____	\$_____
_____	_____	\$_____
_____	_____	\$_____
_____	_____	\$_____
A. Total of Above		\$_____
B. Total Bid Amount		\$_____

Subcontractor Utilization as a % of Total Bid Amount : ( A/B X 100) \_\_\_\_\_ %

Name Authorized Officer of Bidder (Print)

**EXHIBIT D****CERTIFICATION OF NON-SEGREGATION**

By submission of this bid I certify that I do not maintain or provide for my employees any segregated facilities at any of my establishments, and that I do not permit my employees to perform their services at any location, under my control, where segregated facilities are maintained. I certify further that I will not maintain or provide for my employees any segregated facilities at any of my establishments, and that I will not permit my employees to perform their services at any locations, under my control, where segregated facilities are maintained. I agree that a breach of this certification is a violation of the Equal Opportunity clause in this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion or national origin because of habit, local custom or otherwise. I further agree that I will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause; that I will retain such certifications in my files, and that I will forward this notice to such proposed Contractors.

SIGNED:

Contractor: \_\_\_\_\_

By: \_\_\_\_\_

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

**EXHIBIT E****ANTI-COLLUSION AFFIDAVIT**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

\_\_\_\_\_, being first duly sworn, deposes and says that

he is \_\_\_\_\_ (sole owner, partner, president, secretary, etc.)

of \_\_\_\_\_, the party making the foregoing bid; that such bid is not made in the interest of or on behalf of any undisclosed person, partnership, company, association, organization or corporation; that such bid is genuine and not collusive or sham; that said bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that any one shall refrain from bidding; that said bidder has not in any manner, directly or indirectly, sought by agreement, communication or conference with anyone to fix the bid price of said bidder or of any other bidder, or to fix any overhead, profit or cost element of such bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in such bid are true, and, further, that said bidder has not, directly or indirectly, submitted his bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid and will not pay any fee in connection therewith to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, or to any other individual except to such person or persons as have a partnership or other financial interest with said bidder in his general business.

SIGNED: \_\_\_\_\_

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

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

Seal of Notary

Notary Public \_\_\_\_\_

## **EXHIBIT F**

In completing this form, the title that is not applicable should be struck out. For example, if the Contractor is a corporation and this form is to be executed by its president, the words "Sole owner, a partner, secretary, etc." should be struck out.

STATE OF MISSOURI )  
                          ) ss  
COUNTY OF \_\_\_\_\_ )

## **AFFIDAVIT**

**(as required by Section 285.530, Revised Statutes of Missouri)**

As used in this Affidavit, the following terms shall have the following meanings:

**EMPLOYEE:**

Any person performing work or services of any kind or character for hire within the State of Missouri.

**FEDERAL WORK AUTHORIZATION PROGRAM:**

Any of the electronic verification of work authorized programs operated by the United States Department of Homeland Security or an equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, under the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603.

**KNOWINGLY:**

A person acts knowingly or with some knowledge,

- (a) with respect to the person's conduct or to attendant circumstances when the person is aware of the nature of the person's conduct or that those circumstances exist; or
- (b) with respect to a result of the person's conduct when the person is aware that the person's conduct is practically certain to cause that result.

**UNAUTHORIZED ALIEN:**

An alien who does not have the legal right or authorization under federal law to work in the United States, as defined in 8 U.S.C. 1324a(h)(3).

BEFORE ME, the undersigned authority, personally appeared

\_\_\_\_\_,  
who, being duly sworn, states on his oath or affirmation as follows:

1. My name is \_\_\_\_\_ and I am currently the  
President of

\_\_\_\_\_ (hereinafter

"Contractor", whose

business address is \_\_\_\_\_, and I am authorized to make this Affidavit.

2. I am of sound mind and capable of making this Affidavit and am personally acquainted with the facts stated herein.

3. Contractor is enrolled in and participates in a federal work authorization program with respect to the employees working in connection with the following services contracted between Contractor and the City of University City.

4. Contractor does not knowingly employ any person who is an unauthorized alien in connection with the contracted services set forth above.

5. Attached hereto is documentation affirming Contractor's enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services.

Further, Affiant saith not.

Signature \_\_\_\_\_

Printed Name (Affiant) \_\_\_\_\_

Subscribed and sworn to before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public  
State of Missouri

My Commission Expires: \_\_\_\_\_  
Commissioned in \_\_\_\_\_ County  
Commission # \_\_\_\_\_

## INSTRUCTIONS FOR EXECUTING CONTRACT

The Contractor, in executing the Contract, shall follow the following requirements:

The Contractor and the City shall sign the Contract Documents in not less than triplicate.

If the Contractor is a general corporation, the following certificate shall be executed:

I, \_\_\_\_\_, certify that I am the \_\_\_\_\_ secretary of the corporation named as Contractor herein above, that \_\_\_\_\_, who signed the following Contract on behalf of the Contractor was then of said corporation; that said Contract was duly signed for and in behalf of said corporation by Authority of its governing body, and is within the scope of its corporate powers.

If the Contract is signed by the secretary of the corporation, the above certificate shall be executed by some other officer of the corporation under the corporate seal. In lieu of the foregoing certificate, there may be attached to the contract copies of the records of the corporation which will evidence the official character and authority of the officers' signing. Said copies shall be duly certified by the secretary or assistant secretary under the corporate seal to be true copies.

If the Contractor is a limited liability Corporation (L.L.C.), the following certificate shall be executed:

I, \_\_\_\_\_, certify that I am a member of the L.L.C. named as Contractor herein above and that I have the authority under the L.L.C. to enter into this contract and attached is the appropriate portion of the Articles of Incorporation that reflects said authority.

If the Contractor is a partnership, each partner shall sign the Contract. If the Contract is not signed by each partner, there shall be attached to the Contract a duly authenticated power of attorney evidencing the signer's (signers') authority to sign such a Contract for and in behalf of the partnership.

If the Contractor is an individual, the trade name (if the Contractor is operating under a trade name) shall be indicated in the Contract and Contract shall be signed by such individual. If signed by one other than the Contractor, there shall be attached to the Contract a duly authenticated power of attorney evidencing the signer's authority to execute such contract for and in behalf of the Contractor.

The full name and business address of the Contractor shall be inserted, and the Contract shall be signed with his official signature. The name of the signing party or parties shall be typewritten or printed under all signatures to the Contract.

The Contract shall be deemed as having been awarded when formal notice of award shall have been duly served upon the intended awardee (i.e., the bidder with whom the Owner contemplates entering into a Contract) by some officer or agent of the Owner duly authorized to give such notice.

## **JOB SPECIAL PROVISIONS**

The provisions of this section take precedence over any other provisions in these contract documents.

### **STANDARD SPECIFICATIONS AND DETAILS**

All work shall conform to the 2009 Metropolitan St. Louis Sewer District Standard Construction Specifications for Sewers and Drainage Facilities, and any revisions made by MSD to these standards are adopted by the City of University as standard technical specifications for sewer related work. Except as modified by the plans, contract documents or these specifications, all work related to roadway and sidewalk construction shall conform to the St. Louis County Standard Specification for Highway Construction, as updated through December 19, 2012, hereinafter referred to as the Standard Specifications, and St. Louis County Department of Highways and Traffic Standard Drawings as updated through October 31, 2012, hereinafter referred to as the Standard Drawings.

All references in the Standard Specifications to percentage retained are hereby changed to five percent (5%).

## **JOB SPECIAL PROVISIONS**

14.2 The Contractor shall comply with University City Municipal Code Section 135.010 (Personnel Requirements for Contractors with City) with respect to employees of subcontractors when the prime service contract with the City is one hundred thousand (\$100,000) or more and there are two or more subcontractors.

14.2.1 Any person, firm or corporation contracting with the City to provide services involving payment of one hundred thousand dollars (\$100,000) or more in which there are two (2) or more subcontractors shall agree with the City that at least fifteen (15) percent of the total amount of the City's contract shall be allocated to subcontractors who employ workers generally classified as members of minorities and/or females workers.

### **Anti-Discrimination Against Israel Act**

Any Contractor who's contract is one hundred thousand dollars (\$100,000) or greater and has more than ten (10) employees must provide a written certification stating that they are not currently engaged in, and agrees for the duration of the Contract not to engage in, a boycott of goods or services from the State of Israel or any company, person or entity, doing business with or in the State of Israel.

### **PREVAILING WAGE LAW**

The Contractor shall be held to comply with all requirements of the Prevailing Wage Law of the State of Missouri, and shall forfeit as a penalty to the state, county, city, town district or other political subdivision on whose behalf the Contract is made or awarded, one hundred dollars (\$100) for each workman employed, for each calendar day, or portion thereof, such workman is paid less than the said stipulated rates for any work done under this Contractor, by him/her or by any subcontractor under him/her.

PLEASE CHECK, IF APPLICABLE, FOR YOUR COMPANY:

\_\_\_\_\_ MINORITY-OWNED  
\_\_\_\_\_ FEMALE-OWNED

JSP 1.1

## PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned,

\_\_\_\_\_, hereinafter referred to as "Contractor"

and \_\_\_\_\_ a Corporation organized under the laws of the

State of \_\_\_\_\_ and currently authorized to transact business in the State of Missouri, as Surety, are held and firmly bound unto the City of University City,

hereinafter referred to as "City," in the penal sum of FIVE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS (\$575,000), lawful money of the United States of America for the payment of which sum, well and truly to be made, we bind ourselves and our heirs, executors, administrators, successors, and assigns, jointly and severally by these presents.

WHEREAS, the Contractor has on the \_\_\_\_\_ day of \_\_\_\_\_, 2026, entered into a written contract with the City for furnishing all materials, equipment, tools, superintendence, labor, and other facilities and accessories, for the construction of certain improvements and designated, defined and described in said Contract and the conditions thereof, and in accordance with the specifications and plans therefore; a copy of said Contract being attached hereto and made a part hereof.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH that if the Contractor shall faithfully perform the Contract on its part, and satisfy all claims and demands incurred by the Contractor in the performance of the Contract, and shall fully indemnify and save harmless the City from all cost and damages which the City may suffer by reason of the failure of the Contractor to do so, which shall include a reasonable attorney's fee, and shall fully reimburse and repay to the City all costs, damages, and expenses which the City may incur in making good any default by the Contractor, including but not limited to any default based upon the failure of the Contractor to fulfill its obligation to furnish maintenance, repairs or replacements for any period of time after the work is completed as provided for in the Contract and shall defend, indemnify and hold harmless the City and its agents against loss or expense from bodily injury, including death, or damage or destruction of property, including loss of use resulting therefrom, arising out of or resulting from the performance of the work, then this obligation shall be null and void; otherwise, it shall remain in full force and effect.

PROVIDED FURTHER, that, in consideration of its acceptance by the City as a satisfactory surety hereof, the Surety hereby waives notice of any alteration or extension of time made by the City and whenever Contractor shall be, and declared by City to be, in default or with cause to terminate under the Contract, the Surety may promptly remedy the default, or shall promptly:

- 1) Complete the Contract in accordance with its terms and conditions, or
- 2) Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsible bidder, or, if the City elects, upon determination by the City and the Surety jointly of the lowest responsible bidder, arrange for a contract between such bidder and City, and make available as work progresses (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the contract price", as used in this paragraph, shall mean the total amount payable by City to Contractor under the Contract and any amendments thereto, less the amount properly paid by City to Contractor.

If the Surety within 30 days fails to comply with 1 or 2 above to the satisfaction of City, City may take action against the Surety, without any further notice, under the terms of the Contract. This bond shall be deemed a continuing obligation and success of recoveries may be had hereunder from time to time as the City or any of them become entitled thereto in accordance with the terms thereof.

FURTHER, the City may sue on this bond in accordance with the provisions of Chapter 290 RSMo and Section 522.300 RSMo, and any amendments thereto.

PROVIDED FURTHER, that the Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Contract, or the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation on this bond and it does hereby waive notice of any change, extension of time, alteration, or addition to the terms of the Contract, or to the work, or to the specifications.

IN TESTIMONY WHEREOF, the said Contractor has hereunto set his hand, and the said Surety has caused these presents to be executed in its name, and its corporate seal to be hereunto affixed, by its attorney-in-fact duly authorized thereunto so to do, at

\_\_\_\_\_ on this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

SURETY COMPANY

CONTRACTOR

BY \_\_\_\_\_ (SEAL)

BY \_\_\_\_\_ (SEAL)

BY \_\_\_\_\_ (SEAL)  
Attorney-in-fact

BY \_\_\_\_\_ (SEAL)  
State Representative

(Accompany this bond with Attorney-in-fact's authority from the Surety Company certified to include the date of the bond and a copy of the Surety Company's authority to do insurance business from the State of Missouri certified to include the date of the bond)

## PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned,

\_\_\_\_\_, hereinafter referred to as "Contractor"

and \_\_\_\_\_ a Corporation organized under the laws of the

State of \_\_\_\_\_ and currently authorized to transact business in the State of Missouri, as Surety, are held and firmly bound unto the City of University City, hereinafter referred to as "City," in the penal sum of FIVE HUNDRED SEVENTY - FIVE THOUSAND DOLLARS (\$575,000), lawful money of the United States of America for the payment of which sum, well and truly to be made, we bind ourselves and our heirs, executors, administrators, successors, and assigns, jointly and severally by these presents.

WHEREAS, the City requires the Contractor enter into a surety bond satisfying the terms of Section 107.170 RSMo, and

WHEREAS, the Contractor has on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_, entered into a written contract with the City for furnishing all materials, equipment, tools, superintendence, labor, and other facilities and accessories, for the construction of certain improvements and designated, defined and described in said Contract and the conditions thereof, and in accordance with the specifications and plans therefore; a copy of said Contract being attached hereto and made a part hereof.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH that if the Contractor shall promptly make payment to all persons supplying labor, material or equipment for use in the prosecution of the work required by the Contract whether by subcontract or otherwise, and shall pay all valid claims and demands whatsoever, then this obligation shall be null and void; otherwise, it shall remain in full force and effect.

PROVIDED FURTHER, that the condition of this obligation is such that the Contractor shall faithfully pay the prevailing wages under Chapter 290 RSMo and if the Contractor fails to pay the prevailing hourly rate of wages as set out in the Contract, to any workman engaged in the construction of the improvements as designated, defined and described in the Contract, specifications and conditions thereof, the Surety will pay the deficiency and any penalty provided for by law, to include but not limited to the penalty under Section 290.250 RSMo which the Contractor incurs by reason of his, their, or its act or omission, in any amount not exceeding the amount of this obligation together with interest as provided by law; and shall fully reimburse and repay to the City all costs, damages and expenses which the City may incur because of the failure of the Contractor to pay the wages called for under the law.

PROVIDED FURTHER, that if the said Contractor fails to duly pay for any labor, materials, sustenance, provisions, provender, gasoline, lubricating oils, fuel oils, greases, coal repairs, equipment and tools consumed or used in said work, groceries and foodstuffs, and all insurance premiums, compensation liability, and any other obligation under the Contract, or any other supplies or materials used or consumed by such Contractor or his, their, or its subcontractors in performance of the work contracted to be done, then the Surety will pay the same in any amount not exceeding the amount of this Obligation, together with interest as provided by law.

FURTHER, the City may sue on this bond, and any person furnishing material or performing labor, either as an individual or as a subcontractor shall have the right to sue on the bond in the name of the City for his or her use and benefit, all in accordance with the provisions of Chapter 290 RSMo and Section 522.300 RSMo, and any amendments thereto.

PROVIDED FURTHER, that the Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Contract, or the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation on this bond and it does hereby waive notice of any change, extension of time, alteration, or addition to the terms of the Contract, or to the work, or to the specifications.

IN TESTIMONY WHEREOF, the said Contractor has hereunto set his hand, and the said Surety has caused these presents to be executed in its name, and its corporate seal to be hereunto affixed, by its attorney-in-fact duly authorized thereunto so to do, at

\_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

---

SURETY COMPANY

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CONTRACTOR

BY \_\_\_\_\_ (SEAL) BY \_\_\_\_\_ (SEAL)

BY \_\_\_\_\_ (SEAL) BY \_\_\_\_\_ (SEAL)  
Attorney-in-fact State Representative

(Accompany this bond with Attorney-in-fact's authority from the Surety Company certified to include the date of the bond and a copy of the Surety Company's authority to do insurance business from the State of Missouri certified to include the date of the bond)

## CONTRACTOR CONTRACT

**THIS CONTRACTOR CONTRACT** (the "Contract"), made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by and between the CITY OF UNIVERSITY CITY MISSOURI, a City a Home Rule Charter City of the State of Missouri, with an address of 6801 Delmar Blvd, University City, Missouri 63130 (the "City"), and Byrne and Jones Sports Construction, a \_\_\_\_\_, with an address of 13940 St. Charles Rock Road; St. Louis, MO 63044 ("Contractor"). City and Contractor are each referred to as a "Party" and are collectively referred to as the "Parties".

**WHEREAS**, the City has requested a proposal from the Contractor through the TIPS Cooperative Procurement Program. The proposal was subsequently reviewed by City staff, recommended, and approved by City Council; and

**WHEREAS**, following a careful review of the proposal received, the City has selected Contractor to perform the construction services as set forth herein.

**WITNESSETH**, that the Parties, for the considerations hereinafter set forth, agree as follows:

### ARTICLE I – THE CONTRACT DOCUMENTS

The Contract Documents consist of the Bid, General Conditions, Special Provisions, State Wage Determination, Anti-Collusion Affidavit, Certification of Non-Segregation, Performance and Payment Bonds, Specifications, Drawings, Construction Schedule, all Addenda, all Modifications issued after execution of this Contract, and this Contract which together form the Agreement, and are all as fully a part of the Agreement as if attached hereto and/or repeated herein. All definitions set forth in the General Conditions are applicable to this Agreement.

### ARTICLE II – PERFORMANCE OF THE WORK

The Contractor, acting as an independent contractor, shall furnish all supervision, labor, equipment, tools, materials, and supplies necessary to perform and shall perform all work in accordance with the Contract Documents and any applicable City ordinances, and state and federal laws. The Contractor represents and warrants that it has special skills which qualify it to perform the Work in accordance with the Contract and that it is free to perform all such Work and is not a party to any other agreement, written or oral, the performance of which would prevent or interfere with the performance, in whole or in part, of the Work.

## **ARTICLE III – PREVAILING WAGES**

All labor utilized in the performance of the Agreement shall be paid a wage of no less than the prevailing hourly rate of wages for work in this locality as established by the State of Missouri Department of Labor and Industrial Relations and the Federal Employment Standards of the Department of Labor. Contractor hereby acknowledges that Contractor knows the prevailing hourly rate of wages applicable to this Agreement. In accordance with Section 290.250 RSMo, the Contractor shall forfeit to the City one hundred dollars (\$100) for each worker employed, for each calendar day, or portion thereof, such worker is paid less than the stipulated rates for any work done under this Contract by the Contractor or any Subcontractor under the Contractor.

## **ARTICLE IV - FEES AND PAYMENTS**

The City agrees to pay the Contractor, as full compensation for the complete and satisfactory performance of this Contract and all expenses and costs related thereto, the Contract Sum of, not to exceed, five hundred four thousand five hundred dollars (\$504,500). Based upon Applications for Payment submitted by the Contractor on or before the first day of the month, in accordance with the General Conditions and the rates and/or amounts stated in the bid of the Contractor dated December 22, 2025, which is by reference made a part hereof, the City shall pay the Contractor for the performance of the work as follows:

[JFM: Is December 22, 2025, correct? The preliminary rendering date has a proposal date of November 19, 2025.]

(1) Ninety-five percent (95%) of the portion of the Contract Sum properly allocable to labor, materials and equipment incorporated into the Work through the period ending up to the last day of the preceding month, less the aggregate of all previous progress payments;

(2) Upon substantial completion of the Work, a sum sufficient to increase the total payments to ninety-five percent (95%) of the Contract Sum; and

(3) Final payment within 60 days after the Work is fully completed and accepted by the City and the Contract fully performed.

## ARTICLE V. - MANNER AND TIME OF COMPLETION

(a) All time limits stated in the Contract Documents are of the essence. The Work to be performed under the Agreement shall commence within ten (10) days of the date of the written notice to proceed from the City to the Contractor and shall be completed within the time frame noted: Asphalt Overlay - May 1, 2026, Pickle Ball Courts - June 1, 2026, Basketball Courts - July 1, 2026, final paperwork - August 1, 2026, Final Walk through - punch list - September 1, 2026. [JFM: What is the beginning of this next sentence? Also, note that the Notice to Proceed requires completion of the Work within 120 days thereafter 210 consecutive calendar days from and including the date of said written notice to proceed.

(b) The Contractor shall prepare and submit for the City's approval a Construction Schedule for the Work in a bar chart format. Said Construction Schedule shall indicate the dates for starting and completing the various stages of construction. Said Construction Schedule shall be submitted to the City within fourteen days after Contractor is awarded the Contract or by the time of the Pre-Construction Conference, if one is held.

(c) Completion of the Work in accordance with the time limits set forth in the Construction Schedule is an essential condition of the Contract. If the Contractor fails to complete the Work in accordance with the Construction Schedule, unless the delay is excusable under the provision of Article VII hereof, the Contractor shall pay the City as liquidated damages and not as a penalty, the sum of \$500 for each calendar day the Contractor fails to comply with the Construction Schedule. The total amount so payable to the City as liquidated damages may be deducted from any sums due or to become due to Contractor from City.

(d) After Commencement of the Work, and until final completion of the Work, the Contractor shall report to the City at such intervals as the City may reasonably direct, the actual progress of the work compared to the Construction Schedule. If the Contractor falls behind the Construction Schedule for any reason he shall promptly take, and cause his Subcontractors to take, such action as is necessary to remedy the delay and shall submit promptly to the City for approval a supplementary schedule or progress chart demonstrating the manner in which the delay will be remedied. However, if the delay is excusable under Article VII hereof, the Contractor will not be required to take, or cause his Subcontractors to take, any action which would increase the overall cost of the Work (whether through overtime premium pay or otherwise), unless the City shall have agreed in writing to reimburse the Contractor for such increase in cost. Any increase in cost incurred in remedying a delay which is not excusable under Article VII hereof shall be borne by the Contractor.

(e) After substantial completion of work, and within 30 days thereafter, the City shall receive all project closeout paperwork. If the required paperwork is not received in such time period, the Contractor shall pay 10% of the project liquidated damages every calendar day the paperwork is not submitted. Closeout paperwork shall be cause to withhold final payment to the Contractor.

## **ARTICLE VI. - DELAYS BEYOND CONTRACTOR'S CONTROL**

(a) If the Contractor fails to complete the Work in accordance with the Construction Schedule solely as a result of the act or neglect of the City, or by strikes, lockouts, fire or other similar causes beyond the Contractor's control, the Contractor shall not be required to pay liquidated damages to the City pursuant to paragraph (b) of Article VI hereof, provided the Contractor takes such action as is necessary to remedy the delay in the manner specified in paragraph (c) of Article VI hereof. If, as a result of any such cause beyond the Contractor's control, the delay in completion of the Work in accordance with the Construction Schedule is so great that it cannot be remedied in the aforesaid manner, or if the backlog of Work is so great that it cannot be remedied without incurring additional cost which the City does not authorize, then the time of completion and the Construction Schedule shall be extended pursuant to a Change Order for the minimum period of delay occasioned by such cause. The period of delay and extension shall be determined by the City.

(b) Notwithstanding the foregoing paragraph (a), no extension of time shall be granted for any delay the cause of which occurs more than seven (7) days before claim therefor is made in writing by the Contractor to the City, and no extension of time shall be granted if the Contractor could have avoided the need for such extension by the exercise of reasonable care and foresight. In the case of a continuing cause of delay, only one claim is necessary.

(c) Weather shall not constitute a cause for granting an extension of time.

(d) In the event a delay is caused by the City, the Contractor's sole remedy shall consist of his rights under Article VII.

## **ARTICLE VII. - CHANGES IN THE WORK**

(a) The City may make changes within the general scope of the Contract by altering, adding to or deducting from the Work, the Contract Sum being adjusted accordingly. All such changes in the Work shall be executed under the conditions of the Contract. No extra work or change shall be made except pursuant to a Change Order from the City in accordance with the General Conditions. Any claim for an increase in the Contract Sum resulting from any such change in the Work shall be made by the Contractor in accordance with the General Conditions.

(b) If the requested change would result in a delay in the Construction Schedule, the provisions of paragraph (c) of Article VI and Article VII hereof shall apply. If the requested change would result in a decrease in the time required to perform the Work, the completion date and the Construction Schedule shall be adjusted by agreement between the parties to reflect such decrease.

(c) Any adjustment in the Contract Sum for duly authorized extra work or change in the Work shall be determined based on the unit prices previously specified, to

the extent such unit prices are applicable. To the extent such unit prices are not applicable, the adjustment in the Contract Sum shall, at the option of the City, be determined by an acceptable lump sum properly itemized and supported by sufficient substantiating data to permit evaluation, or by an acceptable cost-plus percentage or fixed fee.

## **ARTICLE VIII. - TERMINATION BY CITY OR CONTRACTOR**

(a) If the Contractor is adjudged to be bankrupt, or if the Contractor makes a general assignment for the benefit of creditors, or if a receiver is appointed on account of the Contractor's insolvency, or if the Contractor fails, except in cases for which extension of time is provided, to make progress in accordance with the Construction Schedule, or if the Contractor fails to make prompt payment to Subcontractors or prompt payment for material or labor, or disregards laws, ordinances or the instructions of the City, or otherwise breaches any provision of the Contract, the City may, without prejudice to any other right or remedy, terminate the Contract by giving written notice to the Contractor and his surety. Upon such notification the City shall be entitled to take possession of the Work and of all materials and equipment thereon and finish the Work by whatever method the City may deem expedient, which may include, but is not limited to, the City itself completing the work or the City hiring others to complete said work. In such case, the Contractor shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Sum shall exceed the expenses of finishing the Work, including additional engineering, architectural, managerial and administrative expenses, and liquidated damages, such excess shall be paid to the Contractor. If such expenses and damages exceed the unpaid balance of the Contract Sum, the Contractor shall pay the difference to the City promptly upon demand. In the event of termination pursuant to this paragraph, the Contractor, upon the request of the City, shall promptly:

- (i) assign to the City in the manner and to the extent directed by the City all right, title and interest of the Contractor under any subcontracts, purchase orders and construction equipment leases to which the Contractor is a party and which relate to the Work or to construction equipment required therefore, and
- (ii) make available to the City to the extent directed by the City all construction equipment owned by the Contractor and employed in connection with the Work.

(b) Performance of the Work hereunder may be terminated by the City by giving three (3) days prior written notice to the Contractor if the City, in its sole discretion, decides to discontinue or suspend construction. In the event of such termination, as opposed to termination pursuant to paragraph (a) of this Article IX, the Contract Sum shall be reduced in an equitable manner by agreement between the parties or by arbitration.

## **ARTICLE IX. - CONTRACTOR'S LIABILITY INSURANCE**

Contractor and any subcontractors shall procure and maintain during the life of this Contract insurance of the types and minimum amounts as follows:

1.	General Liability: Commercial General Liability (Occurrence)	
	Each occurrence	\$3,370,137
	Personal & Adv injury	\$1,000,000
	General Aggregate (Project)	\$5,000,000
	Any one person in a single accident or occurrence	\$505,520
2.	Automobile Liability: (Any Auto)	
	Combined Single Limit	\$3,370,137 each accident
	Any one person in a single accident or occurrence	\$505,520
3.	Excess/Umbrella Liability	\$5,000,000
4.	Worker's Compensation and Employers Liability in full compliance with statutory requirements of Federal and State of Missouri law in the amount of \$500,000 for E.L. each accident, E.L. Disease – each employee, and E.L. Disease – policy limit.	

The Comprehensive General Liability policy shall be endorsed to cover the liability assumed by Contractor hereunder. All such insurance to be carried by Contractor hereunder shall be obtained by the Contractor at Contractor's sole cost and expense, and shall name City as additional insured on a primary and non-contributory basis. Nothing herein shall be construed or interpreted as a waiver of the City's sovereign immunity. Copies of the policies required hereunder, or certificates thereof, shall be furnished to City at the time this Contract is sent to the City for execution. and copies of certificates evidencing the renewal of such policies shall be delivered to City within thirty (30) days after the date when such renewal was due. Each of said policies shall provide for not less than thirty (30) days' written notice prior to any cancellation or material adverse amendment of such policy. All such insurance policies shall be issued by an insurer authorized to insure in the State of Missouri and with an A.M. Best rating of A- or better. Contractor expressly waives any and all rights of subrogation, reimbursement, exoneration, or contribution of any other claim which Contractor may now or hereafter have against the City, the City's elected officials, employees, agents, and representatives, arising from the existence or performance of this Contract, until termination of this Contract.

No policy shall be accepted which excludes liability for damage to underground structures or by reason of blasting, explosion or collapse.

## ARTICLE X. - INDEMNIFICATION

The Contractor and any Subcontractors shall indemnify, protect, defend, and hold the City, and its officers, employees, elected officials, and agents, harmless from and against any and all claims, demands, liabilities, and costs, including attorney's fees, arising from (i) any breach or default on the part of the Contractor or any Subcontractor under this Agreement; (ii) any act of negligence, omission, or willful conduct of the Contractor or any Subcontractor; or (iii) damage or injury, actual or claimed, of whatsoever kind or character, to property or persons, occurring or allegedly occurring in the provision of the Services; and the Contractor shall defend the City in any action or proceeding brought in connection with any of the foregoing. The foregoing indemnity and obligation to defend shall not apply to claims resulting from the gross negligence or willful misconduct of the City. To the extent required by law to enforce this provision, the Contractor agrees that this indemnification requires the Contractor to obtain insurance in amounts specified herein and that the Contractor has had the opportunity to recover the costs of such insurance in the Compensation set forth in this Contract.

In any and all claims against the City or any of its agents or employees by any employee of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation described above shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any Subcontractor under workmen's compensation acts, disability benefit acts or other employee benefit acts.

## ARTICLE XI. - ALTERNATIVE DISPUTE RESOLUTION

Any controversy, dispute or claim arising out of or relating in any way to this Agreement, the transactions contemplated hereunder, the business relationship of the parties that is the subject of this Agreement, or the termination of that business relationship (in each case, a "**Dispute**") shall be resolved as follows: the parties shall meet in a good faith attempt to resolve each such Dispute and the parties agree to provide written notice within ten (10) days of actual knowledge and verification of the occurrence or event that caused the Dispute. Any meeting to resolve a Dispute shall be held as soon as practicable, but in no event later than ten (10) days after receipt of notice from the other party of a Dispute, unless the parties otherwise agree in writing. If such meeting does not result in resolution, any party may, by written notice to the other party, require that all parties meet with an independent mediator, who shall be designated by agreement of the parties, to assist the parties in resolving the Dispute. If a mediator cannot be agreed upon within fourteen (14) days of receipt of notice from any party of a Dispute, the aggrieved party shall select three mediators from the United States Arbitration and Mediation mediator list, from which one mediator shall be agreed upon by the other party to mediate the Dispute. The Parties agree to participate in at least four (4) hours of mediation in good faith to settle the Dispute. Any and all fees or costs of such mediation shall be shared equally by the parties unless the parties otherwise agree

in writing. Any mediation to resolve a Dispute shall be scheduled as soon as practicable, but in no event later thirty (30) days of receipt of notice from the aggrieved party, unless the parties otherwise agree in writing. If a party files a lawsuit without first going through the alternative dispute resolution procedures set forth herein, the filing party shall pay all of the non-filing party's attorney's fees and costs incurred in defending the lawsuit. If a party fails to timely respond or adhere to any time requirements of this section herein the other party may immediately file suit and shall be entitled to recover their attorney's fees and costs. Anything to the contrary notwithstanding, the City may seek immediate injunctive or declaratory relief when necessary to protect the general health, safety and welfare of the citizens of the City.

## **ARTICLE XII – COMPLIANCE WITH LAWS**

(a) Contractor shall comply with all applicable City ordinances and other laws and regulations, Federal, State, and any political subdivision thereof, including but not limited to, unemployment and workers' compensation, occupational safety, equal employment and affirmative action and wage and price laws insofar as applicable to the performance of the Contract.

(b) The Contractor, with regard to the provision of the Services and performance of this Contract, will not discriminate on the ground of race, color, religion, sex, national origin or disability in the selection and retention of subcontractors. Contractor will comply with Title VI of the Civil Rights Act of 1964, as amended. In all solicitations either by competitive bidding or negotiations made by the Contractor for work to be performed under a subcontract, including procurement of materials or equipment, each potential subcontractor or supplier shall be notified of the Contractor's obligations under this Contract and the regulations relative to nondiscrimination on the ground of color, race, religion, sex, national origin or disability.

(c) The Contractor will take action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, national origin or disability. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post notices in conspicuous places available to employees and applicants for employment.

(d) The Contractor will, in all solicitations, or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin or disability.

(e) The Contractor will comply with all provisions of State and Federal laws and regulations governing the regulations of Equal Employment Opportunity and Non-Discrimination.

## **ARTICLE XIII – ACCOUNTING**

During the period of this Contract, the Contractor shall maintain books of accounts of its expenses and charges in connection with this Contract in accordance with generally accepted accounting principles and practices. The City shall at reasonable times have access to these books and accounts to the extent required to verify all invoices submitted hereunder by the Contractor.

## **ARTICLE XIV – NO THIRD-PARTY BENEFICIARIES**

The provisions of this Contract are for the benefit of the Contractor or the City, and no other individual, partnership, corporation, organization, or entity shall have any right or claim against the Contractor or the City by reason of this Agreement or be entitled to benefit therefrom or to enforce any of the provisions thereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

THIS CONTRACT CONTAINS A BINDING ALTERNATIVE DISPUTE RESOLUTION PROVISION, WHICH MAY BE ENFORCED BY THE PARTIES.

**CITY OF UNIVERSITY CITY**

ATTEST:

(SEAL)

By \_\_\_\_\_  
Gregory Rose, City Manager

\_\_\_\_\_

LaRette Reese, City Clerk

**CONTRACTOR**

ATTEST:

By \_\_\_\_\_  
Printed Name:

\_\_\_\_\_

Printed Name:

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

\_\_\_\_\_

Title:

# GENERAL CONDITIONS

## ARTICLE I CONTRACT DOCUMENTS

### 1.1 DEFINITIONS

1.1.1 The Contract Documents. The Contract Documents consist of the Bid, City-Contractor Agreement, General Conditions, Job Special Provisions, State Wage Determination, Anti-Collusion Affidavit, Certification of Non-Segregation, Federal Work Authorization Program Affidavit, Performance and Payment Bonds, Drawings, Specifications, Construction Schedule, all Addenda and all Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, or (2) an executed Change Order.

1.1.2 The Contract. The Contract Documents form the Contract. The Contract represents the entire and integrated agreement between the parties hereto and supersedes all prior negotiations, representations or agreements, both written and oral, including the bidding documents. The Contract may be amended or modified only by a Modification as defined in Subparagraph 1.1.1.

1.1.3 The Work. The term Work includes all labor necessary to complete the construction required by the Contract Documents, and all materials and equipment incorporated or to be incorporated in such construction.

1.1.4 The Project. The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part.

1.1.5 Notice to Proceed. The written notice from the City notifying the Contractor of the date on or before which he is to begin prosecution of the work.

### 1.2 EXECUTION, CORRELATION, INTENT AND INTERPRETATIONS

1.2.1 The Contract Documents shall be signed in not less than triplicate by the City and Contractor.

1.2.2 The Contractor represents that he has visited the site, familiarized himself with the local conditions under which the Work is to be performed, and correlated his observations with the requirements of the Contract Documents.

1.2.3 The Contract Documents are complementary, and what is required by anyone shall be as binding as if required by all. The intention of the Contract Documents is to include all labor, materials, equipment and other items as provided in General Condition Article 3, Subparagraph 3.3 necessary for execution and completion of the Work. Words

which have well-known technical or trade meanings are used herein in accordance with such recognized meanings.

### 1.3 COPIES FURNISHED AND OWNERSHIP

1.3.1 Unless otherwise provided in the Contract Documents, the Contractor will be furnished a maximum of five (5) copies, free of charge, of the Drawings and Specifications for the execution of the Work.

1.3.2 All Drawings, Specifications and copies thereof furnished by the City are and shall at all times remain property of the City. Such documents shall not be used on any other project and, with the exception of one set, shall be returned to the City upon completion of the Work.

## ARTICLE 2 CITY

### 2.1 DEFINITION

2.1.1 The City is the person or organization identified as such in the City-Contractor Agreement. The term City means the City or its authorized representative.

### 2.2 CITY'S RIGHT TO STOP THE WORK

2.2.1 If the Contractor fails to correct defective Work or fails to supply materials or equipment in accordance with the Contract Documents, the City may order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated.

### 2.3 CITY'S RIGHT TO CARRY OUT THE WORK

2.3.1 If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents, or fails to perform any provision of the Contract, the City may, after seven (7) days written notice to the Contractor and without prejudice to any other remedy it may have, make good such deficiencies. In such case an appropriate Change Order shall be issued deducting from the payments then or hereafter due the Contractor the cost of correcting such deficiencies. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the City promptly upon request.

## ARTICLE 3 CONTRACTOR

### 3.1 DEFINITION

3.1.1 The Contractor is the person or organization identified as such in the City-Contractor Agreement and is referred to throughout the Contract Documents as if singular

in number and masculine in gender. The term Contractor means the Contractor or its authorized representative.

### 3.2 SUPERVISION AND CONSTRUCTION PROCEDURES

3.2.1 The Contractor shall supervise and direct the Work, using its best skill and attention. The Contractor shall be solely responsible for all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work.

### 3.3 LABOR AND MATERIALS

3.3.1 Unless otherwise specifically noted, the Contractor shall provide and pay for all labor, materials, equipment, supplies, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for the proper execution and completion of the Work.

3.3.2 The Contractor shall at all times enforce strict discipline and good order among its employees and shall not employ on the Work any unfit person or anyone not skilled in the task assigned to him or her. If the City reasonably objects to any person employed by the Contractor, or any Subcontractor, the employee shall be immediately dismissed.

3.3.3 The Contractor and each Subcontractor shall comply with, and is bound by, the provisions of Missouri law pertaining to the payment of wages on public works projects contained in Sections 290.210 through 290.580RSMo, (and any amendments thereto, including, but not limited to the following:

1. In accordance with Section 290.250 RSMo, not less than the prevailing hourly rate of wages, as set out in the wage order attached to and made part of the specifications for work under the Contract, must be paid to all workers performing work under the Contract.
2. In accordance with Section 290.250 RSMo, the Contractor shall forfeit as a penalty to the City one hundred dollars (\$100) for each worker employed for each calendar day, or portion thereof, if such worker is paid less than the said stipulated rates for any Work done under the Contract, by it or by any subcontractor under it.
3. In accordance with Section 290.265 RSMo, the Contractor and each Subcontractor shall post a clearly legible statement of all prevailing hourly wage rates to be paid to all workmen employed to complete the Work in a prominent and easily accessible place at the site of the Work and such notice shall remain posted during the full time that any workmen shall be employed at the work.
4. In accordance with Section 290.290 Subsection 1 RSMo, the Contractor and each Subcontractor shall keep full and accurate records

clearly indicating the names, occupations, crafts, number of hours worked by, and actual wages paid every work employed by them in connection with this project. Such records shall not be destroyed or removed from the State for the period of one year after construction. Certified weekly payroll reports from the Contractor and each Subcontractor shall be submitted with monthly applications for payment.

5. In accordance with Section 290.290.2 RSMo, before final payment is made affidavits from the Contractor and each Subcontractor stating that the Subcontractor has fully complied with the prevailing wage law must be filed by the Contractor. Final payment shall not be made unless and until all affidavits are filed in proper form and order.
6. In accordance with Section 290.290.3 and .4 RSMo, each Contractor and subcontractor on projects for which the Contract awarded is in an amount greater than two hundred fifty thousand dollars (\$250,000) shall have its name, acceptable abbreviation or recognizable logo and the name of the city and state of the mailing address of the principal office of the company, on each motor vehicle and motorized self-propelled piece of equipment which is used on such project. In cases where affixing a sign is impractical, the Contractor may place a temporary stationary sign at the main entrance of the construction site, so long as such sign is not in violation of any local, state of federal statute, rule or regulation.

3.3.4 The Contractor shall execute and complete the Work in such a manner that avoids jurisdictional and other disputes among labor unions.

#### 3.4 WARRANTY

3.4.1 The Contractor warrants to the City that all materials and equipment furnished under the Contract and incorporated in the Work will be new unless otherwise specified, and that all Work will be of good quality, free from faults and defects and in conformance with the Contract Documents. All Work not so conforming to these standards shall be considered defective. If required by the City, the Contractor shall furnish satisfactory evidence as to the kind and quality of all materials and equipment.

3.4.2 The Contractor hereby expressly guarantees the aforesaid work as to workmanship and quality of materials used in connection therewith for a term of one (1) year, commencing on the date of final acceptance by the City, and binds itself, its successors, or assigns, to make all replacements which may become necessary within the time due to nonconformity with the specifications. Whenever notified by the City that said replacements are required, the Contractor shall at once make the same as directed and at its own expense. If the Contractor does not proceed with such replacements within ten (10) days of receipt of written notice, then the City shall have the power to cause the same to be made and to charge the cost thereof to the Contractor as stated herein. Nothing in this section is intended as a maintenance guarantee.

3.4.3 The City shall retain the Performance Bond for the one-year guarantee period. Failure of the Contractor to comply with the guarantee will constitute sufficient reason to use the Performance Bond to correct such work.

### 3.5 TAXES

3.5.1 The Contractor shall pay all sales, consumer, use and other similar taxes required by law, resulting from the execution and completion of the Work.

3.5.2 The City shall supply the Contractor with a Missouri Project Exemption Certificate. The certificate authorizes the Contractor and any Subcontractors to purchase, without sales tax, tangible personal property to be incorporated or consumed in the construction of the project pursuant to Section 144.062 RSMo.

### 3.6 PERMITS, FEES AND NOTICES

3.6.1 The Contractor shall secure and pay for all permits, governmental fees and licenses necessary for the proper execution and completion of the Work.

3.6.2 The Contractor shall give all notices and comply with all laws, ordinances, rules, regulations and orders of any public authority bearing on the performance of the Work. If the Contractor observes that any of the Contract Documents are at variance therewith in any respect, it shall promptly notify the City in writing and any necessary changes shall be adjusted by appropriate Modification. If the Contractor performs any Work knowing it to be contrary to such laws, ordinances, rules and regulations and without such notice to the City, the Contractor shall assume full responsibility therefor and shall bear all costs attributable thereto.

### 3.7 SUPERINTENDENT

3.7.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the project site during the progress of the Work. The superintendent shall be satisfactory to the City and shall not be changed except with the consent of the City. The superintendent shall represent the Contractor and all communications given to the superintendent shall be as binding as if given to the Contractor.

### 3.8 RESPONSIBILITY FOR THOSE PERFORMING THE WORK

3.8.1 The Contractor shall be responsible to the City for the acts and omissions of all his employees and all subcontractors, their agents and employees and all other persons performing any of the Work under a contract with the Contractor.

3.8.2 The Contractor shall furnish to the City a name, a cellular phone number, and an e-mail address of a responsible agent or employee who will handle complaints or

concerns from private citizens for damage to persons, property, or vehicles, as a result of the general contractor's work, subcontractor operations, traffic control measures, or delivery and storage of materials. The responsible agent or employee shall respond to citizens in a timely manner and shall work to resolve all complaints and concerns in a fair and reasonable manner. Communications with citizens may be conducted by the agent or employee by telephone, in person or via e-mail. E-mail communication with citizens shall be copied to the City project manager. A weekly summary of in-person and telephonic communications conducted by the agent or employee shall also be provided to the City project manager by e-mail. All citizen complaints and concerns shall be resolved to the satisfaction of the City prior to release of project retainage.

### 3.9 DRAWINGS AND SPECIFICATIONS AT THE SITE

3.9.1 The Contractor shall maintain at the site for the City one copy of all Drawings, Specifications, Addenda, approved Shop Drawings, Change Orders and other Modifications, in good order and marked to record all changes made during construction.

3.9.2 The Drawings, marked to record all changes made during construction, shall be delivered to the City upon completion of the work.

### 3.10 CLEANING UP

3.10.1 The Contractor at all times shall keep the premises free from accumulation of waste materials or rubbish caused by his operations. After completion of the Work the Contractor shall remove all waste materials and rubbish from and about the Project as well as all tools, construction equipment, machinery and surplus materials, and leave the Work area "broom clean" or its equivalent, except as otherwise specified.

### 3.11 CASH ALLOWANCES

3.11.1 The Contractor acknowledges and agrees that the Contract Sum includes all cash allowances specified in the Contract Documents.

### 3.12 AUTHORIZED EMPLOYEES

3.12.1 Contractor acknowledges that Section 285.530 RSMo, prohibits any business entity or employer from knowingly employing, hiring for employment, or continuing to employ an unauthorized alien to perform work within the state of Missouri. Contractor therefore covenants that it is not knowingly in violation of Section 285.530.1 RSMo, and that it will not knowingly employ, hire for employment, or continue to employ any unauthorized aliens to perform work on the project, and that its employees are lawfully eligible to work in the United States.

### 3.13 SAFETY TRAINING

- 3.13.1 The Contractor shall provide a ten (10) - hour Occupational Safety and Health Administration (OSHA) construction safety program for all employees who will be on-site at the project. The construction safety program shall include a course in construction safety and health that is approved by OSHA or a similar program approved by the Missouri Department of Labor and Industrial Relations which is at least as stringent as an approved OSHA program as required by Section 292.675 RSMo.
- 3.13.2 The Contractor shall require its on-site employees to complete a construction safety program within sixty (60) days after the Contract Notice To Proceed date.
- 3.13.3 The Contractor acknowledges and agrees that any of the Contractor's employees found on the project site without documentation of the successful completion of a construction safety program shall be required to produce such documentation within twenty (20) days, or will be subject to removal from the project.
- 3.13.4 The Contractor shall require all of its subcontractors to comply with the requirements of this Section 3.13 and Section 292.675 RSMo.

### 3.14 NOTICE OF PENALTIES FOR FAILURE TO PROVIDE SAFETY TRAINING

- 3.14.1 Pursuant to Section 292.675 RSMo, the Contractor shall forfeit to the City as a penalty two thousand five hundred dollars (\$2,500), plus one hundred dollars (\$100) for each on-site employee employed by Contractor or its subcontractor, for each calendar day, or portion thereof, such on-site employee is employed without the construction safety training required in Section 3.13.
- 3.14.2 The penalty described in Section 3.14.1 shall not begin to accrue until the time periods described in Section 3.13.2 and Section 3.13.3 have elapsed.
- 3.14.3 Violations of Section 3.13 and imposition of the penalty described in this Section 3.14 shall be investigated and determined by the Missouri Department of Labor and Industrial Relations.

## ARTICLE 4 SUBCONTRACTORS

### 4.1 DEFINITION

- 4.1.1 A Subcontractor is a person or organization who has a direct contract with the Contractor to perform any of the Work. The term Subcontractor is referred to throughout the Contract Documents as if singular in number and masculine in gender and means a Subcontractor or his authorized representative.

4.1.2 A Sub-subcontractor is a person or organization who has a direct or indirect contract with a Subcontractor to perform any of the work. The term Sub-subcontractor is referred to throughout the Contract Documents as if singular in number and masculine in gender and means a Sub-subcontractor or an authorized representative thereof.

4.1.3 Nothing contained in the Contract Documents shall create any contractual relation between the City and any Subcontractor or Sub-subcontractor.

## 4.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

4.2.1 Unless otherwise specified in the Contract Documents or in the Instructions to Bidders, the Contractor, shall indicate on his Bid, for acceptance by the City, a list of the names of the Subcontractors proposed for the principal portions of the Work. The City shall notify the Contractor in writing prior to execution of the Agreement if the City objects to any Subcontractor on such list. Failure of the City to make objection promptly to any Subcontractor on the list shall constitute acceptance of such Subcontractor.

4.2.2 The Contractor shall not contract with any Subcontractor or any person or organization (including those who are to furnish materials or equipment fabricated to a special design) proposed for portions of the Work designated in the Contract Documents or in the Instructions to Bidders or, if none is so designated, with any Subcontractor proposed for the principal portions of the Work, who has been rejected by the City.

4.2.3 If the City refuses to accept any Subcontractor or person or organization on a list submitted by the Contractor in response to the requirements of the Contract Documents, the Contractor shall submit an acceptable substitute.

4.2.4 If the City requires a change of any proposed Subcontractor or person or organization previously accepted by the City, the Contract Sum shall be increased or decreased by the difference in cost occasioned by such change and an appropriate Change Order shall be issued.

4.2.5 The Contractor shall not make any substitution for any Subcontractor or person or organization who has been accepted by City, unless the substitution is acceptable to City.

4.2.6 Sub-subcontractors shall not be used.

## 4.3 SUBCONTRACTUAL RELATIONS

4.3.1 All work performed for the Contractor by a Subcontractor shall be pursuant to an appropriate agreement between the Contractor and Subcontractor which shall contain provisions that:

1. Require the Work to be performed in accordance with the requirements of the Contract Documents.
2. Require submission to the Contractor of applications for payment under each subcontract to which the Contractor is a party, in reasonable time to enable the Contractor to apply for payment in accordance with Section 7;
3. Require that all claims for additional costs, extensions of time, damages for delays or otherwise with respect to subcontracted portions of the Work shall be submitted to the Contractor (via any Subcontractor) in sufficient time so that the Contractor may comply in the manner provided in the Contract Documents for like claims by the Contractor upon the City;
4. Waive all rights the contracting parties may have against one another for damages caused by fire or other perils covered by the property insurance described in Section 9.2, except such rights as they may have to the proceeds of such insurance held by the City as trustee under Section 9.2.
5. Obligate each Subcontractor specifically to consent to the provisions of this Section 4.3; and
6. Require the Subcontractor to indemnify and hold harmless the City against all claims, damages, losses, expenses and attorneys' fees arising out of or resulting from the performance of the Work by Subcontractor, and its agents and employees, unless such claims, damages or losses are caused solely by the negligent act of the City.

#### 4.4 PAYMENTS TO SUBCONTRACTORS

4.4.1 The Contractor shall pay each Subcontractor upon receipt of payment from the City, an amount equal to the percentage of completion allowed to the Contractor on account of such Subcontractor's Work, less the percentage retained from payments to the Contractor.

4.4.2 If the City withholds payment to the Contractor for any cause which is the fault of the Contractor and not the fault of a particular Subcontractor, the Contractor shall pay that Subcontractor on demand for its Work to the extent completed.

4.4.3 The City shall not have any obligation to pay or to see to the payment of any sum to any Subcontractor or Sub-subcontractor.

### ARTICLE 5 SEPARATE CONTRACTS

#### 5.1 CITY'S RIGHT TO AWARD SEPARATE CONTRACTS

5.1.1 The City reserves the right to award other contracts on other terms and conditions in connection with other portions of the Project.

## 5.2 MUTUAL RESPONSIBILITY OF CONTRACTORS

5.2.1 The Contractor shall afford other contractors' reasonable opportunity for the delivery and storage of their materials and equipment and the execution of their work, and shall properly connect and coordinate the Work with theirs.

5.2.2 If any part of the Work depends for proper execution or results upon the work of any other separate contractor, the Contractor shall inspect and promptly report to the City any apparent discrepancies or defects in such work that render it unsuitable for proper execution of the Work. Failure of the Contractor to so inspect and report shall constitute an acceptance of the other contractor's work as fit and proper to receive the Work, except as to defects which may develop in the other contractor's work after the execution of the Contractor's Work that could not have been discovered by the Contractor upon reasonable inspection.

5.2.3 If the Contractor causes damage to the work or property of any other contractor on the project, and such separate contractor sues the City or initiates an arbitration proceeding on account of any damage alleged to have been so sustained, the City shall notify the Contractor who shall defend such proceedings at its own expense, and if any judgment or award against the City arises therefrom the Contractor shall pay or satisfy it and shall reimburse the City for all attorneys' fees and court arbitration costs which the City has incurred.

## 5.3 CITY'S RIGHT TO CLEAN UP

5.3.1 If a dispute arises between the separate contractors as to their responsibility for cleaning up as required by Section 3.10, the City may clean up and charge the costs thereof to the several contractors.

# ARTICLE 6 TIME

## 6.1 DEFINITIONS

6.1.1 The Contract Time is the period of time allotted in the Contract Documents for completion of the Work.

6.1.2 The date of commencement of the Work is the date established in the written Notice to Proceed from the City to the Contractor.

6.1.3 The Date of Substantial Completion of the Work is the date when construction is sufficiently complete, in accordance with the Contract Documents, so the City may occupy the Work for the use for which it is intended.

6.1.4 The term day as used in the Contract Documents shall mean calendar day.

## 6.2 PROGRESS AND COMPLETION

6.2.1 The Contractor shall begin the Work on the date of commencement provided in the City-Contractor Agreement. The Contractor shall carry the Work forward expeditiously with adequate forces and shall complete it within the Contract Time and in accordance with the Construction Schedule. Time limits stated in the contract documents are of the essence of the Contract.

# ARTICLE 7 PAYMENTS AND COMPLETION

## 7.1 CONTRACT SUM

7.1.1 The Contract Sum is stated in the City-Contractor Agreement and is the total amount payable by the City to the Contractor for the performance of the Work.

## 7.2 APPLICATION FOR PAYMENT

7.2.1 Before the first day of each month, upon substantial completion of the Work, and upon final completion of the Work, the Contractor shall submit to the City an itemized Application for Payment pursuant to the City-Contractor Agreement on the Application for Payment as provided by the City supported by such data substantiating the Contractor's right to payment as the City may require.

7.2.2 If payments are to be made on account of materials or equipment to be incorporated into the Work and delivered and suitably stored at the site, such payments shall be conditioned upon submission by the Contractor of bills of sale, waiver of liens, (including partial lien waivers) or such other documents satisfactory to the City to establish the City's title to such materials or equipment or to otherwise protect the City's interest.

7.2.3 The Contractor warrants and guarantees that title to all Work, materials and equipment covered by an Application for Payment, whether incorporated into the Work or not, will pass to the City upon the receipt of such payment by the Contractor, free and clear of all liens, claims, security interests or encumbrances (hereinafter referred to as "liens").

## 7.3 PAYMENT

7.3.1 If the Contractor has made Application for Payment as above, the City will, in accordance with the City-Contractor Agreement, make payment to the Contractor for such amount as it determines to be properly due pursuant to the Contractor's Application for Payment, or state in writing the City's reasons for withholding all or any portion of such payment.

7.3.2 No progress payment, nor any partial or entire use or occupancy of the Work by the City, shall constitute an acceptance of any Work not completed in accordance with the Contract Documents.

7.3.3 Payment provisions for Method of Measurement and Basis of Payment in the Standard Specifications shall apply to this Contract, unless otherwise stated herein.

#### 7.4 SUBSTANTIAL COMPLETION AND FINAL PAYMENT

7.4.1 When the Contractor determines that the Work is substantially complete, the Contractor shall prepare and deliver to the City an Application for Payment along with a list of items to be completed or corrected. The failure to include any items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. If the City, on the basis of an inspection, determines that the Work is substantially complete, the City shall make payment to the Contractor of the amount required to be paid upon substantial completion pursuant to the City-Contractor Agreement.

7.4.2 Upon receipt of written notice from the Contractor that the Work is fully completed and ready for final inspection and acceptance, and upon receipt of a final Application for Payment, the City will promptly make such inspection and, when the City finds the Work acceptable under the Contract Documents and the Contract fully performed, the City will make final payment to the Contractor in accordance with the City-Contractor Agreement.

7.4.3 The final payment shall not become due until the Contractor submits the following to the City

- (1) Final Change Order (as needed);
- (2) An Affidavit that all payrolls, bills for materials and equipment, and other indebtedness incurred in connection with the execution and completion of the Work for which the City or its property might in any way be responsible, have been paid or otherwise satisfied;
- (3) Affidavits stating the Contractor and each Subcontractor have fully complied with the provisions and requirements of the Prevailing Wage Law, Sections 290.210 through 290.580 RSMo;
- (4) Lien waivers from the Contractor and each Subcontractor; and
- (5) If required by the City, other data establishing payment or satisfaction of all such obligations, such as receipts and releases arising out of the Contract, to the extent and in such form as may be designated by the City. If any Subcontractor refuses to furnish a release or waiver required by the City, the Contractor may furnish a bond satisfactory to the City indemnifying the City against any such lien. If any such lien remains unsatisfied after all payments are made, the Contractor shall refund to the City all moneys that the City may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.

7.4.4 The acceptance of final payment shall constitute a waiver of all claims by the Contractor, except those previously made in writing and still unsettled.

## **ARTICLE 8 PROTECTION OF PERSONS AND PROPERTY**

### **8.1 SAFETY PRECAUTIONS AND PROGRAMS**

8.1.1 The Contractor shall initiate, maintain and supervise safety precautions and programs in connection with the performance of the Work.

### **8.2 SAFETY OF PERSONS AND PROPERTY**

8.2.1 The Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to:

1. All employees on the Work and all other persons who may be affected thereby;
2. All the Work, all materials and equipment to be incorporated therein, whether in storage on or off the site, under the care, custody or control of the Contractor or any of its Subcontractors or Sub-subcontractors; and
3. Other property at the site or adjacent thereto, including, but not limited to, trees, shrubs, lawns, walks, pavements, roadways, sprinkler systems, mailboxes, structures, utilities, and utility service lines and appurtenances, not designated for removal, relocation or replacement in the course of construction;
4. The Contractor will be allowed to trim trees, as necessary, within the right-of-way to prevent damage by Contractor's equipment; and
5. Any sprinkler system conflicting with, or damaged by the Contractor's Work, shall be relocated, repaired, replaced or reconstructed in kind as is necessary, to a fully operational condition at the Contractor's expense.

8.2.2 The Contractor shall comply with all applicable laws, ordinances, rules, regulations and lawful orders of any public authority having jurisdiction over the safety of persons or property to protect them from damage, injury or loss. The Contractor shall erect and maintain all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying City and users of adjacent utilities. Vehicular and pedestrian traffic control devices shall be installed and maintained in accordance with the Manual on Uniform Traffic Control Devices (MUTCD).

8.2.3 When the use or storage of explosives or other hazardous materials or equipment is necessary for the execution of the Work, the Contractor shall exercise the utmost care and shall carry on such activities under the supervision of properly qualified personnel.

8.2.4 All damage or loss to any property caused in whole or in part by the Contractor, any Subcontractor, any Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, shall be remedied by the Contractor.

8.2.5 The Contractor shall designate a responsible member of it at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated in writing by the Contractor to the City.

## ARTICLE 9 INSURANCE

### 9.1 CONTRACTOR'S LIABILITY INSURANCE

9.1.1 The Contractor shall purchase and maintain such insurance required in the City-Contractor Agreement and/or Special Provisions to protect it from claims which may arise out of or result from the Contractor's operations under the Contract, whether such operations be by itself or by any Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable.

9.1.2 The insurance shall be written for not less than any limits of liability specified in the City-Contractor Agreement and/or Special Provisions, or required by law, whichever is greater, and shall include contractual liability insurance as applicable to the Contractor's obligations under Section 3.11. All limits stated shall be per project.

9.1.3 Any company affording coverage shall meet one of the following criteria: (1) admitted in the State of Missouri with a policyholder's rating of B+ or better and a financial rating of Class VI or higher in Best's Key Rating Guide, most recent edition; (2) non-admitted in the State of Missouri with a policyholder's rating of A or better and a financial rating of Class IX or higher in Best's Key Rating Guide, most recent edition; or (3) organized pursuant to the Missouri Employers Mutual Insurance Act, Sections 287.900 – 287.920 RSMo.

9.1.4 Certificate(s) of Insurance acceptable to the City shall be filed with the City prior to commencement of the Work. The Certificate(s) shall contain a provision that coverages afforded under the policies will not be canceled until at least 15 days prior written notice has been given to the City. A sample certificate follows the Performance and Payment Bonds in the Contract Documents.

### 9.2 PROPERTY INSURANCE

9.2.1 Unless otherwise provided, the Contractor shall purchase and maintain property insurance upon the entire Work at the site to the full insurable value thereof. This insurance shall include the interests of the City, the Contractor, Subcontractors and Sub-subcontractors in the Work and shall insure against the perils of Fire, Extended Coverage, Vandalism and Malicious Mischief.

9.2.2 The Contractor shall purchase and maintain such steam boiler and machinery insurance as may be required by the Contract Documents or by law. This insurance shall include the interests of the City, the Contractor, the Subcontractors and Sub-subcontractors in the Work.

9.2.3 Certificate(s) of Insurance acceptable to the City shall be filed with the City prior to commencement of the Work. The Certificate(s) shall contain a provision that coverages afforded under the policies will not be canceled until at least 15 days prior written notice has been given to the City.

9.2.4 Any loss insured by property insurance maintained by the City shall be adjusted with the City and made payable to the City as trustee for the insured, as their interests may appear, subject to the requirements of any applicable mortgagee clause.

9.2.5 The City and Contractor waive all rights against each other for damages caused by fire or other perils to the extent covered by insurance provided under this Paragraph 9.2 and the Contract Documents, City-Contractor Agreement, except such rights as they may have to the proceeds of such insurance held by the City as trustee. The Contractor shall require similar waivers by Subcontractors and Sub-subcontractors in accordance with Paragraph 4.3.1 hereof.

## ARTICLE 10 CHANGES IN THE WORK

### 10.1 CHANGE ORDERS

10.1.1 The City, without invalidating the Contract, may order Changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, with the Contract Sum and the Construction Schedule being adjusted in accordance with the City-Contractor Agreement. All such changes in the Work shall be authorized by Change Order, and shall be executed under the applicable conditions of the Contract Documents.

10.1.2 A Change Order is a written order to the Contractor signed by the City, issued after the execution of the Contract, authorizing a change in the Work or an adjustment in the Contract Sum or the Construction Schedule. The Contract Sum and the Contract Time may be changed only by Change Order.

10.1.3 The cost or credit to the City resulting from a Change in the Work shall be determined in accordance with the City-Contractor Agreement.

### 10.2 CLAIMS FOR ADDITIONAL COST

10.2.1 If the Contractor wishes to make a claim for an increase in the Contract Sum, it shall give the City written notice thereof within twenty (20) days after the occurrence of the event giving rise to such claim. This notice shall be given by the Contractor before proceeding to execute the Work. No such claim shall be valid unless so made. If the City

and the Contractor cannot agree on the amount of the adjustment in the Contract Sum, it shall be determined by arbitration. Any change in the Contract Sum resulting from such claim shall be authorized by Change Order.

### 10.3 MINOR CHANGES IN THE WORK

10.3.1 The City shall have authority to order minor changes in the Work not involving an adjustment in the Contract Sum or the Construction Schedule and not inconsistent with the intent of the Contract Documents. Such changes may be affected by Field Order or by other written order. Such changes shall be binding on the City and the Contractor.

## ARTICLE 11 UNCOVERING AND CORRECTION OF WORK

### 11.1 UNCOVERING OF WORK

11.1.1 If any Work should be covered contrary to the request of the City, it must, if required by the City, be uncovered for his observation and replaced, at the Contractor's expense.

11.1.2 If any Work has been covered which the City has not specifically requested to observe prior to being covered, the City may request to see such Work and it shall be uncovered by the Contractor. If such Work is found to be in accordance with the Contract Documents, the Cost of uncovering and replacement shall, by appropriate Change Order, be charged to the City. If such Work be found not in accordance with the Contract Documents, the Contractor shall pay such costs.

### 11.2 CORRECTION OF WORK

11.2.1 The Contractor shall promptly correct all Work rejected by the City as defective or as failing to conform to the Contract Documents, whether observed before or after substantial completion of the Work, and whether or not fabricated, installed or completed. The Contractor shall bear all cost of correcting such rejected Work.

11.2.2 If, within one year after final acceptance by the City or within such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the Contract Documents, any of the Work is found to be defective or not in accordance with the Contract Documents, the Contractor shall correct it promptly after receipt of a written notice from the City.

11.2.3 All such defective or non-conforming Work under Sections 11.2.1 and 11.2.2 shall be removed from the site if necessary, and the Work shall be corrected to comply with the Contract Documents without additional cost to the City.

11.2.4 The Contractor shall bear the cost of making good all work of separate contractors destroyed or damaged by such removal or correction.

11.2.5 If the Contractor fails to correct such defective or non-conforming Work, the City may correct it in accordance with Paragraph 2.3 hereof.

### 11.3 ACCEPTANCE OF DEFECTIVE OR NON-CONFORMING WORK

11.3.1 If the City prefers to accept defective or non-conforming Work, the City may do so instead of requiring its removal and correction, in which case a Change Order will be issued to reflect an appropriate reduction in the Contract Sum, or if the amount is determined after final payment, it shall be paid by the Contractor.

## ARTICLE 12 MISCELLANEOUS PROVISIONS

### 12.1 GOVERNING LAW

12.1.1 The Contract shall be governed by the laws of the State of Missouri.

### 12.2 SUCCESSORS AND ASSIGNS

12.2.1 The City and the Contractor each binds itself, its partners, successors, assigns and legal representatives to the other party hereto and to the partners, successors, assigns and legal representatives of such other party in respect to all covenants, agreements and obligations contained in the Contract Documents. Neither party to the Contract shall assign the Contract without the prior written consent of the other, nor shall the Contractor assign any sums due or to become due to it hereunder, without the prior written consent of the City.

### 12.3 NOTICES

12.3.1 Any notice to any party pursuant to or in relation to the Contract shall be in writing and shall be deemed to have been duly given when delivered in person to the individual or member of the firm or to an officer of the corporation for whom it was intended, or when deposited in the United States mail, registered or certified with postage prepaid addressed to the last business address known to the party giving the notice.

### 12.4 RIGHTS AND REMEDIES

12.4.1 The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

### 12.5 ROYALTIES AND PATENTS

12.5.1 The Contractor shall pay all royalties and license fees payable on all designs, processes or products used in connection with the Work or incorporated therein, unless otherwise agreed upon by the City. The Contractor shall defend all suits or claims for

infringement of any patent rights and shall indemnify and hold the City harmless from and against any loss on account thereof.

## 12.6 BONDS

### 12.6.1 Performance and Payment Bonds

12.6.1.1 The successful Bidder shall furnish a Performance Bond in an amount equivalent to one hundred percent (100%) of the Contract Sum, covering the faithful performance of the Contract, including the warranty period, utilizing the form provided in these documents. The cost of such bond shall be included in the Bid.

12.6.2.2 The successful Bidder shall furnish a Payment Bond in an amount equivalent to one hundred percent (100%) of the Contract Sum covering the faithful payment of all obligations arising thereunder, utilizing the form provided in these documents. The Payment Bond shall meet all the requirements of Section 107.170 RSMo, as amended. The cost of such bond shall be included in the Bid.

### 12.6.2 Time of Delivery and Form of Bonds

12.6.2.1 The Bidder shall deliver the required bonds to the City not later than the date of execution of the City-Contractor Agreement, or if the Work is to be commenced prior thereto in response to a letter of intent, the Bidder shall, prior to commencement of the Work, submit evidence satisfactory to the City that such bonds will be furnished.

12.6.2.2 The issuing Surety for each bond shall be a corporate surety company or companies of recognized standing licensed to do business in the State of Missouri and acceptable to the City of University City. A rating in the "A" category from Best's or from Standard and Poor's shall constitute recognized standing. The Surety shall attach a certified and current copy of its authority to do insurance business from the State of Missouri.

12.6.2.3 The Bidder shall require the attorney-in-fact who executes the required bond on behalf of the surety to affix thereto a certified and current copy of his power of attorney.

## 12.7 TESTS

12.7.1 Unless otherwise indicated in these documents, the Contractor shall bear all costs of any inspections, tests, permits or approvals required under any laws, ordinances, rules, regulations or orders of any public authority having jurisdiction.

12.7.2 The City may, at its sole discretion, provide special inspection and testing services to verify the work is performed in accordance with the contract. The Contractor will be required to make the work area available and accommodate the City's efforts. If such

special inspection or testing reveals failure of the Work to comply (1) with the requirements of Contract Documents, or (2) with respect to performance of the Work, with laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, the Contractor shall bear the cost of the City's inspection and retesting and such cost shall be deducted from sums then or thereafter due to the Contractor. In all other cases, the City shall bear such costs.

## 12.8 CONSTRUCTION STAKING AND LAYOUT

12.8.1 The Contractor shall be responsible for providing labor, equipment and material necessary for construction staking and layout, and cut sheets as required, to the grades, elevations and alignments as established by the City. The City will establish control points and survey ties to structures as deemed necessary for the prosecution of the Work. These controls established by the City shall constitute the field control by and in accordance with which the Contractor shall establish other necessary controls and perform the work.

12.8.2 The Contractor shall be responsible for the preservation of all stakes and marks, and if any of the construction stakes or marks are carelessly or willfully destroyed or disturbed by the Contractor, the cost of replacing them may be charged against it and deducted from the payment for the Work.

12.8.3 Unless otherwise specified, this work shall be incidental to the Contract Work, with no separate payment to be made. The Contractor shall make his bid accordingly.

## 12.9 MAINTENANCE OF TRAFFIC

12.9.1 The Contractor's work must be scheduled and accomplished such that local vehicular and pedestrian traffic is maintained during construction. It shall be the Contractor's responsibility to provide a traffic way that is usable in all weather conditions. The Contractor shall construct and maintain in a safe condition temporary pavements and connections for local traffic. Vehicular and pedestrian traffic control devices shall be installed and maintained in accordance with the Manual on Uniform Traffic Control Devices (MUTCD).

12.9.2 Temporary guardrail, or other suitable temporary barriers shall be provided to protect traffic from the work or stored materials. At all times until final acceptance of the Work, the Contractor shall provide and maintain such signs, lights, watchmen and barriers as may be necessary to properly protect the work and provide for safe and convenient public travel.

## 12.10 CONSTRUCTION LIMITS

12.10.1 The construction limits shall be restricted to the extent of the construction limits as shown on the bid drawings. The Contractor shall limit his operations accordingly. The Contractor will be responsible for restoration of any disturbed areas outside of the

construction limits at no cost to the City. The Contractor shall acquire the property owner's permission for any activity outside the designated construction limits and/or easement area. Materials shall generally not be stored on pavement areas that would limit sight distance, driveway access or otherwise cause a hazard to the vehicular and/or pedestrian traffic. Storage areas shall be properly barricaded with lighted barricades to provide advance warning.

## 12.11 PRE-CONSTRUCTION CONFERENCE

12.11.1 A pre-construction conference may be held prior to the issuance of a notice to proceed with the work. This meeting will be attended by the Contractor and the City. Representatives of the various utility companies that have facilities in the project area will be invited. The meeting date will be established after the taking of bids and at a time convenient to all parties.

## 12.12 SEQUENCE OF WORK

12.12.1 A completed schedule of the Contractor's work shall be submitted to the City for approval. It shall be in bar chart format and contain a listing of the order in which the work will be constructed and the approximate dates for starting and finishing the various stages of constructions. The schedule of work shall be updated monthly, as necessary, to accurately reflect the Work completed and yet to be accomplished at that time.

12.12.2 The Contractor shall furnish the City its proposed sequence and schedule for the completion of all Work for the City's review and approval at, or prior to, the time of the pre-construction conference.

## 12.13 QUANTITIES

12.13.1 The quantities tabulated on the bid form or shown on the drawings are only estimated for bid comparison by the City. No guarantees are made regarding their accuracy. The City reserves the right to modify quantities as necessary.

12.13.2 The City reserves the right to make changes in plan details which may vary the accepted quantities from those shown on the Itemized Bid.

12.13.3 The Contractor shall accept, as payment in full, payment at the original contract unit prices bid for the accepted quantities of Work done. No allowance will be made for any increased expense or loss of expected profit suffered by the Contractor resulting directly from expenses derived by handling small quantities of materials or performing operations within restricted areas.

## 12.14 INSPECTIONS

12.14.1 If another agency is participating in the funding of this project, directly or through another agency, representatives of those agencies shall be granted access to all parts of

the work. For sewer-related work, permits are to be obtained and inspections scheduled through the MSD. In addition, the City will provide an inspector to monitor the project.

## 12.15 ADVANCE NOTICE AND HOURS OF WORK

12.15.1 All work is to be accomplished between the hours of 7:00 a.m. and 6:00 p.m. Monday through Friday and between 7:30 a.m. and 5:00 p.m. on Saturday. No Work shall be performed on Sunday.

12.15.2 The Contractor shall notify the City at least forty-eight (48) hours in advance of any Work scheduled to be done on Saturday.

## 12.16 CONFLICT WITH PERSONNEL

12.16.1 Should a conflict between personnel of the Contractor and the City escalates to the point that it hinders the progress of the Work and cannot be settled amicably, the Contractor personnel involved in the conflict shall be removed from the project.

12.16.2 A personnel conflict shall not give cause for the Contractor to terminate this Contract nor to pull off employees from active work sites. If the Contractor withdraws crews, the City may, at its sole discretion, consider the Contract to be terminated under the provisions of Article IX of the City-Contractor Agreement. If the City so determines, notices shall be given as set forth therein.

## 12.17 WORKMANSHIP

12.17.1 The Contractor shall at all times employ sufficient labor and equipment for prosecuting the Work to full completion in the manner and time required by these specifications. All workers shall have sufficient skill and experience to perform properly the work assigned to them.

## 12.18 REST ROOM FACILITIES

12.18.1 The Contractor shall provide, secure and maintain rest room facilities at each work site. Facilities shall be in place prior to initiating work on a site and shall be maintained for the entire time work is being performed at a site.

## 12.19 EFFECT OF DELAY FOR PLACEMENT OF SOD

12.19.1 In the event the project is constructed during a time which is not conducive to establishment of sod, the time of construction will be temporarily suspended after completion of all other work until, in the opinion of the Project Manager, conditions permit the Contractor to place sod. In this event, the City will continue to withhold retainage for work completed. The Contractor is responsible for protecting the work area and restoring the area prior to final sod placement.

## 12.20 UTILITIES

12.20.1 The Contractor is responsible for locating all subsurface utilities and coordination with the utility companies. All excavation operations shall be in compliance with the Underground Facility Safety and Damage Prevention Act, Sections 319.010 – 319.050 RSMo.

12.20.2 The Contractor shall expose all utilities crossing proposed trenches to establish location and depth prior to construction.

## **Preliminary Rendering**

See Exhibit A – Proposal  
Dated 11/19/2025



**BASKETBALL COURT IMPROVEMENTS**  
**Heman Park**  
**7200 Olive Blvd**  
**University City, Missouri 63130**

**PRELIMINARY DRAWING**

FOR REVIEW PURPOSES ONLY  
 NOT TO BE USED FOR CONSTRUCTION



The contractor shall notify and implement all the required Federal Occupational Safety and Health Administration (OSHA) and/or City of University City requirements for the protection of employees and contractors during the course of construction. Requests for these plans

DATE	DESCRIPTION
3/15/2023	CONCEPT
3/31/2023	REVIEW
4/18/2023	REVIEW
2/13/2025	REVIEW
6/17/2025	REVIEW

PRINTED  
 SHEET NAME  
 -OVERALL

C 1.0

SCALE: 1" = 20'  
 0 20' 40'

0 20' 40'

AutoCAD SHX

50'

5'

ASPHALT - CONCRETE - STABILIZATION - MICROSTABILIZATION - SPORTS

K 2 - 58



**BASKETBALL COURT IMPROVEMENTS**  
**Heman Park**  
**7200 Olive Blvd**  
**University City, Missouri 63130**

**PRELIMINARY DRAWING**

FOR REVIEW PURPOSES ONLY  
 NOT TO BE USED FOR CONSTRUCTION



**Byrne & Jones**  
**PARKS CONSTRUCTION**

13940 St. Charles Rock Rd.  
 St. Louis, Missouri 63044  
 (314) 567-7977  
[www.byrneandjones.com](http://www.byrneandjones.com)

ASPHALT | CONCRETE | STABILIZATION | MICROsurfacing | SPORTS

K-2-59

The contractor shall notify and implement all  
 the required Federal Occupational Safety and  
 Health Administration (OSHA) and/or City  
 requirements for regular and  
 special cleaning and maintenance of  
 these parks.

DATE	DESCRIPTION
3/15/2023	CONCEPT
3/31/2023	REVIEW
4/18/2023	REVIEW
2/13/2025	REVIEW
6/17/2025	REVIEW

SELECT NAME  
 C11  
 CONCRETE-BASKETBALL

CONFIDENTIAL PLAN

PR 1.3



**BASKETBALL COURT IMPROVEMENTS**  
**Heman Park**  
**7200 Olive Blvd**  
**University City, Missouri 63130**

**PRELIMINARY DRAWING**

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(314) 567-7977  
[www.byrneandjones.com](http://www.byrneandjones.com)

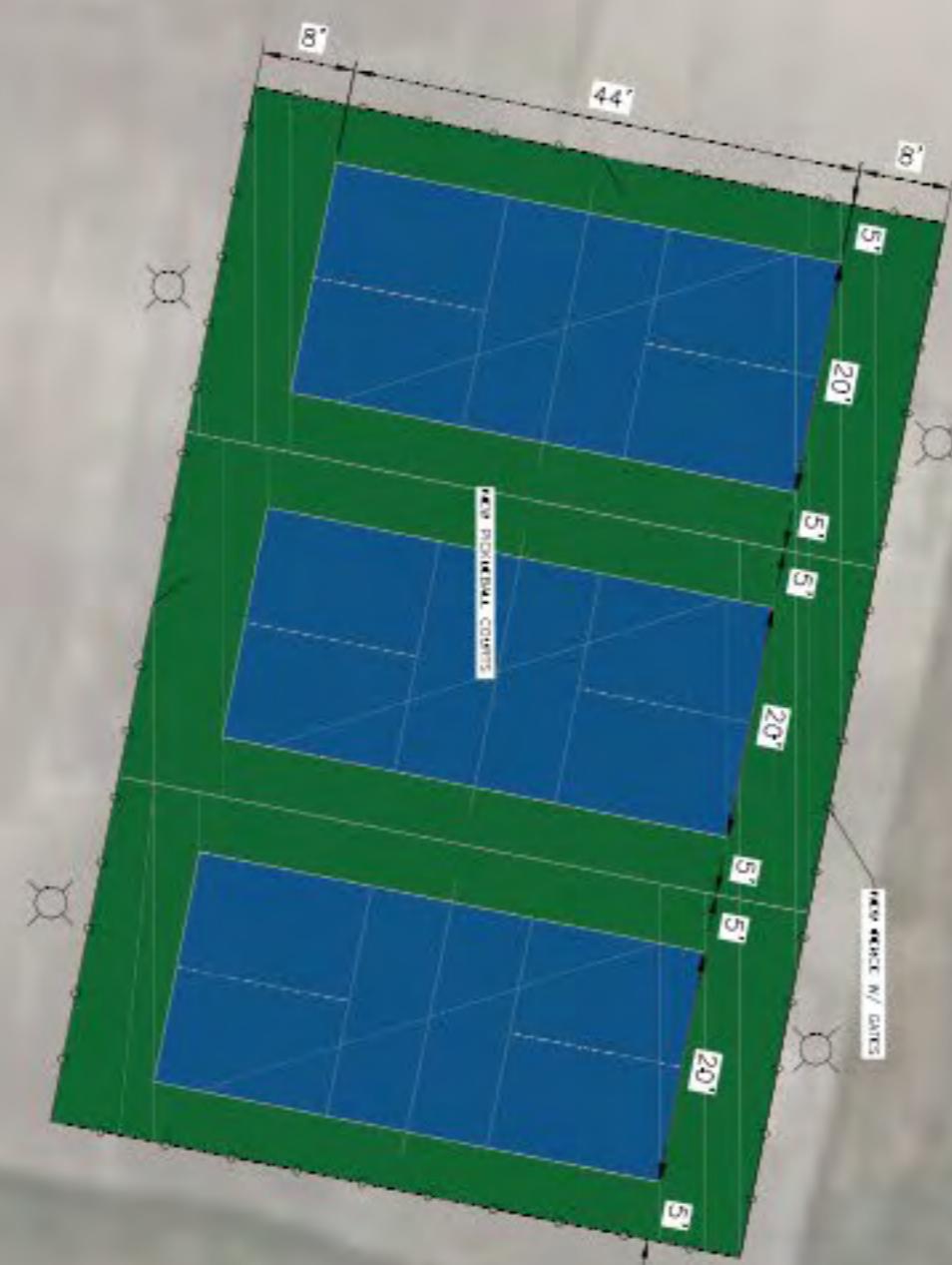
ASPHALT | CONCRETE | STABILIZATION | MICROSURFACING | SPORTS

K-2-60

Three weeks prior to the  
start of any work, written notice  
will be given to the City of University  
City, Missouri, and the Missouri  
Department of Natural Resources  
regarding the proposed work.  
The contractor shall notify and implement all  
the required Federal Occupational Safety and  
Health Administration (OSHA) and Missouri  
Department of Natural Resources  
regulations, and shall not proceed with  
any work until written notice is received by  
the City of University City, Missouri.

DATE	DESCRIPTION
3/15/2023	CONCEPT
3/31/2023	REVIEW
4/18/2023	REVIEW
2/13/2025	REVIEW
6/17/2025	REVIEW

DATE	DESCRIPTION
C.1.2	SHEET NAME MINI PITCH PLAN



**BASKETBALL COURT IMPROVEMENTS**  
**Heman Park**  
**7200 Olive Blvd**  
**University City, Missouri 63130**

**PRELIMINARY DRAWING**

FOR REVIEW PURPOSES ONLY  
 NOT TO BE USED FOR CONSTRUCTION



**Byrne & Jones**  
**PARKS CONSTRUCTION**

13940 St. Charles Rock Rd.  
 St. Louis, Missouri 63044  
 (314) 567-7977  
[www.byrneandjones.com](http://www.byrneandjones.com)

ASPHALT | CONCRETE | STABILIZATION | MICROsurfacing | SPORTS

K-2-61

The contractor shall notify and implement all  
 the required Federal Occupational Safety and  
 Health Administration (OSHA) safety and health  
 requirements and regulations, including those  
 of construction requirements by  
 federal, state, and local governments.  
 Three working days prior to the  
 start of any work, offer to the  
 site the Contractor's health and  
 safety plan and construction requirements  
 information.

JOE VIO  
 DESIGNER

3/15/2023  
 CONCEPT

3/31/2023  
 REVIEW

4/18/2023  
 REVIEW

2/13/2025  
 REVIEW

6/17/2025  
 REVIEW

1-800-344-7483 for safety  
 information.

STREET NAME  
 -PICKLEBALL

C1.3

## **PREVAILING WAGE CONTRACT NOTIFICATION FORM**

### **PREVAILING WAGE LAW**

The Contractor shall be held to comply with all requirements of the Prevailing Wage Law of the State of Missouri, and shall forfeit as a penalty to the state, county, city, town district or other political subdivision on whose behalf the Contract is made or awarded, one hundred dollars (\$100.00) for each workman employed, for each calendar day, or portion thereof, such workman is paid less than the said stipulated rates for any work done under this Contractor, by him/her or by any subcontractor under him/her.



MISSOURI DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

**PREVAILING WAGE  
PROJECT NOTIFICATION –  
CONTRACTOR INFORMATION** New     Update

The information below is requested pursuant to Sections 290.210 through 290.340, RSMo.

1. Date of Notification	2. Annual Wage Order Number Included in Bid Specifications	
3. Popular or Descriptive Name of Project		
4. Estimated Project Cost of Completion ( <i>total construction contracts to be awarded</i> ) \$		
5. Exact Location of Project	<u>County</u>	<u>City</u>
6. Official Name of Public Body or Agency		
7. Name of Contact Person	8. Phone Number ( <i>include area code</i> )	
9. Address		
10. Email Address	Website	
11. Contract Award Date	12. Estimated Date of Project Completion	13. Will There Be Any Federal Funds Used in this Contract? <input type="checkbox"/> Yes <input type="checkbox"/> No

## 14. Contractor Information Notification

General Contractor: Name \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_  
Phone Number \_\_\_\_\_ Email Address \_\_\_\_\_  
Type of Craftsmen Needed by Project \_\_\_\_\_  
Scope of Work \_\_\_\_\_

List all Subcontractors: 1. Name \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_  
Phone Number \_\_\_\_\_ Email Address \_\_\_\_\_  
Type of Craftsmen Needed by Project \_\_\_\_\_  
Scope of Work \_\_\_\_\_

2. Name \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_  
Phone Number \_\_\_\_\_ Email Address \_\_\_\_\_  
Type of Craftsmen Needed by Project \_\_\_\_\_  
Scope of Work \_\_\_\_\_

3. Name \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_  
Phone Number \_\_\_\_\_ Email Address \_\_\_\_\_  
Type of Craftsmen Needed by Project \_\_\_\_\_  
Scope of Work \_\_\_\_\_

4. Name \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_  
Phone Number \_\_\_\_\_ Email Address \_\_\_\_\_  
Type of Craftsmen Needed by Project \_\_\_\_\_  
Scope of Work \_\_\_\_\_

5. Name \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_  
Phone Number \_\_\_\_\_ Email Address \_\_\_\_\_  
Type of Craftsmen Needed by Project \_\_\_\_\_  
Scope of Work \_\_\_\_\_

6. Name \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_  
Phone Number \_\_\_\_\_ Email Address \_\_\_\_\_  
Type of Craftsmen Needed by Project \_\_\_\_\_  
Scope of Work \_\_\_\_\_

7. Name \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_  
Phone Number \_\_\_\_\_ Email Address \_\_\_\_\_  
Type of Craftsmen Needed by Project \_\_\_\_\_  
Scope of Work \_\_\_\_\_

8. Name \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_  
Phone Number \_\_\_\_\_ Email Address \_\_\_\_\_  
Type of Craftsmen Needed by Project \_\_\_\_\_  
Scope of Work \_\_\_\_\_

9. Name \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_  
Phone Number \_\_\_\_\_ Email Address \_\_\_\_\_  
Type of Craftsmen Needed by Project \_\_\_\_\_  
Scope of Work \_\_\_\_\_

The state of Missouri requires workers on public works projects be paid the prevailing wage. Public bodies have duties as required under Section 290.210 - 290.340, RSMo.

Mail, Fax, or Email completed form to: DIVISION OF LABOR STANDARDS

Attn: Prevailing Wage Section  
P.O. Box 449, Jefferson City, MO 65102-0449  
Phone: 573-751-3403 Fax: 573-751-3721  
Email: [prevailingwage@labor.mo.gov](mailto:prevailingwage@labor.mo.gov)  
Website: [www.labor.mo.gov/DLS](http://www.labor.mo.gov/DLS)

**SUBMIT**

*Missouri Department of Labor and Industrial Relations is an equal opportunity employer/program.  
TDD/TTY: 800-735-2966 Relay Missouri: 711*

# Missouri

## Division of Labor Standards

### WAGE AND HOUR SECTION



MICHAEL L. PARSON, Governor

## Annual Wage Order No. 30

Section 100  
**ST. LOUIS COUNTY**

In accordance with Section 290.262 RSMo 2000, within thirty (30) days after a certified copy of this Annual Wage Order has been filed with the Secretary of State as indicated below, any person who may be affected by this Annual Wage Order may object by filing an objection in triplicate with the Labor and Industrial Relations Commission, P.O. Box 599, Jefferson City, MO 65102-0599. Such objections must set forth in writing the specific grounds of objection. Each objection shall certify that a copy has been furnished to the Division of Labor Standards, P.O. Box 449, Jefferson City, MO 65102-0449 pursuant to 8 CSR 20-5.010(1). A certified copy of the Annual Wage Order has been filed with the Secretary of State of Missouri.

Original Signed by

Todd Smith, Director  
Division of Labor Standards

Filed With Secretary of State: March 10, 2023

Last Date Objections May Be Filed: April 10, 2023

Prepared by Missouri Department of Labor and Industrial Relations

OCCUPATIONAL TITLE	**Prevailing Hourly Rate
Asbestos Worker	\$66.97
Boilermaker	\$41.15*
Bricklayer	\$62.54
Carpenter	\$61.56
Lather	
Linoleum Layer	
Millwright	
Pile Driver	
Cement Mason	\$58.25
Plasterer	
Communications Technician	\$62.85
Electrician (Inside Wireman)	\$73.29
Electrician Outside Lineman	\$58.76
Lineman Operator	
Lineman - Tree Trimmer	
Groundman	
Groundman - Tree Trimmer	
Elevator Constructor	\$96.60
Glazier	\$65.67
Ironworker	\$67.11
Laborer	\$52.47
General Laborer	
First Semi-Skilled	
Second Semi-Skilled	
Mason	\$50.74
Marble Mason	
Marble Finisher	
Terrazzo Worker	
Terrazzo Finisher	
Tile Setter	
Tile Finisher	
Operating Engineer	\$67.06
Group I	
Group II	
Group III	
Group III-A	
Group IV	
Group V	
Painter	\$51.81
Plumber	\$75.30
Pipe Fitter	
Roofer	\$56.75
Sheet Metal Worker	\$72.05
Sorinkler Fitter	\$78.94
Truck Driver	\$41.15*
Truck Control Service Driver	
Group I	
Group II	
Group III	
Group IV	

\*The Division of Labor Standards received fewer than 1,000 reportable hours for this occupational title. The public works contracting minimum wage is established for this occupational title using data provided by Missouri Economic Research and Information Center.  
\*\*The Prevailing Hourly Rate includes any applicable fringe benefit amounts for each occupational title as defined in RSMO Section 290.210.

OCCUPATIONAL TITLE	**Prevailing Hourly Rate
Carpenter	\$62.80
Millwright	
Pile Driver	
Electrician (Outside Lineman)	\$58.76
Lineman Operator	
Lineman - Tree Trimmer	
Groundman	
Groundman - Tree Trimmer	
Laborer	\$53.14
General Laborer	
Skilled Laborer	
Operating Engineer	\$67.79
Group I	
Group II	
Group III	
Group IV	
Truck Driver	\$46.49
Truck Control Service Driver	
Group I	
Group II	
Group III	
Group IV	

Use Heavy Construction Rates on Highway and Heavy construction in accordance with the classifications of construction work established in 8 CSR 30-3.040(3).

Use Building Construction Rates on Building construction in accordance with the classifications of construction work established in 8 CSR 30-3.040(2).

If a worker is performing work on a heavy construction project within an occupational title that is not listed on the Heavy Construction Rate Sheet, use the rate for that occupational title as shown on the Building Construction Rate Sheet.

\*The Division of Labor Standards received fewer than 1,000 reportable hours for this occupational title. Public works contracting minimum wage is established for this occupational title using data provided by Missouri Economic Research and Information Center.

\*\*The Prevailing Hourly Rate includes any applicable fringe benefit amounts for each occupational title.

## AFFIDAVIT OF COMPLIANCE WITH THE PREVAILING WAGE LAW

STATE OF MISSOURI )  
COUNTY OF \_\_\_\_\_ ) ss

## AFFIDAVIT

**(as required by Section 285.530, Revised Statutes of Missouri)**

As used in this Affidavit, the following terms shall have the following meanings:

**EMPLOYEE:**

Any person performing work or services of any kind or character for hire within the State of Missouri.

## FEDERAL WORK AUTHORIZATION PROGRAM:

Any of the electronic verification of work authorized programs operated by the United States Department of Homeland Security or an equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, under the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603.

## KNOWINGLY:

A person acts knowingly or with some knowledge,

- (a) with respect to the person's conduct or to attendant circumstances when the person is aware of the nature of the person's conduct or that those circumstances exist; or
- (b) with respect to a result of the person's conduct when the person is aware that the person's conduct is practically certain to cause that result.

**UNAUTHORIZED ALIEN:**

An alien who does not have the legal right or authorization under federal law to work in the United States, as defined in 8 U.S.C. 1324a(h)(3).

BEFORE ME, the undersigned authority, personally appeared

\_\_\_\_\_, who, being duly sworn, states on his oath or affirmation  
as follows:

1. My name is \_\_\_\_\_ and I am currently the President of \_\_\_\_\_  
(hereinafter “Contractor”, whose business address is:  
\_\_\_\_\_, and I am authorized to make  
this Affidavit.

2. I am of sound mind and capable of making this Affidavit, and am personally  
acquainted with the facts stated herein.

3. Contractor is enrolled in and participates in a federal work authorization

program with respect to the employees working in connection with the following services contracted between Contractor and the City of University City.

4. Contractor does not knowingly employ any person who is an unauthorized alien in connection with the contracted services set forth above.

5. Attached hereto is documentation affirming Contractor's enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services.

Further, Affiant saith not.

Signature \_\_\_\_\_

Printed Name (Affiant) \_\_\_\_\_

Subscribed and sworn to before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public  
State of \_\_\_\_\_

My Commission Expires:  
Missouri  
Commissioned in \_\_\_\_\_ County  
Commission # \_\_\_\_\_

# **OVERTIME and HOLIDAYS**

## **OVERTIME**

For all work performed on a Sunday or a holiday, not less than twice (2x) the prevailing hourly rate of wages for work of a similar character in the locality in which the work is performed or the public works contracting minimum wage, whichever is applicable, shall be paid to all workers employed by or on behalf of any public body engaged in the construction of public works, exclusive of maintenance work.

For all overtime work performed, not less than one and one-half (1½) the prevailing hourly rate of wages for work of a similar character in the locality in which the work is performed or the public works contracting minimum wage, whichever is applicable, shall be paid to all workers employed by or on behalf of any public body engaged in the construction of public works, exclusive of maintenance work or contractual obligation. For purposes of this subdivision, "**overtime work**" shall include work that exceeds ten hours in one day and work in excess of forty hours in one calendar week; and

A thirty-minute lunch period on each calendar day shall be allowed for each worker on a public works project, provided that such time shall not be considered as time worked.

## **HOLIDAYS**

January First (1/1)  
January Third Monday  
February Third Monday  
May last Monday  
Juneteenth (6/19)  
July Fourth  
September First Monday  
November Fourth Thursday  
November Friday following Fourth Thursday  
December Twenty-Fifth (12/25)

If any holiday falls on a Sunday, the following Monday shall be considered a holiday.  
If any holiday falls on a Saturday, the preceding Friday shall be considered a holiday.

## **CITY OF UNIVERSITY CITY, MISSOURI**

---

### **EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE**

*City of University City Municipal Code, Ordinance number 135.010 is as follows:*

#### **135.010 - Personnel requirements for contractors with city**

- A. Any person, firm or corporation contracting with the city to provide services such as, but not limited to, technical/professional services, street repairs, supplies, building maintenance, at a cost to the city of fifty thousand dollars (\$50,000.00) or more and involving ten or more employees in the work force providing the contracted services, shall, as a condition precedent to the rendition of such services, certify by affidavit filed with the said city that at least twenty (20) percent of the work force providing the contracted services shall consist of workers generally classified as members of minorities and/or female workers. The city council may, under special circumstances such as, for example, situations requiring technical expertise and/or specialization, waive the conditions set forth herein provided, however, that such waiver is justified by a two-thirds vote of the city council.
  
- B. Any person, firm or corporation contracting with the city to provide services involving payment of one hundred thousand dollars (\$100,000.00) or more in which there are two or more subcontractors shall agree with the city that at least fifteen (15) percent of the total amount of the city's contract shall be allocated to subcontractors who employ workers generally classified as members of minorities and/or female workers.

## **CITY OF UNIVERSITY CITY, MISSOURI**

## **EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE**

#### **A. Contracts \$50,000 or more**

Is the contract amount \$50,000 or more?      YES      NO (**Stop**)  
Will there be 10 or more works on the project?      YES      NO (**If no, move on to section B.**)

Number of workers on project: \_\_\_\_\_

\_\_\_\_\_ Women and/or minority employees equals \_\_\_\_\_ % of the project workforce

**B. Contracts \$100,000.00 or more**

Is the contract \$100,000 or more:      YES      NO

Will there be (2) two or more subcontractors on project: YES NO

15% of base bid amount is:

**1. Subcontractor:**

Address: \_\_\_\_\_

Address: \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Phone Email

Number of minorities and/or females employed by this subcontractor for this project \_\_\_\_\_

Amount of contract dollars to this subcontractor \_\_\_\_\_

2. Subcontractor: \_\_\_\_\_

Address: \_\_\_\_\_

Address: \_\_\_\_\_

**City** \_\_\_\_\_ **State** \_\_\_\_\_ **Zip** \_\_\_\_\_

**CITY OF UNIVERSITY CITY, MISSOURI**

---

Number of minorities and/or females employed by this subcontractor for this project \_\_\_\_\_

Amount of contract dollars to this subcontractor \_\_\_\_\_

3. Subcontractor: \_\_\_\_\_

Address: \_\_\_\_\_

---

City

State

Zip

---

Phone

Email

Number of minorities and/or females employed by this subcontractor for this project

Amount of contract dollars to this subcontractor

---

Signature

---

Print

---

Title

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

---

Notary Public

**\*Use additional sheets if required.**

**OSHA TRAINING PROVISIONS**

Missouri law, 292.675 RSMo, requires the Contractor and its subcontractor(s) to provide a ten-hour occupational safety and health administration (OSHA) construction safety program (or similar program approved by the Missouri Department of Labor and Industrial Relations as a qualified substitute) for their on-site employees (laborers, workmen, drivers, equipment operators, and craftsmen) who have not previously completed such a program and are directly engaged in actual construction of the improvement (or working at a nearby or adjacent facility used for construction of the improvement). The Contractor and its subcontractor(s) shall require all such employees to complete this ten-hour program, pursuant 292.675 RSMo, unless they hold documentation on their prior completion of said program. Penalties for non-compliance include Contractor forfeiture to City of University City in the amount of \$2,500, plus \$100 per contractor and subcontractor employee for each calendar day such employee is employed beyond the elapsed time period for required program completion under 292.675 RSMo.

I, \_\_\_\_\_ certify that I have read and understand the provision stated.

**NOTICE OF AWARD**

TO: Byrne and Jones Construction

13940 St. Charles Rock Road

St. Louis, MO 63044

PROJECT DESCRIPTION: Project No. PRP – 26-001 Heman Three Court Project

The CITY has considered the TIPS CONTRACT PROPOSAL # 23010402 submitted by you for the above described WORK.

You are hereby notified that TIPS CONTRACT PROPOSAL has been accepted for items in the amount of \$575,000.00. You are required by the Instruction to Bidders to execute the CONTRACT and furnish the required CONTRACT BONDS, and certificates of insurance within the ten (10) calendar days from the date of this Notice of Award.

If the Contract is not executed, bonds and insurance not provided within ten (10) calendar days from the date of this Notice, said CITY will be entitled to consider all your rights arising out of the CITY'S acceptance of your TIPS contract proposal as abandoned and to declare BONDS forfeited. The OWNER will be entitled to such other rights as may be granted by law. You are required to return and acknowledged copy of this NOTICE OF AWARD to the OWNER.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2026

City of University City

OWNER

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature

Director of Parks, Recreation and Public Area Maintenance

TITLE

**ACCEPTANCE OF NOTICE**

Receipt of the above NOTICE OF AWARD is hereby acknowledged by: \_\_\_\_\_

\_\_\_\_\_  
Dated this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.  
\_\_\_\_\_  
BY \_\_\_\_\_

\_\_\_\_\_  
TITLE

**CITY OF UNIVERSITY CITY, MISSOURI**

---

**NOTICE TO PROCEED**

TO: \_\_\_\_\_

DATE: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PROJECT: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

You are hereby notified to commence WORK in accordance with the Contract dated \_\_\_\_\_, 20\_\_\_\_, on or before \_\_\_\_\_, 20\_\_\_\_, and you are to complete the WORK within

***One hundred and twenty (120) calendar days*** thereafter.

City of University City  
OWNER

PRINT NAME

SIGNATURE

Director of Parks, Recreation and Public Area  
Maintenance  
TITLE

**ACCEPTANCE OF NOTICE**

Receipt of the above NOTICE TO PROCEED is hereby acknowledged by \_\_\_\_\_

\_\_\_\_\_  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Signature: \_\_\_\_\_

Printed Name & Title: \_\_\_\_\_

**CITY OF UNIVERSITY CITY COUNCIL MEETING  
AGENDA ITEM**



NUMBER:

*For City Clerk Use*

**CM20260126-01**

**SUBJECT/TITLE:**

City Manager General Updates

**PREPARED BY:**

**DEPARTMENT / WARD**

**Administration - All**

**AGENDA SECTION:**

**City Manager's Report**

**CAN ITEM BE RESCHEDULED?**

**CITY MANAGER'S RECOMMENDATION OR RECOMMENDED MOTION:**

**FISCAL IMPACT:**

**AMOUNT:**

**ACCOUNT No.:**

**FROM FUND:**

**TO FUND:**

**EXPLANATION:**

General updates as provided by the City Manager.

**STAFF COMMENTS AND BACKGROUND INFORMATION:**

CIP No.

**RELATED ITEMS / ATTACHMENTS:**

**LIST CITY COUNCIL GOALS (S):**

**RESPECTFULLY SUBMITTED:**

City Manager, Gregory Rose

**MEETING DATE:**

January 26, 2026



**CITY OF UNIVERSITY CITY COUNCIL MEETING  
AGENDA ITEM**



NUMBER:

*For City Clerk Use*

**CM20260126-02**

**SUBJECT/TITLE:**

**EDRST Funding - C-17 Commissary Project**

**PREPARED BY:**

**Becky Ahlvin**

**DEPARTMENT / WARD**

**Economic Development / Ward 3**

**AGENDA SECTION:**

**City Manager's Report**

**CAN ITEM BE RESCHEDULED?**

**Yes**

**CITY MANAGER'S RECOMMENDATION OR RECOMMENDED MOTION:**

**City Manager recommends approval**

**FISCAL IMPACT:**

The EDRST Fund will be reduced by \$86,778 over three years in annual installments - \$28,926 in 2028; \$28,926 in 2029; and \$28,926 in 2030.

**AMOUNT:** **\$86,778**

**ACCOUNT No.:**

**11-45-78: 6040**

**FROM FUND:** **Events and Receptions**

**TO FUND:**

**Events and Receptions**

**EXPLANATION:**

WY Hospitality Group, LLC is requesting Economic Development Retail Sales Tax funds to help expand their existing business, Corner 17, to include C-17 Commissary Kitchen to be located at 8021 Olive Boulevard, the site of the former Royal Banks.

**STAFF COMMENTS AND BACKGROUND INFORMATION:**

The proposed project is a \$7.25 million mixed-use project primarily consisting of a commissary kitchen occupying 13,275 sq. ft. adjoined by two retail/restaurant spaces at a combined 3,500 sq. ft. The project calls for the demolition of the existing bank building and the construction of the commissary kitchen and two retail spaces, totaling 16,775 square feet. Applicant WY Hospitality Group, LLC (C-17 team) currently owns two businesses in the University City Loop; Corner 17 and the W Karaoke Lounge. The C-17 team recently purchased the parcel at 8021 Olive Boulevard with the goal of expanding their business to include catering services to the community and the production of packaged products to be distributed through local supermarkets. The project also envisions the development of two additional spaces that will further contribute to the city's economic activity and revitalization along Olive Boulevard.

**CIP No.**

**RELATED ITEMS / ATTACHMENTS:**

1. Transmittal Letter - December 10, 2025 EDRST Board Special Meeting
2. Agenda Item from EDRST Board Meeting

**LIST CITY COUNCIL GOALS (S):**

**Economic Development**  
**Community Quality of Life and Amenities**

**RESPECTFULLY SUBMITTED:**

**City Manager, Gregory Rose**

**MEETING DATE:**

**January 126 2026**



## Economic Development Retail Sales Tax Board

6801 Delmar Boulevard, University City, MO 63130 – Phone: 314-862-6767

December 15, 2025

Gregory Rose, City Manager  
City of University City  
6801 Delmar Boulevard  
University City, MO 63130

Ms. LaRette Reese, City Clerk  
City of University City  
6801 Delmar Boulevard  
University City, MO 63130

### **RE: Actions Taken at December 10, 2025 Meeting**

Dear Mr. Rose and Ms. Reese,

At its meeting on Thursday, December 10 at 6:30 pm, the Economic Development Retail Sales Tax Board took the following actions:

1. 6 Yes, 2 Absent to recommend the disbursement of funds to the University City Police Department for FY 26 and FY 27, not to exceed \$200,000 total.
2. 6 Yes, 2 Absent to recommend the disbursement of funds totaling \$86,778 to WY Hospitality Group, LLC in three annual installments in years 2028, 2029, and 2030. Each installment will be \$28,926 and will only be payable if C-17 reaches their taxable sales benchmarks.

Please do not hesitate to contact me with any questions.

Sincerely,

*/s/ Brendan O'Brien*

Brendan O'Brien, Chairperson  
Economic Development Retail Sales Tax Board



**OFFICE OF THE ECONOMIC DEVELOPMENT**  
6801 Delmar Boulevard, University City, Missouri 63130, Phone: (314) 505-8531

**M E M O R A N D U M**

TO: Members of the Economic Development Retail Sales Tax Board

FROM: Brooke A. Sharp, Deputy City Manager - Development  
Becky Ahlvin, Economic Development Manager

DATE: December 8, 2025

SUBJECT: Agenda Item 5(i)(2) – C-17 Commissary Funding Request - **Vote Required**

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This memorandum asks the Board to consider a funding request from WY Hospitality Group (owner of Corner 17) for their Commissary Kitchen project which will be an expansion of their existing business in the University City Loop.

**Executive Summary**

This memorandum details the request from WY Hospitality Group, LLC for a grant in the amount of \$86,778. At the October meeting, the Board considered the request from the applicant in the amount of \$438,178. Since then, the Applicant and the City have reached a tentative agreement for the total incentive package, which includes tax abatement via Chapter 100 and a grant via the Economic Development Retail Sales Tax fund. At-a-glance details about the project are listed below.

**Project Name:** C-17 Commissary Kitchen

**Applicant:** WY Hospitality Group, LLC

**Location:** 8021 Olive Boulevard. (formerly Royal Bank)

**Proposed Scope:** Commissary kitchen and warehouse, 2 retail stores

**Zoning:** General Commercial. Proposed use is permitted

**Timeline:** October/November 2025 – September 2026

**Job Creation:** 20 full-time positions, 10 part-time positions

**Total Project Cost:** \$7,250,000

**Amount of EDRST Funds Requested:** \$86,778 divided over three (3) years

**Staff's Recommendation:** Staff recommends approval.

## **Project Description**

The proposed project is a \$7.25 million mixed-use project primarily consisting of a commissary kitchen occupying 13,275 sq. ft. adjoined by two retail/restaurant spaces at a combined 3,500 sq. ft. The project calls for the demolition of the existing bank building and the construction of the commissary kitchen and two retail spaces, totaling 16,775 square feet. Applicant WY Hospitality Group, LLC (C-17 team) currently owns two businesses in the University City Loop; Corner 17 and the W Karaoke Lounge. The C-17 team recently purchased the parcel at 8021 Olive Boulevard with the goal of expanding their business to include catering services to the community and the production of packaged products to be distributed through local supermarkets. The project also envisions the development of two additional spaces that will further contribute to the city's economic activity and revitalization along Olive Blvd.

This parcel is zoned General Commercial and the proposed use is permitted.

The tentative timeline for the project is October/November 2025 – September 2026, which is just shy of one year. Dates may shift depending on whether the requested incentives are approved.

## **Alignment with City Goals**

The C-17 team anticipates that this project will create the following jobs:

### **Full-time jobs: 20**

- 1 General Manager: \$75,000
- 1 Kitchen Manager: \$65,000
- 1 Kitchen Assistant Manager: \$60,000
- 1 Warehouse Manager: \$60,000
- 16 Kitchen staff: \$ 15-18 per hour depending on the position

### **Part-time jobs: 10**

- 2 Office Clerk: \$16 per hour
- 5 Warehouse stocker: \$20 per hour
- 3 Kitchen staff: \$17 per hour

This project is consistent with the 2024 Comprehensive Plan, the Third Ward Revitalization Plan, the Olive Boulevard Commercial Corridor and Residential Conservation Redevelopment Plan, and the Economic Development Strategy. The proposed development is centered in the third ward and located in RPA3, an area that has been targeted for revitalization.

## **Requested Incentives**

The C-17 team's initial request for EDRST funding was received in February 2025 for \$662,340. This information was submitted to the city's consultant for review. The City's consultant opined that the developer's requested incentive amount of \$662,340 exceeded the consultant's realistic sales and valuation assumptions. The City's consultant recommended a combined TIF and EDRST note valued at \$574,950.

The City and the C-17 Team reached an agreement on EDRST funding as outlined below:

- Grant amount equals a total of \$86,778 to offset the cost of streetscape improvements, which conforms to the Olive Boulevard Design Guidelines
- Grant will be payable in 3 annual installments over years 2028 through 2030. Each installment will be \$28,926 and will only be payable if C-17 reaches their taxable sales benchmarks, as provided by their team. If taxable sales fall short of the applicable benchmark, the annual amount of the grant will be reduced as follows:
  - 2028:  $(1 - ((\$6,365,604 - \text{Actual 2028 Taxable Sales}) / \$1,993,557)) * \$28,926$   
= Reduced 2028 Annual Installment Amount
  - 2029:  $(1 - ((\$6,556,572 - \text{Actual 2029 Taxable Sales}) / \$2,053,3852)) * \$28,926$   
= Reduced 2029 Annual Installment Amount
  - 2030:  $(1 - (\$6,753,269 - \text{Actual 2030 Taxable Sales}) / \$2,114,9862)) * \$28,926$   
= Reduced 2030 Annual Installment Amount

*For example, if Actual 2028 Taxable Sales are \$6,000,000, the 2028 Annual Installment Amount will equal  $(1 - ((\$6,365,604 - \$6,000,000) / \$1,993,557)) * \$28,926 = \$23,621.18$ .*

- C-17 will file an annual report with the City no later than July 1 of each year, including copies of sales tax returns filed with the State, with the above calculation so the City can verify the applicable annual installment.
- No annual installment will be made if the calculated annual installment amount is less than \$5,000.

In addition to the EDRST grant, C-17 also requested tax abatement via Chapter 100. At City Manager Rose's request, staff prepared a financial model estimating the total value of a Chapter 100 tax abatement over a 10-year period with 100% abatement in years 1-5 and 50% abatement in years 6-10 with a Sales & Use Tax Exemption on Construction Materials. The C-17 Team countered with a proposal for 100% tax abatement for all 10 years instead of the tiered approach offered by the City with a Sales & Use Tax Exemption on Construction Materials. In response, the City extended a proposal for a 15-year Chapter 100 tax abatement with 100% in years 1 – 5, 50% abatement in years 6 – 15, and a Sales & Use Tax Exemption on Construction Materials, which the C-17 Team accepted.

This proposal yields an estimated total gross benefit of \$413,128; \$140,000 in Sales & Use Tax Exemption on Construction Materials and \$273,128 in real property tax abatement. C-17 will continue to pay taxes on the base year assessed value via Payments in Lieu of Taxes (PILOTs)

If the Board and the City Council approve the EDRST grant and the tax abatement, the total estimated incentive package is valued at \$499,906.

#### **Staff's Recommendation**

The City's consultant provided an updated recommendation based on C-17's revised projections, and the total incentive package of \$499,906 is supported by the consultant's analysis indicating that the project can sustain that amount.

Staff recommends approval.

Representatives from the C-17 team will be present at Wednesday night's meeting to discuss their request.

**Suggested motion: I move to recommend approval of awarding an Economic Development Retail Sales Tax grant in the amount of \$86,778, to be distributed in three installments as outlined in this memo, to WY Hospitality Group, LLC for the C-17 Commissary Kitchen project.**

Attachments:            C-17 Application  
                                  B-1 Budget Form



**Economic Development Retail Sales Tax Board**  
6801 Delmar Boulevard • University City, Missouri 63130 • 314-505-8500 • Fax: 314-862-3168

## **ECONOMIC DEVELOPMENT RETAIL SALES TAX FUNDS GENERAL FUNDING REQUEST APPLICATION**

### **GENERAL INFORMATION**

In August 2006, the City of University City levied a one-quarter (1/4) percent sales tax on retail sales to be used for economic development purposes. This revenue is based on the amount of sales tax generated through point of sales within the City limits and fluctuates from year to year.

Through the Economic Development Retail Sales Tax (EDRST), funds are being invested in University City programs and projects that encourage the physical and economic redevelopment of major corridors, improve infrastructure, support existing successful business districts, and enhance efforts toward business retention, expansion and attraction. The use of revenues generated by the tax are generally for project administration, land acquisition, infrastructure, water and wastewater treatment capacity, matching state or federal grants related to long-term economic development projects, marketing, training, equipment and infrastructure and other specified uses. Please refer to the "Funding Priority Guidelines" for additional information relating to the use of funds.

A nine-member volunteer Economic Development Retail Sales Tax Board helps to oversee the use of the EDRST and serves in an advisory capacity to City Council. City Council will make the final award decisions.

### **WHO CAN APPLY**

The EDRST is generally open to any business entity or organization. To be considered for funding, please complete and submit the attached application. Those requesting funds for multiple programs or projects must complete a separate "Section 2: Program or Project Information" for each funding request.



**Economic Development Retail Sales Tax Board**  
6801 Delmar Boulevard • University City, Missouri 63130 • 314-505-8533

## **APPLICATION FOR ECONOMIC DEVELOPMENT RETAIL SALES TAX FUNDS**

**Directions**. Please complete all sections of the application. If a question does not apply to a project, please indicate "n/a" for not applicable. Please refer to "Economic Development Retail Sales Tax Board Funding Priority Guidelines" for guidance. Applications should be submitted to Becky Ahlvin, Economic Development Manager, City of University City, 6801 Delmar Boulevard, University City, MO 63130 or [bahlvin@ucitymo.org](mailto:bahlvin@ucitymo.org). For questions call 314-505-8516.

Application Date: September 29, 2025

Project Title: **C-17 COMMISSARY PROJECT**

### **SECTION 1: APPLICANT/ORGANIZATION INFORMATION**

#### **1. Applicant/Organizational Information**

Name of Applicant/Organization: WY Hospital Group, LLC

Contact Person and Title: Xin Wei (Ivan), Manager of WY Hospital Group, LLC

Mailing Address: 6623 Delmar Blvd., University City, MO 63130

Phone Number: 917-669-2052

E-mail Address: xinwei0504@gmail.com

Website: N/A

Organizational Officers (Provide Name, Address, Phone and e-mail of at least three. Provide Articles of incorporation and letter or status): Articles of Organization are attached to this Application.

- a. Xin Wei – Manager and Member  
6623 Delmar Blvd., University City, MO 63130  
917-669-2052, [xinwei0504@gmail.com](mailto:xinwei0504@gmail.com)
- b. Danfeng Wei – Member  
6623 Delmar Blvd., University City, MO 63130  
917-669-2052
- c. Xue Ying Wei – Officer  
6623 Delmar Blvd., University City, MO 63130  
917-669-2052

Type of Entity:

- Sole-Proprietorship
- X Corporation/Partnership/Limited Liability Company**
- Not for Profit Organization
- Public/Government

501(c) 3:

- Yes  No      If no, list type of entity: Missouri limited liability company

Minority Business Enterprise (MBE) or Women Business Enterprise (WBE):

- Yes       No      (Note: Applicant is minority-owned, but is not a federal or state certified MBE contractor).

## 2. Applicant/Organization Background

Describe the applicant/organization history and mission:

Our family owns **Corner 17 Restaurant** and **The W Karaoke Lounge** on the Delmar Loop, and we've proudly been part of the University City community for more than ten years. Both locations have become popular gathering spots in the neighborhood.

In 2023, we expanded to Washington University's campus by offering Corner 17 there as well. Our mission is to promote cultural awareness and diversity, and to celebrate community through food culture. Looking ahead, we hope to bring Corner 17 to other school campuses across St. Louis—and eventually, nationwide.

To meet this growing demand, we are building a **commissary kitchen and warehouse on Olive Blvd in University City**, which will support our expansion. From this facility, we will also offer **catering services to the community**, as well as produce **packaged products** to be distributed through local supermarkets.

Our vision is to grow from our roots in University City into a business that reaches and connects communities across the country.

## 3. Describe the applicant/organization programs and activities:

Our **commissary kitchen** will produce the ingredients and materials needed to support the continued growth of our Delmar Loop location, while also preparing dishes for students at WashU—and eventually, at UMSL and SLU as well. In addition, the commissary will provide **catering services** for local businesses and residents, helping us serve the broader community. We are also manufacturing **packaged foods** to be sold through local markets. As part of this project, we are developing **two new retail spaces** to attract potential retail investors, further contributing to economic activity and revitalization along Olive Blvd in University City.

*If the request is from an organization, please provide proof of organizational support for the application (i.e. letter from organization on official letterhead, meeting minutes, etc.).*

Please see attached Certificate of Manager of WY Hospitality Group, LLC Regarding EDRST Application.

## SECTION 2: PROGRAM OR PROJECT INFORMATION

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### 4. Program or Project Summary (attach additional sheets if necessary)

Description of the Program or Project. In addition to a detailed description of the project, include a summary of the need for the program or project, goals and objectives, partners, and how the program or project meets any City plans or policies.

**Please see Attachment 1 – Project Summary (Question 4 of Application).**

Describe the number of part-time and full-time jobs to be created by the specific request and average wages for these jobs.

#### **Full-time jobs: 20**

1 General Manager: \$75,000  
1 Kitchen Manager: \$65,000  
1 Kitchen Assistant Manager: \$60,000  
1 Warehouse Manager: \$60,000  
16 Kitchen staff: \$ 15-18 per hour depending on the position

#### **Part-time jobs: 10**

2 Office Clerk: \$16 per hour  
5 Warehouse stocker: \$20 per hours  
3 Kitchen staff: \$17per hour

Define the expected outcomes of the project, milestones and how the project success will be measured.

Both our Delmar and on-campus locations continue to thrive, and we are hopeful that our packaged **products** will soon be available in supermarkets throughout the St. Louis area. We also envision more retail businesses opening along Olive Blvd, accompanied by new development and modern buildings, transforming the area into a truly international destination for our community.

Program or Project Location (Attach photos of location or site, if appropriate):

8021 Olive Blvd, University City, MO 63130 (vacant Royal Bank site)

Program or Project Timetable:

- **October/November 2025** – Begin demolition
- **End of June 2026** – Complete build-out
- **September 2026** – Facility opens and operations begin

Type of Funding Request (check all that apply):

Project  
 Program  
 Other (such as marketing, legal, professional services, grants or loans to companies for job training)

Total Budget: \$7,250,000

Amount of funding requested from EDRST:

Streetscape Improvements:	\$162,210
<u>Flood Plain Site Work:</u>	<u>\$275,968</u>
Total:	\$438,178

Is this request anticipated to be a one-time request or multi-year? If multi-year, please provide additional details, including anticipated future funding request, project details, and any other helpful information.

One-time request.

Complete and attach form EDRST B-1 with budget cost summary.

Please see attached EDRST B-1.

I CERTIFY THAT ALL INFORMATION IN THIS APPLICATION IS TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Name of Applicant Organization:

WY HOSPITALITY GROUP,LLC

  
Xin Wei, Manager

09/29/2025

Date

## **ATTACHMENT 1**

### **PROJECT SUMMARY (QUESTION 4 OF APPLICATION)**

We strongly believe that this Project is exactly the type of project that EDRST is designed to help. The Project will be a substantial retention and expansion project for a loyal, home-grown University City business.

The Project is a \$7,250,000 new construction project that will include a 13,275 square-foot commissary kitchen that will supply food for our Delmar Loop and Wash U locations, while also providing catering services to the community. In addition, it will produce packaged foods such as dumplings and noodles for distribution through local supermarkets, including specifically supermarkets located in University City. The Project will also include 3,500 square feet of retail space. It will bring many new jobs to Olive Boulevard. The Project is located at 8021 Olive Boulevard (the “Property”), which is the now-vacant Royal Banks site.

We believe that the Project is consistent with the 2024 Comprehensive Plan, the For the 3rd Ward Housing & Revitalization Plan, and the Olive Boulevard Commercial Corridor and Residential Conservation Redevelopment Plan.

We believe that the Project will help encourage and facilitate development within the vicinity of the Project on Olive Boulevard. The Property is directly across the street from the proposed Seafood City redevelopment site, and we believe that the successful development of the Project will further demonstrate the viability of this part of Olive Boulevard to proposed developers, investors, lenders, and tenants. Part of the EDRST request is for funding for streetscape improvements along this important stretch of Olive Boulevard.

The Project will generate substantial sales tax. Some of this sales tax will be captured by the Market at Olive TIF, which can be used for other projects within RPA 3 (e.g., the anticipated Seafood City redevelopment project). Some of the portions not captured by the Market at Olive TIF will go to the City. Specifically, the Project will generate EDRST that will help pay back the City for its investment in the Project.

We need EDRST help because the Property is a very difficult development site and the Project will require substantial site work. Per the enclosed site plan, nearly all of the Property is in a flood plain (shown in blue) and a portion of the Property is actually in the floodway (shown in red). The Royal Banks building experienced significant flooding issues.

The total site work will cost \$1,001,129, which includes the work to bring portions of the site out of the flood plain, soil remediation, streetscape improvements, site plan requirements, and building demolition. Without the extensive site work, only a smaller portion of the Property will be usable. This smaller footprint may work for a fast food restaurant, but it will not work for this Project or for any other development of scale.

We are specifically requesting the following:

**1. Streetscape Improvements - \$162,210**

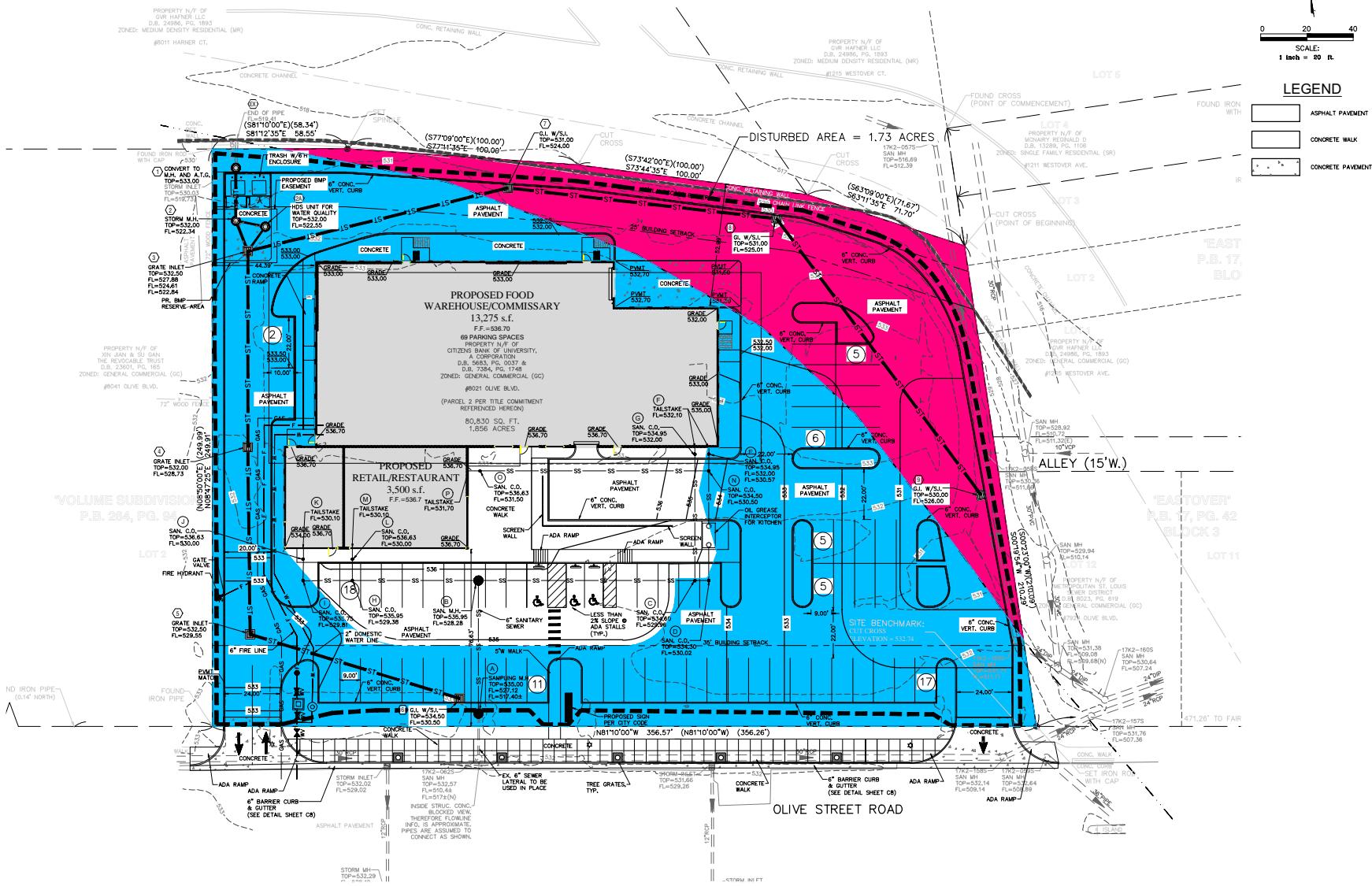
This request is for the costs of streetscape improvements along Olive Boulevard to comply with Olive Boulevard Corridor requirements. This request is further itemized as follows:

<b>Item</b>	<b>Cost</b>
Excavation	\$125,000
Concrete Walks	
Tree Grates	
Trees	
Street Lights	
Irrigation – Olive Boulevard	\$8,000
Allocated Contractor's Fee	\$29,210
<b>TOTAL:</b>	<b>\$162,210</b>

**2. Flood Plain Site Work - \$275,968**

This request is for the costs of site work to remove portions of the Property out of the flood plain.

<b>Item</b>	<b>Cost</b>
Raise Site out of Flood Plain, Compaction Testing	\$117,940
Partial Storm Sewer Costs	\$55,000
Site Remediation Due to Soil Issues	\$73,818
Allocated Contractor's Fee	\$29,210
<b>TOTAL:</b>	<b>\$275,968</b>



**EDRST B-1****City of University City****Economic Development Retail Sales Tax****FY25 Request for Funds: Budget Cost Summary****Applicant: WY Hospitality LLC (Corner 17)****Project: Corner 17 Commissary Project****Amount of Request: \$438,178****Provide a listing of each project or program proposed and the associated cost allocation.**

	<b>Total EDRST Funds</b>	<b>Applicant's Cash Funds</b>	<b>Applicant's Non-Cash Contributions</b>		<b>Project Total</b>
<b>I. Project or Program Direct Costs*</b>					
Streetscape Improvements	\$ 162,210				\$ 162,210
Flood Plain Site Work	\$ 275,968				\$ 275,968
Land Acquisition		\$1,200,000			\$ 1,200,000
Additional Site Work		\$562,951			\$ 562,951
Building Construction		\$5,048,871			\$ 5,048,871
<b>Total Direct Costs</b>	<b>\$ 438,178</b>				<b>\$ 7,250,000</b>
<b>II. Indirect Costs**</b>					
Operations					\$ -
<b>BUDGET TOTAL - ALL ACTIVITIES</b>	<b>\$ 438,178</b>				<b>\$ 7,250,000</b>

\*Examples of direct costs are project materials, salaries, fringe and benefits, supplies and equipment that are tied to a particular cost objective such as a project or program. Consultation with City staff is advised to assist in defining direct costs.

\*\*Examples of indirect costs are expenses relating to operations, such as general office and building expenses. These costs must represent a reasonable and proportional rate in relationship to direct costs. Consultation with City staff is advised to assist with defining indirect costs.

**CERTIFICATE OF MANAGER  
OF WY HOSPITALITY GROUP, LLC  
REGARDING EDRST APPLICATION**

The undersigned, as Manager of WY HOSPITALITY GROUP, LLC, a Missouri limited liability company (the “Company”), hereby certifies as follows:

1. Attached hereto is a true, correct and complete copy of the Articles of Organization of the Company, together with all amendments thereto.

2. In accordance with the Operating Agreement of the Company, the Manager and Members of the Company have unanimously consented to the submission to the EDRST Board and the City of University City of the attached Application for Economic Development Retail Sales Tax Funds, regarding the C-17 Commissary Project.

Dated as of September 29, 2025



---

XIN WEI, Manager

**State of Missouri**

John R. Ashcroft, Secretary of State  
Corporations Division  
PO Box 778 / 600 W. Main St., Rm. 322  
Jefferson City, MO 65102

**LC014472534****Date Filed: 9/26/2024**

**John R. Ashcroft**  
**Missouri Secretary of State**

**Amendment of Articles of Organization***(Submit with filing fee of \$25.00)*

Charter #: LC014472534

1. The current name of the limited liability company is WY REAL ESTATE LLC

2. The effective date of this document is the date it is filed by the Secretary of State of Missouri, unless a future date is otherwise indicated:

*(Date may not be more than 90 days after the filing date in this office)*

3. State date of occurrence that required this amendment: 9/20/2024  
*Month/Day/Year*

4. The articles of organization are hereby amended as follows:

New Name (if applicable): WY HOSPITALITY GROUP LLC

5. (Check if applicable) This amendment is required to be filed because:

management of the limited liability company is vested in one or more managers where management had not been so previously vested.  
 management of the limited liability company is no longer vested in one or more managers where management was previously so vested.  
 a change in the name of the limited liability company.  
 a change in the time set forth in the articles of organization for the limited liability company to dissolve.

6. This amendment is (check either or both):

authorized under the operating agreement  
 required to be filed under the provisions of RSMo Chapter 347  
 both

7. Principal Office Address (OPTIONAL) of the limited liability company (PO Box may only be used in addition to a physical street address):

754 Leland Ave Apt 2N

Saint Louis, MO 63130-3236

*Address (PO Box may only be used in conjunction with a physical street address)*

*City/State/Zip*

In Affirmation thereof, the facts stated above are true and correct:

(The undersigned understands that false statements made in this filing are subject to the penalties provided under Section 575.040, RSMo)

TTC-12 (11/2009)

Name and address to return filed document:

Name: Evergrow Financials

Address: Email: Info@evergrowfin.com

City, State, and Zip Code: \_\_\_\_\_

L - 2 - 18

Xin Dong Wei  
*Authorized Signature*

**XIN DONG WEI**  
*Printed Name*

09/26/2024  
*Date*

# STATE OF MISSOURI



**John R. Ashcroft  
Secretary of State**

## CERTIFICATE OF AMENDED ARTICLES OF ORGANIZATION

WHEREAS,

**WY HOSPITALITY GROUP LLC  
LC014472534**

FORMERLY,

**WY REAL ESTATE LLC**

filed its amended Articles of Organization with this office and WHEREAS that filing was found to conform to the Missouri Limited Liability Company Act;

NOW, THEREFORE, I, JOHN R. ASHCROFT, Secretary of State of the State of Missouri, by virtue of authority vested in me by law do hereby certify and declare that the above entity's Articles of Organization are amended.

IN TESTIMONY WHEREOF, I hereunto set my hand and cause to be affixed the GREAT SEAL of the State of Missouri. Done at the City of Jefferson, this 26th day of September, 2024.

A handwritten signature of John R. Ashcroft in black ink.

Secretary of State



**State of Missouri**

**John R. Ashcroft, Secretary of State**  
Corporations Division  
PO Box 778 / 600 W. Main St., Rm. 322  
Jefferson City, MO 65102

**LC014472534****Date Filed: 6/20/2023**

**John R. Ashcroft**  
**Missouri Secretary of State**

**Articles of Organization***(Submit with filing fee of \$105.00)*

1. The name of the limited liability company is  
WY REAL ESTATE LLC

*(Must include "Limited Liability Company," "Limited Company," "LC," "L.C.," "L.L.C.," or "LLC")*

2. The purpose(s) for which the limited liability company is organized:

The Company is organized for the following purpose: the transaction of any lawful business for which a limited liability company may be organized under the Act, in Missouri or any other jurisdiction.

3. The name and address of the limited liability company's registered agent in Missouri is:

SPRA Corp. 120 S. CENTRAL AVE., SUITE 1600 ST. LOUIS, MO 63105  
*Name* *Street Address: May not use PO Box unless street address also provided* *City/State/Zip*

4. The management of the limited liability company is vested in:  managers  members *(check one)*

5. The events, if any, on which the limited liability company is to dissolve or the number of years the limited liability company is to continue, which may be any number or perpetual: Perpetual

*(The answer to this question could cause possible tax consequences, you may wish to consult with your attorney or accountant)*

6. The name(s) and street address(es) of each organizer *(PO box may only be used in addition to a physical street address)*:

*(Organizer(s) are not required to be member(s), manager(s) or owner(s))*

<i>Name</i>	<i>Address</i>	<i>City/State/Zip</i>
<u>Chen, Jasmine H</u>	<u>600 Washington Ave Stc 1500</u>	<u>Saint Louis MO 63101-1313</u>

7.  Series LLC (OPTIONAL) Pursuant to Section 347.186, the limited liability company may establish a designated series in its operating agreement. The names of the series must include the full name of the limited liability company and are the following:

New Series:

The limited liability company gives notice that the series has limited liability.

New Series:

The limited liability company gives notice that the series has limited liability.

New Series:

The limited liability company gives notice that the series has limited liability.

*(Each separate series must also file an Attachment Form LLC 1A.)*

Name and address to return filed document:

Name: Elizabeth Meyer

Address: Email: cmeyer@sandbergphoenix.com

City, State, and Zip Code: \_\_\_\_\_

8. Principal Office Address (OPTIONAL) of the limited liability company (PO Box may only be used in addition to a physical street address):

754 Leland Ave Apt 2N

*Address (PO Box may only be used in conjunction with a physical street address)*

Saint Louis, MO 63130-3236

*City/State/Zip*

9. The effective date of this document is the date it is filed by the Secretary of State of Missouri unless a future date is otherwise indicated:

*(Date may not be more than 90 days after the filing date in this office)*

In Affirmation thereof, the facts stated above are true and correct:

(The undersigned understands that false statements made in this filing are subject to the penalties provided under Section 575.040, RSMo)

**All organizers must sign:**

Jasmine Li Chen  
*Organizer Signature*

JASMINI LI CHEN  
*Printed Name*

06/20/2023  
*Date of Signature*

# STATE OF MISSOURI



**John R. Ashcroft**  
**Secretary of State**

## CERTIFICATE OF ORGANIZATION

WHEREAS,

**WY REAL ESTATE LLC**  
**LC014472534**

filed its Articles of Organization with this office on the 20th day of June, 2023, and that filing was found to conform to the Missouri Limited Liability Company Act.

NOW, THEREFORE, I, John R. Ashcroft, Secretary of State of the State of Missouri, do by virtue of the authority vested in me by law, do certify and declare that on the 20th day of June, 2023, the above entity is a Limited Liability Company, organized in this state and entitled to any rights granted to Limited Liability Companies.

IN TESTIMONY WHEREOF, I hereunto set my hand and cause to be affixed the GREAT SEAL of the State of Missouri.  
Done at the City of Jefferson, this 20th day of June, 2023.

A handwritten signature of John R. Ashcroft in black ink. Below the signature, the text "Secretary of State" is printed in a smaller, bold, black font.



**City of University City**  
**Economic Development Retail Sales Tax**  
**FY25 Request for Funds: Budget Cost Summary**

**Applicant: WY Hospitality LLC (Corner 17)**

**Project: Corner 17 Commisary Project**

**Amount of Request: \$438,178**

**Provide a listing of each project or program proposed and the associated cost allocation.**

	Total EDRST Funds	Applicant's Cash Funds	Applicant's Non-Cash Contributions	Other Funds	Project Total
<b>I. Project or Program Direct Costs*</b>					
Streetscape Improvements	\$ 162,210				\$ 162,210
Flood Plain Site Work	\$ 275,968				\$ 275,968
Land Acquisition		\$1,200,000			\$ 1,200,000
Additional Site Work		\$562,951			\$ 562,951
Building Construction		\$5,048,871			\$ 5,048,871
<b>Total Direct Costs</b>	<b>\$ 438,178</b>				<b>\$ 7,250,000</b>
<b>II. Indirect Costs**</b>					
Operations					\$ -
<b>BUDGET TOTAL - ALL ACTIVITIES</b>	<b>\$ 438,178</b>				<b>\$ 7,250,000</b>

\* Examples of direct costs are project materials, salaries, fringe and benefits, supplies and equipment that are tied to a particular cost objective such as a project or program. Consultation with City staff is advised to assist in defining direct costs.

\*\* Examples of indirect costs are expenses relating to operations, such as general office and building expenses. These costs must represent a reasonable and proportional rate in relationship to direct costs. Consultation with City staff is advised to assist with defining indirect costs.



**CITY OF UNIVERSITY CITY COUNCIL MEETING  
AGENDA ITEM**

<b>NUMBER:</b> <i>For City Clerk Use</i>	<b>CM20260126-03</b>
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**SUBJECT/TITLE:**

Discussion and Direction on CALOP Funding Application

**PREPARED BY:**

Christopher Crabel

**DEPARTMENT / WARD**

Administration Department

**AGENDA SECTION:**

City Manager Report

**CAN ITEM BE RESCHEDULED?**

Yes

**CITY MANAGER'S RECOMMENDATION OR RECOMMENDED MOTION:**

City Manager Mr. Rose recommends that City Council provide feedback on the CALOP Funding Application, identify any necessary changes, and direct staff on how to proceed accordingly

**FISCAL IMPACT:**

\$154,264.70 reduction in CALOP funds

**AMOUNT:**

154,264.70

**ACCOUNT No.:**

17.1001

**FROM FUND:**

Fund 17

**TO FUND:**

Fund 17

**EXPLANATION:**

This agenda item asks that you identify any changes that should be made to the CALOP Funding Application and provide direction on how you would like staff to proceed.

**STAFF COMMENTS AND BACKGROUND INFORMATION:**

The Commission for Access and Local Original Programming (CALOP) was established to support community-based programming and projects that promote arts, culture, education, and local engagement within University City. Funding is derived from cable franchise revenues and is distributed through an application process aligned with the City's adopted priorities and available resources.

**CIP No.****RELATED ITEMS / ATTACHMENTS:**

1) CALOP Application 2026

**LIST CITY COUNCIL GOALS (S):**

Community Quality of Life and Amenities and Prudent Fiscal Management

**RESPECTFULLY SUBMITTED:**

City Manager, Gregory Rose

**MEETING DATE:**

1.26.2026



**Gregory Rose, City Manager**

6801 Delmar Boulevard, University City, Missouri 63130, Phone: (314) 505-8534, Fax: (314) 863-9146

## CALOP FUNDING REQUEST APPLICATION

**Directions** - Please complete all sections of the application. If a question does not apply to a project, please indicate "n/a" for not applicable. Please refer to attached five-year plan for guidance on objective that must be achieved by the CALOP Fund. Completed application should be submitted to Chris Crabel, Deputy City Manager, Support Services, City of University City, 6801 Delmar Boulevard, University City, MO 63130 or [ccrabel@ucitymo.org](mailto:ccrabel@ucitymo.org). For questions call 314-505-8557. Applications submitted after the deadline will not be considered for funding.

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

Project Title: \_\_\_\_\_

### SECTION 1: APPLICANT/ORGANIZATION INFORMATION

---

#### **1. Applicant/Organizational Information:**

Name of Applicant/Organization: \_\_\_\_\_

Contact Person and Title: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Website: \_\_\_\_\_

Organizational Officers (Provide Name, Address, Phone and e-mail of at least three. Provide Articles of incorporation and letter or status):

a. \_\_\_\_\_

b. \_\_\_\_\_

c. \_\_\_\_\_



## Gregory Rose, City Manager

6801 Delmar Boulevard, University City, Missouri 63130, Phone: (314) 505-8534, Fax: (314) 863-9146

Type of Entity:

- Sole-Proprietorship
- Corporation/Partnership/Limited Liability Company
- Not for Profit Organization
- Public/Government

501(c) 3:

Yes       No      If no, list type of entity: \_\_\_\_\_

Minority Business Enterprise (MBE) or Women Business Enterprise (WBE):

Yes       No

### 2. Applicant/Organization Background:

Describe the applicant/organization history and mission:

Describe the applicant/organization programs and activities:

*If the request is from an organization, please provide proof of organizational support for the application (i.e. letter from organization on official letterhead, meeting minutes, etc.).*



## Gregory Rose, City Manager

6801 Delmar Boulevard, University City, Missouri 63130, Phone: (314) 505-8534, Fax: (314) 863-9146

### SECTION 2: PROGRAM OR PROJECT INFORMATION

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#### 3. Program or Project Summary (attach additional sheets if necessary):

Description of the Program or Project. In addition to a detailed description of the project, include a summary of the need for the program or project, goals and objectives, partners, and how the program or project meets any City plans or policies.

Define the expected outcomes of the project, milestones and how the project success will be measured.

Program or Project Location (Attach photos of location or site, if appropriate):



## Gregory Rose, City Manager

6801 Delmar Boulevard, University City, Missouri 63130, Phone: (314) 505-8534, Fax: (314) 863-9146

Program or Project Timetable:

Type of Funding Request (check all that apply):

- Project
- Program
- Other (such as marketing, legal, professional services, grants or loans to companies for job training)

Total Budget:

Amount of funding requested from CALOP:

I CERTIFY THAT ALL INFORMATION IN THIS APPLICATION IS TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

---

***Name of Applicant Organization***

---

***Authorized Signature***

---

***Date***



**CITY OF UNIVERSITY CITY COUNCIL MEETING  
AGENDA ITEM**



NUMBER:

*For City Clerk Use*

**UB20260126-01**

**SUBJECT/TITLE:**

AN ORDINANCE AUTHORIZING THE CITY OF UNIVERSITY CITY, MISSOURI TO ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS (8021 OLIVE BOULEVARD PROJECT), SERIES 2026, IN A PRINCIPAL AMOUNT NOT TO EXCEED \$8,000,000, FOR THE PURPOSE OF PROVIDING FUNDS TO PAY THE COSTS OF ACQUIRING, CONSTRUCTING AND IMPROVING A FACILITY FOR AN INDUSTRIAL DEVELOPMENT PROJECT IN THE CITY; APPROVING A PLAN FOR THE PROJECT; AND AUTHORIZING THE CITY TO ENTER INTO CERTAIN AGREEMENTS AND TAKE CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH.

**PREPARED BY:**

**Gregory Rose, City Manager**

**DEPARTMENT / WARD**

**Administration - City Mgrs. Office**

**AGENDA SECTION:**

**Unfin Business - Bill 9578**

**CAN ITEM BE RESCHEDULED?**

**Yes**

**CITY MANAGER'S RECOMMENDATION OR RECOMMENDED MOTION:**

City Manager recommends approval.

**FISCAL IMPACT:**

**N/A**

**AMOUNT:**

**N/A**

**ACCOUNT No.:**

**N/A**

**FROM FUND:**

**N/A**

**TO FUND:**

**N/A**

**EXPLANATION:**

Please see attached staff report

**STAFF COMMENTS AND BACKGROUND INFORMATION:**

Please see attached staff report

**CIP No.**

**RELATED ITEMS / ATTACHMENTS:**

Staff Memo  
Bill No 9578

**LIST CITY COUNCIL GOALS (S):**

Economic Development, Community Quality of Life

**RESPECTFULLY SUBMITTED:**

**City Manager, Gregory Rose**

**MEETING DATE:**

**January 26, 2026**

## **AGENDA ITEM – STAFF REPORT**

**MEETING DATE:** January 26, 2026

**DEPARTMENT:** City Manager's Office

**AGENDA ITEM TITLE:** Bill 9578 - Corner 17 Chapter 100

AN ORDINANCE AUTHORIZING THE CITY OF UNIVERSITY CITY, MISSOURI TO ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS (8021 OLIVE BOULEVARD PROJECT), SERIES 2026, IN A PRINCIPAL AMOUNT NOT TO EXCEED \$8,000,000, FOR THE PURPOSE OF PROVIDING FUNDS TO PAY THE COSTS OF ACQUIRING, CONSTRUCTING AND IMPROVING A FACILITY FOR AN INDUSTRIAL DEVELOPMENT PROJECT IN THE CITY; APPROVING A PLAN FOR THE PROJECT; AND AUTHORIZING THE CITY TO ENTER INTO CERTAIN AGREEMENTS AND TAKE CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH.

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### **ADDITIONAL BACKGROUND INFORMATION:**

#### Chapter 100 Ordinance

WY Hospitality Group LLC (the "Company") has requested that the City participate in an industrial revenue bond transaction pursuant to Chapter 100, RSMo. to provide certain tax incentives in connection with the construction of a 13,275-square-foot commissary and 3,500 square feet of retail and restaurant space located at 8021 Olive Boulevard (the "Project"). The proposed tax incentives include (a) 15 years of incremental real property tax abatement (consisting of 5 years of 100% abatement above current tax levels and an additional 10 years of 50% abatement above current tax levels) and (b) a sales and use tax exemption on the construction materials purchased for the Project. The anticipated tax impact of these incentives is described in the Cost/Benefit Analysis included in Exhibit A to the ordinance. In accordance with Section 100.059, RSMo., a copy of this analysis has been provided to the impacted taxing districts.

The proposed industrial revenue bond is structured by titling the real property in the name of the City (making it tax-exempt) and leasing it to the Company during the tax abatement period. During the tax abatement period, the Company makes payments in lieu of taxes equal to any taxes that are not intended to be abated. Bonds representing the estimated cost of the Project are also issued to the Company (however, the bonds are not payable from any City or other governmental tax revenue). At the end of the tax abatement period, the Company tenders the bonds back to the City for cancellation and the City transfers title to the Project to the Company (making the Project subject to full taxation). The exhibits to the proposed ordinance relate to the bond transaction. Similarly structured industrial revenue bond transactions were used to facilitate incentives for the 711 Kingsland Avenue/Tru Hotel project, the Subtext project and the Parkview Place project.

Additionally, the Company has requested that the City provide an Economic Development Sales Tax Grant in the maximum amount of \$86,778 to offset a portion of the Company's costs of installing certain streetscape improvements that comply with the Olive Boulevard Design Guidelines.

The proposed grant is payable in three annual installments and will be reduced if the Project does not satisfy certain sales tax benchmarks. The terms and conditions for the proposed grant are described in detail in Section 4.4 of the Development Agreement attached as Exhibit F to the ordinance.

Subsequent to the introduction of this Bill No. 9578, the Lender requested certain revisions to Exhibit B (Trust Indenture) and Exhibit D (Lease Agreement), highlighted on the attached pages. Bond counsel and the Developer have no objections to the revisions and Bill No. 9578 may be amended accordingly.



INTRODUCED BY: \_\_\_\_\_

DATE: \_\_\_\_\_, 2026

**BILL NO. 9578**

**ORDINANCE NO.**

**AN ORDINANCE AUTHORIZING THE CITY OF UNIVERSITY CITY, MISSOURI TO ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS (8021 OLIVE BOULEVARD PROJECT), SERIES 2026, IN A PRINCIPAL AMOUNT NOT TO EXCEED \$8,000,000, FOR THE PURPOSE OF PROVIDING FUNDS TO PAY THE COSTS OF ACQUIRING, CONSTRUCTING AND IMPROVING A FACILITY FOR AN INDUSTRIAL DEVELOPMENT PROJECT IN THE CITY; APPROVING A PLAN FOR THE PROJECT; AND AUTHORIZING THE CITY TO ENTER INTO CERTAIN AGREEMENTS AND TAKE CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH.**

**WHEREAS**, the City of University City, Missouri (the “City”), is authorized and empowered pursuant to the provisions of Article VI, Section 27(b) of the Missouri Constitution and Sections 100.010 through 100.200 of the Revised Statutes of Missouri (collectively, the “Act”), and the City Charter to purchase, construct, extend and improve certain projects and to issue industrial development revenue bonds for the purpose of providing funds to pay the costs of such projects and to lease or otherwise dispose of such projects to private persons or corporations for manufacturing, commercial, office industry, warehousing and industrial development purposes upon such terms and conditions as the City deems advisable; and

**WHEREAS**, as required under the Act, a Plan for an Industrial Development Project and Cost/Benefit Analysis (the “Plan”) has been prepared in the form of **Exhibit A**, attached hereto and incorporated herein by reference; and

**WHEREAS**, notice of the City’s consideration of the Plan has been given in the manner required by the Act, and the City Council has fairly and duly considered all comments submitted to the City Council regarding the proposed Plan; and

**WHEREAS**, the City Council hereby finds and determines that it is desirable for the improvement of the economic welfare and development of the City and within the public purposes of the Act that the City: (1) approve the Plan pursuant to the Act; (2) issue its Taxable Industrial Revenue Bonds (8021 Olive Boulevard Project), Series 2026, in the maximum principal amount of \$8,000,000 (the “Bonds”), for the purpose of acquiring certain real property located at 8021 Olive Boulevard in the City (the “Project Site,” as more fully described in the below-defined Indenture) and the construction thereon of a 13,275-square-foot commissary and 3,500 square feet of retail and restaurant space (collectively, the “Project Improvements,” as more fully described in the Indenture, and together with acquisition of the Project Site, the “Project”), (3) lease the Project to WY Hospitality Group LLC (the “Company”); and (4) enter into a Development Agreement with the Company, under which the Company will make certain payments in lieu of taxes and agree to certain additional development terms and conditions in consideration of the City issuing the Bonds; and

**WHEREAS**, the City Council further finds and determines that it is necessary and desirable in connection with the implementation of the Plan and the issuance of the Bonds that the City enter into certain documents and take certain other actions as herein provided.

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

**Section 1. Approval of the Plan.** The City Council hereby approves the Plan attached as **Exhibit A.**

**Section 2. Authorization for the Project.** The City is hereby authorized to provide for the purchase and construction of the Project in the manner and as more particularly described in the Indenture and the Lease Agreement hereinafter authorized.

**Section 3. Authorization of the Bonds.** The City is hereby authorized to issue and sell the Bonds as described in the recitals hereto for the purpose of providing funds to pay the costs of the Project. The Bonds shall be issued and secured pursuant to the Indenture and shall have such terms, provisions, covenants and agreements as are set forth in the Indenture.

**Section 4. Limitation on Liability.** The Bonds and the interest thereon shall be limited obligations of the City, payable solely out of certain payments, revenues and receipts derived by the City from the Lease Agreement. Such payments, revenues and receipts shall be pledged and assigned to the bond trustee named in the Indenture (the “Trustee”) as security for the payment of the Bonds as provided in the Indenture. The Bonds and the interest thereon shall not constitute general obligations of the City, the State of Missouri (the “State”) or any other political subdivision thereof, and neither the City nor the State shall be liable thereon. The Bonds shall not constitute an indebtedness within the meaning of any constitutional, statutory or charter debt limitation or restriction and are not payable in any manner by taxation.

**Section 5. Authorization of Documents.** The City is hereby authorized to enter into the following documents (collectively, the “City Documents”), in substantially the forms presented to and approved by the City Council and attached to this Ordinance, with such changes therein as shall be approved by the officials of the City executing the City Documents, such officials’ signatures thereon being conclusive evidence of their approval thereof:

(a) Trust Indenture (the “Indenture”) between the City and the Trustee, in substantially the form attached as **Exhibit B**, pursuant to which the Bonds will be issued and the City will pledge the Project and assign certain of the payments, revenues and receipts received pursuant to the Lease Agreement to the Trustee for the benefit and security of the owners of the Bonds upon the terms and conditions as set forth in the Indenture.

(b) Special Warranty Deed from the Company, as grantor, to the City, as grantee, in substantially the form attached as **Exhibit C**, pursuant to which the Company will transfer title to the Project Site to the City.

(c) Lease Agreement (the “Lease Agreement”) between the City and the Company, in substantially the form attached as **Exhibit D**, pursuant to which the City will lease the Project to the Company pursuant to the terms and conditions in the Lease Agreement, in consideration of rental payments by the Company that will be sufficient to pay the principal of and interest on the Bonds.

(d) Bond Purchase Agreement between the City and the Company, in substantially the form attached as **Exhibit E**, pursuant to which the Company will purchase the Bonds.

(e) Development Agreement between the City and the Company, in substantially the form attached as **Exhibit F**, pursuant to which the Company will make certain payments in lieu of taxes with respect to the Project.

**Section 6. Company Substitution.** Notwithstanding the forms of documents approved in substantially final form pursuant to **Section 5**, at the request of the Company, any entity controlled by or under common control with the Company may be inserted as the Company in the documents approved by **Section 5** prior to execution.

**Section 7. Execution of Documents.** The City Manager is hereby authorized to execute the Bonds and to deliver the Bonds to the Trustee for authentication for and on behalf of and as the act and deed of the City in the manner provided in the Indenture. The City Manager is hereby authorized to execute the City Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance, for and on behalf of and as the act and deed of the City. The City Clerk is hereby authorized to attest to and affix the seal of the City to the Bonds and the City Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

**Section 8. Further Authority.** The City shall, and the City Manager or other officials, agents and employees of the City designated by the City Manager are hereby authorized to, take such further action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance and to carry out, comply with and perform the duties of the City with respect to the Bonds and the City Documents, including but not limited to agreements with emergency service districts, if any. The City Manager is hereby authorized, through the term of the Lease Agreement, to execute all documents on behalf of the City (including documents pertaining to the transfer of property or the financing or refinancing of the Project by the Company) as may be required to carry out and comply with the intent of this Ordinance and the City Documents. The City Manager is further authorized, on behalf of the City, to grant such consents, estoppels and waivers relating to the Bonds and the City Documents as may be requested during the term thereof; provided, such consents, estoppels and/or waivers shall not increase the principal amount of the Bonds, increase the term of the Lease Agreement or the tax exemption as provided for in the City Documents, waive an event of default or materially change the nature of the transaction. The City Clerk is authorized to attest to and affix the seal of the City to any document authorized by this Section.

**Section 9. Severability.** The sections of this Ordinance shall be severable. If any section of this Ordinance is found by a court of competent jurisdiction to be invalid, the remaining sections shall remain valid, unless the court finds that (a) the valid sections are so essential to and inseparably connected with and dependent upon the void section that it cannot be presumed that the City Council has or would have enacted the valid sections without the void ones, and (b) the valid sections, standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent.

**Section 10. Effective Date.** This Ordinance shall be in full force and effect from and after the date of its passage and approval.

**PASSED and ADOPTED THIS \_\_ DAY OF \_\_\_\_\_, 2026.**

---

**MAYOR**

(Seal)

ATTEST:

---

**CITY CLERK**

CERTIFIED TO BE CORRECT AS TO FORM:

---

**CITY ATTORNEY**

**EXHIBIT A**

**PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT  
AND COST/BENEFIT ANALYSIS**

(On file in the office of the City Clerk)



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**CITY OF UNIVERSITY CITY, MISSOURI**

**PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT  
AND  
COST/BENEFIT ANALYSIS**

**FOR**

**WY HOSPITALITY GROUP LLC  
8021 OLIVE BOULEVARD  
UNIVERSITY CITY, MISSOURI**

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### ATTACHMENT A - SUMMARY OF KEY ASSUMPTIONS

**EXHIBIT 1 - SUMMARY OF COST/BENEFIT ANALYSIS**

**EXHIBIT 2 - PROJECTED REAL PROPERTY TAX REVENUES WITHOUT ABATEMENT**

**EXHIBIT 3 - PROJECTED REAL PROPERTY PAYMENTS IN LIEU OF TAXES**

\* \* \*

## **CITY OF UNIVERSITY CITY, MISSOURI**

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### **PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT AND COST/BENEFIT ANALYSIS WY HOSPITALITY GROUP LLC**

#### **I. PURPOSE OF THIS PLAN**

The City of University City, Missouri (the “City”), intends to issue taxable industrial revenue bonds in a principal amount not to exceed \$8,000,000 (the “Bonds”) to finance the costs of an industrial development project (the “Project”) for the benefit of WY Hospitality Group LLC (the “Company”). The Bonds will be issued pursuant to the provisions of Sections 100.010 to 100.200 of the Revised Statutes of Missouri (“Chapter 100”), Article VI, Section 27(b) of the Missouri Constitution (collectively with Chapter 100, the “Act”) and the City Charter. The Bonds will initially be owned by the Company, and cannot be transferred, other than to the Company’s affiliates and lenders, without the City’s prior approval.

This Plan for an Industrial Development Project and Cost/Benefit Analysis (this “Plan”) is intended to satisfy the requirements of the Act and to analyze the potential costs and benefits, including the related tax impact on all affected taxing jurisdictions, of using industrial revenue bonds to finance the Project and to facilitate partial abatement of ad valorem taxes on the bond-financed property.

#### **II. DESCRIPTION OF CHAPTER 100 FINANCINGS**

**General.** Chapter 100 authorizes cities, counties, towns and villages (each of which is referred to as a “municipality” in the Act) to issue industrial development revenue bonds to finance the purchase, construction, extension and improvement of warehouses, distribution facilities, research and development facilities, office industries, agricultural processing industries, service facilities that provide interstate commerce and industrial plants, including the real estate either within or without the limits of such municipalities, buildings, fixtures and machinery. In addition, Article VI, Section 27(b) of the Missouri Constitution authorizes cities, counties, towns and villages to issue revenue bonds for the purpose of paying all or part of the cost of purchasing, constructing, extending or improving any facility for manufacturing, commercial, warehousing and industrial development purposes, including the real estate, buildings, fixtures and machinery.

**Issuance and Sale of Bonds.** Revenue bonds issued pursuant to the Act do not require voter approval and are payable solely from revenues received from a lease or other disposition of the project. The municipality issues its bonds and in exchange, the benefited company promises to make payments that are sufficient to pay the principal of and interest on the bonds as they become due. Thus, the municipality merely acts as a conduit for the financing.

Concurrently with the closing of the bonds, the benefited company will convey title to the site on which the industrial development project will be located to the municipality. (The municipality must be the legal owner of the property while the bonds are outstanding for the property to be eligible for tax abatement, as further described below.) The municipality will immediately lease the project site and the improvements thereon back to the benefited company pursuant to a lease agreement. The lease agreement will require the benefited company, acting on behalf of the municipality, to use the bond proceeds to purchase and construct the project.

Under the lease agreement, the benefited company typically: (1) unconditionally agrees to make payments sufficient to pay the principal of and interest on the bonds as they become due; (2) agrees, at its own expense, to maintain the project, to pay all taxes (other than those abated) and assessments with respect to the project and to maintain adequate insurance; (3) may, at its own expense, make certain additions, modifications or improvements to the project; (4) may assign its interests under the lease agreement or sublease the project while remaining responsible for payments under the lease agreement; (5) covenants to maintain its corporate existence during the term of the bond issue; and (6) agrees to indemnify the municipality for any liability the municipality might incur as a result of its participation in the transaction.

**Property Tax Abatement.** Under Article X, Section 6 of the Missouri Constitution and Section 137.100 of the Revised Statutes of Missouri, all property of any political subdivision is exempt from taxation. In a typical Chapter 100 transaction, the municipality holds fee title to the project and leases the project to the benefited company. Although the Missouri Supreme Court has held that the leasehold interest is taxable, it is taxable only to the extent that the economic value of the lease is less than the actual market value of the lease. See *Iron County v. State Tax Commission*, 437 S.W.2d 665 (Mo. 1968) (*en banc*) and *St. Louis County v. State Tax Commission*, 406 S.W.2d 644 (Mo. 1966) (*en banc*). If the rental payments under the lease agreement equal the actual debt service payments on the bonds, the leasehold interest should have no “bonus value” and the bond-financed property should be exempt from ad valorem taxation while the bonds are outstanding.

If the municipality and the company determine that partial tax abatement is desirable, the company may agree to make payments in lieu of taxes (sometimes referred to as “PILOTs”). The amount of PILOTs is negotiable. The PILOTs are payable by December 31 of each year and are distributed to the municipality and to each political subdivision within the boundaries of the project in the same manner and in the same proportion as property taxes would otherwise be distributed under Missouri law.

**Sales and Use Tax Exemption.** In addition to property tax abatement, qualified building materials can be exempt from sales and use tax if approved by the municipality. The sales and use tax exemption is evidenced by a project exemption certificate issued by the municipality.

### **III. DESCRIPTION OF THE PARTIES**

**WY Hospitality Group LLC.** The Company is an affiliate of Wei Restaurant Group LLC, a Missouri limited liability company (“Wei Restaurant Group”). Wei Restaurant Group owns and operates several restaurants in the St. Louis area, including the W Karaoke Longue and Corner 17. Corner 17 currently has two locations: one in the Delmar Loop and one on the campus of Washington University in St. Louis. More information regarding the Company and Corner 17 can be found at [corner17usa.com](http://corner17usa.com).

**University City, Missouri.** The City is a home-rule charter city and political subdivision of the State of Missouri (the “State”). The City is authorized and empowered pursuant to the provisions of the Act to purchase, construct, extend, equip and improve certain projects (as defined in the Act) and to issue industrial development revenue bonds for the purpose of providing funds to pay the costs of such projects and to lease or otherwise dispose of such projects to private persons or corporations for manufacturing, commercial, warehousing and industrial development purposes upon such terms and conditions as the City deems advisable.

#### **IV. REQUIREMENTS OF THE ACT**

**A. Description of the Project.** The Project consists of acquiring approximately 1.86 acres of land located at 8021 Olive Boulevard in the City (the “Project Site”) and the construction of a 13,275-square-foot commissary and 3,500 square feet of retail and restaurant space (the “Project Improvements” and, together with the Project Site, the “Project”). The Project is expected to be completed by the end of 2026.

**B. Estimate of the Costs of the Project.** The Company estimates the acquisition of the Project Site and the construction of the Project Improvements to cost approximately \$7,250,000. The Bonds have a maximum principal amount of \$8,000,000 to allow for contingencies.

**C. Sources of Funds to be Expended for the Project.** The sources of funds to be expended for the Project will be the proceeds of the Bonds in the maximum principal amount of \$8,000,000 and other available funds of the Company. The Bonds will be payable solely from the revenues derived by the City from the lease or other disposition of the Project (as further described below). The Bonds will not be an indebtedness or general obligation, debt or liability of the City or the State. No tax revenues will be used to repay the Bonds.

**D. Statement of the Terms Upon Which the Project is to be Leased or Otherwise Disposed of by the City.** Upon the issuance of the Bonds, the Company will convey fee title to the Project Site to the City. The City will lease the Project back to the Company for lease payments equal to the principal of and interest on the Bonds, plus certain PILOTs. Under the terms of the lease agreement, the Company will have the option to purchase the Project at any time for nominal consideration, including at the termination of the lease. Unless terminated sooner pursuant to the terms thereof, the lease will terminate on December 31 of the 14th year following the year in which the Abatement Initiation Date occurs.

The “Abatement Initiation Date” will be January 1 of the year immediately following the year in which the Project Improvements are completed, unless the Company notifies the City in writing by July 1 of the year in which the Project Improvements are completed that the Abatement Initiation Date should be January 1 of such year. The Project Improvements are expected to be completed by the end of 2026; accordingly, the Abatement Initiation Date is expected to be January 1, 2027, and the lease of the Project is expected to terminate on December 31, 2041.

**E. Affected School District, Community College District, Emergency Service Providers, County and Municipality.** The School District of University City and the Special School District of St. Louis County are the school districts affected by the Project. The Community College District of St. Louis, St. Louis County, Missouri is the community college district affected by the Project. St. Louis County, Missouri is the county affected by the Project. The City is the municipality affected by the Project. There is no ambulance district, fire protection district or other emergency service district affected by the Project. The Cost/Benefit Analysis attached hereto identifies all other property taxing districts affected by the Project (other than those taxing entities solely affected by the Project with respect to receipt of tax revenues from the commercial surcharge tax).

**F. Current Assessed Valuation.** The most recent (2025) equalized assessed valuation of the real property included in the Project is \$544,000. The estimated total equalized assessed valuation of real property included in the Project after construction of the Project Improvements is \$772,440. Please note, however, that this estimate assumes that completion of the Project Improvements will not have a significant impact on the assessed value of the Project Site, which was previously used as a bank. The County Assessor will make the final determination of the assessed value.

**G. Payments in Lieu of Taxes.** If this Plan is approved by the City, the City intends to issue the Bonds, take possession of the Project and extend tax abatement to the Company. In each year of the tax abatement period, the Company will make the following PILOTS:

- In each year before the Abatement Initiation Date occurs (expected to be 2026), the Company will make a PILOT equal to 100% of the real property taxes that would otherwise be due to all of the affected taxing jurisdictions, but for the City's ownership.
- In the year in which the Abatement Initiation Date occurs and in each of the 14 years thereafter (the "Partial Tax Relief Period"), the Company will make a PILOT equal to the following:
  - During the entirety of the Partial Tax Relief Period (expected to be 2027 through 2041, inclusive), 100% of the ad valorem real property taxes that would otherwise be due, but for the City's ownership of the Project, based on the 2025 assessed valuation of the Project (the "Base Value");
  - During the first five years of the Partial Tax Relief Period (expected to be 2027 through 2031, inclusive), 0% of the ad valorem real property taxes that would otherwise be due, but for the City's ownership of the Project (100% incremental abatement), based on the incremental assessed valuation for any given year above the Base Value (the "Incremental Value"); and
  - During the last ten years of the Partial Tax Relief Period (expected to be 2032 through 2041, inclusive), 50% of the ad valorem real property taxes that would otherwise be due, but for the City's ownership of the Project (50% incremental abatement), based on the Incremental Value.

PILOTS are expected to be collected by the County Collector in the same manner as real property taxes. Except as otherwise set forth in this Plan and in the Bond documents (with respect to emergency service districts, if any), all PILOTS will be distributed among the affected taxing districts in the same proportion as their respective, then-current ad valorem tax levies.

**H. Sales and Use Tax Exemption.** Qualified building materials purchased for the construction of the Project Improvements are expected to be exempt from sales and use tax pursuant to the provisions of Section 144.062 of the Revised Statutes of Missouri and the Bond documents upon delivery of a project exemption certificate. If this Plan is approved by the City, the City intends to deliver a project exemption certificate.

**I. Cost/Benefit Analysis and Discussion of Exhibits.** In compliance with Section 100.050.2(3) of the Revised Statutes of Missouri, this Plan has been prepared to show the costs and benefits to the City and to other taxing jurisdictions affected by the tax abatement and exemptions of the Project. The projections in the Cost/Benefit Analysis are estimates based on numerous assumptions set forth in **Attachment A** hereto. Therefore, the actual revenues generated from the Project may be significantly different from those shown in the Cost/Benefit Analysis. The following is a summary of the exhibits attached to this Plan that show the direct tax impact the Project is expected to have on each taxing jurisdiction and key ancillary benefits expected to be derived from the Project. This Plan does not attempt to quantify the overall economic impact of the Project.

*Summary of Cost/Benefit Analysis.* **Exhibit 1** provides a summary for each affected taxing district of (1) the total estimated tax revenues that would be generated if the Project did not receive tax abatement, (2) the total estimated value of the PILOTs to be made by the Company for the proposed abatement period and (3) the total estimated value of the abatement to the Company. Please note that the actual value of the Project may differ from the estimated value assumed in this Plan and may impact the value of the PILOTs to be made by the Company.

*Real Property Tax Revenues.* **Exhibit 2** provides the projected real property tax revenues that would be generated if the Project did not receive tax abatement. **Exhibit 3** provides the projected value of the PILOTs to be made by the Company based on the estimated assessed value of the Project after completion.

Refer to **Attachment A** for the assumptions related to the determination of the assessed values and the tax formulas.

*Sales and Use Tax Exemption.* The City will grant a sales and use tax exemption on the qualified building materials necessary to construct the Project Improvements. For purposes of determining the impact of the sales and use tax exemption on the qualified building materials on the affected taxing jurisdictions granted by the City, it was assumed that:

- \$2,000,000 of the total costs of the Project will be allocated to construction material costs (40% of the estimated costs of the Project Improvements);
- the applicable sales tax rate is 9.238%, of which 4.225% is allocated to the State, 3.513% is allocated to the County and 1.500% is allocated to the City;
- the applicable use tax rate is 5.725%, of which 4.225% is allocated to the State and 1.500% is allocated to the City;
- 80% of the qualified construction materials will be subject to the State's sales tax and 20% will be subject to the State's use tax;
- 20% of the qualified construction materials will be subject to the County's sales tax; and
- 5% of the qualified construction materials will be subject to the City's sales tax and 95% will be subject to the City's use tax.

Please note that any variance in these assumptions will alter the net fiscal impact of the sales and use tax exemption on the affected taxing jurisdictions.

Based on the assumptions set forth above, the net fiscal impact of the sales and use tax exemption on the qualified building materials granted by the City is approximately \$128,552, allocated as follows:

	<u>Sales Tax</u>	<u>Use Tax</u>	<u>Total</u>
State	\$67,600	\$16,900	\$84,500
County	14,052	-	14,052
City	<u>1,500</u>	<u>28,500</u>	<u>30,000</u>
Total	\$83,152	\$45,400	\$128,552

*Ancillary Project Benefits.* The City believes that the Company's investment in the Project will create construction jobs during the construction period, attract visitors to the Olive Boulevard Corridor and spur additional investment in the City. Additionally, construction of the Project will enhance the aesthetics and vibrancy of the Project Site and the surrounding area. These ancillary impacts were not measured for purposes of this Plan.

#### **V. ASSUMPTIONS AND BASIS OF PLAN**

This Plan includes assumptions that impact the amount of the tax abatement and exemptions proposed for the Project. See **Attachment A** for a summary of these assumptions.

In addition to the foregoing, to complete this Plan, Gilmore & Bell, P.C. has generally reviewed and relied upon information furnished by, and has participated in conferences with, representatives of the City and its counsel, representatives of the Company and its counsel, and other persons as the firm has deemed appropriate. Gilmore & Bell, P.C. does not assume any responsibility for the accuracy, completeness or fairness of any of the information provided by other parties and has not independently verified the accuracy, completeness or fairness of such information provided by other parties.

\* \* \*

**ATTACHMENT A**  
**SUMMARY OF KEY ASSUMPTIONS**

1. The Company will invest approximately \$7,250,000 to acquire the Project Site and construct the Project Improvements. Please note, however, that we have assumed that this investment will not have a significant impact on the assessed value of the Project Site, which was previously used as a bank. The County Assessor will make the final determination of the assessed value of the Project.

2. The Project will be completed by the end of 2026, so the Abatement Initiation Date will be January 1, 2027.

3. The Project will be owned by the City and leased to the Company with an option to purchase. As long as the Project is owned by the City, it will be exempt from ad valorem property taxes.

4. The Project will be excluded from the calculation of ad valorem real property taxes from upon its acquisition by the City, but will be required to pay a PILOT equal to 100% of the ad valorem real property taxes that would otherwise be due, but for the City's ownership of the Project until such time as the Project is completed and the Partial Tax Relief Period begins.

5. During the Partial Tax Relief Period (expected to be 2027 through 2041, inclusive), the Company will make a PILOT equal to the following:

- During the entirety of the Partial Tax Relief Period (expected to be 2027 through 2041, inclusive), 100% of the ad valorem real property taxes that would otherwise be due, but for the City's ownership of the Project, based on the Base Value;
- During the first five years of the Partial Tax Relief Period (expected to be 2027 through 2031, inclusive), 0% of the ad valorem real property taxes that would otherwise be due, but for the City's ownership of the Project, based on the Incremental Value;
- During the last ten years of the Partial Tax Relief Period (expected to be 2032 through 2041, inclusive), 50% of the ad valorem real property taxes that would otherwise be due, but for the City's ownership of the Project, based on the Incremental Value.

6. Real property taxes are calculated using the following formula:

$$\text{(Assessed Value} * \text{Tax Rate})/100$$

7. The Company estimates the total equalized assessed valuation of real property included in the Project after construction of the Project Improvements will be \$772,440.

8. The Project will be assessed in the first year after completion and in every odd-numbered year thereafter. An estimated growth rate of 2% has been assumed for each reassessment.

9. The tax rates used in this Plan reflect the rates in effect for the 2025 tax year. The tax rates were held constant through the 2041 tax year.

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This Cost/Benefit Analysis has been prepared on the basis of factual information and assumptions provided to Gilmore & Bell, P.C. by, or on behalf of, the City and the Company. This information is provided in conjunction with our legal representation of the City, as its bond counsel, for this transaction. It is not intended as financial advice or a financial recommendation to the City, the Company, or any other taxing jurisdiction that may be affected by the Project. Gilmore & Bell, P.C. is not a financial advisor or a "municipal advisor" as defined in the Securities Exchange Act of 1934.

**EXHIBIT 1**  
**SUMMARY OF COST/BENEFIT ANALYSIS**

<b>Taxing Jurisdiction</b>	<b>Tax Rate</b>	<b>Projected Tax Revenues Without Abatement on Real Property</b>		<b>Projected PILOT Payments on Real Property</b>	<b>Projected Tax Abatement on Real Property</b>
		<b>Projected Tax Revenues Without Abatement on Real Property</b>	<b>Projected PILOT Payments on Real Property</b>		
School District of University City	\$ 4.9016	\$ 671,216	\$ 503,718	\$ 167,498	
Special School District of St. Louis County	0.8993	123,148	92,417		30,731
University City - General	0.6500	89,010	66,798		22,212
University City - Road & Bridge	0.0840	11,503	8,632		2,870
University City - Storm & Sewer	0.0180	2,465	1,850		615
University City Library District	0.3450	47,244	35,454		11,789
St. Louis Community College	0.2442	33,440	25,095		8,345
Metro Zoological Park & Museum District	0.2196	30,072	22,567		7,504
St. Louis County - General	0.1800	24,649	18,498		6,151
St. Louis County - Health Fund	0.1130	15,474	11,613		3,861
St. Louis County - Parks & Recreation	0.0400	5,478	4,111		1,367
St. Louis County - Dev. Dis. Board	0.0770	10,544	7,913		2,631
St. Louis County - Bond	0.0050	685	514		171
Metro Sewer District	0.0931	12,749	9,567		3,181
State of Missouri	0.0300	4,108	3,083		1,025
Commercial Surcharge	1.7000	232,795	174,702		58,092
	9.5998	\$ 1,314,578	\$ 986,533		\$ 328,045

## EXHIBIT 2

### PROJECTED REAL PROPERTY TAX REVENUES WITHOUT ABATEMENT

Estimated Assessed Value of Real Property	\$ 772,440	\$ 772,440	\$ 811,545	\$ 811,545	\$ 852,629	\$ 852,629	\$ 895,794	\$ 895,794	\$ 941,143	\$ 941,143	
Taxing Jurisdiction	Tax Rate per \$100	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036
School District of University City	4.9016	\$ 37,862	\$ 37,862	\$ 39,779	\$ 39,779	\$ 41,792	\$ 41,792	\$ 43,908	\$ 43,908	\$ 46,131	\$ 46,131
Special School District of St. Louis County	0.8993	6,947	6,947	7,298	7,298	7,668	7,668	8,056	8,056	8,464	8,464
University City - General	0.6500	5,021	5,021	5,275	5,275	5,542	5,542	5,823	5,823	6,117	6,117
University City - Road & Bridge	0.0840	649	649	682	682	716	716	752	752	791	791
University City - Storm & Sewer	0.0180	139	139	146	146	153	153	161	161	169	169
University City Library District	0.3450	2,665	2,665	2,800	2,800	2,942	2,942	3,090	3,090	3,247	3,247
St. Louis Community College	0.2442	1,886	1,886	1,982	1,982	2,082	2,082	2,188	2,188	2,298	2,298
Metro Zoological Park & Museum District	0.2196	1,696	1,696	1,782	1,782	1,872	1,872	1,967	1,967	2,067	2,067
St. Louis County - General	0.1800	1,390	1,390	1,461	1,461	1,535	1,535	1,612	1,612	1,694	1,694
St. Louis County - Health Fund	0.1130	873	873	917	917	963	963	1,012	1,012	1,063	1,063
St. Louis County - Parks & Recreation	0.0400	309	309	325	325	341	341	358	358	376	376
St. Louis County - Dev. Dis. Board	0.0770	595	595	625	625	657	657	690	690	725	725
St. Louis County - Bond	0.0050	39	39	41	41	43	43	45	45	47	47
Metro Sewer District	0.0931	719	719	756	756	794	794	834	834	876	876
State of Missouri	0.0300	232	232	243	243	256	256	269	269	282	282
Commercial Surcharge	1.7000	13,131	13,131	13,796	13,796	14,495	14,495	15,229	15,229	15,999	15,999
	<b>9.5998</b>	<b>\$ 74,153</b>	<b>\$ 74,153</b>	<b>\$ 77,907</b>	<b>\$ 77,907</b>	<b>\$ 81,851</b>	<b>\$ 81,851</b>	<b>\$ 85,994</b>	<b>\$ 85,994</b>	<b>\$ 90,348</b>	<b>\$ 90,348</b>

Estimated Assessed Value of Real Property	\$ 988,789	\$ 988,789	\$ 1,038,846	\$ 1,038,846	\$ 1,091,437						
Taxing Jurisdiction	Tax Rate per \$100	2037	2038	2039	2040	2041	Total				
School District of University City	4.9016	\$ 48,466	\$ 48,466	\$ 50,920	\$ 50,920	\$ 53,498	\$ 671,216				
Special School District of St. Louis County	0.8993	8,892	8,892	9,342	9,342	9,815	123,148				
University City - General	0.6500	6,427	6,427	6,753	6,753	7,094	89,010				
University City - Road & Bridge	0.0840	831	831	873	873	917	11,503				
University City - Storm & Sewer	0.0180	178	178	187	187	196	2,465				
University City Library District	0.3450	3,411	3,411	3,584	3,584	3,765	47,244				
St. Louis Community College	0.2442	2,415	2,415	2,537	2,537	2,665	33,440				
Metro Zoological Park & Museum District	0.2196	2,171	2,171	2,281	2,281	2,397	30,072				
St. Louis County - General	0.1800	1,780	1,780	1,870	1,870	1,965	24,649				
St. Louis County - Health Fund	0.1130	1,117	1,117	1,174	1,174	1,233	15,474				
St. Louis County - Parks & Recreation	0.0400	396	396	416	416	437	5,478				
St. Louis County - Dev. Dis. Board	0.0770	761	761	800	800	840	10,544				
St. Louis County - Bond	0.0050	49	49	52	52	55	685				
Metro Sewer District	0.0931	921	921	967	967	1,016	12,749				
State of Missouri	0.0300	297	297	312	312	327	4,108				
Commercial Surcharge	1.7000	16,809	16,809	17,660	17,660	18,554	232,795				
	<b>9.5998</b>	<b>\$ 94,922</b>	<b>\$ 94,922</b>	<b>\$ 99,727</b>	<b>\$ 99,727</b>	<b>\$ 104,776</b>	<b>\$ 1,314,578</b>				

### EXHIBIT 3

#### PROJECTED REAL PROPERTY PAYMENTS IN LIEU OF TAXES

Estimated Assessed Value of Real Property	\$ 772,440	\$ 772,440	\$ 811,545	\$ 811,545	\$ 852,629	\$ 852,629	\$ 895,794	\$ 895,794	\$ 941,143	\$ 941,143		
2025 Assessed Value (Base Value)	\$ 544,000	\$ 544,000	\$ 544,000	\$ 544,000	\$ 544,000	\$ 544,000	\$ 544,000	\$ 544,000	\$ 544,000	\$ 544,000		
Incremental Assessed Value (Incremental Value)	\$ 228,440	\$ 228,440	\$ 267,545	\$ 267,545	\$ 308,629	\$ 308,629	\$ 351,794	\$ 351,794	\$ 397,143	\$ 397,143		
PILOT Payment on Incremental Value	0%	0%	0%	0%	0%	50%	50%	50%	50%	50%		
<b>Taxing Jurisdiction</b>	<b>Tax Rate per \$100</b>	<b>2027</b>	<b>2028</b>	<b>2029</b>	<b>2030</b>	<b>2031</b>	<b>2032</b>	<b>2033</b>	<b>2034</b>	<b>2035</b>	<b>2036</b>	
School District of University City	4.9016	\$ 26,665	\$ 26,665	\$ 26,665	\$ 26,665	\$ 26,665	\$ 34,229	\$ 35,286	\$ 35,286	\$ 36,398	\$ 36,398	
Special School District of St. Louis County	0.8993	4,892	4,892	4,892	4,892	4,892	6,280	6,474	6,474	6,678	6,678	
University City - General	0.6500	3,536	3,536	3,536	3,536	3,536	4,539	4,679	4,679	4,827	4,827	
University City - Road & Bridge	0.0840	457	457	457	457	457	587	605	605	624	624	
University City - Storm & Sewer	0.0180	98	98	98	98	98	126	130	130	134	134	
University City Library District	0.3450	1,877	1,877	1,877	1,877	1,877	2,409	2,484	2,484	2,562	2,562	
St. Louis Community College	0.2442	1,328	1,328	1,328	1,328	1,328	1,705	1,758	1,758	1,813	1,813	
Metro Zoological Park & Museum District	0.2196	1,195	1,195	1,195	1,195	1,195	1,533	1,581	1,581	1,631	1,631	
St. Louis County - General	0.1800	979	979	979	979	979	1,257	1,296	1,296	1,337	1,337	
St. Louis County - Health Fund	0.1130	615	615	615	615	615	789	813	813	839	839	
St. Louis County - Parks & Recreation	0.0400	218	218	218	218	218	279	288	288	297	297	
St. Louis County - Dev. Dis. Board	0.0770	419	419	419	419	419	538	554	554	572	572	
St. Louis County - Bond	0.0050	27	27	27	27	27	35	36	36	37	37	
Metro Sewer District	0.0931	506	506	506	506	506	650	670	670	691	691	
State of Missouri	0.0300	163	163	163	163	163	209	216	216	223	223	
Commercial Surcharge	1.7000	9,248	9,248	9,248	9,248	9,248	11,871	12,238	12,238	12,624	12,624	
	<b>9.5998</b>	<b>\$ 52,223</b>	<b>\$ 67,037</b>	<b>\$ 69,109</b>	<b>\$ 69,109</b>	<b>\$ 71,285</b>	<b>\$ 71,285</b>					

Estimated Assessed Value of Real Property	\$ 988,789	\$ 988,789	\$ 1,038,846	\$ 1,038,846	\$ 1,091,437		
2025 Assessed Value (Base Value)	\$ 544,000	\$ 544,000	\$ 544,000	\$ 544,000	\$ 544,000		
Incremental Assessed Value (Incremental Value)	\$ 444,789	\$ 444,789	\$ 494,846	\$ 494,846	\$ 547,437		
PILOT Payment on Incremental Value	50%	50%	50%	50%	50%		
<b>Taxing Jurisdiction</b>	<b>Tax Rate per \$100</b>	<b>2037</b>	<b>2038</b>	<b>2039</b>	<b>2040</b>	<b>2041</b>	<b>Total</b>
School District of University City	4.9016	\$ 37,566	\$ 37,566	\$ 38,792	\$ 38,792	\$ 40,081	\$ 503,718
Special School District of St. Louis County	0.8993	6,892	6,892	7,117	7,117	7,354	92,417
University City - General	0.6500	4,982	4,982	5,144	5,144	5,315	66,798
University City - Road & Bridge	0.0840	644	644	665	665	687	8,632
University City - Storm & Sewer	0.0180	138	138	142	142	147	1,850
University City Library District	0.3450	2,644	2,644	2,730	2,730	2,821	35,454
St. Louis Community College	0.2442	1,872	1,872	1,933	1,933	1,997	25,095
Metro Zoological Park & Museum District	0.2196	1,683	1,683	1,738	1,738	1,796	22,567
St. Louis County - General	0.1800	1,380	1,380	1,425	1,425	1,472	18,498
St. Louis County - Health Fund	0.1130	866	866	894	894	924	11,613
St. Louis County - Parks & Recreation	0.0400	307	307	317	317	327	4,111
St. Louis County - Dev. Dis. Board	0.0770	590	590	609	609	630	7,913
St. Louis County - Bond	0.0050	38	38	40	40	41	514
Metro Sewer District	0.0931	714	714	737	737	761	9,567
State of Missouri	0.0300	230	230	237	237	245	3,083
Commercial Surcharge	1.7000	13,029	13,029	13,454	13,454	13,901	174,702
	<b>9.5998</b>	<b>\$ 73,572</b>	<b>\$ 73,572</b>	<b>\$ 75,975</b>	<b>\$ 75,975</b>	<b>\$ 78,499</b>	<b>\$ 986,533</b>

**EXHIBIT B**  
**TRUST INDENTURE**

(On file in the office of the City Clerk)



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**CITY OF UNIVERSITY CITY, MISSOURI,**

**AND**

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

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**TRUST INDENTURE**

**Dated as of [\*Date\*], 2026**

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**Relating to:**

**\$8,000,000**  
**(Aggregate Maximum Principal Amount)**  
**City of University City, Missouri**  
**Taxable Industrial Revenue Bonds**  
**(8021 Olive Boulevard Project)**  
**Series 2026**

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## TRUST INDENTURE

**THIS TRUST INDENTURE** dated as of [\*Date\*], 2026 (the “Indenture”), between the **CITY OF UNIVERSITY CITY, MISSOURI**, a home-rule charter city organized and existing under the laws of the State of Missouri and its charter (the “City”), and **UMB BANK, N.A.**, a national banking association duly organized and existing and authorized to accept and execute trusts of the character herein set forth under the laws of the United States of America, with a corporate trust office located in Kansas City, Missouri, as Trustee (the “Trustee”);

### RECITALS:

**1.** The City is authorized and empowered pursuant to the provisions of Article VI, Section 27(b) of the Missouri Constitution and Sections 100.010 through 100.200, inclusive, of the Revised Statutes of Missouri (collectively, the “Act”) and its charter, to purchase, construct, extend, improve and equip certain projects (as defined in the Act) and to issue industrial development revenue bonds for the purpose of providing funds to pay the costs of such projects and to lease or otherwise dispose of such projects to private persons or corporations for manufacturing, commercial, research and development, office industry, warehousing and industrial development purposes upon such terms and conditions as the City shall deem advisable.

**2.** Pursuant to the Act, the City Council passed Ordinance No. \_\_\_\_ on \_\_\_\_\_, 2026 (the “Ordinance”) approving a Plan for an Industrial Development Project and Cost/Benefit Analysis (the “Plan”) relating to the acquisition of certain property located at 8021 Olive Boulevard in the City (as more fully described on **Exhibit A**, the “Project Site”) and the construction of a 13,275-square-foot commissary and 3,500 square feet of retail and restaurant space (the “Project Improvements” and, together with the Project Site, the “Project”).

**3.** The Ordinance also authorizes the City to (1) issue its Taxable Industrial Revenue Bonds (8021 Olive Boulevard Project), Series 2026, in the maximum principal amount of \$8,000,000 (the “Bonds”), for the purpose of acquiring the Project Site and constructing the Project Improvements thereon, (2) acquire fee title to the Project Site upon the issuance of the Bonds, and (3) enter into the Lease (defined herein) for the purpose of leasing the Project Improvements back to WY Hospitality Group LLC (the “Company”) for rent sufficient to pay debt service on the Bonds.

**4.** Pursuant to the Ordinance, the City is authorized to execute and deliver this Indenture for the purpose of issuing and securing the Bonds, and to enter into the Lease with the Company, under which the City, as lessor, will, or will cause the Company to, purchase the Project Site and construct the Project Improvements and will lease the Project to the Company, as lessee, in consideration of rental payments that will be sufficient to pay the principal of and interest on the Bonds.

**5.** All things necessary to make the Bonds, when authenticated by the Trustee and issued as provided in this Indenture, the valid and legally binding obligations of the City, and to constitute this Indenture a valid and legally binding pledge and assignment of the Trust Estate (defined herein) made for the security of the payment of the principal of and interest on the Bonds, have been done and performed, and the execution and delivery of this Indenture and the execution and issuance of the Bonds, subject to the terms hereof, have in all respects been duly authorized.

**NOW, THEREFORE, THIS TRUST INDENTURE WITNESSETH:**

**GRANTING CLAUSES**

That the City, in consideration of the premises, the acceptance by the Trustee of the trusts hereby created, the purchase and acceptance of the Bonds by the Owners (as defined herein) thereof, and of other good and valuable consideration, the receipt of which is hereby acknowledged, and to secure the payment of the principal of and interest on all of the Bonds issued and Outstanding (as defined herein) under this Indenture from time to time according to their tenor and effect, and to secure the performance and observance by the City of all the covenants, agreements and conditions herein and in the Bonds contained, does hereby pledge and assign to the Trustee and its successors and assigns forever, the property described in paragraphs (a), (b) and (c) below (said property being herein referred to as the "Trust Estate"), to-wit:

(a) All right, title and interest of the City in and to the Project, subject to the Company's rights under the Lease, together with the tenements, hereditaments, appurtenances, rights, easements, privileges and immunities thereunto belonging or appertaining and, to the extent permissible, all permits, certificates, approvals and authorizations;

(b) All right, title and interest of the City in, to and under the Lease (excluding the Unassigned Rights, as defined herein), and all rents, revenues and receipts derived by the City from the Project including, without limitation, all rentals and other amounts to be received by the City and paid by the Company under and pursuant to and subject to the provisions of the Lease; and

(c) All moneys and securities from time to time held by or now or hereafter required to be paid to the Trustee under the terms of this Indenture, and any and all other real or personal property of every kind and nature from time to time hereafter, by delivery or by writing of any kind, pledged, assigned or transferred as and for additional security hereunder by the City or by anyone in its behalf, or with its written consent, to the Trustee, which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof.

**TO HAVE AND TO HOLD**, all and singular, the Trust Estate with all rights and privileges hereby pledged and assigned or agreed or intended so to be, to the Trustee and its successors and assigns forever;

**IN TRUST NEVERTHELESS**, upon the terms and subject to the conditions herein set forth, for the equal and proportionate benefit, protection and security of all Owners from time to time of the Bonds Outstanding under this Indenture, without preference, priority or distinction as to lien or otherwise of any of the Bonds over any other of the Bonds except as expressly provided in or permitted by this Indenture;

**PROVIDED, HOWEVER**, that if the City pays, or causes to be paid, the principal of and interest on the Bonds, at the time and in the manner mentioned in the Bonds, according to the true intent and meaning thereof, or provides for the payment thereof (as provided in **Article XIII**), and pays or causes to be paid to the Trustee all other sums of money due or to become due to it in accordance with the terms and provisions hereof, then upon such final payments this Indenture and the rights hereby granted shall cease, determine and be void; otherwise, this Indenture shall be and remain in full force and effect.

**THIS INDENTURE FURTHER WITNESSETH**, and it is hereby expressly declared, covenanted and agreed by and between the parties hereto, that all Bonds issued and secured hereunder are to be issued, authenticated and delivered and that all of the Trust Estate is to be held and applied under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as

hereinafter expressed, and the City does hereby agree and covenant with the Trustee and with the respective Owners from time to time, as follows:

## ARTICLE I

### DEFINITIONS

**Section 101. Definitions of Words and Terms.** In addition to words and terms defined in the Lease, which definitions are hereby incorporated by reference, and words and terms defined elsewhere in this Indenture, the following words and terms as used in this Indenture have the following meanings, unless some other meaning is plainly intended:

**“Abatement Initiation Date”** means January 1 of the year immediately following the year in which the Completion Date occurs, unless the Company notifies the City in writing by July 1 of the year in which the Completion Date occurs that the Abatement Initiation Date should be January 1 of such year.

**“Act”** means, collectively, Article VI, Section 27(b) of the Missouri Constitution and Sections 100.010 through 100.200 of the Revised Statutes of Missouri.

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

**“Approved Investor”** means (a) the Company, (b) a Financing Party, including, without limitation, the Lender, (c) an affiliate of the Company, (d) a “qualified institutional buyer” under Rule 144A promulgated under the Securities Act of 1933, or (e) any general business corporation or enterprise with total assets in excess of \$100,000,000.

**“Authorized City Representative”** means the City Manager or such other Person at the time designated to act on behalf of the City as evidenced by written certificate furnished to the Company and the Trustee containing the signature of such Person and signed on behalf of the City by its City Manager. Such certificate may designate an alternate or alternates, each of whom may perform all duties of an Authorized City Representative.

**“Authorized Company Representative”** means the Person at the time designated to act on behalf of the Company as evidenced by written certificate furnished to the City and the Trustee containing the signature of such Person and signed on behalf of the Company by an authorized officer of the Company. Such certificate may designate an alternate or alternates, each of whom may perform all duties of an Authorized Company Representative.

**“Basic Rent”** means the rental payments described in **Section 5.1** of the Lease.

**“Bond” or “Bonds”** means the Taxable Industrial Revenue Bonds (8021 Olive Boulevard Project), Series 2026, in the maximum aggregate principal amount of \$8,000,000, issued, authenticated and delivered under and pursuant to this Indenture.

**“Bond Fund”** means the “City of University City, Missouri, Series 2026 Bond Fund – 8021 Olive Boulevard” created in **Section 501**.

**“Bond Purchase Agreement”** means the agreement by that name with respect to the Bonds by and between the City and the Purchaser.

**“Business Day”** means any day other than a Saturday or Sunday or legal holiday or a day on which banks located in the city in which the principal corporate trust office or the principal payment office of the Trustee are required or authorized by law to remain closed.

**“City”** means the City of University City, Missouri, a home-rule charter city organized and existing under the laws of the State and its charter.

**“Closing Date”** means the date identified in the Bond Purchase Agreement for the initial issuance and delivery of the Bonds.

**“Closing Price”** means the amount specified in writing by the Purchaser and agreed to by the City as the amount required to pay for the initial issuance of the Bonds on the Closing Date, which amount shall be equal to any Project Costs spent by the Company from its own funds before the Closing Date, and, at the Company’s option, the costs of issuance of the Bonds if such costs are not paid for from Bond proceeds.

**“Company”** means WY Hospitality Group LLC, a Missouri limited liability company, and its successors or assigns.

**“Completion Date”** means the date of execution of the certificate required by **Section 4.5** of the Lease and **Section 504** hereof, which shall be deemed executed and filed on December 31, 2027 if not actually executed and filed by December 31, 2027, except as otherwise provided in **Section 4.5** of the Lease.

**“Cumulative Outstanding Principal Amount”** means the aggregate principal amount of all Bonds Outstanding under the provisions of this Indenture, not to exceed \$8,000,000, as reflected in the records maintained by the Trustee as provided in the Bonds and this Indenture.

**“Development Agreement”** means the Development Agreement dated as of [\*Date\*], 2026 between the City and the Company.

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

**“Fee Deed of Trust”** means the Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing executed by the Company for the benefit of the Lender recorded against the Project Site prior to the City’s acquisition of the Project Site.

**“Financing Document”** means any loan agreement, credit agreement, mortgage, participation agreement, lease agreement, sublease, ground lease, hedging agreement or other document related to the Project and executed by or on behalf of, or for the benefit of, a Financing Party, including, without limitation, any loan agreement, credit agreement, mortgage or other document executed in connection with the loans made to the Company by a Financing Party.

**“Financing Party”** means any Person providing debt, lease or equity financing (including equity contributions or commitments) or hedging arrangements, or any renewal, extension or refinancing of any such financing or hedging arrangements, or any guarantee, insurance, letters of credit or credit support for or in connection with such financing or hedging arrangements, in connection with the development,

construction, ownership, lease, operation or maintenance of the Project or interests or rights in the Lease, or any part thereof, including any Lender or any trustee or agent acting on any such Person's behalf.

**"Full Insurable Value"** means the reasonable replacement cost of the Project less physical depreciation and exclusive of land, excavations, footings, foundation and parking lots as determined at the expense of the Company from time to time.

**"Government Securities"** means direct obligations of, or obligations the payment of principal of and interest on which are unconditionally guaranteed by, the United States of America.

**"Indenture"** means this Trust Indenture, as from time to time amended and supplemented by Supplemental Indentures in accordance with the provisions of **Article XI**.

**"Investment Securities"** means any of the following securities:

- (a) Government Securities;
- (b) obligations of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Financing Bank, the Federal Intermediate Credit Corporation, Federal Banks for Cooperatives, Federal Land Banks, Federal Home Loan Banks, the Farmers Home Administration and the Federal Home Loan Mortgage Corporation;
- (c) direct and general obligations of any state of the United States of America, to the payment of the principal of and interest on which the full faith and credit of such state is pledged, provided that at the time of their purchase under this Indenture such obligations are rated in either of the two highest rating categories by a nationally-recognized bond rating agency;
- (d) certificates of deposit, whether negotiable or nonnegotiable, issued by any bank or trust company organized under the laws of any state of the United States of America or any national banking association (including the Trustee or any of its affiliates), provided that such certificates of deposit shall be either (1) continuously and fully insured by the Federal Deposit Insurance Corporation, or (2) continuously and fully secured by such securities as are described above in clauses (a) through (c), inclusive, which shall have a market value at all times at least equal to the principal amount of such certificates of deposit and shall be deposited with the Trustee or a custodian bank, trust company or national banking association. The bank, trust company or national banking association holding each such certificate of deposit required to be so secured shall furnish the Trustee written evidence satisfactory to it that the aggregate market value of all such obligations securing each such certificate of deposit will at all times be an amount at least equal to the principal amount of each such certificate of deposit and the Trustee may rely on such evidence;
- (e) shares of a fund registered under the Investment Company Act of 1940, as amended, whose shares are registered under the Securities Act of 1933, as amended, having assets of at least \$100,000,000, and which shares, at the time of purchase, are rated in either of the two highest rating categories by a nationally recognized bond rating agency (without regard to any refinements or gradation of rating category by numerical modifier or otherwise); or
- (f) any other investment approved in writing by an Authorized City Representative and the Owners of all of the Outstanding Bonds.

**“Lease”** means the Lease Agreement dated as of [\*Date\*], 2026 between the City, as lessor, and the Company, as lessee, as from time to time amended and supplemented by Supplemental Leases in accordance with the provisions thereof and of **Article XII**.

**“Lease Term”** means the period from the effective date of the Lease until the expiration thereof pursuant to **Section 3.2** of the Lease.

**“Leasehold Mortgage”** means any leasehold mortgage, leasehold deed of trust, assignment of rents and leases, security agreement or other agreement relating to the Project permitted pursuant to the provisions of **Section 10.4** of the Lease, subject to the express, prior written consent of the Lender.

**“Lender”** means, initially, Carrollton Bank, the beneficiary of the Fee Deed of Trust, and its successors or assigns, and any other lender providing construction or long-term financing for the Project, as certified to the City by the Company.

**“Net Proceeds”** means, when used with respect to any insurance or condemnation award with respect to the Project, the gross proceeds from the insurance or condemnation award remaining after payment of all expenses (including attorneys’ fees, the Trustee’s fees and any extraordinary expenses of the City and the Trustee) incurred in the collection of such gross proceeds.

**“Outstanding”** means, when used with reference to Bonds, as of a particular date, all Bonds theretofore authenticated and delivered, except:

- (a) Bonds theretofore cancelled by the Trustee or delivered to the Trustee for cancellation;
- (b) Bonds deemed to be paid in accordance with the provisions of **Section 1302**; and
- (c) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered pursuant to this Indenture.

**“Owner”** means the registered owner of any Bond as recorded on the bond registration records maintained by the Trustee.

**“Paying Agent”** means the Trustee and any other bank or trust company designated by this Indenture as paying agent for the Bonds at which the principal of or interest on the Bonds shall be payable.

**“Payment Date”** means the date on which principal or interest on any Bond, whether at the stated maturity thereof or the redemption date thereof, is payable, which shall be December 1 of each year that the Bonds are Outstanding.

**“Permitted Encumbrances”** means, as of any particular time, as the same may encumber the Project Site, (a) liens for ad valorem taxes and special assessments not then delinquent, (b) the Indenture, the Lease and the Development Agreement, (c) utility, access and other easements and rights-of-way, mineral rights, restrictions, exceptions and encumbrances that will not materially interfere with or impair the operations being conducted on the Project Site or easements granted to the City, (d) such minor defects, irregularities, encumbrances, easements, mechanic’s liens, rights-of-way and clouds on title as normally exist with respect to properties similar in character to the Project Site and as do not in the aggregate materially impair the property affected thereby for the purpose for which it was acquired or is held by the City, (e) liens, security interests or encumbrances granted pursuant to the Lease, any Leasehold Mortgage,

the Fee Deed of Trust or any Financing Documents, and (f) such exceptions to title set forth in the Commitment for Title Insurance, File No. \_\_\_\_\_, prepared by \_\_\_\_\_.

**“Person”** means an individual, partnership, corporation, business trust, joint stock company, limited liability company, bank, insurance company, unincorporated association, joint venture or other entity of whatever nature.

**“Plans and Specifications”** means the plans and specifications prepared for and showing the Project, as amended by the Company from time to time before the Completion Date, the same being on file at the principal office of the Company, and which shall be available for reasonable inspection during normal business hours and upon not less than one Business Day’s prior notice by the City, the Trustee and their duly appointed representatives.

**“Project”** means the Project Site and the Project Improvements as they may at any time exist.

**“Project Costs”** means all costs of purchasing the Project Site and constructing the Project Improvements, including the following:

(a) all costs and expenses necessary or incident to the acquisition, construction and improvement of the Project;

(b) fees and expenses of architects, appraisers, surveyors and engineers for estimates, surveys, soil borings and soil tests and other preliminary investigations and items necessary to the commencement of construction, preparation of plans, drawings and specifications and supervision of construction, as well as for the performance of all other duties of professionals and consultants in relation to the purchase and construction of the Project or the issuance of the Bonds;

(c) all costs and expenses of every nature incurred in purchasing and constructing the Project Improvements and otherwise improving the Project Site, including the actual cost of labor and materials as payable to contractors, builders and materialmen in connection with the purchase and construction of the Project;

(d) interest accruing on the Bonds until the Completion Date;

(e) the cost of title insurance policies and the cost of any other insurance maintained in accordance with **Article VII** of the Lease until the Completion Date;

(f) reasonable expenses of administration, supervision and inspection properly chargeable to the Project, legal fees and expenses, including fees of Bond Counsel, fees and expenses of accountants and other consultants, publication and printing expenses, and initial fees and expenses of the Trustee to the extent that said fees and expenses are necessary or incident to the issuance and sale of the Bonds or the purchase and construction of the Project;

(g) all other items of expense not elsewhere specified in this definition as may be necessary or incident to: (1) the authorization, issuance and sale of the Bonds, including costs of issuance of the Bonds; (2) the purchase and construction of the Project; and (3) the financing thereof; and

(h) reimbursement to the Company or those acting for it for any of the above enumerated costs and expenses incurred and paid by them before or after the execution of the Lease.

**“Project Fund”** means the “City of University City, Missouri, Series 2026 Project Fund – 8021 Olive Boulevard” created in **Section 501**.

**“Project Improvements”** means the construction of a 13,275-square-foot commissary and 3,500 square feet of retail and restaurant space and any other improvements to be located on the Project Site, to the extent paid for in whole or part with Bond proceeds pursuant to **Article IV** of the Lease, and all additions, alterations, modifications and improvements thereof made pursuant to the Lease.

**“Project Site”** means all of the real estate as described in **Exhibit A** attached hereto and by this reference made a part hereof.

**“Purchaser”** means the entity identified in the Bond Purchase Agreement as the purchaser of the Bonds.

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

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

**“Supplemental Lease”** means any supplement or amendment to the Lease entered into pursuant to **Article XII**.

**“Trust Estate”** means the Trust Estate described in the Granting Clauses of this Indenture.

**“Trustee”** means UMB Bank, N.A., a national banking association duly organized and existing and authorized to accept and execute trusts of the character herein set forth under the laws of the United States of America, and its successor or successors and any other corporation which at the time may be substituted in its place pursuant to and at the time serving as Trustee under this Indenture.

**“Unassigned Rights”** means the City’s rights under the Lease to receive moneys for its own account and the City’s rights to indemnification or to be protected from liabilities by insurance policies required by the Lease, as provided in the Lease.

## **Section 102. Rules of Interpretation.**

(a) Unless the context otherwise indicates, the words importing the singular number shall include the plural and vice versa, and words importing Persons shall include firms, associations and corporations, including public bodies, as well as natural Persons.

(b) Wherever in this Indenture it is provided that either party shall or will make any payment or perform or refrain from performing any act or obligation, each such provision shall, even though not so expressed, be construed as an express covenant to make such payment or to perform, or not to perform, as the case may be, such act or obligation.

(c) All references in this instrument to designated “Articles,” “Sections” and other subdivisions are, unless otherwise specified, to the designated Articles, Sections and subdivisions of this

instrument as originally executed. The words "herein," "hereof," "hereunder" and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or subdivision.

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

(e) The Table of Contents and the Article and Section headings of this Indenture shall not be treated as a part of this Indenture or as affecting the true meaning of the provisions hereof.

(f) Whenever the City is required to cooperate on a matter set forth in this Indenture, the City's cooperation shall be deemed to be reasonable cooperation; provided, however, the City shall not be required to incur any costs, expenses, obligations or liabilities in providing such reasonable cooperation and promptness.

### **Section 103. Incorporation.**

(a) The Recitals hereof are all incorporated into this Indenture as if fully and completely set out in this Section.

(b) The Exhibits to this Indenture are hereby incorporated into and made a part of this Indenture.

## **ARTICLE II**

### **THE BONDS**

**Section 201. Title and Amount of Bonds.** No Bonds may be issued under this Indenture except in accordance with the provisions of this Article. The Bonds authorized to be issued under this Indenture shall be designated as "City of University City, Missouri, Taxable Industrial Revenue Bonds (8021 Olive Boulevard Project), Series 2026." The maximum total principal amount of Bonds that may be issued hereunder is hereby expressly limited to \$8,000,000.

**Section 202. Nature of Obligation.** The Bonds and the interest thereon shall be special obligations of the City payable solely out of the rents, revenues and receipts derived by the City from the Project and the Lease, and not from any other fund or source of the City. The Bonds are secured by a pledge and assignment of the Trust Estate to the Trustee in favor of the Owners, as provided in this Indenture. The Bonds and the interest thereon shall not constitute general obligations of the City, the State or any political subdivision thereof, and none of the City, the State or any political subdivision thereof shall be liable thereon, and the Bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, and are not payable in any manner by taxation.

### **Section 203. Denomination, Number and Dating of the Bonds.**

(a) The Bonds shall be issuable in the form of one fully-registered Bond, in substantially the form set forth in **Exhibit B**, in the denomination of \$0.01 or any multiple thereof.

(b) The Bonds shall be dated by the Trustee as of the date of initial delivery thereof as provided herein. If the Bonds are at any time thereafter transferred, any replacement Bonds shall be dated as of the date of authentication thereof.

#### **Section 204. Method and Place of Payment of Bonds.**

(a) The principal of and interest on the Bonds shall be payable in any coin or currency of the United States of America which on the respective dates of payment thereof is legal tender for payment of public and private debts.

(b) Payment of the principal of the Bonds shall be made upon the presentation and surrender of such Bonds at the principal payment office of any Paying Agent named in the Bonds. The payment of principal of the Bonds shall be noted on the Bonds on **Schedule I** thereto and the registration books maintained by the Trustee pursuant to **Section 206**. Payment of the interest on the Bonds shall be made by the Trustee on each Payment Date to the Person appearing on the registration books of the Trustee hereinafter provided for as the Owner thereof on the fifteenth day (whether or not a Business Day) of the calendar month next preceding such Payment Date by check or draft mailed to such Owner at such Owner's address as it appears on such registration books.

(c) The Bonds and the original **Schedule I** thereto shall be held by the Trustee in trust, unless otherwise directed in writing by the Owner. If the Bonds are held by the Trustee, the Trustee shall, on each Payment Date, send a revised copy of **Schedule I** via facsimile or other electronic means to the Owner, the Company (if not the Owner) and the City. Absent manifest error, the amounts shown on **Schedule I** as noted by the Trustee shall be conclusive evidence of the principal amount paid on the Bonds.

(d) If there is one Owner of the Bonds, the Trustee is authorized to make the final or any interim payments of principal on such Bonds by internal bank transfer or by electronic transfer to an account at a commercial bank or savings institution designated in writing by such Owner and located in the United States. The Trustee is also authorized to make interest payments on such Bonds by internal bank transfer or by electronic transfer to an account at a commercial bank or savings institution designated by such Owner and located in the United States.

(e) If the Company is the sole Owner of the Bonds, then the Company may set-off its obligation to the City as lessee to pay Basic Rent under the Lease against the City's obligations to the Company as the bondholder to pay principal of and interest on the Bonds under this Indenture. The Trustee may conclusively rely on the absence of any notice from the Company to the contrary as evidence that such set-off has occurred and that pursuant to the set-off, the Company is deemed to have paid its obligation to the City as lessee to pay Basic Rent under the Lease and the City is deemed to have paid its obligation to the Company as bondholder to pay principal of and interest on the Bonds under this Indenture. On the final Payment Date, the Company may deliver to the Trustee for cancellation the Bonds and the Company shall receive a credit against the Basic Rent payable by the Company under **Section 5.1** of the Lease in an amount equal to the remaining principal on the Bond so tendered for cancellation plus accrued interest thereon.

#### **Section 205. Execution and Authentication of Bonds.**

(a) The Bonds shall be executed on behalf of the City by the manual or facsimile signature of its City Manager and attested by the manual or facsimile signature of its City Clerk or Deputy City Clerk, and shall have the corporate seal of the City affixed thereto or imprinted thereon. If any officer whose signature or facsimile thereof appears on the Bonds ceases to be such officer before the delivery of such

Bond, such signature or facsimile thereof shall nevertheless be valid and sufficient for all purposes, the same as if such Person had remained in office until delivery. Any Bond may be signed by such Persons as at the actual time of the execution of such Bond are the proper officers to sign such Bond although at the date of such Bond such Persons may not have been such officers.

(b) The Bonds shall have endorsed thereon a Certificate of Authentication substantially in the form set forth in **Exhibit B**, which shall be manually executed by the Trustee. No Bond shall be entitled to any security or benefit under this Indenture or shall be valid or obligatory for any purposes until such Certificate of Authentication has been duly executed by the Trustee. The executed Certificate of Authentication upon any Bond shall be conclusive evidence that such Bond has been duly authenticated and delivered under this Indenture. The Certificate of Authentication on any Bond shall be deemed to have been duly executed if signed by any authorized signatory of the Trustee. In authenticating the Bonds, the Trustee makes no certification or representation that the Bonds have been validly issued or constitute legally binding obligations of the City.

#### **Section 206. Registration, Transfer and Exchange of Bonds.**

(a) The Trustee shall keep books for the registration and for the transfer of Bonds as provided in this Indenture.

(b) The Bonds may be transferred to an Approved Investor only upon the books kept for the registration and transfer of Bonds upon surrender thereof to the Trustee duly endorsed for transfer or accompanied by an assignment duly executed by the Owner or such Owner's attorney or legal representative in such form as shall be satisfactory to the Trustee. In connection with any such transfer of the Bonds, the City and the Trustee shall receive an executed representation letter signed by the proposed assignee in substantially the form of **Exhibit C** and the Trustee shall be fully protected in relying upon such representation letter. The Trustee has no duty or obligation to confirm that any transferee that provides such representation letter is an Approved Investor. Upon any such transfer, the City shall execute and the Trustee shall authenticate and deliver in exchange for such Bond a new fully registered Bond or Bonds, registered in the name of the transferee, of any denomination or denominations authorized by this Indenture, in an aggregate principal amount equal to the Outstanding principal amount of such Bond, of the same maturity and bearing interest at the same rate.

(c) In all cases in which Bonds are exchanged or transferred hereunder, the provisions of any legend restrictions on the Bonds shall be complied with and the City shall execute and the Trustee shall authenticate and deliver at the earliest practicable time Bonds in accordance with the provisions of this Indenture. All Bonds surrendered in any such exchange or transfer shall forthwith be cancelled by the Trustee. The City or the Trustee may make a reasonable charge for every such exchange or transfer of Bonds sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer, and such charge shall be paid before any such new Bond shall be delivered. Neither the City nor the Trustee shall be required to make any such exchange or transfer of Bonds during the 15 days immediately preceding a Payment Date on the Bonds or, in the case of any proposed redemption of Bonds, during the 15 days immediately preceding the selection of Bonds for such redemption or after such Bonds or any portion thereof has been selected for redemption.

(d) If any Owner fails to provide a certified taxpayer identification number to the Trustee, the Trustee may make a charge against such Owner sufficient to pay any governmental charge required to be paid as a result of such failure, which amount may be deducted by the Trustee from amounts otherwise payable to such Owner under such Owner's Bond.

**Section 207. Persons Deemed Owners of Bonds.** As to any Bond, the Person in whose name the same is registered as shown on the bond registration books required by **Section 206** shall be deemed and regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and interest on any such Bond shall be made only to or upon the order of the Owner thereof or a legal representative thereof. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond, including the interest thereon, to the extent of the sum or sums so paid.

**Section 208. Authorization of the Bonds.**

(a) The Bonds are authorized in the aggregate maximum principal amount of \$8,000,000 for the purpose of providing funds to pay Project Costs, which Bonds shall be designated the "City of University City, Missouri, Taxable Industrial Revenue Bonds (8021 Olive Boulevard Project) Series 2026." The Bonds shall be dated as provided in **Section 203(b)**, shall become due on December 1 of the 14th calendar year following the calendar year in which the Abatement Initiation Date occurs (subject to prior redemption as provided in **Article III**) and shall bear interest as specified in **Section 208(f)**, payable on the dates specified in **Section 208(f)**.

(b) The Trustee is hereby designated as the Paying Agent. The Owners of a majority of Bonds then Outstanding may designate a different Paying Agent upon written notice to the City and the Trustee.

(c) The Bonds shall be executed without material variance from the form and in the manner set forth in **Exhibit B** and delivered to the Trustee for authentication. Prior to or simultaneously with the authentication and delivery of the Bonds by the Trustee, there shall be filed with the Trustee the following:

(1) A certified copy of the Ordinance;

(2) Executed counterparts or copies of this Indenture, the Lease, the Development Agreement, the Bond Purchase Agreement, and a Special Warranty Deed transferring fee title to the Project Site from the Company to the City;

(3) A representation letter from the Purchaser in substantially the form attached as **Exhibit C**;

(4) A request and authorization to the Trustee on behalf of the City, executed by an Authorized City Representative, to authenticate the Bonds and deliver the same to or at the written direction of the Purchaser upon payment to the Trustee, for the account of the City, of the purchase price thereof specified in the Bond Purchase Agreement. The Trustee shall be entitled to conclusively rely upon such request and authorization as to the name of the purchaser and the amount of the purchase price; and

(5) Such other certificates, statements, receipts and documents as the Trustee shall reasonably require for the delivery of the Bonds.

(d) When the documents specified in subsection (c) of this Section have been filed with the Trustee, and when the Bonds have been executed and authenticated as required by this Indenture, either:

(1) The Purchaser shall pay the Closing Price to the Trustee, and the Trustee shall endorse the Bonds in an amount equal to the Closing Price and then either hold the Bonds in trust or if so directed in writing deliver the Bonds to or upon the order of the Purchaser; or

(2) The Company shall submit a requisition certificate in accordance with **Section 4.4** of the Lease, in an amount equal to the Closing Price, and the Trustee shall authenticate and endorse the Bonds in an amount equal to the Closing Price and then either hold the Bonds in trust or if so directed in writing deliver the Bonds to the Company (or another purchaser designated by the Company).

In either case, the Purchaser shall be deemed to have paid over to the Trustee, and the Trustee shall be deemed to have deposited into the Project Fund, an amount equal to the Closing Price. In authenticating Bonds, the Trustee makes no certification or representation that the Bonds have been validly issued or constitute legally binding obligations of the City.

(e) Following the initial issuance and delivery of the Bonds, the Company may submit additional requisition certificates in accordance with **Section 4.4** of the Lease. If the Purchaser does not pay to the Trustee the amount set forth in the requisition certificate, the Purchaser will be deemed to have advanced an amount equal to the amount set forth in the requisition certificate and the Trustee shall endorse the Bonds in an amount equal to the amount set forth in each requisition certificate. The date of endorsement of each Principal Amount Advanced as set forth on **Schedule I** to the Bonds shall be the date of the City's approval of each requisition certificate. The Trustee shall keep a record of the total requisitions submitted for the Project, and shall notify the City if the requisitions submitted exceed the maximum principal amount of the Bonds.

(f) The Bonds shall bear interest at the rate of 5.0% per annum on the Cumulative Outstanding Principal Amount of the Bonds. Such interest shall be payable in arrears on each December 1, commencing on December 1, 2026, and continuing thereafter until the Cumulative Outstanding Principal Amount is paid in full, but not later than December 1 of the 14th calendar year following the calendar year in which the Abatement Initiation Date occurs. Interest shall be calculated on the basis of a year of 360 days consisting of 12 months of 30 days each.

(g) The Trustee shall keep and maintain a record of the amount deposited or deemed to be deposited into the Project Fund pursuant to the terms of this Indenture as the "Principal Amount Advanced" and shall enter the aggregate principal amount of the Bonds then-Outstanding on its records as the "Cumulative Outstanding Principal Amount." If the Trustee is holding the Bonds, such advanced amounts shall be reflected on **Schedule I** to the Bonds. To the extent that advances are deemed to have been made pursuant to requisition certificates, the Trustee's records of such advances shall be based solely on the requisition certificates provided to it. On each date upon which a portion of the Cumulative Outstanding Principal Amount is paid to the Owners, pursuant to the redemption provisions of this Indenture, the Trustee shall enter on its records and **Schedule I** to the Bonds (if the Trustee is holding the Bonds) the principal amount paid on the Bonds as the "Principal Amount Redeemed" and shall enter the then-Outstanding principal amount of the Bonds as the "Cumulative Outstanding Principal Amount." The records maintained by the Trustee as to amounts deposited into the Project Fund or principal amounts paid on the Bonds shall be the official records of the Cumulative Outstanding Principal Amount for all purposes, absent manifest error, and shall be in substantially the form of the Table of Cumulative Outstanding Principal Amount as set out in the form of Bonds in **Exhibit B**. To the extent the Company sets off its obligation to the City under the Lease against the City's obligation to the Company under this Indenture, as permitted by **Section 204(e)**, the Trustee shall not be required to confirm that such set-off has occurred. If any moneys are deposited by the Trustee into the Project Fund, then the Trustee shall provide a statement of receipts and disbursements with respect thereto to the City and the Company on a monthly basis. After the Project has been completed and the certificate of payment of all costs is filed as provided in **Section 4.5** of the Lease,

the Trustee, to the extent it has not already done so pursuant to this Section or **Section 1012**, shall file a final statement of receipts and disbursements with respect thereto with the City and the Company.

**Section 209. Mutilated, Lost, Stolen or Destroyed Bonds.** If any Bond becomes mutilated, or is lost, stolen or destroyed, the City shall execute and the Trustee shall authenticate and deliver a new Bond of like series, date and tenor as the Bond mutilated lost, stolen or destroyed; provided that, in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Trustee, and in the case of any lost, stolen or destroyed Bond, there shall be first furnished to the City and the Trustee evidence of such loss, theft or destruction satisfactory to the Trustee, together with indemnity satisfactory to the Trustee to save, defend and hold each of the City and the Trustee harmless. If any such Bond has matured, instead of delivering a substitute Bond, the Trustee may pay the same without surrender thereof. Upon the issuance of any substitute Bond, the City and the Trustee may require the payment of an amount sufficient to reimburse the City and the Trustee for any tax or other governmental charge that may be imposed in relation thereto and any other reasonable fees and expenses incurred in connection therewith.

**Section 210. Cancellation and Destruction of Bonds Upon Payment.**

(a) All Bonds that have been paid or redeemed or that the Trustee has purchased or that have otherwise been surrendered to the Trustee under this Indenture, either at or before maturity, shall be cancelled by the Trustee immediately upon the payment, redemption or purchase of such Bonds and the surrender thereof to the Trustee.

(b) All Bonds cancelled under any of the provisions of this Indenture shall be destroyed by the Trustee in accordance with applicable laws and regulations and the Trustee's policies and practices. The Trustee shall execute a certificate describing the Bonds so destroyed, and shall file executed counterparts of such certificate with the City and the Company.

## **ARTICLE III**

### **REDEMPTION OF BONDS**

**Section 301. Redemption of Bonds.**

(a) The Bonds are subject to redemption and payment at any time before the stated maturity thereof, at the option of the City, upon written instructions from the Company, (1) in whole, if the Company exercises its option to purchase the Project and deposits an amount sufficient to effect such purchase pursuant to the Lease on the applicable redemption date, or (2) in part, if the Company prepays additional Basic Rent pursuant to the Lease. If only a portion of the Bonds are to be redeemed, (1) Bonds aggregating at least 10% of the maximum aggregate principal amount of Bonds authorized hereunder shall not be subject to redemption and payment before the stated maturity thereof, and (2) the Trustee shall keep a record of the amount of Bonds to remain Outstanding following such redemption. Any redemption of Bonds pursuant to this paragraph shall be at a redemption price equal to the par value thereof being redeemed, plus accrued interest thereon, without premium or penalty, to the redemption date.

(b) The Bonds are subject to mandatory redemption, in whole or in part, to the extent of amounts deposited in the Bond Fund pursuant to **Sections 9.1(f)** or **9.2(c)** of the Lease, in the event of substantial damage to or destruction or condemnation of substantially all of the Project. Bonds to be redeemed pursuant to this paragraph shall be called for redemption by the Trustee on the earliest practicable

date for which timely notice of redemption may be given as provided hereunder. Any redemption of Bonds pursuant to this paragraph shall be at a redemption price equal to the par value thereof being redeemed, plus accrued interest thereon, without premium or penalty, to the redemption date. Before giving notice of redemption to the Owners pursuant to this paragraph (b), money in an amount equal to the redemption price shall be deposited in the Bond Fund.

(c) At its option, the Company may, with the consent of the Lender, deliver to the Trustee for cancellation any Bonds owned by the Company or any Financing Party and not previously paid, and the Company shall receive a credit against the amounts payable by the Company for the redemption of such Bonds in an amount equal to the principal amount of the Bonds so tendered for cancellation, plus accrued interest.

**Section 302. Effect of Call for Redemption.** Before or on the date fixed for redemption, funds, Government Securities, or a combination thereof, shall be placed with the Trustee which are sufficient to pay the Bonds called for redemption and accrued interest thereon, if any, to the redemption date. Upon the happening of the above conditions and appropriate written notice having been given, the Bonds or the portions of the principal amount of Bonds thus called for redemption shall cease to bear interest on the specified redemption date, shall no longer be entitled to the protection, benefit or security of this Indenture and shall not be deemed to be Outstanding under the provisions of this Indenture. If the Bonds are fully redeemed before maturity and an amount of money equal to the Trustee's and the Paying Agent's agreed to fees and expenses hereunder accrued and to accrue in connection with such redemption is paid or provided for, the City shall, at the Company's direction, deliver to the Company the items described in **Section 11.2** of the Lease.

**Section 303. Notice of Redemption.** If the Bonds are to be called for redemption as provided in **Section 301(a)**, the Company shall deliver written notice to the City and the Trustee that it has elected to redeem all or a portion of the Bonds at least 40 days (10 days if there is one Owner) before the scheduled redemption date. The Trustee shall then deliver written notice to the Owners at least 30 days (five days if there is one Owner) before the scheduled redemption date by first-class mail (or facsimile, if there is one Owner) stating the date upon which the Bonds will be redeemed and paid, unless such notice period is waived by the Owners in writing.

## ARTICLE IV

### FORM OF BONDS

**Section 401. Form Generally.** The Bonds and the Trustee's Certificate of Authentication to be endorsed thereon shall be issued in substantially the forms set forth in **Exhibit B**. The Bonds may have endorsed thereon such legends or text as may be necessary or appropriate to conform to any applicable rules and regulations of any governmental authority or any custom, usage or requirements of law with respect thereto.

## ARTICLE V

### CUSTODY AND APPLICATION OF BOND PROCEEDS

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

- (a) "City of University City, Missouri, Series 2026 Project Fund – 8021 Olive Boulevard" (herein called the "Project Fund").
- (b) "City of University City, Missouri, Series 2026 Bond Fund – 8021 Olive Boulevard" (herein called the "Bond Fund").

**Section 502. Deposits into the Project Fund.** The proceeds of the sale of the Bonds (whether actually paid or deemed paid under **Section 208(d)**), including Additional Payments (as defined in the Bond Purchase Agreement), when received, excluding such amounts required to be paid into the Bond Fund pursuant to **Section 601**, shall be deposited by the Trustee into the Project Fund. Any money received by the Trustee from any other source for the purpose of purchasing, constructing and installing the Project shall pursuant to any written directions from the Person depositing such moneys also be deposited into the Project Fund.

**Section 503. Disbursements from the Project Fund.**

(a) The moneys in the Project Fund shall be disbursed by the Trustee for the payment of, or reimbursement to the Company (or any other party that has made payment on behalf of the Company) for payment of, Project Costs upon receipt of requisition certificates signed by the Company and approved by the City in accordance with the provisions of **Article IV** of the Lease. The Trustee hereby covenants and agrees to disburse such moneys in accordance with such provisions.

(b) If, pursuant to **Section 208(d)**, the Trustee is deemed to have deposited into the Project Fund the amount specified in the requisition certificates submitted by the Company in accordance with the provisions of **Article IV** of the Lease, the Trustee shall upon endorsement of the Bonds in an equal amount be deemed to have disbursed such funds from the Project Fund to the Company (or such other purchaser designated by the Company) in satisfaction of the requisition certificates. If the Trustee is holding the Bonds, such deemed disbursement will be deemed to have been made on the date the Trustee endorses the Bonds with respect to such additional amount.

(c) In paying any requisition certificate under this Section, the Trustee may rely as to the completeness and accuracy of all statements in any such requisition certificate if such requisition certificate is signed by an Authorized Company Representative without inquiry or investigation. It is understood that the Trustee shall not be required to make any inspections of the Project, nor any improvements with respect thereto, make any provision to obtain completion bonds, mechanic's or materialman's lien releases or otherwise supervise the Project. The approval of each requisition certificate by an Authorized Company Representative shall constitute, unto the Trustee, an irrevocable determination that all conditions precedent to the payment of the specified amounts from the Project Fund have been completed. If the City so requests in writing, a copy of each requisition certificate submitted to the Trustee for payment under this Section shall be promptly provided by the Trustee to the City. The City hereby authorizes and directs the Trustee to make disbursements in the manner and as provided for by the aforesaid provisions of the Lease.

**Section 504. Completion of the Project.** The completion of the purchase, construction and installation of the Project and payment of all costs and expenses incident thereto shall be evidenced by the filing with the Trustee of the certificate required by the provisions of **Section 4.5** of the Lease. As soon as practicable after the Completion Date any balance remaining in the Project Fund shall without further authorization be transferred by the Trustee to the Bond Fund and applied as provided in **Section 4.6** of the Lease.

**Section 505. Disposition Upon Acceleration.** If the principal of the Bonds has become due and payable pursuant to **Section 902**, upon the date of payment by the Trustee of any moneys due as hereinafter provided in **Article IX**, any balance remaining in the Project Fund shall without further authorization be deposited in the Bond Fund by the Trustee, with advice to the City and to the Company of such action.

## ARTICLE VI

### REVENUES AND FUNDS

#### **Section 601. Deposits Into the Bond Fund.**

(a) The Trustee shall deposit into the Bond Fund, as and when received, (1) all accrued interest on the Bonds, if any, paid by the Purchaser; (2) all Basic Rent payable by the Company to the City specified in **Section 5.1** of the Lease; (3) any Additional Rent payable by the Company specified in **Section 5.2** of the Lease; (4) any amount in the Project Fund to be transferred to the Bond Fund pursuant to **Section 504** upon completion of the Project or pursuant to **Section 505** upon acceleration of the Bonds; (5) subject to the terms and conditions of the Fee Deed of Trust and the other Financing Documents executed in favor of the Lender, the balance of any Net Proceeds of condemnation awards or insurance received by the Trustee pursuant to **Article IX** of the Lease; (6) the amounts to be deposited in the Bond Fund pursuant to **Sections 9.1(f) and 9.2(c)** of the Lease; (7) all interest and other income derived from the investment of Bond Fund moneys as provided in **Section 702**; and (8) all other moneys received by the Trustee under and pursuant to any of the provisions of the Lease when accompanied by written directions from the Person depositing such moneys that such moneys are to be paid into the Bond Fund.

(b) The Trustee shall notify the Company in writing, at least 15 days before each date on which a payment is due under **Section 5.1** of the Lease, of the amount that is payable by the Company pursuant to such Section.

#### **Section 602. Application of Moneys in the Bond Fund.**

(a) Except as provided in **Section 604** and **Section 908** hereof or in **Section 4.6** of the Lease, moneys in the Bond Fund shall be expended solely for the payment of the principal of and interest on the Bonds as the same mature and become due or upon the redemption thereof before maturity; provided, however, that any amounts received by the Trustee as Additional Rent under **Section 5.2** of the Lease and deposited to the Bond Fund as provided in **Section 601** above, shall be expended by the Trustee for such items of Additional Rent as they are received or due without further authorization from the City.

(b) The City hereby authorizes and directs the Trustee to withdraw sufficient funds from the Bond Fund to pay the principal of and the interest on the Bonds as the same become due and payable and to make said funds so withdrawn available to the Paying Agent for the purpose of paying said principal and

interest. To the extent the Company is the Owner of all the Bonds Outstanding, payment may be made via transaction entry on the trust records held by the Trustee.

(c) Whenever the amount in the Bond Fund from any source whatsoever is sufficient to redeem all of the Bonds Outstanding and to pay interest to accrue thereon before and until such redemption, the City covenants and agrees, upon request of the Company, to take and cause to be taken the necessary steps to redeem all such Bonds on the next succeeding redemption date for which the required redemption notice may be given or on such later redemption date as may be specified by the Company. The Trustee may use any moneys in the Bond Fund to redeem a part of the Bonds Outstanding in accordance with and to the extent permitted by **Article III** so long as the Company is not in default with respect to any payments under the Lease and to the extent said moneys are in excess of the amount required for payment of Bonds theretofore matured or called for redemption and past due interest, if any, in all cases when such Bonds have not been presented for payment.

(d) After payment in full of the principal of and interest, if any, on the Bonds (or provision has been made for the payment thereof as provided in this Indenture), the fees, charges and expenses of the Trustee, the City and any Paying Agent and any other amounts required to be paid under this Indenture, the Lease and the Development Agreement, all amounts remaining in the Bond Fund shall be paid to the Company upon the expiration or sooner termination of the Lease.

**Section 603. Payments Due on Days Other than Business Days.** In any case where the date of maturity of principal of or interest, if any, on the Bonds or the date fixed for redemption of any Bonds is not a Business Day, then payment of principal or interest, if any, need not be made on such date but may be made on the next succeeding Business Day with the same force and effect as if made on the date of maturity or the date fixed for redemption, and no interest, if any, shall continue to accrue for the period after such date.

**Section 604. Nonpresentment of Bonds.** If any Bond is not presented for payment when the principal thereof becomes due, either at maturity or otherwise, or at the date fixed for redemption thereof, if funds sufficient to pay such Bond have been made available to the Trustee, all liability of the City to the Owner thereof for the payment of such Bond shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Trustee to hold such fund or funds, without liability for interest thereon, for the benefit of the Owner of such Bond who shall thereafter be restricted exclusively to such fund or funds for any claim of whatever nature on his part under this Indenture or on, or with respect to, said Bond. If any Bond is not presented for payment within one year following the date when such Bond becomes due, whether by maturity or otherwise, the Trustee shall without liability for interest thereon repay to the Company the funds theretofore held by it for payment of such Bond, and such Bond shall, subject to the defense of any applicable statute of limitation, thereafter be an unsecured obligation of the Company, and the Owner thereof may look only to the Company for payment, and then only to the extent of the amount so repaid, and the Company shall not be liable for any interest thereon and shall not be regarded as a trustee of such money.

## ARTICLE VII

### SECURITY FOR DEPOSITS AND INVESTMENT OF FUNDS

**Section 701. Moneys to be Held in Trust.** All moneys deposited with or paid to the Trustee for account of the Bond Fund or the Project Fund under any provision of this Indenture, and all moneys

deposited with or paid to any Paying Agent under any provision of this Indenture, shall be held by the Trustee or the Paying Agent in trust and shall be applied only in accordance with the provisions of this Indenture and the Lease, and, until used or applied as herein provided, shall constitute part of the Trust Estate and be subject to the lien hereof. Neither the Trustee nor any Paying Agent shall be under any liability for interest on any moneys received hereunder except such as may be agreed upon in writing.

**Section 702. Investment of Moneys in Project Fund and Bond Fund.** Moneys held in the Project Fund and the Bond Fund shall, pursuant to written direction of the Company, signed by an Authorized Company Representative, be separately invested and reinvested by the Trustee in Investment Securities which mature or are subject to redemption by the Owner before the date such funds will be needed. If the Company fails to provide written directions concerning the investment of moneys held in the Project Fund and the Bond Fund, the Trustee is authorized and directed to invest in such Investment Securities specified in paragraph (e) of the definition of Investment Securities, provided they mature or are subject to redemption before the date such funds will be needed. The Trustee may conclusively rely upon the Authorized Company Representative's written direction as to both the suitability and legality of the directed investment and such written direction shall be deemed to be a certification to the Trustee that such directed investments constitute Investment Securities. The Trustee is specifically authorized to implement its automated cash investment system to assure that cash on hand is invested and to charge its normal cash management fees and cash sweep account fees, which may be deducted from income earned on investments; provided that any such fees shall not exceed the interest income on the investment. The Trustee shall be provided ample time to clear any such fees that exceed interest income on the investment. Any such Investment Securities shall be held by or under the control of the Trustee and shall be deemed at all times a part of the fund in which such moneys are originally held, and the interest accruing thereon and any profit realized from such Investment Securities shall be credited to such fund, and any loss resulting from such Investment Securities shall be charged to such fund. After the Trustee has notice pursuant to **Section 1001(h)** of the existence of an Event of Default, the Trustee shall direct the investment of moneys in the Bond Fund and the Project Fund. The Trustee shall sell and reduce to cash a sufficient amount of such Investment Securities whenever the cash balance in any fund is insufficient for the purposes of such fund. In determining the balance in any fund, investments in such fund shall be valued at the lower of their original cost or their fair market value as of the most recent Payment Date. The Trustee may make any and all investments permitted by the provisions of this Section through its own bond department or any affiliate or short-term investment department.

**Section 703. Record Keeping.** The Trustee shall maintain records designed to show compliance with the provisions of this Article and with the provisions of **Article VI** for at least six years after the payment of all of the Outstanding Bonds.

## ARTICLE VIII

### GENERAL COVENANTS AND PROVISIONS

**Section 801. Payment of Principal and Interest.** The City covenants and agrees that it will, but solely from the rents, revenues and receipts derived from the Project and the Lease as described herein, deposit or cause to be deposited in the Bond Fund sufficient sums payable under the Lease promptly to meet and pay the principal of and the interest on the Bonds as they become due and payable at the place, on the dates and in the manner provided herein and in the Bonds according to the true intent and meaning thereof. Nothing herein shall be construed as requiring the City to operate the Project as a business other than as lessor or to use any funds or revenues from any source other than funds and revenues derived from the Project.

**Section 802. Authority to Execute Indenture and Issue Bonds.** The City covenants that it is duly authorized under the Constitution and laws of the State to execute this Indenture, to lease the Project, to issue the Bonds and to pledge and assign the Trust Estate in the manner and to the extent herein set forth; that all action on its part for the execution and delivery of this Indenture and the issuance of the Bonds has been duly and effectively taken; and that the Bonds in the hands of the Owners thereof are and will be valid and enforceable obligations of the City according to the import thereof.

**Section 803. Performance of Covenants.** The City covenants that it will faithfully perform or cause to be performed at all times any and all covenants, undertakings, stipulations and provisions contained in this Indenture, in the Bonds and in all proceedings of its City Council pertaining thereto. The Trustee may take such action as it deems appropriate to enforce all such covenants, undertakings, stipulations and provisions of the City hereunder.

**Section 804. Instruments of Further Assurance.** The City covenants that it will do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, such Supplemental Indentures and such further acts, instruments, financing statements and other documents as the Trustee may reasonably require for the better pledging and assigning unto the Trustee the property and revenues herein described to the payment of the principal of and interest, if any, on the Bonds, upon being first indemnified by the Company for the cost thereof. The City covenants and agrees that, except as herein and in the Lease provided, it will not sell, convey, mortgage, encumber or otherwise dispose of any part of the Project or the rents, revenues and receipts derived therefrom or from the Lease, or of its rights under the Lease.

**Section 805. Recordings and Filings.** The City shall file or cause to be kept and filed all financing statements, and hereby authorizes and directs the Trustee to file or cause to be kept and filed continuation statements with respect to such originally filed financing statements related to this Indenture and all supplements hereto and such other documents as it is notified in writing of and may be required under the Uniform Commercial Code to fully preserve and protect the security of the Owners and the rights of the Trustee hereunder. The City will cooperate in causing this Indenture and all Supplemental Indentures, the Lease and all Supplemental Leases and all other security instruments to be recorded and filed in such manner and in such places as may be required by law to fully preserve and protect the security of the Owners and the rights of the Trustee hereunder. The Trustee shall file continuation statements with respect to each Uniform Commercial Code financing statement relating to the Trust Estate filed by the City at the time of the issuance of the Bonds; provided that a copy of the filed initial financing statement is timely delivered to the Trustee. In addition, unless the Trustee has been notified in writing by the City that any such initial filing or description of collateral was or has become defective, the Trustee shall be fully protected in (a) relying on such initial filing and descriptions in filing any financing or continuation statements or

modifications thereto pursuant to this Section, and (b) filing any continuation statements in the same filing offices as the initial filings were made. The Company shall be responsible for the customary fees charged by the Trustee for the preparation and filing of continuation statements and for the reasonable costs incurred by the Trustee in the preparation and filing of all continuation statements hereunder, including attorneys' fees and expenses. These fees shall be considered "extraordinary services" fees.

**Section 806. Inspection of Project Books.** The City covenants and agrees that all books and documents in its possession relating to the Project and the rents, revenues and receipts derived from the Project shall at all times be open to inspection by such accountants or other agencies as the Trustee may from time to time designate.

**Section 807. Enforcement of Rights Under the Lease.** The Trustee, as assignee, transferee, pledgee, and owner of a security interest under this Indenture, in its name or in the name of the City, may enforce all assigned rights of the City and the Trustee and all obligations of the Company under and pursuant to the Lease for and on behalf of the Owners, whether or not the City is in default hereunder.

## ARTICLE IX

### DEFAULT AND REMEDIES

**Section 901. Events of Default; Notice; Opportunity to Cure.** If any of the following events occur, it is hereby defined as and declared to be and to constitute an "Event of Default":

- (a) Default in the due and punctual payment of the principal of any Bond, whether at the stated maturity or accelerated maturity thereof, or at any date fixed for the redemption thereof;
- (b) Default in the due and punctual payment of the interest on any Bond, whether at the stated maturity or accelerated maturity thereof, or at any date fixed for the redemption thereof;
- (c) Default as specified in **Section 12.1** of the Lease has occurred; or
- (d) Default in the performance, or breach, of any other covenant or agreement under this Indenture.

No default specified above shall constitute an Event of Default until the City, the Trustee or the Owners of 25% in aggregate principal amount of all Bonds Outstanding has given actual notice of such default by registered or certified mail or recognized overnight delivery service to the Company and the Lender, and the Company and the Lender have had 30 days after receipt of such notice to correct said default or cause said default to be corrected and has not corrected said default or caused said default to be corrected within such period; provided, however, if any such default (other than a default in the payment of any money) is such that it cannot be corrected within such period, it shall not constitute an Event of Default if corrective action is instituted by the Company, the Lender or the City (as the case may be) within such period and diligently pursued until the default is corrected; provided further that the Trustee is provided with a certification from the defaulting party to the effect that such default cannot be corrected within such period, and the Company, the Lender or the City (as the case may be) has commenced or will promptly commence corrective action within such period and will diligently pursue such action until the default is corrected. Nothing herein shall constitute an obligation of the Lender to cure any defaults hereunder.

### **Section 902. Acceleration of Maturity in Event of Default.**

(a) If an Event of Default has occurred and is continuing after the notice and cure period described in **Section 901** elapses, the Trustee may, and upon the written request of the Owners of not less than 25% in aggregate principal amount of Bonds then Outstanding, shall, by notice in writing delivered to the City, the Lender and the Company, declare the principal of all Bonds then Outstanding and the interest accrued thereon immediately due and payable, and such principal and interest and all other amounts due hereunder shall thereupon become and be immediately due and payable.

(b) If, at any time after such declaration, but before the Bonds have matured by their terms, all overdue installments of principal and interest upon the Bonds, together with the reasonable and proper expenses of the Trustee, and all other sums then payable by the City under this Indenture are either paid or provisions satisfactory to the Trustee are made for such payment, then and in every such case the Trustee shall, but only with the approval of a majority of the Owners of the Bonds then Outstanding, rescind such declaration and annul such default in its entirety. In such event, the Trustee shall rescind any declaration of acceleration of installments of rent payments on the Bonds as provided in **Section 11.1** of the Lease.

(c) In case of any rescission, then and in every such case the City, the Trustee, the Company and the Owners shall be restored to their former positions and rights hereunder respectively, but no such rescission shall extend to any subsequent or other default or Event of Default or impair any right consequent thereon.

**Section 903. Surrender of Possession of Trust Estate; Rights and Duties of Trustee in Possession.** If an Event of Default has occurred and is continuing after the notice and cure period described in **Section 901** elapses, the City, upon demand of the Trustee, shall forthwith surrender the possession of, and it shall be lawful for the Trustee, by such officer or agent as it may appoint, to take possession of all or any part of the Trust Estate, together with the books, papers and accounts of the City pertaining thereto, and including the rights and the position of the City under the Lease, and to hold, operate and manage the same, and from time to time make all needful repairs and improvements. The Trustee may lease the Project or any part thereof, in the name and for the account of the City, and collect, receive and sequester the rents, revenues and receipts therefrom, and out of the same and any moneys received from any receiver of any part thereof pay, and set up proper reserves for the payment of all proper costs and expenses of so taking, holding and managing the same, including without limitation (a) reasonable compensation to the Trustee, its agents and counsel, (b) any reasonable charges of the Trustee hereunder, (c) any taxes and assessments and other charges before the lien of this Indenture, (d) all expenses of such repairs and improvements and (e) any amounts payable under the Development Agreement. The Trustee shall apply the remainder of the moneys so received in accordance with the provisions of **Section 908**. Whenever all that is due upon the Bonds has been paid and all defaults cured, the Trustee shall surrender possession of the Trust Estate to the City, its successors or assigns, the same right of entry, however, to exist upon any subsequent Event of Default. While in possession of such property, the Trustee shall render annually to the City and the Company a summarized statement of receipts and expenditures in connection therewith.

**Section 904. Appointment of Receivers in Event of Default.** If an Event of Default has occurred and is continuing after the notice and cure period described in **Section 901** elapses, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Trustee and of the Owners under this Indenture, the Trustee shall be entitled, as a matter of right, to the appointment of a receiver or receivers of the Trust Estate or any part thereof, pending such proceedings, with such powers as the court making such appointment shall confer.

### **Section 905. Exercise of Remedies by the Trustee.**

(a) Upon the occurrence of an Event of Default, the Trustee may pursue any available remedy at law or in equity by suit, action, mandamus or other proceeding to enforce the payment of the principal of and interest on the Bonds then Outstanding and all other amounts due hereunder, and to enforce and compel the performance of the duties and obligations of the City or the Company as herein set forth or as set forth in the Lease, respectively.

(b) If an Event of Default has occurred and is continuing after the notice and cure period described in **Section 901** elapses, and if requested in writing to do so by (1) the City (in the case of an Event of Default pursuant to **Sections 12.1(a)** (but only as it relates to Additional Rent), **(b)** (but only as it relates to Unassigned Rights), **(c)** or **(d)** of the Lease), or (2) the Owners of 25% in aggregate principal amount of Bonds then Outstanding and indemnified as provided in **Section 1001(l)**, the Trustee shall be obligated to exercise such one or more of the rights and powers conferred by this Article as the Trustee, being advised by counsel, shall deem most expedient and in the interests of the City or the Owners, as the case may be.

(c) All rights of action under this Indenture or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceedings relating thereto, and any such suit or proceeding instituted by the Trustee shall be brought in its name as Trustee without necessity of joining as plaintiffs or defendants any Owners, and any recovery of judgment shall, subject to the provisions of **Section 908**, be for the equal benefit of all the Owners of the Outstanding Bonds.

**Section 906. Limitation on Exercise of Remedies by Owners.** No Owner shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of this Indenture or for the execution of any trust hereunder or for the appointment of a receiver or any other remedy hereunder, unless (a) a default has occurred of which the Trustee has been notified as provided in **Section 1001(h)** or of which by said subsection the Trustee is deemed to have notice, (b) such default has become an Event of Default, (c) the Owners of 25% in aggregate principal amount of Bonds then Outstanding have made written request to the Trustee, have offered it reasonable opportunity either to proceed for such reasonable period not to exceed 60 days following such notice and to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name, and have offered to the Trustee indemnity as provided in **Section 1001(l)**, and (d) the Trustee thereafter fails or refuses to exercise the powers herein granted or to institute such action, suit or proceeding in its own name; such notification, request and offer of indemnity are hereby declared in every case, at the option of the Trustee, to be conditions precedent to the execution of the powers and trusts of this Indenture, and to any action or cause of action for the enforcement of this Indenture, or for the appointment of a receiver or for any other remedy hereunder, it being understood and intended that no one or more Owners shall have any right in any manner whatsoever to affect, disturb or prejudice this Indenture by their action or to enforce any right hereunder except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the equal benefit of the Owners of all Bonds then Outstanding. Nothing in this Indenture contained shall, however, affect or impair the right of any Owner to payment of the principal of and interest on any Bond at and after the maturity thereof or the obligation of the City to pay the principal of and interest on each of the Bonds issued hereunder to the respective Owners thereof at the time, place, from the source and in the manner herein and in the Bonds expressed.

### **Section 907. Right of Owners to Direct Proceedings.**

(a) The Owners of a majority in aggregate principal amount of Bonds then Outstanding may, at any time, by an instrument or instruments in writing executed and delivered to the Trustee, direct the time, method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture, or for the appointment of a receiver or any other proceedings hereunder; provided that such direction shall not be otherwise than in accordance with the provisions of law and of this Indenture, including **Section 1001(l)**.

(b) Notwithstanding any provision in this Indenture to the contrary, including paragraph (a) of this Section, the Owners shall not have the right to control or direct any remedies hereunder upon an Event of Default under **Sections 12.1(a)** (but only as it relates to Additional Rent), **(b)** (but only as it relates to Unassigned Rights), **(c)** or **(d)** of the Lease.

### **Section 908. Application of Moneys in Event of Default.**

(a) All moneys received by the Trustee pursuant to any right given or action taken under the provisions of this Article shall be applied first to the costs and expenses of the proceedings resulting in the collection of such moneys and of the fees, expenses, liabilities and advances incurred or made by the Trustee (including any attorneys' fees and expenses) or amounts to be paid pursuant to **Section 903**, and second to any obligations outstanding under the Lease and the Development Agreement. Any remaining moneys shall be deposited in the Bond Fund, and all moneys so deposited in the Bond Fund shall be applied as follows:

(1) Unless the principal of all the Bonds has become or has been declared due and payable, all such moneys shall be applied:

FIRST -- To the payment to the Persons entitled thereto of all installments of interest, if any, then due and payable on the Bonds, in the order in which such installments of interest became due and payable, and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the Persons entitled thereto, without any discrimination or privilege;

SECOND -- To the payment to the Persons entitled thereto of the unpaid principal of any of the Bonds which have become due and payable (other than Bonds called for redemption for the payment of which moneys are held pursuant to the provisions of this Indenture), in the order of their due dates, and, if the amount available shall not be sufficient to pay in full Bonds due on any particular date, together with such interest, then to the payment, ratably, according to the amount of principal due on such date, to the Persons entitled thereto, without any discrimination or privilege.

(2) If the principal of all the Bonds has become due or has been declared due and payable, all such moneys shall be applied to the payment of the principal and interest, if any, then due and unpaid on all of the Bonds, without preference or priority of principal over interest or of interest over principal or of any installment of interest over any other installment of interest or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the Persons entitled thereto, without any discrimination or privilege.

(3) If the principal of all the Bonds has been declared due and payable, and if such declaration thereafter has been rescinded and annulled under the provisions of **Section 910**, then, subject to the provisions of subsection (2) of this Section, if the principal of all the Bonds later becomes due or is declared due and payable, the moneys shall be applied in accordance with the provisions of subsection (1) of this Section.

(b) Whenever moneys are to be applied pursuant to the provisions of this Section, such moneys shall be applied at such times and from time to time as the Trustee shall determine, having due regard to the amount of such moneys available and which may become available for such application in the future. Whenever the Trustee shall apply such moneys, it shall fix the date (which shall be a Payment Date unless it shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such dates shall cease to accrue.

(c) Whenever all of the Bonds and interest thereon, if any, have been paid under the provisions of this Section, and all fees, expenses and charges of the City and the Trustee and any other amounts required to be paid under this Indenture and the Lease have been paid (including any amounts payable under the Development Agreement), any balance remaining in the Bond Fund shall be paid to the Company as provided in **Section 602**.

**Section 909. Remedies Cumulative.** No remedy by the terms of this Indenture conferred upon or reserved to the Trustee or to the Owners is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Trustee or to the Owners hereunder or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right, power or remedy accruing upon any Event of Default shall impair any such right, power or remedy or shall be construed to be a waiver of any such Event of Default or acquiescence therein; every such right, power or remedy may be exercised from time to time and as often as may be deemed expedient. If the Trustee has proceeded to enforce any right under this Indenture by the appointment of a receiver, by entry, or otherwise, and such proceedings have been discontinued or abandoned for any reason, or have been determined adversely, then and in every such case the City, the Company, the Trustee and the Owners shall be restored to their former positions and rights hereunder, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

**Section 910. Waivers of Events of Default.** The Trustee shall waive any Event of Default hereunder and its consequences and rescind any declaration of maturity of principal of and interest, if any, on the Bonds, but only upon the written request of the Owners of at least 50% in aggregate principal amount of all the Bonds then Outstanding, provided, however, that (a) there shall not be waived without the consent of the City an Event of Default hereunder arising from an Event of Default under **Sections 12.1(a)** (but only as it relates to Additional Rent), **(b)** (but only as it relates to Unassigned Rights), **(c)** or **(d)** of the Lease, and (b) there shall not be waived without the consent of the Owners of all the Bonds Outstanding (1) any Event of Default in the payment of the principal of any Outstanding Bonds when due (whether at the date of maturity or redemption specified therein), or (2) any Event of Default in the payment when due of the interest on any such Bonds, unless before such waiver or rescission, all arrears of interest, or all arrears of payments of principal when due, as the case may be, and all reasonable expenses of the Trustee and the City (including reasonable attorneys' fees and expenses), in connection with such default, has been paid or provided for. In case of any such waiver or rescission, or in case any proceeding taken by the Trustee on account of any such default has been discontinued or abandoned or determined adversely, then and in every such case the City, the Company, the Trustee and the Owners shall be restored to their former positions, rights and obligations hereunder, respectively, but no such waiver or rescission shall extend to any

subsequent or other default, or impair any right consequent thereon and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

## ARTICLE X

### THE TRUSTEE

**Section 1001. Acceptance of the Trusts.** The Trustee hereby accepts the trusts imposed upon it by this Indenture, but only upon and subject to the following express terms and conditions, and no implied covenants or obligations shall be read into this Indenture against the Trustee:

(a) The Trustee, before the occurrence of an Event of Default and after the curing or waiver of all Events of Default that may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. If any Event of Default has occurred and is continuing, subject to **Section 1001(l)** below, the Trustee shall exercise such of the rights and powers vested in it by this Indenture and shall use the same degree of care and skill in their exercise, as a prudent Person would exercise or use under the circumstances in the conduct of its own affairs.

(b) The Trustee undertakes to perform such duties as are specifically set forth in this Indenture, and in the absence of negligence or willful misconduct on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture. No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct. The Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or through agents, affiliates, attorneys or receivers and shall not be responsible for any misconduct or negligence on the part of any agent, attorney or receiver appointed or chosen by it with due care. The Trustee may conclusively rely upon and act or refrain from acting upon any opinion or advice of counsel, who may be counsel to the City or to the Company, concerning all matters of trust hereof and the duties hereunder, and may in all cases pay such reasonable compensation to all such agents, attorneys and receivers as may reasonably be employed in connection with the trusts hereof. The Trustee shall not be responsible for any loss or damage resulting from any action or nonaction by it taken or omitted to be taken in good faith in reliance upon such opinion or advice of counsel addressed to the City and the Trustee.

(c) The Trustee shall not be responsible for any recital herein or in the Bonds (except with respect to the Certificate of Authentication of the Trustee endorsed on the Bonds), or except as provided in the Lease and particularly **Section 10.8** thereof, for the recording or rerecording, filing or refiling of this Indenture or any security agreement in connection therewith (excluding the continuation of Uniform Commercial Code financing statements), or for insuring the Project or collecting any insurance moneys, or for the validity of the execution by the City of this Indenture or of any Supplemental Indentures or instruments of further assurance, or for the sufficiency of the security for the Bonds. The Trustee shall not be responsible or liable for any loss suffered in connection with any investment of funds made by it in accordance with **Article VII**.

(d) The Trustee shall not be accountable for the use of any Bonds authenticated and delivered hereunder. The Trustee, in its individual or any other capacity, may become the Owner or pledgee of Bonds with the same rights that it would have if it were not the Trustee. The Trustee shall not be accountable for the use or application by the City or the Company of the proceeds of

any of the Bonds or of any money paid to or upon the order of the City or the Company under any provision of this Indenture.

(e) The Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, affidavit, letter, telegram or other paper or document provided for under this Indenture believed by it to be genuine and correct and to have been signed, presented or sent by the proper Person or Persons. Any action taken by the Trustee pursuant to this Indenture upon the request or authority or consent of any Person who, at the time of making such request or giving such authority or consent is an Owner, shall be conclusive and binding upon all future Owners of the same Bond and upon Bonds issued in exchange therefor or upon transfer or in place thereof.

(f) As to the existence or nonexistence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, or whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established before taking, suffering or omitting any action hereunder, the Trustee may rely upon a certificate signed by an Authorized City Representative or an Authorized Company Representative as sufficient evidence of the facts therein contained, and before the occurrence of a default of which the Trustee has been notified as provided in subsection (h) of this Section or of which by said subsection it is deemed to have notice, the Trustee shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient, but may at its discretion secure such further evidence deemed necessary or advisable, but shall in no case be bound to secure the same. The Trustee is under no duty to perform an independent investigation as to any statement or fact contained in any certificate, opinion or advice it obtains regarding the accuracy or truth of any statement or correctness of any opinion. The Trustee shall not be liable for any action or inaction taken in good faith in reliance on any such certificate or advice received from counsel, and the Trustee may conclusively rely as to the truth of the statements and the correctness of the opinions or statements expressed therein.

(g) The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty, and the Trustee shall not be answerable for other than its negligence or willful misconduct. In no event shall the Trustee be liable for consequential damages. The Trustee shall not be liable for any act or omission, in the absence of bad faith, when the Trustee reasonably believes the act or failure to act is authorized and within its powers to perform under this Indenture.

(h) The Trustee shall not be required to take notice or be deemed to have notice of any default hereunder except failure by the City to cause to be made any of the payments to the Trustee required to be made in **Article VI**, unless the Trustee is specifically notified in writing of such default by the City or by the Owners of at least 25% in aggregate principal amount of all Bonds then Outstanding.

(i) At any and all reasonable times and subject to the Company's reasonable and standard security procedures, the Trustee and its duly authorized agents, attorneys, experts, engineers, accountants and representatives may, but shall not be required to, inspect any and all of the Project, and all books, papers and records of the Company pertaining to the Project and the Bonds, and to take such memoranda from and in regard thereto as may be desired. The Trustee shall treat all proprietary information of the Company as confidential.

(j) The Trustee shall not be required to give any bond or surety in respect to the execution of its trusts and powers hereunder or otherwise in respect of the Project.

(k) The Trustee may, but shall not be required to, demand, in respect of the authentication of any Bonds, the withdrawal of any cash, the release of any property, or any action whatsoever within the purview of this Indenture, any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required, as a condition of such action by the Trustee deemed desirable for the purpose of establishing the right of the City to the authentication of any Bonds, the withdrawal of any cash, or the taking of any other action by the Trustee.

(l) Notwithstanding anything in this Indenture or the Lease to the contrary, before taking any action under this Indenture other than the payments from moneys on deposit in the Project Fund or the Bond Fund, as provided herein, the Trustee may require that satisfactory indemnity be furnished to it for the reimbursement of all costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) to which it may be put and to protect it against all liability which it may incur in or by reason of such action, except liability which is adjudicated to have resulted from its negligence or willful misconduct by reason of any action so taken.

(m) Notwithstanding any other provision of this Indenture to the contrary, any provision relating to the conduct of, or intended to provide authority to act, right to payment of fees and expenses, protection, immunity and indemnification to, the Trustee, shall be interpreted to include any action of the Trustee, whether it is deemed to be in its capacity as Trustee, bond registrar or Paying Agent.

(n) The Trustee agrees to accept and act on instructions or directions pursuant to this Indenture sent in the form of a signed document by the City or the Company, as the case may be, by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods, provided, however, that the City or the Company, respectively, shall provide to the Trustee an incumbency certificate listing designated persons with the authority 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 or Company, as applicable, elects to give the Trustee e-mail or facsimile instructions (or instructions by a similar electronic method) and the Trustee acts 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 or the Company, as applicable, 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.

(o) The Trustee shall have no responsibility with respect to any information, statement or recital in any official statement, offering memorandum or any other disclosure material prepared or distributed with respect to the Bonds and shall have no responsibility for compliance with any state or federal securities laws in connection with the Bonds.

(p) None of the provisions of this Indenture shall require the Trustee to expend or risk its own funds or otherwise to incur any liability, financial or otherwise, in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers if it has reasonable grounds

for believing that repayment of such funds or indemnity satisfactory to it against such risk or liability is not assured to it.

(q) In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services.

**Section 1002. Fees, Charges and Expenses of the Trustee.** The Trustee shall be entitled to payment of and/or reimbursement for reasonable fees for its ordinary services rendered hereunder and all advances, agent and counsel fees and other ordinary expenses reasonably made or incurred by the Trustee in connection with such ordinary services. If it becomes necessary for the Trustee to perform extraordinary services, it shall be entitled to reasonable extra compensation therefor and to reimbursement for reasonable extraordinary expenses in connection therewith; provided that if such extraordinary services or extraordinary expenses are caused by the negligence or willful misconduct of the Trustee, it shall not be entitled to compensation or reimbursement therefor. The Trustee shall be entitled to payment and reimbursement for the reasonable fees and charges of the Trustee as Paying Agent for the Bonds. Pursuant to the provisions of **Section 5.2** of the Lease, the Company has agreed to pay to the Trustee all reasonable fees, charges and expenses of the Trustee under this Indenture. The Trustee agrees that the City shall have no liability for any reasonable fees, charges and expenses of the Trustee, and the Trustee agrees to look only to the Company for the payment of all reasonable fees, charges and expenses of the Trustee and any Paying Agent as provided in the Lease. Upon the occurrence of an Event of Default and during its continuance, the Trustee shall have a lien with right of payment before payment on account of principal of or interest on any Bond, upon all moneys in its possession under any provisions hereof for the foregoing reasonable advances, fees, costs and expenses incurred. The Trustee's right to compensation and indemnification shall survive the satisfaction and discharge of this Indenture or its resignation or removal hereunder and payment in full of the Bonds.

**Section 1003. Notice to Owners if Default Occurs.** If a default occurs of which the Trustee is by **Section 1001(h)** required to take notice or if notice of default is given as in said subsection (h) provided, then the Trustee shall give written notice thereof to the Lender and the last known Owners of all Bonds then Outstanding as shown by the bond registration books required by **Section 206** to be kept at the corporate trust office of the Trustee.

**Section 1004. Intervention by the Trustee.** In any judicial proceeding to which the City is a party and which, in the opinion of the Trustee and its counsel, has a substantial bearing on the interests of Owners, the Trustee may intervene on behalf of Owners and, subject to the provisions of **Section 1001(l)**, shall do so if requested in writing by the Lender or the Owners of at least 25% of the aggregate principal amount of Bonds then Outstanding.

**Section 1005. Successor Trustee Upon Merger, Consolidation or Sale.** With the prior written consent of the Company, any corporation or association into which the Trustee may be merged or converted or with or into which it may be consolidated, or to which it may sell or transfer its corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any merger, conversion, sale, consolidation or transfer to which it is a party, shall be and become successor Trustee hereunder and shall be vested with all the trusts, powers, rights, obligations, duties, remedies, immunities and privileges hereunder as was its predecessor, without the execution or filing of any instrument or any further act on the part of any of the parties hereto.

**Section 1006. Resignation of Trustee.** The Trustee and any successor Trustee may at any time resign from the trusts hereby created by giving 30 days' written notice to the City, the Company and the Owners, and such resignation shall take effect at the end of such 30 days, or upon the earlier appointment of a successor Trustee by the Owners or by the City; provided, however, that in no event shall the resignation of the Trustee or any successor trustee become effective until such time as a successor trustee has been appointed and has accepted the appointment. If no successor has been appointed and accepted the appointment within 30 days after the giving of such notice of resignation, the Trustee, at the Company's expense, may petition any court of competent jurisdiction for the appointment of a successor Trustee. The Trustee's rights to indemnity and to any fees, charges or other amounts due and payable to it shall survive any such resignation.

**Section 1007. Removal of Trustee.** The Trustee may be removed at any time, with or without cause, by an instrument or concurrent instruments in writing (a) delivered to the Trustee, the City and the Company and signed by the Owners of a majority in aggregate principal amount of Bonds then Outstanding, or (b) so long as no Event of Default under this Indenture or the Lease has occurred and is continuing, delivered to the Trustee, the City and the Owners and signed by the Company. The Trustee's rights to indemnity and to any fees, charges or other amounts due and payable to it shall survive any such removal.

**Section 1008. Appointment of Successor Trustee.** If the Trustee hereunder resigns or is removed, or otherwise becomes incapable of acting hereunder, or if it is taken under the control of any public officer or officers or of a receiver appointed by a court, a successor Trustee (a) reasonably acceptable to the City may be appointed by the Company (so long as no Event of Default has occurred and is continuing), or (b) reasonably acceptable to the City and the Company may be appointed by the Owners of a majority in aggregate principal amount of Bonds then Outstanding, by an instrument or concurrent instruments in writing; provided, nevertheless, that in case of such vacancy, the City, by an instrument executed and signed by its City Manager and attested by its City Clerk under its seal, may appoint a temporary Trustee to fill such vacancy until a successor Trustee shall be appointed in the manner above provided. Any such temporary Trustee so appointed by the City shall immediately and without further acts be superseded by the successor Trustee so appointed as provided above. Every such Trustee appointed pursuant to the provisions of this Section shall be a trust company or bank in good standing and qualified to accept such trust with a corporate trust office in the State, and having, or whose obligations are guaranteed by a financial institution having, a reported capital, surplus and undivided profits of not less than \$50,000,000. If no successor Trustee has been so appointed and accepted appointment in the manner herein provided, the Trustee, at the Company's expense, or any Owner may petition any court of competent jurisdiction for the appointment of a successor Trustee, until a successor has been appointed as above provided.

**Section 1009. Vesting of Trusts in Successor Trustee.** Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the City and the Company an instrument in writing accepting such appointment hereunder, and thereupon such successor shall, without any further act, deed or conveyance, become fully vested with all the trusts, powers, rights, obligations, duties, remedies, immunities and privileges of its predecessor and the duties and obligations of such predecessor hereunder shall thereafter cease and terminate; but such predecessor shall, nevertheless, on the written request of the City and upon payment of its outstanding fees and expenses, execute and deliver an instrument transferring to such successor Trustee all the trusts, powers, rights, obligations, duties, remedies, immunities and privileges of such predecessor hereunder; every predecessor Trustee shall deliver all securities and moneys held by it as Trustee hereunder to its successor. Should any instrument in writing from the City be required by any predecessor or successor Trustee for more fully and certainly vesting in

such successor the trusts, powers, rights, obligations, duties, remedies, immunities and privileges hereby vested in the predecessor, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the City.

**Section 1010. Right of Trustee to Pay Taxes and Other Charges.** If any tax, assessment or governmental or other charge upon, or insurance premium with respect to, any part of the Project is not paid as required herein or in the Lease, the Trustee may pay such tax, assessment or governmental charge or insurance premium, without prejudice, however, to any rights of the Trustee or the Owners hereunder arising in consequence of such failure; any amount at any time so paid under this Section, with interest thereon from the date of payment at the rate of 10% per annum, shall become an additional obligation secured by this Indenture, and the same shall be given a preference in payment over any payment of principal of or interest on the Bonds, and shall be paid out of the proceeds of rents, revenues and receipts collected from the Project, if not otherwise caused to be paid; but the Trustee shall be under no obligation to make any such payment unless it has been requested to do so by the Owners of at least 25% of the aggregate principal amount of Bonds then Outstanding and has been provided adequate funds for the purpose of such payment.

**Section 1011. Trust Estate May be Vested in Co-Trustee.**

(a) It is the purpose of this Indenture that there shall be no violation of any law of any jurisdiction (including particularly the State) denying or restricting the right of banking corporations or associations to transact business as trustee in such jurisdiction. It is recognized that in case of litigation under this Indenture or the Lease, and in particular in case of the enforcement of either this Indenture or the Lease upon the occurrence of an Event of Default or if the Trustee deems that by reason of any present or future law of any jurisdiction it cannot exercise any of the powers, rights or remedies herein granted to the Trustee, or take any other action which may be desirable or necessary in connection therewith, it may be necessary or desirable that the Trustee appoint an additional individual or institution as a co-trustee or separate trustee, and the Trustee is hereby authorized to appoint such co-trustee or separate trustee.

(b) If the Trustee appoints an additional individual or institution as a co-trustee or separate trustee (which appointment shall be subject to the approval of the Company), each and every remedy, power, right, claim, demand, cause of action, immunity, title, interest and lien expressed or intended by this Indenture to be exercised by the Trustee with respect thereto shall be exercisable by such co-trustee or separate trustee but only to the extent necessary to enable such co-trustee or separate trustee to exercise such powers, rights and remedies, and every covenant and obligation necessary to the exercise thereof by such co-trustee or separate trustee shall run to and be enforceable by either of them.

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

(d) If any co-trustee or separate trustee shall die, become incapable of acting, resign or be removed, all the properties, rights, powers, trusts, duties and obligations of such co-trustee or separate trustee, so far as permitted by law, shall vest in and be exercised by the Trustee until the appointment of a successor to such co-trustee or separate trustee.

**Section 1012. Accounting.** The Trustee shall render an annual accounting for the period ending December 31 of each year to the City, the Company and to any Owner requesting the same in writing and, upon the written request of the City, the Company or any Owner (at such Owner's expense), a monthly accounting to any such party, showing in reasonable detail all financial transactions relating to the Trust Estate during the accounting period and the balance in any funds or accounts created by this Indenture as of the beginning and close of such accounting period.

**Section 1013. Performance of Duties Under the Lease.** The Trustee hereby accepts and agrees to perform all duties and obligations specifically assigned to it under the Lease.

## ARTICLE XI

### SUPPLEMENTAL INDENTURES

**Section 1101. Supplemental Indentures Not Requiring Consent of Owners.** The City and the Trustee may from time to time, without the consent of or notice to any of the Owners, enter into such Supplemental Indenture or Supplemental Indentures as shall not be inconsistent with the terms and provisions hereof, for any one or more of the following purposes:

- (a) To cure any ambiguity or formal defect or omission in this Indenture, or to make any other change which, in the judgment of the Trustee, is not to the material prejudice of the Trustee or the Owners (provided the Trustee is entitled to receive and may conclusively rely upon an opinion of counsel in exercising such judgment);
- (b) To grant to or confer upon the Trustee for the benefit of the Owners any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Owners or the Trustee or both of them;
- (c) To more precisely identify any portion of the Project or to add additional property thereto;
- (d) To conform this Indenture to amendments to the Lease made by the City and the Company; or
- (e) To subject to this Indenture additional revenues, properties or collateral.

**Section 1102. Supplemental Indentures Requiring Consent of Owners.**

(a) Exclusive of Supplemental Indentures covered by **Section 1101** and subject to the terms and provisions contained in this Section, and not otherwise, the Owners of not less than a majority in aggregate principal amount of the Bonds then-Outstanding may, from time to time, anything contained in this Indenture to the contrary notwithstanding, consent to and approve the execution by the City and the Trustee of such other Supplemental Indenture or Supplemental Indentures as shall be deemed necessary and desirable by the City for the purpose of modifying, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Indenture or in any Supplemental Indenture; provided, however, that without the consent of the Owners of 100% of the principal amount of the Bonds then-Outstanding, nothing in this Section contained shall permit or be construed as permitting (1) an extension of the maturity or a shortening of the redemption date of the principal of or interest, if any, on any Bond issued hereunder, or (2) a reduction in the principal amount of any Bond or the rate of interest thereon, if

any, or (3) a privilege or priority of any Bond or Bonds over any other Bond or Bonds, or (4) a reduction in the aggregate principal amount of Bonds the Owners of which are required for consent to any such Supplemental Indenture.

(b) If the City requests the Trustee to enter into any such Supplemental Indenture for any of the purposes of this Section, the Trustee shall cause notice of the proposed execution of such Supplemental Indenture to be mailed to each Owner as shown on the bond registration books required by **Section 206**. Such notice shall briefly set forth the nature of the proposed Supplemental Indenture and shall state that copies thereof are on file at the corporate trust office of the Trustee for inspection by all Owners. If within 60 days or such longer period as may be prescribed by the City following the mailing of such notice, the Owners of not less than a majority in aggregate principal amount of the Bonds Outstanding at the time of the execution of any such Supplemental Indenture shall have consented to and approved the execution thereof as herein provided, no Owner shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the City from executing the same or from taking any action pursuant to the provisions thereof.

**Section 1103. Company's Consent to Supplemental Indentures.** Anything herein to the contrary notwithstanding, a Supplemental Indenture under this Article shall not become effective unless and until the Company and the Lender have consented in writing to the execution and delivery of such Supplemental Indenture. The Trustee shall cause notice of the proposed execution and delivery of any Supplemental Indenture (regardless of whether it affects the Company's rights) together with a copy of the proposed Supplemental Indenture to be mailed to the Company and any Financing Party of which the Trustee has received written notice at least 15 days before the proposed date of execution and delivery of the Supplemental Indenture.

**Section 1104. Opinion of Counsel.** In executing, or accepting the additional trusts created by, any Supplemental Indenture permitted by this Article or the modification thereby of the trusts created by this Indenture, the Trustee and the City shall receive, and, shall be fully protected in relying upon, an opinion of counsel addressed and delivered to the Trustee and the City stating that the execution of such Supplemental Indenture is permitted by and in compliance with this Indenture and will, upon the execution and delivery thereof, be a valid and binding obligation of the City. The Trustee may, but shall not be obligated to, enter into any such Supplemental Indenture which affects the Trustee's rights, duties or immunities under this Indenture or otherwise.

## ARTICLE XII

### SUPPLEMENTAL LEASES

**Section 1201. Supplemental Leases Not Requiring Consent of Owners.** The City and the Trustee shall, with the consent of Lender but without the consent of or notice to the Owners, consent to the execution of any Supplemental Lease or Supplemental Leases by the City and the Company as may be required (a) by the provisions of the Lease and this Indenture, (b) for the purpose of curing any ambiguity or formal defect or omission in the Lease, (c) so as to more precisely identify the Project or add additional property thereto or (d) in connection with any other change therein which, in the judgment of the Trustee, does not materially and adversely affect the Trustee or security for the Owners (provided the Trustee is entitled to receive and may conclusively rely upon an opinion of counsel in exercising such judgment).

**Section 1202. Supplemental Leases Requiring Consent of Owners.** Except for Supplemental Leases as provided for in **Section 1201**, neither the City nor the Trustee shall consent to the execution of any Supplemental Lease or Supplemental Leases by the City or the Company without the mailing of notice and the obtaining of the written approval or consent of the Owners of not less than a majority in aggregate principal amount of the Bonds at the time Outstanding given and obtained as provided in **Section 1102**. If at any time the City and the Company shall request the consent of the Trustee to any such proposed Supplemental Lease, the Trustee shall cause notice of such proposed Supplemental Lease to be mailed in the same manner as provided in **Section 1102** with respect to Supplemental Indentures. Such notice shall briefly set forth the nature of such proposed Supplemental Lease and shall state that copies of the same are on file in the corporate trust office of the Trustee for inspection by all Owners. If within 60 days or such longer period as may be prescribed by the City following the mailing of such notice, the Owners of not less than 50% in aggregate principal amount of the Bonds Outstanding at the time of the execution of any such Supplemental Lease shall have consented to and approved the execution thereof as herein provided, no Owner shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Company or the City from executing the same or from taking any action pursuant to the provisions thereof.

**Section 1203. Opinion of Counsel.** In executing or consenting to any Supplemental Lease permitted by this Article, the City and the Trustee shall receive, and shall be fully protected in relying upon, an opinion of counsel addressed to the Trustee and the City stating that the execution of such Supplemental Lease is authorized or permitted by the Lease and this Indenture and the applicable law and will upon the execution and delivery thereof be valid and binding obligations of the parties thereto.

## ARTICLE XIII

### SATISFACTION AND DISCHARGE OF INDENTURE

#### **Section 1301. Satisfaction and Discharge of this Indenture.**

(a) When the principal of and interest on all the Bonds have been paid in accordance with their terms or provision has been made for such payment, as provided in **Section 1302**, and provision also made for paying all other sums payable hereunder and under the Lease and the Development Agreement, including the reasonable fees and expenses of the Trustee, the City and the Paying Agent to the date of retirement of the Bonds, then the right, title and interest of the Trustee in respect hereof shall thereupon cease, determine and be void. Thereupon, the Trustee shall cancel, discharge and release this Indenture and shall upon the written request of the City or the Company execute, acknowledge and deliver to the City such instruments of satisfaction and discharge or release as shall be required to evidence such release and the satisfaction and discharge of this Indenture, and shall assign and deliver to the City (subject to the City's obligations under **Section 11.2** of the Lease) any property at the time subject to this Indenture which may then be in its possession, except amounts in the Bond Fund required to be paid to the Company under **Section 602** and except funds or securities in which such funds are invested held by the Trustee for the payment of the principal of and interest on the Bonds.

(b) The City is hereby authorized to accept a certificate by the Trustee that the whole amount of the principal and interest, if any, so due and payable upon all of the Bonds then Outstanding has been paid or such payment provided for in accordance with **Section 1302** as evidence of satisfaction of this Indenture, and upon receipt thereof shall cancel and erase the inscription of this Indenture from its records.

### **Section 1302. Bonds Deemed to be Paid.**

(a) Bonds shall be deemed to be paid within the meaning of this Article when payment of the principal of and interest thereon to the due date thereof (whether such due date be by reason of maturity or upon redemption as provided in this Indenture, or otherwise), either (1) has been made or caused to be made in accordance with the terms thereof, or (2) has been provided for by depositing with the Trustee or other commercial bank or trust company having full trust powers and authorized to accept trusts in the State in trust and irrevocably set aside exclusively for such payment (A) moneys sufficient to make such payment or (B) Government Securities maturing as to principal and interest in such amounts and at such times as will ensure the availability of sufficient moneys to make such payment, or (3) has been provided for by surrendering the Bonds to the Trustee for cancellation. At such time as Bonds are deemed to be paid hereunder, as aforesaid, they shall no longer be secured by or entitled to the benefits of this Indenture, except for the purposes of such payment from such moneys or Government Securities.

(b) Notwithstanding the foregoing, in the case of Bonds which by their terms may be redeemed before the stated maturities thereof, no deposit under clause (2) of the immediately preceding paragraph shall be deemed a payment of such Bonds as aforesaid until, as to all such Bonds which are to be redeemed before their respective stated maturities, proper notice of such redemption has been given in accordance with **Article III** or irrevocable instructions have been given to the Trustee to give such notice.

(c) Notwithstanding any provision of any other section of this Indenture which may be contrary to the provisions of this Section, all moneys or Government Securities set aside and held in trust pursuant to the provisions of this Section for the payment of Bonds shall be applied to and used solely for the payment of the particular Bonds, with respect to which such moneys and Government Securities have been so set aside in trust.

## **ARTICLE XIV**

### **MISCELLANEOUS PROVISIONS**

### **Section 1401. Consents and Other Instruments by Owners.**

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

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

(2) The fact of ownership of Bonds and the amount or amounts, numbers and other identification of such Bonds, and the date of holding the same shall be proved by the registration books of the City maintained by the Trustee pursuant to **Section 206**.

(b) In determining whether the Owners of the requisite principal amount of Bonds Outstanding have given any request, demand, authorization, direction, notice, consent or waiver under this Indenture, Bonds owned by the Company shall be disregarded and deemed not to be Outstanding under this Indenture, except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Bonds which the Trustee knows to be so owned shall be so disregarded; provided, the foregoing provisions shall not be applicable if the Company is the only Owner of the Bonds. Notwithstanding the foregoing, Bonds so owned which have been pledged in good faith shall not be disregarded as aforesaid if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Bonds and the pledgee is not the Company or any affiliate thereof. The City and the Trustee acknowledge that, as of the date of execution and delivery of this Indenture, the Lender is the pledgee of the Bonds and shall be deemed to be the sole holder of the Bonds for purposes of any request, demand, authorization, direction, notice, consent or waiver under this Indenture.

**Section 1402. Limitation of Rights Under this Indenture.** With the exception of rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Indenture or the Bonds is intended or shall be construed to give any Person other than the parties hereto, and the Owners, if any, any right, remedy or claim under or in respect to this Indenture, this Indenture and all of the covenants, conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the parties hereto and the Owners, as herein provided.

**Section 1403. Rights of Lender.** The City and the Trustee agree that in addition to any other rights to assign the Bonds as set forth herein, the Company may collaterally assign its interest in the Bonds to the Lender for the purpose of securing the Company's obligations to the Lender in connection with the financing or refinancing of the Project. In the event of a collateral assignment made by the Company, the City and the Trustee agree, at the expense of the Company, to execute such consents, estoppels and other documents related thereto as the Lender shall reasonably request and in such form with such terms as the City deems appropriate and is acceptable to the Trustee. Provided the Trustee has received indemnification from the Lender and Company as provided in **Section 1001(l)**, and provided further the Trustee shall be entitled to engage the advice of counsel, at the expense of the Company, in executing any such documents, shall have no obligation to execute any such document which negatively and materially affects the Trustee's rights, duties or immunities under this Indenture or otherwise, and any obligations of the Trustee under any such document must be in compliance with the regulatory requirements applicable to the Trustee.

**Section 1404. Notices.** It shall be sufficient service of any notice, request, complaint, demand or other paper required by this Indenture to be given or filed with the City, the Trustee, the Company, the Lender or Owners if the same is duly mailed, postage prepaid, sent by overnight delivery or other delivery service, as follows:

(a) To the City:

City of University City, Missouri  
6801 Delmar Boulevard  
University City, Missouri 63130  
Attn: City Manager

with a copy to:

John F. Mulligan, Jr.  
Attorney at Law

6 Carrswold  
Clayton, Missouri 63105

(b) To the Trustee:

UMB Bank, N.A.  
2 S. Broadway, Suite 600  
St. Louis, Missouri 63102  
Attn: Corporate Trust Department

(c) To the Company:

WY Hospitality Group LLC  
6632 Delmar Boulevard  
St. Louis, Missouri 63130  
Attn: Xin Wei

with a copy to:

Stone, Leyton & Gershman, P.C.  
7733 Forsyth Boulevard, Suite 500  
St. Louis, Missouri 63105  
Attn: Steven H. Stone, Esq.

(d) To the Lender:

Carrollton Bank  
7911 Forsyth Blvd.  
Clayton, MO 63105  
Attention: Ryan McKillips

with a copy to:

Carmody MacDonald P.C.  
120 S. Central Ave., Suite 1800  
St. Louis, Missouri 63105  
Attn: Joe Palumbo

(e) To the Owners if the same is duly mailed by first class, registered or certified mail addressed to each of the Owners of Bonds at the time Outstanding as shown by the bond registration books required by **Section 206** to be kept at the corporate trust office of the Trustee.

All notices given by certified or registered mail as aforesaid shall be deemed fully given as of the date they are so mailed, provided that any of the foregoing given to the Trustee shall be effective only upon receipt. All notices given by overnight delivery or other delivery service shall be deemed fully given as of the date when received. A duplicate copy of each notice, certificate or other communication given hereunder by either the City or the Trustee to the other shall also be given to the Company and the Lender. The City, the Company, the Lender and the Trustee may from time to time designate, by notice given hereunder to the others of such parties, such other address to which subsequent notices, certificates or other communications shall be sent.

**Section 1405. Severability.** If any provision of this Indenture is held or deemed to be invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances 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 whatsoever.

**Section 1406. Execution in Counterparts.** This Indenture may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**Section 1407. Governing Law.** This Indenture shall be governed exclusively by and construed in accordance with the applicable laws of the State.

**Section 1408. Electronic Transaction.**

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

(b) The counterparts of this Indenture may be executed and delivered by facsimile or electronic signature (including portable document format) by either of the parties hereto, and the receiving party may rely on the receipt of any counterpart so executed and delivered electronically or by facsimile as if the original had been received. Each party may sign and transmit an electronic signature on this Indenture, which signature shall be binding on the party whose name is contained thereon. The intentional action in electronically signing this Indenture shall be evidence of consent to be legally bound by this Indenture. Each party agrees to not contest the admissibility or enforceability of the electronically signed copy of this Indenture in any proceeding arising out of the terms and conditions of this Indenture.

**Section 1409. City Consent.** Pursuant to the Ordinance, the City Manager is authorized to execute all documents on behalf of the City (including documents pertaining to the transfer of property or the financing and refinancing of the Project) as may be required to carry out and comply with the intent of the Ordinance. The City Manager is also authorized, unless expressly prohibited herein, to grant on behalf of the City such consents, estoppels and waivers relating to the Bonds, this Indenture, the Development Agreement or the Lease as may be requested during the term thereof; provided, such consents, estoppels and/or waivers shall not increase the principal amount of the Bonds, increase the term of the Lease or the tax exemption as provided for therein, waive an Event of Default or materially change the nature of the transaction unless otherwise approved by the City Council.

**Section 1410. Anti-Discrimination Against Israel Act.** Pursuant to Section 34.600 of the Revised Statutes of Missouri, the Trustee certifies it is not currently engaged in and shall not, for the duration of this Indenture, engage in a boycott of goods or services from (a) the State of Israel, (b) companies doing business in or with the State of Israel or authorized by, licensed by or organized under the laws of the State of Israel or (c) persons or entities doing business in the State of Israel.

[Remainder of Page Intentionally Left Blank]

**IN WITNESS WHEREOF**, the City of University City, Missouri, has caused this Indenture to be signed in its name and behalf by its City Manager and the seal of the City to be hereunto affixed and attested by its City Clerk, and to evidence its acceptance of the trusts hereby created, UMB Bank, N.A. has caused this Indenture to be signed in its name and behalf by a duly authorized officer, all as of the date first above written.

**CITY OF UNIVERSITY CITY, MISSOURI**

By: \_\_\_\_\_  
Gregory Rose, City Manager

[SEAL]

ATTEST:

By: \_\_\_\_\_  
LaRette Reese, City Clerk

[Trust Indenture]

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

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

[Trust Indenture]

**EXHIBIT A**  
**PROJECT SITE**

## EXHIBIT B

### FORM OF BONDS

**THIS BOND OR ANY PORTION HEREOF MAY BE TRANSFERRED, ASSIGNED OR  
NEGOTIATED ONLY AS PROVIDED IN THE HEREIN-DESCRIBED INDENTURE.**

**No. 1**

**Not to Exceed  
\$8,000,000**

**UNITED STATES OF AMERICA  
STATE OF MISSOURI**

**CITY OF UNIVERSITY CITY, MISSOURI  
TAXABLE INDUSTRIAL REVENUE BOND  
(8021 OLIVE BOULEVARD PROJECT)  
SERIES 2026**

**Interest Rate**

**Maturity Date**

**Dated Date**

**5.0%**

**December 1, 2041<sup>1</sup>**

**, 2026**

**OWNER:** \_\_\_\_\_

**MAXIMUM PRINCIPAL AMOUNT:**

**EIGHT MILLION DOLLARS**

The **CITY OF UNIVERSITY CITY, MISSOURI**, a home-rule charter city organized and existing under the laws of the State of Missouri and its charter (the "City"), for value received, promises to pay, but solely from the source hereinafter referred to, to the Owner named above, or registered assigns thereof, on the Maturity Date shown above, the principal amount shown above, or such lesser amount as may be outstanding hereunder as reflected on **Schedule I** hereto held by the Trustee as provided in the Indenture (defined herein). The City agrees to pay such principal amount to the Owner in any coin or currency of the United States of America which on the date of payment thereof is legal tender for the payment of public and private debts, and in like manner to pay to the Owner hereof, either by check or draft mailed to the Owner at a stated address as it appears on the bond registration books of the City kept by the Trustee under the Indenture or, in certain situations authorized in the Indenture, by internal bank transfer or by wire transfer to an account in a commercial bank or savings institution located in the United States. Interest on the Cumulative Outstanding Principal Amount (as hereinafter defined) at the per annum Interest Rate stated above, payable in arrears on each December 1, commencing on December 1, 2026, and continuing thereafter until the earlier of the date on which said Cumulative Outstanding Principal Amount is paid in full or the Maturity Date. Interest on each advancement of the principal amount of this Bond

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<sup>1</sup> Assumes the Abatement Initiation Date (as defined in the Indenture) is January 1, 2027. If the Abatement Initiation Date is any other date, the Maturity Date shall automatically be adjusted to December 1 of the 14th year following the year in which the Abatement Initiation Date occurs. By way of example, if the Abatement Initiation Date is January 1, 2028, the Maturity Date shall be adjusted to December 1, 2042.

shall accrue from the date that such advancement is made, computed on the basis of a year of 360 days consisting of 12 months of 30 days each.

As used herein, the term “Cumulative Outstanding Principal Amount” means all Bonds outstanding under the terms of the Indenture, as reflected on **Schedule I** hereto maintained by the Trustee.

**THIS BOND** is one of a duly authorized series of Bonds of the City designated the “City of University City, Missouri, Taxable Industrial Revenue Bonds (8021 Olive Boulevard Project), Series 2026,” in the maximum aggregate principal amount of \$8,000,000 (the “Bonds”), to be issued for the purpose of acquiring certain property located at 8021 Olive Boulevard in the City (the “Project Site”) and the construction of a 13,275-square-foot commissary and 3,500 square feet of retail and restaurant space (the “Project Improvements”). The City will lease the Project Site and the Project Improvements (collectively, the “Project”) to WY Hospitality Group LLC, a Missouri limited liability company (the “Company”), under the terms of a Lease Agreement dated as of [\*Date\*], 2026 (said Lease Agreement, as amended and supplemented from time to time in accordance with the provisions thereof, being herein called the “Lease”), between the City and the Company, all pursuant to the authority of and in full compliance with the provisions, restrictions and limitations of the Constitution, the statutes of the State of Missouri, including particularly the Act, the City Charter and pursuant to proceedings duly had by the City Council of the City.

**THE BONDS** are issued under and are equally and ratably secured and entitled to the protection given by a Trust Indenture dated as of [\*Date\*], 2026 (said Trust Indenture, as amended and supplemented from time to time in accordance with the provisions thereof, being herein called the “Indenture”), between the City and UMB Bank, N.A., as trustee (the “Trustee”). *Capitalized terms not defined herein shall have the meanings set forth in the Indenture.*

Reference is hereby made to the Indenture for a description of the provisions, among others, with respect to the nature and extent of the security for the Bonds, the rights, duties and obligations of the City, the Trustee and the Owners, and the terms upon which the Bonds are issued and secured.

**THE BONDS** are subject to redemption and payment at any time before the stated maturity thereof, at the option of the City, upon written instructions from the Company, (1) in whole, if the Company exercises its option to purchase the Project and deposits an amount sufficient to effect such purchase pursuant to the Lease on the applicable redemption date, or (2) in part, if the Company prepays additional Basic Rent pursuant to the Lease; provided, however, if only a portion of the Bonds are to be redeemed, Bonds aggregating at least 10% of the maximum principal amount of Bonds authorized under the Indenture shall not be subject to redemption and payment before the stated maturity thereof. Any redemption of Bonds pursuant to this paragraph shall be at a redemption price equal to the par value thereof being redeemed, plus accrued interest thereon, without premium or penalty, to the redemption date.

**THE BONDS** are subject to mandatory redemption, in whole or in part, to the extent of amounts deposited in the Bond Fund pursuant to **Sections 9.1(f) or 9.2(c)** of the Lease, in the event of substantial damage to or destruction or condemnation of substantially all of the Project. Bonds to be redeemed pursuant to this paragraph shall be called for redemption by the Trustee on the earliest practicable date for which timely notice of redemption may be given as provided in the Indenture. Any redemption of Bonds pursuant to this paragraph shall be at a redemption price equal to the par value thereof being redeemed, plus accrued interest thereon, without premium or penalty, to the redemption date. Before giving notice of redemption to the Owners pursuant to this paragraph, money in an amount equal to the redemption price shall be deposited in the Bond Fund.

If the Bonds are to be called for optional redemption, the Company shall deliver written notice to the City and the Trustee that it has elected to redeem all or a portion of the Bonds at least 40 days (10 days if there is one Owner) before the scheduled redemption date. The Trustee shall then deliver written notice to the Owner of this Bond at least 30 days (five days if there is one Owner) before the scheduled redemption date by first-class mail (or facsimile, if there is one Owner) stating the date upon which the Bonds will be redeemed and paid.

**THE BONDS**, including interest thereon, are special obligations of the City and are payable solely out of the rents, revenues and receipts derived by the City from the Project and the Lease and not from any other fund or source of the City, and are secured by a pledge and assignment of the Project and of such rents, revenues and receipts, including all rentals and other amounts to be received by the City under and pursuant to the Lease, all as provided in the Indenture. The Bonds do not constitute a general obligation of the City or the State of Missouri, and neither the City nor the State of Missouri shall be liable thereon, and the Bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, and are not payable in any manner by taxation. Pursuant to the provisions of the Lease, rental payments sufficient for the prompt payment when due of the principal of and interest on the Bonds are to be paid by the Company directly to the Trustee for the account of the City and deposited in a special fund created by the City and designated the “City of University City, Missouri, Series 2026 Bond Fund – 8021 Olive Boulevard”.

**THE OWNER** of this Bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any Event of Default under the Indenture, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Indenture. In certain events, on the conditions, in the manner and with the effect set forth in the Indenture, the principal of all the Bonds issued under the Indenture and then Outstanding may become or may be declared due and payable before the stated maturity thereof, together with interest accrued thereon. Modifications or alterations of this Bond or the Indenture may be made only to the extent and in the circumstances permitted by the Indenture.

**THIS BOND** is transferable, as provided in the Indenture, only upon the books of the City kept for that purpose at the above-mentioned office of the Trustee by the Owner hereof in Person or by such Person's duly authorized attorney, upon surrender of this Bond together with a written instrument of transfer reasonably satisfactory to the Trustee duly executed by the Owner or such Person's duly authorized attorney, and thereupon a new fully registered Bond or Bonds, in the same aggregate principal amounts, shall be issued to the transferee in exchange therefor as provided in the Indenture, and upon payment of the charges therein prescribed. The City, the Trustee and any Paying Agent may deem and treat the Person in whose name this Bond is registered as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or redemption price hereof and interest due hereon and for all other purposes.

**THE BONDS** are issuable in the form of one fully-registered Bond in the maximum principal amount of \$8,000,000.

**THIS BOND** shall not be valid or become obligatory for any purposes or be entitled to any security or benefit under the Indenture until the Certificate of Authentication hereon has been executed by the Trustee.

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

**IN WITNESS WHEREOF**, the City of University City, Missouri, has caused this Bond to be executed in its name by the manual or facsimile signature of its City Manager, attested by the manual or facsimile signature of its City Clerk or Deputy Clerk and its corporate seal to be affixed hereto or imprinted hereon.

**CITY OF UNIVERSITY CITY, MISSOURI**

By: \_\_\_\_\_  
City Manager

[SEAL]

ATTEST:

By: \_\_\_\_\_  
City Clerk

---

---

**CERTIFICATE OF AUTHENTICATION**

This Bond is the Taxable Industrial Revenue Bond (8021 Olive Boulevard Project), Series 2026, described in the Trust Indenture. The effective date of registration of this Bond is set forth below.

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

\_\_\_\_\_  
Date By \_\_\_\_\_  
\_\_\_\_\_  
Authorized Signatory

---

## **SCHEDULE I**

**TABLE OF CUMULATIVE OUTSTANDING PRINCIPAL AMOUNT**

**CITY OF UNIVERSITY CITY, MISSOURI  
TAXABLE INDUSTRIAL REVENUE BOND  
(8021 OLIVE BOULEVARD PROJECT)  
SERIES 2026**

## Bond No. 1

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## FORM OF ASSIGNMENT

**(NOTE RESTRICTIONS ON TRANSFERS)**

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

---

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

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints  
\_\_\_\_\_ attorney to transfer the within Bond on the books kept by the Trustee  
for the registration and transfer of Bonds, with full power of substitution in the premises.

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

---

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

Medallion Signature Guarantee:

---

## EXHIBIT C

### FORM OF REPRESENTATION LETTER

City of University City, Missouri  
6801 Delmar Boulevard  
University City, Missouri 63130  
Attn: City Manager

UMB Bank, N.A., as Trustee  
2 S. Broadway, Suite 600  
St. Louis, Missouri 63102  
Attn: Corporate Trust Department

Re: \$8,000,000 Maximum Principal Amount of Taxable Industrial Revenue Bonds (8021 Olive Boulevard Project), Series 2026 of the City of University City, Missouri

Ladies and Gentlemen:

In connection with the purchase of the above-referenced bonds (the "Bonds"), the undersigned purchaser of the Bonds hereby represents, warrants and agrees as follows:

**1.** The undersigned fully understands that (a) the Bonds have been issued under and pursuant to a Trust Indenture dated as of [\*Date\*], 2026 (the "Indenture"), between the City of University City, Missouri (the "City") and UMB Bank, N.A., as trustee (the "Trustee"), (b) the Bonds are payable solely out of certain rents, revenues and receipts to be derived from the leasing or sale of the Project (as defined in the Indenture) to WY Hospitality Group LLC, a Missouri limited liability company (the "Company"), under a Lease Agreement dated as of [\*Date\*], 2026 (the "Lease"), between the City and the Company, with certain of such rents, revenues and receipts being pledged and assigned by the City to the Trustee under the Indenture to secure the payment of the principal of and interest on the Bonds, (c) the Bonds and the interest thereon do not constitute general obligations of the City, the State of Missouri (the "State") or any political subdivision thereof, and none of the City, the State or any political subdivision thereof are liable thereon, and (d) the Bonds do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction and are not payable in any manner by taxation.

**2.** The undersigned understands that the Bonds are transferable only in the manner provided for in the Indenture and discussed below and warrants that it is acquiring the Bonds for its own account with the intent of holding the Bonds as an investment, and the acquisition of the Bonds is not made with a view toward their distribution or for the purpose of offering, selling or otherwise participating in a distribution of the Bonds.

**3.** The undersigned agrees not to attempt to offer, sell, hypothecate or otherwise distribute the Bonds to others unless authorized by the terms of the Indenture and, if requested by the City, upon receipt of an opinion of counsel reasonably acceptable to the City, the Company and the purchaser that all registration and disclosure requirements of the Securities and Exchange Commission and all other appropriate federal and Missouri securities laws and the securities law of any other applicable state are complied with.

**4.** [\*Delete this paragraph if the Company is the Purchaser of the Bonds.\*] The Company has (a) furnished to the undersigned such information about itself as the undersigned deems necessary in order for it to make an informed investment decision with respect to the purchase of the Bonds, (b) made available to the undersigned, during the course of this transaction, ample opportunity to ask questions of, and to receive answers from, appropriate officers of the City and the terms and conditions of the offering of the Bonds, and (c) provided to the undersigned all additional information which it has requested.

**5.** The undersigned is now, and was when it agreed to purchase the Bonds, familiar with the operations of the Company and fully aware of terms and risks of the Bonds. [\*Delete previous sentence if the Company is the Purchaser of the Bonds.\*] The undersigned believes that the Bonds which it is acquiring is a security of the kind that it wishes to purchase and hold for investment and that the nature and amount thereof are consistent with its investment program.

**6.** The undersigned is fully aware of and satisfied with (a) the current status of the title to the Project and any issues related thereto and (b) the terms, amounts and providers of the insurance maintained pursuant to **Article VII** of the Lease, and the undersigned is purchasing the Bonds with full knowledge of such matters.

**7.** The undersigned understands and agrees that the interest on the Bonds *is* subject to federal and state income taxation.

**8.** The undersigned hereby directs the Trustee to hold the Bonds in trust pursuant to **Section 204(c)** of the Indenture.

**9.** The undersigned is (a) the lessee under the Lease, (b) a Financing Party, including, without limitation, the Lender, (c) a “qualified institutional buyer” under Rule 144A promulgated under the Securities Act of 1933, or (d) any general business corporation or enterprise with total assets in excess of \$100,000,000.

Dated: \_\_\_\_\_, 20\_\_\_\_

**[PURCHASER OF BONDS]**

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



**EXHIBIT C**  
**SPECIAL WARRANTY DEED**

(On file in the office of the City Clerk)



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**Space Above for Recorder's Use Only**

**DOCUMENT COVER SHEET**

**TITLE OF DOCUMENT:** Special Warranty Deed

**DATE OF DOCUMENT:** \_\_\_\_\_, 2026

**GRANTOR:** WY HOSPITALITY GROUP LLC

Mailing Address: 6632 Delmar Boulevard  
St. Louis, Missouri 63130

**GRANTEE:** CITY OF UNIVERSITY CITY, MISSOURI

Mailing Address: 6801 Delmar Boulevard  
University City, Missouri 63130

**LEGAL DESCRIPTION:** See Exhibit A

**RETURN DOCUMENTS TO:** Mark A. Spykerman  
Gilmore & Bell, P.C.  
One Metropolitan Square  
211 N. Broadway, Suite 2000  
St. Louis, Missouri 63102

**SPECIAL WARRANTY DEED**

**THIS SPECIAL WARRANTY DEED** is made as of \_\_\_\_\_, 2026, from **WY HOSPITALITY GROUP LLC**, a Missouri limited liability company (the "Grantor"), to the **CITY OF UNIVERSITY CITY, MISSOURI**, a home-rule charter city organized and existing under the laws of the State of Missouri and its charter (the "Grantee").

**WITNESSETH, THAT THE GRANTOR**, in consideration of the sum of One Dollar (\$1.00) and other valuable considerations to it paid by the Grantee (the receipt of which is hereby acknowledged) does by these presents, **SELL** and **CONVEY** unto the Grantee, its successors and assigns, the lots, tracts or parcels of land described in **EXHIBIT A**, which is attached hereto.

**TO HAVE AND TO HOLD**, the premises aforesaid, with all and singular the rights, privileges, appurtenances and immunities thereto belonging or in any way appertaining unto the Grantee and unto its successors and assigns forever; the Grantor hereby covenanting that the said premises are free and clear from any encumbrance done or suffered by it; and that it will warrant and defend the title to said premises unto the Grantee and unto the Grantee's successors and assigns forever, against the lawful claims and demands of all persons claiming under it but none other, subject to the Permitted Encumbrances as defined in the Trust Indenture dated as of [\*Date\*], 2026 between the Grantee and UMB Bank, N.A., as trustee.

**IN WITNESS WHEREOF**, the Grantor and Grantee have executed this Special Warranty Deed as of the day and year above written.

[Remainder of Page Intentionally Left Blank]

**“GRANTOR”**

**WY HOSPITALITY GROUP LLC,**  
a Missouri limited liability company

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

**ACKNOWLEDGMENT**

STATE OF MISSOURI        )  
                                  ) SS.  
COUNTY OF ST. LOUIS      )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2026, \_\_\_\_\_, to me personally known, who, being by me duly sworn, did say that s/he is the \_\_\_\_\_ of **WY HOSPITALITY GROUP LLC**, a Missouri limited liability company, and acknowledged before me that s/he signed the foregoing instrument for and in the name and on behalf of said limited liability company.

**IN TESTIMONY WHEREOF**, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Name: \_\_\_\_\_  
Notary Public in and for said State

My Commission Expires:

*PLEASE AFFIX SEAL FIRMLY AND CLEARLY IN THIS BOX*

## **“GRANTEE”**

## **CITY OF UNIVERSITY CITY, MISSOURI**

(SEAL)

ATTEST:

By:

Gregory Rose, City Manager

---

## LaRette Reese, City Clerk

## ACKNOWLEDGMENT

STATE OF MISSOURI )  
 ) SS.  
COUNTY OF ST. LOUIS )

On this \_\_\_\_ day of \_\_\_\_\_, 2026, before me, the undersigned, a Notary Public, appeared **GREGORY ROSE**, to me personally known, who, being by me duly sworn, did say that he is the City Manager of the **CITY OF UNIVERSITY CITY, MISSOURI**, and that the seal affixed to the foregoing instrument is the corporate seal of said City, and that said instrument was signed and sealed by authority of its City Council, and said officers acknowledged said instrument to be executed for the purposes therein stated and as the free act and deed of said City.

**IN TESTIMONY WHEREOF**, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Name: \_\_\_\_\_  
Notary Public in and for said State

### My Commission Expires:

PLEASE AFFIX SEAL FIRMLY AND CLEARLY IN THIS BOX

**EXHIBIT A**  
**DESCRIPTION OF THE LAND**



**EXHIBIT D**

**LEASE AGREEMENT**

(On file in the office of the City Clerk)



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**CITY OF UNIVERSITY CITY, MISSOURI,  
As Lessor,**

**AND**

**WY HOSPITALITY GROUP LLC,  
As Lessee**

---

**LEASE AGREEMENT**

**Dated as of [\*Date\*], 2026**

---

**Relating to:**

**\$8,000,000  
(Aggregate Maximum Principal Amount)  
City of University City, Missouri  
Taxable Industrial Revenue Bonds  
(8021 Olive Boulevard Project)  
Series 2026**

---

**Certain rights of the City of University City, Missouri (the “City”), in this Lease Agreement have been pledged and assigned to UMB Bank, N.A., as trustee (the “Trustee”) under the Trust Indenture dated as of [\*Date\*], 2026, between the City and the Trustee.**

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Exhibit A - Project Site

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## LEASE AGREEMENT

**THIS LEASE AGREEMENT**, dated as of [\*Date\*], 2026 (the “Lease”), between the **CITY OF UNIVERSITY CITY, MISSOURI**, a home-rule charter city organized and existing under the laws of the State of Missouri and its charter (the “City”), as lessor, and **WY HOSPITALITY GROUP LLC**, a limited liability company, organized and existing under the laws of the State of Missouri (the “Company”), as lessee;

### RECITALS:

**1.** The City is authorized and empowered pursuant to the provisions of Article VI, Section 27(b) of the Missouri Constitution and Sections 100.010 through 100.200, inclusive, of the Revised Statutes of Missouri (collectively, the “Act”) and its charter, to purchase, construct, extend, equip and improve certain projects (as defined in the Act) and to issue industrial development revenue bonds for the purpose of providing funds to pay the costs of such projects and to lease or otherwise dispose of such projects to private persons or corporations for manufacturing, commercial, research and development, office industry, warehousing and industrial development purposes upon such terms and conditions as the City shall deem advisable.

**2.** Pursuant to the Act, the City Council passed Ordinance No. \_\_\_\_ on \_\_\_\_\_, 2026 (the “Ordinance”) approving a Plan for an Industrial Development Project and Cost/Benefit Analysis (the “Plan”) relating to the acquisition of certain property located at 8021 Olive Boulevard in the City (as more fully described on **Exhibit A**, the “Project Site”) and the construction of a 13,275-square-foot commissary and 3,500 square feet of retail and restaurant space (the “Project Improvements” and, together with the Project Site, the “Project”).

**3.** The Ordinance also authorizes the City to (1) issue its Taxable Industrial Revenue Bonds (8021 Olive Boulevard Project), Series 2026, in the maximum principal amount of \$8,000,000 (the “Bonds”), for the purpose of acquiring the Project Site and constructing the Project Improvements thereon, (2) acquire fee title to the Project Site upon the issuance of the Bonds, and (3) enter into this Lease for the purpose of leasing the Project Improvements back to the Company for rent sufficient to pay debt service on the Bonds.

**4.** In consideration of the terms and conditions of this Lease, the Ordinance, issuance of the Bonds and certain other agreements, the City and the Company have concurrently herewith entered into a Development Agreement of even date herewith (the “Development Agreement”) pursuant to which the Company has agreed to make certain payments in lieu of taxes.

**5.** Pursuant to the foregoing, the City desires to lease the Project to the Company and the Company desires to lease the Project from the City, for the rentals and upon the terms and conditions hereinafter set forth.

**NOW, THEREFORE**, in consideration of the premises and the mutual representations, covenants and agreements herein contained, the receipt and sufficiency of which are hereby acknowledged, the City and the Company do hereby represent, covenant and agree as follows:

## ARTICLE I

### DEFINITIONS

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

### Section 1.2. Rules of Interpretation.

(a) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders.

(b) Unless the context otherwise indicates, words importing the singular number shall include the plural and vice versa, and words importing Persons shall include firms, associations and corporations, including governmental entities, as well as natural Persons.

(c) Wherever in this Lease it is provided that either party shall or will make any payment or perform or refrain from performing any act or obligation, each such provision shall, even though not so expressed, be construed as an express covenant to make such payment or to perform, or not to perform, as the case may be, such act or obligation.

(d) All references in this instrument to designated "Articles," "Sections" and other subdivisions are, unless otherwise specified, to the designated Articles, Sections and subdivisions of this instrument as originally executed. The words "herein," "hereof," "hereunder" and other words of similar import refer to this Lease as a whole and not to any particular Article, Section or other subdivision.

(e) The Table of Contents and the Article and Section headings of this Lease shall not be treated as a part of this Lease or as affecting the true meaning of the provisions hereof.

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

(g) Whenever the City is required to "cooperate," "cooperate fully" or "act promptly" on a matter set forth in this Lease, the City's cooperation shall be deemed to be reasonable cooperation and the City's promptness shall be deemed to be reasonable promptness; provided, however, the City shall not be required to incur any costs, expenses, obligations or liabilities in providing such reasonable cooperation and promptness.

### Section 1.3. Incorporation.

(a) The Recitals hereof are all incorporated into this Lease as if fully and completely set out in this Section.

(b) The Exhibits to this Lease are hereby incorporated into and made a part of this Lease.

## ARTICLE II

### REPRESENTATIONS

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

(a) The City is a home-rule charter city duly organized and validly existing under the laws of the State of Missouri and its charter. Under the provisions of the Act, the City has lawful power and authority to enter into the transactions contemplated by this Lease and to carry out its obligations hereunder. By proper action of its City Council, the City has been duly authorized to execute and deliver this Lease, acting by and through its duly authorized officers.

(b) As of the date of delivery hereof, the City agrees to acquire fee title to the Project Site, subject to Permitted Encumbrances, and to acquire, construct and improve or cause the construction of the Project Improvements. The City agrees to lease the Project to the Company and sell the Project to the Company if the Company exercises its option to purchase the Project or upon termination of this Lease, or prior thereto, all for the purpose of furthering the public purposes of the Act.

(c) The purchase, construction, extension and improvement of the Project and the leasing of the Project by the City to the Company will further the public purposes of the Act.

(d) To the City's knowledge, no member of the City Council or any other officer of the City has any significant or conflicting interest, financial, employment or otherwise, in the Company or in the transactions contemplated hereby.

(e) To finance the costs of the Project, the City proposes to issue the Bonds which will be scheduled to mature as set forth in **Article II** of the Indenture and will be subject to redemption prior to maturity in accordance with the provisions of **Article III** of the Indenture.

(f) The Bonds are to be issued under and secured by the Indenture, pursuant to which the Project and the net earnings therefrom, consisting of all rents, revenues and receipts to be derived by the City from the leasing or sale of the Project, will be pledged and assigned to the Trustee as security for payment of the principal of and interest on the Bonds and amounts owing pursuant to this Lease.

(g) The City will not knowingly take any affirmative action that would permit a lien to be placed on the Project or pledge the revenues derived therefrom for any bonds or other obligations, other than the Bonds, except with the written consent of an Authorized Company Representative and Lender; provided, however, the City's execution of this Lease, the Indenture and the Development Agreement shall not be deemed to violate this **Section 2.1(g)**.

(h) The City will not operate the Project as a business or in any other manner except as the lessor thereof, except subsequent to an Event of Default hereunder.

**Section 2.2. Representations by the Company.** The Company makes the following representations as the basis for the undertakings on its part herein contained:

(a) The Company is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Missouri.

(b) The Company has lawful power and authority to enter into this Lease and to carry out its obligations hereunder and the Company has been duly authorized to execute and deliver this Lease, acting by and through its duly authorized officers and representatives.

(c) The execution and delivery of this Lease, the consummation of the transactions contemplated hereby, and the performance of or compliance with the terms and conditions of this Lease by the Company will not, to the best of the Company's knowledge, conflict with or result in a breach of any of the terms, conditions or provisions of, or constitute a default under, any mortgage, deed of trust, lease or any other restrictions or any agreement or instrument to which the Company is a party or by which it or any of its property is bound, or the Company's organizational documents, or any order, rule or regulation applicable to the Company or any of its property of any court or governmental body, or constitute a default under any of the foregoing, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Company under the terms of any instrument or agreement to which the Company is a party.

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

## ARTICLE III

### GRANTING PROVISIONS

**Section 3.1. Granting of Leasehold Estate.** The City hereby exclusively rents, leases and lets the Project to the Company, and the Company hereby rents, leases and hires the Project from the City, subject to Permitted Encumbrances existing as of the date of the execution and delivery hereof, for the rentals and upon and subject to the terms and conditions herein contained. The City and the Company agree and acknowledge that title to the Project is subject to the lien granted to a Lender or a Financing Party by the Company prior to the Company's conveyance of the Project Site to the City in connection with the Project and no further notice of the Fee Deed of Trust is required for any Lender or Financing Party to have all Lender or Financing Party rights and protections provided herein and in the Indenture, except for the notice described in **Section 10.4**.

**Section 3.2. Lease Term.** This Lease shall become effective upon its execution and delivery. Subject to earlier termination pursuant to the provisions of this Lease, the lease of the Project shall terminate on December 31 of the 14th calendar year following the calendar year in which the Abatement Initiation Date occurs.

### **Section 3.3. Possession and Use of the Project.**

(a) The City covenants and agrees that as long as neither the City nor the Trustee has exercised any of the remedies set forth in **Section 12.2** following the occurrence and continuance of an Event of Default, as defined in **Section 12.1**, the Company shall have sole and exclusive possession of the Project (subject to Permitted Encumbrances and the City's and the Trustee's right of access pursuant to **Section 10.3**) and shall peaceably and quietly have, hold and enjoy the Project during the Lease Term. The City covenants and agrees that it will not take any action, other than expressly pursuant to **Article XII**, the Indenture and the Development Agreement to prevent the Company from having quiet and peaceable possession and enjoyment of the Project during the Lease Term and will, at the request and expense of the Company, cooperate with the Company to defend the Company's quiet and peaceable possession and enjoyment of the Project.

(b) Subject to the provisions of this Section, the Company shall have the exclusive right to use the Project for any lawful purpose contemplated by the Act and consistent with the terms of the Development Agreement. The Company shall comply in all material respects with all statutes, laws, ordinances, orders, judgments, decrees, regulations, directions and requirements of all federal, state, local and other governments or governmental authorities, now or hereafter applicable to the Project, as to the manner of use or the condition of the Project, or that otherwise may be applicable by virtue of the City's ownership of the Project. The Company shall also comply with the mandatory requirements, rules and regulations of all insurers under the policies carried under the provisions of **Article VII**. The Company shall pay all costs, expenses, claims, fines, penalties and damages that may in any manner arise out of, or be imposed as a result of, the failure of the Company to comply with the provisions of this Section. Notwithstanding any provision contained in this Section, however, the Company may, at its own cost and expense, contest or review by legal or other appropriate procedures the validity or legality of any such governmental statute, law, ordinance, order, judgment, decree, regulation, direction or requirement, or any such requirement, rule or regulation of an insurer, and during such contest or review the Company may refrain from complying therewith.

## **ARTICLE IV**

### **PURCHASE AND CONSTRUCTION OF THE PROJECT**

**Section 4.1. Issuance of the Bonds.** To provide funds for the payment of Project Costs, the City agrees that, upon request of the Company, it will issue, sell and cause to be delivered the Bonds to the purchaser thereof in accordance with the provisions of the Indenture and the Bond Purchase Agreement. The proceeds of the sale of the Bonds, when received, shall be paid over to the Trustee for the account of the City. The Trustee shall promptly deposit such proceeds, when received, as provided in the Indenture to be used and applied as hereinafter provided in this Lease and in the Indenture. Alternatively, the Trustee shall (pursuant to **Section 208(d)** of the Indenture) endorse the Bonds in an amount equal to the requisition certificates submitted pursuant to **Section 4.4**. In that event, so long as the sole Owner of the Bonds is the lessee under this Lease, the purchaser of the Bonds shall be deemed to have deposited funds with the Trustee in an amount equal to the amount stated in such requisition certificates.

**Section 4.2. Purchase and Construction of the Project.** The City and the Company agree that the Company, as the agent of the City, shall purchase, construct and improve the Project as follows:

(a) The City will acquire fee title to the Project Site at the execution hereof. Concurrently with the execution of this Lease, (1) a deed and any other necessary instruments of transfer will be delivered to the City and placed of record, and (2) the commitment for title insurance or ownership and encumbrance report required by **Article VII** will be delivered to the City and the Trustee.

(b) On behalf of the City, the Company will purchase, construct and improve the Project Improvements on the Project Site and otherwise improve the Project Site in accordance with the Plans and Specifications. The Company may revise the Plans and Specifications from time to time as it deems necessary to carry out the Project, but revisions that affect the status of the Project as a "project" under the Act or that would materially alter the accuracy of the description of the Project in the Plan (including, but not limited to, any change in use of the Project as a food commissary) may be made only with the prior written approval of the City. The Company agrees that the aforesaid construction and improvement will, with such changes and additions as may be made hereunder, result in facilities suitable for use by the Company for its purposes, and that all real and personal property described in the Plans and Specifications, with such changes and additions as may be made hereunder, is desirable and appropriate in connection with the Project. The provisions of this paragraph are in addition to and do not supersede the provisions of **Section 8.3**.

(c) The Company will comply with the provisions of Section 107.170 of the Revised Statutes of Missouri to the extent applicable to the construction of the Project.

(d) The Company will cause the purchase, construction and improvement of the Project to be completed on or before the Completion Date, except as otherwise provided in **Section 4.5**.

(e) The Project Improvements shall be constructed in a good and workmanlike manner and in strict compliance with all applicable laws, orders and ordinances.

**Section 4.3. Project Costs.** The City hereby agrees to pay for, but solely from the Project Fund, and hereby authorizes and directs the Trustee to pay for, but solely from the Project Fund, all Project Costs upon receipt by the Trustee of a requisition certificate pursuant to **Section 4.4**. The Company may not submit any requisition certificates for Project Costs incurred after the Completion Date. The Company must submit all requisition certificates for Project Costs incurred before the Completion Date within three months after the Completion Date. The maximum amount of total Project Costs for which requisition certificates may be submitted is expressly limited to \$8,000,000.

**Section 4.4. Payment for Project Costs.** The City hereby authorizes and directs the Trustee to make disbursements from the Project Fund and to endorse the Bonds, upon receipt by the Trustee of requisition certificates in substantially the form attached as **Exhibit B**, signed by an Authorized Company Representative and approved by an Authorized City Representative:

(a) requesting payment or reimbursement of a specified amount of such funds and directing to whom such amount shall be paid (which may include the Company in the event of a reimbursement);

(b) describing each item of Project Costs for which payment is being requested;

(c) stating that each item for which payment is requested is or was desirable and appropriate in connection with the purchase, construction and improvement of the Project, has been properly incurred and is a proper charge against the Project Fund, that the amount requested either has been paid by the Company, or is justly due, and has not been the basis of any previous requisition from the Project Fund; and

(d) stating that, except for the amounts, if any, stated in said certificate, to the best of his or her knowledge there are no outstanding disputed statements for which payment is requested for labor, wages, materials, supplies or services in connection with the purchase, construction and improvement of the Project which, if unpaid, might become the basis of a vendors', mechanics', laborers' or materialmen's statutory or other similar lien upon the Project or any part thereof.

Upon request by the City, the Company shall provide the City with copies of invoices, bills, lien waivers and other reasonable documentation to support each submitted requisition certificate. The Trustee may rely conclusively on any such requisition certificate and shall not be required to make any independent inspection or investigation in connection therewith. The approval of any requisition certificate by an Authorized Company Representative and an Authorized City Representative shall constitute, unto the Trustee, an irrevocable determination that all conditions precedent to the payments requested have been completed.

**Section 4.5. Establishment of Completion Date.** The Completion Date shall be evidenced to the City and the Trustee by the approval or deemed approval of Certificate of Substantial Completion pursuant to **Section 3.7** of the Development Agreement. Pursuant to **Section 3.2** of the Development Agreement, the Project must be substantially completed by December 31, 2027; provided, however, if an Excusable Delay (as defined in the Development Agreement occurs), the date for substantially completing by the Project may be extended by the duration of the Excusable Delay, but in no event shall be extended beyond December 31, 2028. The Company and the City agree to cooperate in causing such Completion Date certificate to be furnished to the Trustee.

**Section 4.6. Surplus in Project Fund.** Upon receipt of the Certificate of Substantial Completion described in **Section 4.5**, the Trustee shall, as provided in **Section 504** of the Indenture, transfer any remaining moneys then in the Project Fund to the Bond Fund to be applied as directed by the Company solely to (a) the payment of principal and premium, if any, of the Bonds through the payment (including regularly scheduled principal payments, if any) or redemption thereof at the earliest date permissible under the terms of the Indenture, or (b) at the option of the Company, to the purchase of Bonds at such earlier date or dates as the Company may elect. Any amount so deposited in the Bond Fund may be invested as permitted by **Section 702** of the Indenture.

**Section 4.7. Project Property of City.** The Project Site and the Project Improvements located thereon at the execution hereof that the Company desires to convey to the City, all work and materials related to the Project as such work progresses and all additions or enlargements thereto or thereof, the Project as fully completed, anything under this Lease which becomes, is deemed to be, or constitutes a part of the Project, and the Project as repaired, rebuilt, rearranged, restored or replaced by the Company under the provisions of this Lease, except as otherwise specifically provided herein, shall immediately when erected or installed become the absolute property of the City, subject only to this Lease, the Indenture, Permitted Encumbrances and the Leasehold Mortgage, if any. Upon reasonable request of and at the expense of the Company, the City agrees to cooperate with the Company regarding the enforcement of any claims the Company may have against third parties relating to the construction and equipping of the Project.

**Section 4.8. Non-Project Improvements, Machinery and Equipment Property of the Company.** Any improvements or items of machinery or equipment which do not constitute part of the Project Improvements and the entire purchase price of which is paid for by the Company with the Company's own funds, and no part of the purchase price of which is paid for from funds deposited pursuant to the terms of this Lease in the Project Fund, shall be the property of the Company and shall not constitute a part of the Project for purposes of **Section 6.4** and therefore are subject to taxation, to the extent otherwise provided by law.

## ARTICLE V

### RENT PROVISIONS

**Section 5.1. Basic Rent.** The Company covenants and agrees to pay to the Trustee in same day funds for the account of the City during the Lease Term, on or before 11:00 a.m., Trustee's local time, on each Payment Date, as Basic Rent for the Project, an amount which, when added to any collected funds then on deposit in the Bond Fund and available for the payment of principal of the Bonds and the interest thereon on such Payment Date, shall be equal to the amount payable on such Payment Date as principal of the Bonds and the interest thereon as provided in the Indenture. Except as offset pursuant to the right of the Company set forth below, all payments of Basic Rent provided for in this Section shall be paid directly to the Trustee and shall be deposited in accordance with the provisions of the Indenture into the Bond Fund and shall be used and applied by the Trustee in the manner and for the purposes set forth in this Lease and the Indenture, the Bond Purchase Agreement or the Development Agreement to the contrary, and provided that the Company is the sole holder of the Bonds, the Company may set-off the then-current Basic Rent payment against the City's obligation to the Company as bondholder to pay principal of and interest on the Bonds under the Indenture in lieu of delivery of the Basic Rent on any Payment Date, without providing notice of such set-off to the Trustee. The Trustee may conclusively rely on the absence of any written notice from the Company to the contrary as evidence that such set-off has occurred and that pursuant to the set-off, the City is deemed to have paid its obligation to the Company as bondholder to pay principal of and interest on the Bonds under the Indenture. On the final Payment Date, the Company will (a) if the Trustee holds the Bonds, notify the Trustee of the Bonds not previously paid that are to be cancelled or (b) if an entity other than the Trustee holds the Bonds, deliver or cause to be delivered to the Trustee for cancellation Bonds not previously paid. The Company shall receive a credit against the Basic Rent payable by the Company in an amount equal to the principal amount of the Bonds so tendered for cancellation plus accrued interest thereon.

**Section 5.2. Additional Rent.** The Company shall pay as Additional Rent, within 30 days after receiving an itemized invoice therefor, the following amounts:

(a) all fees, charges and expenses, including agent and reasonable counsel fees and expenses, of the City, the Trustee and the Paying Agent incurred under or arising from the Indenture, this Lease or the Development Agreement, including but not limited to claims by contractors or subcontractors, as and when the same become due;

(b) all costs incident to the issuance of the Bonds (which are to be paid on the Closing Date) and the payment of the principal of and interest on the Bonds as the same become due and payable, including all costs and expenses in connection with the call, redemption and payment of all Outstanding Bonds;

(c) all fees, charges and expenses incurred in connection with the enforcement of any rights under this Lease, the Indenture, or the Development Agreement by the City, the Trustee or the Owners, including reasonable counsel fees and expenses; and

(d) all other payments of whatever nature (excluding PILOT Payments, as defined in the Development Agreement) that the Company has agreed in writing to pay or assume under the provisions of this Lease, the Development Agreement or the Indenture.

**Section 5.3. Obligations of Company Absolute and Unconditional.**

(a) The obligations of the Company under this Lease to make payments of Basic Rent and Additional Rent on or before the date the same become due, and to perform all of its other obligations, covenants and agreements hereunder shall be absolute and unconditional, without notice or demand, and without abatement, deduction, set-off, counterclaim, recoupment or defense or any right of termination or cancellation arising from any circumstance whatsoever, whether now existing or hereafter arising, and irrespective of whether the Project has been started or completed, or whether the City's title thereto or to any part thereof is defective or nonexistent, and notwithstanding any damage to, loss, theft or destruction of, the Project or any part thereof, any failure of consideration or frustration of commercial purpose, the taking by eminent domain of title to or of the right of temporary use of all or any part of the Project, legal curtailment of the Company's use thereof, the eviction or constructive eviction of the Company, any change in the tax or other laws of the United States of America, the State of Missouri or any political subdivision thereof, any change in the City's legal organization or status, or any default of the City hereunder, and regardless of the invalidity of any action of the City; provided, however, that nothing in this **Section 5.3(a)** or **Section 5.3(b)** is intended or shall be deemed to affect or impair in any way the rights of the Company to tender Bonds for redemption in satisfaction of Basic Rent as provided in **Section 5.1** and **Section 5.4**, nor the right of the Company to terminate this Lease and repurchase the Project as provided in **Article XI**.

(b) Nothing in this Lease shall be construed to release the City from the performance of any agreement on its part herein contained or as a waiver by the Company of any rights or claims the Company may have against the City under this Lease or otherwise, but any recovery upon such rights and claims shall be had from the City separately, it being the intent of this Lease that the Company shall be unconditionally and absolutely obligated to perform fully all of its obligations, agreements and covenants under this Lease (including the obligation to pay Basic Rent and Additional Rent) for the benefit of the Owners and the City. The Company may, however, at its own cost and expense and in its own name or in the name of the City, prosecute or defend any action or proceeding or take any other action involving third Persons which the Company deems reasonably necessary in order to secure or protect its right of possession, occupancy and use hereunder, and in such event the City hereby agrees, at the Company's expense, to cooperate fully with the Company and to take all action necessary to effect the substitution of the Company for the City in any such action or proceeding if the Company shall so request.

#### **Section 5.4. Prepayment of Basic Rent.**

(a) The Company may at any time and from time to time prepay all or any part of the Basic Rent provided for hereunder (subject to the limitations of **Section 301(a)** of the Indenture relating to the partial redemption of the Bonds). During such times as the amount held by the Trustee in the Bond Fund shall be sufficient to pay, at the time required, the principal of and interest on all the Bonds then remaining unpaid, the Company shall not be obligated to make payments of Basic Rent under the provisions of this Lease.

(b) At its option, the Company may deliver to the Trustee for cancellation Bonds owned by the Company and not previously paid, and the Company shall receive a credit against amounts payable by the Company for the redemption of Bonds in an amount equal to the principal amount of the Bonds so tendered for cancellation, plus accrued interest thereon.

### **ARTICLE VI**

#### **MAINTENANCE, TAXES AND UTILITIES**

**Section 6.1. Maintenance and Repairs.** Throughout the Lease Term the Company shall, at its own expense, keep the Project in reasonably safe operating condition and keep the Project in good repair, reasonable wear, tear, depreciation and obsolescence excepted, making from time to time all repairs thereto and renewals and replacements thereof it determines to be necessary. Without limiting the generality of the foregoing, the Company shall at all times remain in compliance with all provisions of the City's code relating to maintenance and appearance.

#### **Section 6.2. Taxes, Assessments and Other Governmental Charges.**

(a) Subject to subsection (b) of this Section, the Company shall promptly pay and discharge, as the same become due, all taxes and assessments, general and special, and other governmental charges of any kind whatsoever that may be lawfully taxed, charged, levied, assessed or imposed upon or against or be payable for or in respect of the Project, or any part thereof or interest therein (including the leasehold estate of the Company therein) or any buildings, improvements, machinery and equipment at any time installed on the Project Site by the Company, or the income therefrom, including any new taxes and assessments not of the kind enumerated above to the extent that the same are lawfully made, levied or assessed in lieu of or in addition to taxes or assessments now customarily levied against real or personal property, and further including all utility charges, assessments and other general governmental charges and impositions whatsoever, foreseen or unforeseen, which if not paid when due would impair the security of the Bonds or encumber the City's title to the Project; provided that with respect to any special assessments or other governmental charges that are lawfully levied and assessed which may be paid in installments, the Company shall be obligated to pay only such installments thereof as become due and payable during the Lease Term.

(b) The Company may, in its own name or in the City's name, contest the validity or amount of any tax, assessment or other governmental charge which the Company is required to bear, pay and discharge pursuant to the terms of this Article by appropriate legal proceedings instituted before the tax, assessment or other governmental charge complained of becomes delinquent if and provided (1) the Company, before instituting any such contest, gives the City and the Trustee written notice of its intention to do so, (2) the Company diligently prosecutes any such contest, at all times effectively stays or prevents any official or judicial sale therefor, under execution or otherwise, and (3) the Company promptly pays any

final judgment enforcing the tax, assessment or other governmental charge so contested and thereafter promptly procures record release or satisfaction thereof. The City agrees to cooperate fully with the Company in connection with any and all administrative or judicial proceedings related to any tax, assessment or other governmental charge. The Company shall save and hold harmless the City and the Trustee from any costs and expenses the City and the Trustee may incur related to any of the above.

(c) Nothing in this Lease shall be construed to require the Company to make duplicate tax payments. The Company shall receive a credit against the PILOT Payments (as defined in the Development Agreement) to be made by the Company under the Development Agreement to the extent of any ad valorem taxes imposed with respect to the Project paid pursuant to this Section.

**Section 6.3. Utilities.** All utilities and utility services used by the Company in, on or about the Project shall be paid by the Company and shall be contracted by the Company in the Company's own name, and the Company shall, at its sole cost and expense, procure any and all permits, licenses or authorizations necessary in connection therewith with the assistance of the City, if necessary, in order to procure any and all necessary permits, licenses or authorizations.

**Section 6.4. Property Tax Exemption.** The City and the Company expect that while the Project is owned by the City and is subject to this Lease, the Project will be exempt from all ad valorem property taxes by reason of such ownership, and the City agrees that it will (at the expense of the Company) cooperate with the Company to defend such exemption against all parties. The City and the Company further acknowledge and agree that the City's obligations hereunder are contingent upon the Company making the payments and otherwise complying with the terms of the Development Agreement during the term of this Lease. The terms and conditions of the Development Agreement are incorporated herein as if fully set forth herein.

## **ARTICLE VII**

### **INSURANCE**

**Section 7.1. Title Commitment.** Concurrently with the execution of this Lease, the Company will provide a report in a form reasonably acceptable to the City showing the ownership of and encumbrances on the Project Site. Copies of such report shall be provided to the City and the Trustee.

#### **Section 7.2. Casualty Insurance.**

(a) Prior to commencement of construction of the Project Improvements, the Company shall at its sole cost and expense obtain a policy or policies of insurance (including builder's risk insurance) to keep the Project constantly insured against loss or damage by fire, lightning and all other risks covered by the extended coverage insurance endorsement then in use in the State of Missouri in an amount equal to the Full Insurable Value thereof (subject to reasonable loss deductible provisions). The insurance required pursuant to this Section shall be maintained from commencement of construction throughout the Lease Term with a generally recognized responsible insurance company or companies authorized to do business in the State of Missouri or generally recognized international insurers or reinsurers with an A.M. Best rating of not less than "A-" or the equivalent thereof as may be selected by the Company. The Company shall deliver certificates of insurance for such policies to the City and the Trustee within 30 days after commencement of construction of the Project Improvements and promptly after renewal of each insurance policy. All such policies of insurance pursuant to this Section, and all renewals thereof, shall name the

City, the Trustee and the Company as insureds, as their respective interests may appear, shall name the Trustee as loss payee, subject to the rights of the Lender and any other Financing Party under any Financing Document, and shall contain a provision that such insurance may not be canceled by the issuer thereof without at least 10 days' advance written notice to the City, the Company and the Trustee.

(b) In the event of loss or damage to the Project, the Net Proceeds of casualty insurance carried pursuant to this Section shall be (i) paid over to the Trustee, subject to the rights of the Lender and any other Financing Party under any Financing Document, and shall be applied as provided in **Article IX**, or (ii) applied as directed in writing by, or on behalf of, the Owners of 100% in principal amount of the Bonds Outstanding, subject to the rights of any Financing Party under any Financing Document.

### **Section 7.3. Public Liability Insurance.**

(a) The Company shall at its sole cost and expense maintain or cause to be maintained at all times during the Lease Term commercial general liability insurance (including but not limited to coverage for operations, contingent liability, operations of subcontractors, completed operations and contractual liability), under which the City, the Company and the Trustee shall be named as additional insureds, properly protecting and indemnifying the City and the Trustee, in an amount not less than the limits of liability set by Section 537.610 of the Revised Statutes of Missouri (subject to reasonable loss deductible clauses not to exceed the amounts normally or generally carried by the Company). The policies of said insurance shall contain a provision that such insurance may not be canceled by the issuer thereof without at least 10 days' advance written notice to the City, the Company and the Trustee. Certificates of such policies shall be furnished to the Trustee on the date of execution of this Lease and not less than 30 days before the expiration date of each insurance policy.

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

**Section 7.4. Blanket Insurance Policies.** The Company may satisfy any of the insurance requirements set forth in this Article by using blanket policies of insurance, provided each and all of the requirements and specifications of this Article respecting insurance are complied with.

**Section 7.5. Worker's Compensation.** The Company agrees throughout the Lease Term to maintain or cause to be maintained the worker's compensation coverage required by the laws of the State of Missouri.

**Section 7.6. Sovereign Immunity.** Notwithstanding anything to the contrary contained herein, nothing in this Lease shall be construed to broaden the liability of the City beyond the provisions of Sections 537.600 to 537.610 of the Revised Statutes of Missouri or abolish or waive any defense at law that might otherwise be available to the City or its officers, agents and employees.

## **ARTICLE VIII**

### **ALTERATION OF THE PROJECT**

**Section 8.1. Additions, Modifications and Improvements to the Project.** The Company may make such additions, modifications and improvements in and to any part of the Project as the Company from time to time may deem necessary or desirable for its business purposes. All additions, modifications

and improvements made by the Company pursuant to this Section shall (a) be made in a good and workmanlike manner and in strict compliance with all laws, orders and ordinances applicable thereto and (b) when commenced, be prosecuted to completion with due diligence. If such improvements constitute personal property, any such improvements shall remain the property of the Company, shall not become part of the Project, and shall be subject to applicable taxes.

**Section 8.2. Additional Improvements on the Project Site.** The Company may, at its sole cost and expense, construct on portions of the Project Site not theretofore occupied by buildings or improvements such additional buildings and improvements as the Company from time to time may deem necessary or desirable for its business purposes. All additional buildings and improvements constructed on the Project Site by the Company, and not paid for with Bond proceeds, pursuant to the authority of this Section shall not be included in the Project and, during the life of this Lease, shall remain the property of the Company and may be added to, altered or razed and removed by the Company at any time. All additional buildings and improvements shall be made in a good and workmanlike manner and in strict compliance with all material laws, orders and ordinances applicable thereto and when commenced shall be prosecuted to completion with due diligence. The Company covenants and agrees (a) to make any repairs and restorations required to be made to the Project because of the construction of, addition to, alteration or removal of said additional buildings or improvements, and (b) to promptly and with due diligence either raze and remove or repair, replace or restore any of said additional buildings and improvements as may from time to time be damaged by fire or other casualty. The Company shall pay all ad valorem taxes and assessments payable with respect to such additional buildings and improvements which remain the property of the Company. If for any reason the County Assessor determines that such additional buildings and improvements are not subject to ad valorem taxes, the Company shall make payments in lieu of taxes in an amount equal to the taxes that would otherwise be due under this Section.

**Section 8.3. Permits and Authorizations.** The Company shall not do or permit others under its control to do any work on the Project or any repair, rebuilding, restoration, replacement, modification or addition to the Project, or any part thereof, unless all requisite municipal and other governmental permits and authorizations shall have been first procured. The City agrees to act promptly on all requests for such municipal permits and authorizations. All such work shall be done in a good and workmanlike manner and in strict compliance with all applicable material building and zoning laws and governmental regulations and requirements, and in accordance with the requirements, rules and regulations of all insurers under the policies required to be carried under the provisions of **Article VII**.

#### **Section 8.4. Mechanics' Liens.**

(a) The Company will not directly or indirectly create, incur, assume or suffer to exist any lien on or with respect to the Project, except Permitted Encumbrances, and the Company shall promptly notify the City of the imposition of such lien of which the Company is aware and shall promptly, at its own expense, take such action as may be necessary to fully discharge or release any such lien. Whenever and as often as any mechanics' or other similar lien is filed against the Project, or any part thereof, purporting to be for or on account of any labor done or materials or services furnished in connection with any work in or about the Project, the Company shall discharge the same of record. Notice is hereby given that the City shall not be liable for any labor or materials furnished the Company or anyone claiming by, through or under the Company upon credit, and that no mechanics' or other similar lien for any such labor, services or materials shall attach to or affect the reversionary or other estate of the City in and to the Project or any part thereof.

(b) Notwithstanding paragraph (a) above, and subject to the terms of the Fee Deed of Trust and any other Financing Documents, the Company may contest any such mechanics' or other similar lien if the Company (1) within 60 days after the Company becomes aware of any such lien notifies the City and the Trustee in writing of its intention so to do, (2) diligently prosecutes such contest, (3) at all times effectively stays or prevents any official or judicial sale of the Project, or any part thereof or interest therein, under execution or otherwise, (4) promptly pays or otherwise satisfies any final judgment adjudging or enforcing such contested lien claim and (5) thereafter promptly procures record release or satisfaction thereof. The Company may permit the lien so contested to remain unpaid during the period of such contest and any appeal therefrom unless the Company is notified by the City that, in the opinion of counsel, by nonpayment of any such items, the interest of the City in the Project will be subject to loss or forfeiture. In that event, the Company shall promptly, at its own expense, take such action as may be reasonably necessary to duly discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim if the same shall arise at any time. The Company shall save and hold harmless the City from any loss, costs or expenses the City may incur related to any such contest. The Company shall reimburse the City for any expense incurred by it in connection with the imposition of any such lien or in order to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim. The City shall cooperate fully with the Company in any such contest.

(c) In accordance with Section 513.455 of the Revised Statutes of Missouri, the City hereby consents to the subjection of the Project and the Project Site to the attachment of mechanics' liens filed under Chapter 429 of the Revised Statutes of Missouri.

## **ARTICLE IX**

### **DAMAGE, DESTRUCTION AND CONDEMNATION**

#### **Section 9.1.     Damage or Destruction.**

(a) If the Project Improvements are damaged or destroyed by fire or any other casualty, whether or not covered by insurance, the Company, as promptly as practicable, shall either (i) make the determination described in subsection (f) below, or (ii) repair, restore, replace or rebuild the same so that upon completion of such repairs, restoration, replacement or rebuilding the Project Improvements are of a value not less than the value thereof immediately before the occurrence of such damage or destruction or, at the Company's option, construct upon the Project Site new buildings and improvements thereafter together with all new machinery, equipment and fixtures which are either to be attached to or are to be used in connection with the operation or maintenance thereof, provided that (i) the value thereof shall not be less than the value of such destroyed or damaged Project Improvements immediately before the occurrence of such damage or destruction and (ii) the nature of such new buildings, improvements, machinery, equipment and fixtures will not impair the character of the Project Improvements as a "project" permitted by the Act.

If the Company elects to construct any such new buildings and improvements, then for all purposes of this Lease, any reference to the words "Project Improvements" shall be deemed to also include any such new buildings and improvements and all additions thereto and all replacements and alterations thereof.

Unless the Company makes the determination described in subsection (f) below, the Net Proceeds of casualty insurance required by **Article VII** received with respect to such damage or loss to the Project shall be used to pay the cost of repairing, restoring, replacing or rebuilding the Project or any part thereof, subject to the rights of the Lender under the Fee Deed of Trust and related Financing Documents. Subject to the provisions of the Fee Deed of Trust and related Financing Documents, insurance monies in an amount

less than \$100,000 may be paid to or retained by the Company to be held in trust and used as provided herein. Insurance monies in any amount of \$100,000 or more shall be (i) paid to the Trustee and deposited in the Project Fund and shall be disbursed as provided in **Section 4.4** to pay the cost of repairing, restoring, replacing or rebuilding the Project or any part thereof, or (ii) if determined by the Owners of 100% in principal amount of the Bonds Outstanding, applied as directed in writing by, or on behalf of, such Owners of 100% in principal amount of the Bonds Outstanding, subject to the rights of any Financing Party. If the Company makes the determination described in subsection (f) below, the Net Proceeds shall be deposited with the Trustee and used to redeem Bonds as provided in subsection (f), subject to the rights of the Lender under the Fee Deed of Trust and related Financing Documents.

(b) If any of the insurance monies paid by the insurance company as hereinabove provided remain after the completion of such repairs, restoration, replacement or rebuilding, and this Lease has not been terminated, the excess shall be deposited in the Bond Fund, subject to the rights of any leasehold mortgagee or Financing Party. Completion of such repairs, restoration, replacement or rebuilding shall be evidenced by a certificate of completion delivered by the Company to the City and the Trustee in accordance with the provisions of **Section 4.5**. If the Net Proceeds are insufficient to pay the entire cost of such repairs, restoration, replacement or rebuilding, the Company shall pay the deficiency.

(c) Except as otherwise provided in this Lease, in the event of any such damage by fire or any other casualty, the provisions of this Lease shall be unaffected and the Company shall remain and continue to be liable for the payment of all Basic Rent and Additional Rent and all other charges required hereunder to be paid by the Company, as though no damage by fire or any other casualty has occurred.

(d) The Company will prosecute or defend any action or proceeding arising out of, or for the collection of any insurance monies that may be due in the event of, any loss or damage.

(e) The Company agrees to give prompt written notice to the City, the Lender and the Trustee with respect to all fires and any other casualties occurring in, on, at or about the Project Site causing (in the Company's opinion) damage of more than \$100,000.

(f) If the Company determines that rebuilding, repairing, restoring or replacing the Project is not practicable or desirable, or if the Company does not have the right under any Leasehold Mortgage to use any Net Proceeds for repair or restoration of the Project, any Net Proceeds of casualty insurance required by **Article VII** received with respect to such damage or loss shall, after payment of all Additional Rent then due and payable, be paid into the Bond Fund and shall be used to redeem Bonds on the earliest practicable redemption date or to pay the principal of any Bonds as the same become due, all subject to rights of any mortgagee under the Leasehold Mortgage (if any) and any Financing Party under the Financing Documents (including Lender under Fee Deed of Trust and related Financing Documents). The Company agrees to be reasonable in exercising its judgment pursuant to this subsection (f). Alternatively, if the Company is the sole owner of the Bonds and it has determined that rebuilding, repairing, restoring or replacing the Project is not practicable or desirable, it may tender Bonds to the Trustee for cancellation in a principal amount equal to the Net Proceeds of the casualty insurance, and retain such proceeds for its own account.

(g) The Company shall not, by reason of its inability to use all or any part of the Project during any period in which the Project is damaged or destroyed or is being repaired, rebuilt, restored or replaced, nor by reason of the payment of the costs of such rebuilding, repairing, restoring or replacing, be entitled to any reimbursement from the City, the Trustee or the Owners or to any abatement or diminution of the rentals payable by the Company under this Lease or of any other obligations of the Company under this Lease except as expressly provided in this Section.

(h) The rights of the City and the Trustee in and to any Net Proceeds are and will at all times be subject to the rights of the Lender with respect to such Net Proceeds.

(i) Nothing herein shall be deemed to authorize the Company to allow an unsafe, dangerous, unhealthy or injurious condition to exist on the Project Site in violation of any applicable laws, codes and ordinances due to a fire or other casualty.

## **Section 9.2. Condemnation.**

(a) If during the Lease Term, title to, or the temporary use of, all or any part of the Project is condemned by or sold under threat of condemnation to any authority possessing the power of eminent domain, to such extent that the claim or loss resulting from such condemnation is greater than \$100,000, the Company shall, within 90 days after the date of entry of a final order in any eminent domain proceedings granting condemnation or the date of sale under threat of condemnation, notify the City, the Trustee, the mortgagee under the Leasehold Mortgage (if any) and the Financing Party under the Financing Documents (including the Lender) in writing as to the nature and extent of such condemnation or loss of title and whether it is practicable and desirable to acquire or construct substitute improvements.

(b) If the Company determines that such substitution is practicable and desirable, the Company shall proceed promptly with and complete with reasonable dispatch the acquisition or construction of such substitute improvements, so as to place the Project in substantially the same condition as existed before the exercise of the said power of eminent domain, including the acquisition or construction of other improvements suitable for the Company's operations at the Project (which improvements will be deemed a part of the Project and available for use and occupancy by the Company without the payment of any rent other than herein provided, to the same extent as if such other improvements were specifically described herein and demised hereby); provided, that such improvements will be acquired by the City subject to no liens, security interests or encumbrances before the lien and/or security interest afforded by the Indenture and this Lease other than Permitted Encumbrances (including, without limitation, any liens held by the Lender in and to such substitute Project Improvements). In such case, any Net Proceeds received from any award or awards with respect to the Project or any part thereof made in such condemnation or eminent domain proceedings, or of the sale proceeds, shall be applied in the same manner as provided in **Section 9.1** (with respect to the receipt of casualty insurance proceeds).

(c) If the Company determines that it is not practicable or desirable to acquire or construct substitute improvements, any Net Proceeds of condemnation awards received by the Company shall, after payment of all Additional Rent then due and payable, be paid into the Bond Fund and shall be used to redeem Bonds on the earliest practicable redemption date or to pay the principal of any Bonds as the same becomes due and payable, all subject to the rights of the mortgagee under the Leasehold Mortgage (if any) and Financing Party under the Financing Documents (including Lender).

(d) The Company shall not, by reason of its inability to use all or any part of the Project during any such period of restoration or acquisition nor by reason of the payment of the costs of such restoration or acquisition, be entitled to any reimbursement from the City, the Trustee or the Owners or to any abatement or diminution of the rentals payable by the Company under this Lease nor of any other obligations hereunder except as expressly provided in this Section.

(e) The City shall cooperate fully with the Company in the handling and conduct of any prospective or pending condemnation proceedings with respect to the Project or any part thereof, and shall, to the extent it may lawfully do so, permit the Company to litigate in any such proceeding in the name and on behalf of the City. In no event will the City voluntarily settle or consent to the settlement of any

prospective or pending condemnation proceedings with respect to the Project or any part thereof without the prior written consent of the Company and each Financing Party (including Lender).

(f) Notwithstanding the foregoing, the provisions of the Lender's Fee Deed of Trust and related Financing Documents shall control the application of Net Proceeds of condemnation awards received in connection with the Project.

**Section 9.3. Bondowner Approval.** Notwithstanding anything to the contrary contained in this **Article IX**, subject to the rights of any applicable Financing Party, the proceeds of any insurance received subsequent to a casualty or of any condemnation proceedings (or threats thereof) shall before the application thereof by the City or the Trustee be applied as directed in writing by the Owners, subject and subordinate to (a) the rights of the City and the Trustee to be paid all their expenses (including attorneys' fees, trustee's fees and any extraordinary expenses of the City and the Trustee) incurred in the collection of such gross proceeds and (b) the rights of the City to any amounts then due and payable under the Development Agreement.

## ARTICLE X

### SPECIAL COVENANTS

**Section 10.1. No Warranty of Condition or Suitability by the City; Exculpation and Indemnification.** The City makes no warranty, either express or implied, as to the condition of the Project or that it will be suitable for the Company's purposes or needs. The Company releases the City and the Trustee from, agrees that the City and the Trustee shall not be liable for and agrees to hold the City and the Trustee harmless against, any loss or damage to property or any injury to or death of any Person that may be occasioned by any cause whatsoever pertaining to the Project or the Company's use thereof, unless such loss is the result of the City's or the Trustee's gross negligence or willful misconduct. This provision shall survive termination of this Lease.

**Section 10.2. Surrender of Possession.** Upon accrual of the City's right of re-entry to the extent provided in **Section 12.2(b)**, the Company shall peacefully surrender possession of the Project to the City in good condition and repair; provided, however, the Company may within 90 days (or such later date as the City may agree to) after the termination of this Lease remove from the Project Site any buildings, improvements, furniture, trade fixtures, machinery and equipment owned by the Company and not constituting part of the Project. All repairs to and restorations of the Project required to be made because of such removal shall be made by and at the sole cost and expense of the Company, and during said 90-day (or extended) period the Company shall bear the sole responsibility for and bear the sole risk of loss for said buildings, improvements, furniture, trade fixtures, machinery and equipment owned by the Company and not constituting part of the Project. All buildings, improvements, furniture, trade fixtures, machinery and equipment owned by the Company and which are not so removed from the Project before the expiration of said period shall be the separate and absolute property of the City.

**Section 10.3. Right of Access to the Project.** The City may conduct such periodic inspections of the Project as may be generally provided in the City's municipal code. In addition, the Company agrees that the City and the Trustee and their duly authorized agents may, at reasonable times during normal business hours and, except in the event of emergencies, upon not less than two Business Days' prior notice, subject to the Company's usual business proprietary, safety, confidentiality and security requirements, enter upon the Project Site (a) to examine and inspect the Project without interference or prejudice to the

Company's operations, (b) to monitor the acquisition, construction and installation provided for in **Section 4.2** as may be reasonably necessary, (c) to examine all files, records, books and other materials in the Company's possession pertaining to the acquisition, installation or maintenance of the Project, (d) upon either (i) the occurrence and continuance of an Event of Default or (ii) the Company's failure to purchase the Project at the end of the Lease Term, to exhibit the Project to prospective purchasers, lessees or trustees.

#### **Section 10.4. Granting of Easements; Leasehold Mortgages and Financing Arrangements.**

(a) Subject to **Sections 10.4(c) and (d)**, if no Event of Default under this Lease has happened and is continuing, the City agrees that it will execute and deliver and will cause and direct the Trustee in writing to execute and deliver any instrument necessary or appropriate to confirm and grant, release or terminate any sublease, easement, license, right-of-way or other right or privilege or any such agreement or other arrangement, upon receipt by the City and the Trustee of: (i) a copy of the instrument of grant, release or termination or of the agreement or other arrangement, (ii) a written application signed by an Authorized Company Representative requesting such instrument, and (iii) a certificate executed by an Authorized Company Representative stating that such grant or release is not detrimental to the proper conduct of the business of the Company, will not impair the effective use or interfere with the efficient and economical operation of the Project, will not materially adversely affect the security intended to be given by or under the Indenture or the Development Agreement, and will be a Permitted Encumbrance. The Company will defend, indemnify and save and hold harmless the City and the Trustee from and against all claims, demands, costs, liabilities, damages or expenses, including reasonable attorneys' fees, arising from the execution and delivery of any instrument, agreement or other arrangement pursuant to this Section. If no Event of Default has happened and is continuing beyond any applicable grace period, any payments or other consideration received by the Company for any such grant or with respect to or under any such agreement or other arrangement shall be and remain the property of the Company; but, subject to **Sections 10.4(c) and (d)**, upon (i) termination of this Lease for any reason other than the redemption of the Bonds and/or the purchase of the Project by the Company or (ii) the occurrence and continuance of an Event of Default by the Company, all rights then existing of the Company with respect to or under such grant shall inure to the benefit of and be exercisable by the City and the Trustee.

(b) The Company may mortgage or grant a deed of trust against the leasehold estate created by this Lease, with prior notice to but without the consent of the City, provided and upon condition that a duplicate original or certified copy or photostatic copy of each such mortgage, and the note or other obligation secured thereby, is delivered to the City within thirty (30) days after the execution thereof. The sale of the Company's leasehold estate at a foreclosure sale or trustee's sale under the Leasehold Mortgage or any assignment in lieu thereof shall not require the consent of the City, if (i) written notice of the proposed sale or assignment is provided to the City at least fifteen (15) days prior thereto, and (ii) before such sale or assignment, all payments then owing to the City under the Development Agreement are paid.

(c) The City acknowledges and agrees that the Company may finance and refinance its rights and interests in the Project, this Lease and the leasehold estate created hereby and, in connection therewith, the Company may execute Financing Documents with one or more Financing Parties. Notwithstanding anything contained to the contrary in this Lease, the Company may, at any time and from time to time, with prior notice to but without the consent of the City, (i) execute one or more Financing Documents upon the terms contained in this **Section 10.4** and (ii) sublease or assign this Lease, the leasehold estate, any sublease and rights in connection therewith, and/or grant liens or security interests therein, to any Financing Party. Any further sublease or assignment by any Financing Party shall be subject to the provisions of **Section 13.1(c)**.

(d) Upon notice by the Company to the City in writing that the Company has executed one or more Financing Documents under which it has granted rights in this Lease to a Financing Party, which includes the name and address of such Financing Party, then the following provisions shall apply in respect to the Financing Party:

(i) there shall be no merger of this Lease or of the leasehold estate created hereby with the fee title to the Project, notwithstanding that this Lease or said leasehold estate and said fee title shall be owned by the same Person or Persons, without the prior written consent of such Financing Party;

(ii) the City shall serve upon each Financing Party (at the address, if any, provided to the City) a copy of each notice of the occurrence of an Event of Default and each notice of termination given to the Company under this Lease, at the same time as such notice is served upon the Company. No such notice to the Company shall be effective unless a copy thereof is thus served upon each Financing Party;

(iii) each Financing Party shall have the same period of time which the Company has, after the service of any required notice upon it, within which to remedy or cause to be remedied any payment default under this Lease which is the basis of the notice plus thirty (30) days, and the City shall accept performance by such Financing Party as timely performance by the Company;

(iv) the City may exercise any of its rights or remedies with respect to any other Event of Default by the Company, subject to the rights of the Financing Parties under this **Section 10.4(d)** as to such other events of default. Without limiting the generality of the foregoing, the holder of the Fee Deed of Trust may cause the sale of the fee simple interest of the Company to be sold at foreclosure sale conducted in accordance with applicable law and the terms of the Fee Deed of Trust, to accept assignment of this Lease in lieu of foreclosure and to appoint a receiver for the Project, all without obtaining the prior written consent of the City but subject to the provisions of **Section 10.4(b)**;

(v) upon the occurrence and continuance of an Event of Default by the Company under this Lease, other than a default in the payment of money, the City shall take no action to effect a termination of this Lease by service of a notice or otherwise, without first giving notice thereof to each Financing Party and permitting such Financing Party (or its designee, nominee, assignee or transferee) a reasonable time within which to remedy such default in the case of an Event of Default which is susceptible of being cured (provided that the period to remedy such Event of Default shall continue beyond any period set forth in this Lease to effect said cure so long as the Financing Party (or its designee, nominee, assignee or transferee) is diligently prosecuting such cure); provided that each Financing Party (or its respective designee, nominee, assignee or transferee) shall pay or cause to be paid to the City and the Trustee all expenses, including reasonable counsel fees, court costs and disbursements incurred by the City or the Trustee in connection with any such default;

(vi) each Financing Party (and their respective designees, nominees, assignees or transferees) may enter, possess and use the Project at such reasonable times and manner as are necessary or desirable to effectuate the remedies and enforce their respective rights under the Financing Documents;

(vii) except for terminations of this Lease expressly authorized herein, this Lease may not be modified, amended, canceled or surrendered by agreement between the City and the Company, without prior written consent of each Financing Party; and

(viii) each Financing Party may, on behalf of the Company and without the consent of the Company, exercise the right to purchase the Project pursuant to **Section 11.1**, upon compliance with the provisions of that Section. The Company agrees that the City will have no liability for taking direction from any Financing Party in connection with a conveyance of the Project back to the Company pursuant to **Article XI**.

The City acknowledges that the Lender is a Financing Party and is entitled to the benefits of **Sections 10.4(d)(i)-(viii)** above.

(e) In connection with the execution of one or more Financing Documents, upon the request of the Company, the City agrees to execute such documents as shall be reasonably requested by the Lender or any other Financing Party and which are usual and customary in connection with the closing of the financing or refinancing pursuant to the Financing Documents. The Company agrees to reimburse the City for any and all costs and expenses incurred by the City pursuant to this Section, including reasonable attorneys' fees and expenses, in complying with such request.

(f) Notwithstanding the foregoing, the City may agree to other provisions and documents requested by the Company, the Lender or any other Financing Party not contemplated by this **Section 10.4**, subject to approval by the City Council.

(g) The Company's obligations under any mortgage or Financing Document relating to the Project entered into after the date of execution of this Lease (the execution of which shall be expressly subject to the prior written consent of the Lender in accordance with the Fee Deed of Trust), except for any construction loans or other Financing Documents related to the Project that the Company now or hereafter has in place with the Lender, shall be subordinate to the Company's obligations under this Lease.

(h) All deeds of trust and other security agreements secured by the Project shall recognize that PILOT Payments due and owing under the Development Agreement are to be given the same priority as real property taxes in the event of a foreclosure. To evidence such preference, all such deeds of trust or other security agreements must contain the following language (or similar language approved by the City):

Subordination of [Mortgage] to PILOT Payments. Lender agrees that for so long as the [Property] is subject to abatement of ad valorem real property taxes pursuant to the Development Agreement dated as of [\*Date\*], 2026 between the City of University, Missouri (the "City"), and WY Hospitality Group LLC, the lien of the [Mortgage] shall be subject and inferior to the lien of the City thereto to the extent of any unpaid PILOT Payments (as defined in the aforementioned Development Agreement). Lender agrees that any proceeds received by Lender as a result of a foreclosure or deed in lieu of foreclosure related to the [Property] shall first be applied to pay any due and owing PILOT Payments.

**Section 10.5. Indemnification of City and Trustee.** The Company shall indemnify and save and hold harmless the City, Lender and the Trustee and their governing body members, officers, agents and employees from and against all claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, by or on behalf of any Person, firm or corporation arising from the issuance of the Bonds and the execution of the Development Agreement, this Lease or the Indenture and from the conduct or management of, or from any work or thing done in or on the Project during the Lease Term, and against and from all claims, demands, costs, liabilities, damages or expenses, including reasonable attorneys' fees, arising during the Lease Term from (a) any condition of the Project, (b) any breach or default on the part of the Company in the performance of any of its obligations under the Development Agreement, this Lease or

any related document, (c) any contract entered into in connection with the acquisition, purchase, construction, extension, installation or improvement of the Project, (d) any act of negligence of the Company or of any of its agents, contractors, servants, employees or licensees, (e) unless the Company has been released from liability pursuant to **Section 13.1(c)**, any act of negligence of any assignee or sublessee of the Company, or of any agents, contractors, servants, employees or licensees of any assignee or sublessee of the Company, (f) obtaining any applicable state and local sales and use tax exemptions for materials or goods that become part of the Project, and (g) any violation of Section 107.170 of the Revised Statutes of Missouri; provided, however, the indemnification contained in this **Section 10.5** shall not extend (A) to the City to the extent that such claims, demands, costs, liabilities, damages or expenses, including reasonable attorneys' fees, are (i) the result of work being performed at the Project by employees of the City, or (ii) except with respect to (f) and (g) above, the result of gross negligence or willful misconduct by the City or (B) to the Lender or Trustee to the extent that such claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, are the result of negligence or willful misconduct by the Lender or Trustee. Upon written notice from the City, the Lender or the Trustee of any such claims or demand, the Company shall defend them or either of them in any such action or proceeding; provided, that the City shall cooperate with the Company and provide reasonable assistance in such defense. All costs related to the defense of the City, the Lender or the Trustee shall be paid by the Company. This **Section 10.5** shall survive any termination of the Development Agreement and this Lease or the satisfaction and discharge of the Indenture.

**Section 10.6. Depreciation, Investment Tax Credit and Other Tax Benefits.** The City agrees that any depreciation, investment tax credit or any other tax benefits with respect to the Project or any part thereof shall be made available to the Company, and the City will fully cooperate with the Company in any effort by the Company to avail itself of any such depreciation, investment tax credit or other tax benefits.

**Section 10.7. Company to Maintain its Existence.** The Company agrees that until the Bonds are paid or payment is provided for in accordance with the terms of the Indenture, it will maintain its corporate existence in good standing, and will not dissolve or otherwise dispose of all or substantially all of its assets; provided, however, that the Company may, without violating the agreement contained in this Section, consolidate with or merge into another Person or permit one or more other Persons to consolidate with or merge into it, or may sell or otherwise transfer to another Person all or substantially all of its assets as an entirety and thereafter dissolve or convert into a different type of legal entity, if the surviving, resulting or transferee Person expressly assumes in writing all the obligations of the Company contained in this Lease, and the surviving, resulting or transferee Person either (a) has a long-term-debt rating or is controlled by or under common control with an entity with a long-term debt rating in any of the top three long-term-debt rating categories by any nationally recognized rating service, (b) is controlled by, under common control with or controls the Company, or (c) is otherwise approved by the City Council. This Section does not limit the Company's transfer rights under **Section 13.1**.

**Section 10.8. Security Interests.** The City and the Company hereby authorize the Trustee to file all appropriate financing and continuation statements as may be required under the Uniform Commercial Code to fully preserve and protect the security of the Owners and the rights of the Trustee under the Indenture. Upon the written instructions of the Owners, the Trustee shall, pursuant to the terms of the Indenture, file all continuation instruments the Owners deem necessary to be filed for so long as the Bonds are Outstanding. Notwithstanding the foregoing, the Trustee shall not be obligated to file any original instrument, and the Trustee shall not be responsible for the accuracy or sufficiency of any such original instrument. The City and the Company shall cooperate with the Trustee in this regard by providing such information as the Trustee may require to file or to renew such statements. The Trustee may

conclusively rely upon any initial filing in filing any continuation statement or modification thereto pursuant to this Section.

**Section 10.9. Environmental Matters, Warranties, Covenants and Indemnities Regarding Environmental Matters.**

(a) As used in this Section, the following terms have the following meanings:

“Environmental Laws” means any now-existing or hereafter enacted or promulgated federal, state, local, or other law, statute, ordinance, order, rule, regulation or court order pertaining to (i) environmental protection, regulation, contamination or clean-up, (ii) toxic waste, (iii) underground storage tanks, (iv) asbestos or asbestos-containing materials, or (v) the handling, treatment, storage, use or disposal of Hazardous Substances, including without limitation the Comprehensive Environmental Response, Compensation and Liability Act and the Resource Conservation and Recovery Act, all as amended from time to time.

“Hazardous Substances” means all (i) “hazardous substances” (as defined in 42 U.S.C. §9601(14)), (ii) “chemicals” subject to regulation under Title III of the Superfund Amendments and Reauthorization Act of 1986, as amended from time to time (iii) natural gas liquids, liquefied natural gas or synthetic gas, (iv) any petroleum, petroleum-based products or crude oil, or (v) any other hazardous or toxic substances, wastes or materials, pollutants, contaminants or any other substances or materials which are included under or regulated by any Environmental Law.

(b) With the exception of any condition disclosed to the City pursuant to any previously provided environmental assessment, study or report, the Company warrants and represents to the City and the Trustee that to the knowledge of the Company there are no conditions on the Project Site which materially violate any applicable Environmental Laws and no claims or demands have been asserted or made in writing by any third parties arising out of, relating to or in connection with any Hazardous Substances on, or allegedly on, the Project Site for any injuries suffered or incurred, or allegedly suffered or incurred, by reason of the foregoing.

(c) The Company will provide the City and the Trustee with copies of any notifications of releases of Hazardous Substances or of any environmental hazards or potential hazards in material violation of Environmental Laws which are given by or on behalf of the Company to any federal, state or local or other agencies or authorities or which are received by the Company from any federal, state or local or other agencies or authorities with respect to the Project Site. Such copies shall be sent to the City and the Trustee concurrently with their being mailed or delivered to the governmental agencies or authorities or within ten days after they are made or received by the Company. The Company will provide to the City for review only, any environmental assessment (“Assessments”) and reports regarding the correction or remediation of material environmental issues required by Environmental Laws to be addressed in the Assessment (“Reports”) concerning the Project; upon the completion of the City’s review of the Assessments and the Reports, the City shall immediately return to the Company all originals and copies of the Assessments and Reports.

(d) The Company warrants and represents that the Company has provided the City and the Trustee with copies of all emergency and hazardous chemical inventory forms (hereinafter “Environmental Notices”) showing Hazardous Substances on the Project Site given within two years preceding the date hereof, as of the date hereof, by the Company to any federal, state or local governmental authority or agency as required pursuant to the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C.A. §11001 *et seq.*, or any other applicable Environmental Laws. The Company will provide the City and the

Trustee with copies of all Environmental Notices concerning Hazardous Substances on the Project Site subsequently sent to any such governmental authority or agency as required pursuant to the Emergency Planning and Community Right-to-Know Act of 1986 or any other applicable Environmental Laws. Such copies of subsequent Environmental Notices shall be sent to the City and the Trustee concurrently with their being mailed to any such governmental authority or agency.

(e) The Company will use its reasonable best efforts to comply with and operate and at all times use, keep and maintain the Project and every part thereof (whether or not such property constitutes a facility, as defined in 42 U.S.C. § 9601 *et. seq.*) in material conformance with all applicable Environmental Laws. Without limiting the generality of the foregoing, the Company will not use, generate, treat, store, dispose of or otherwise introduce any Hazardous Substance into or on the Project or any part thereof nor cause, suffer, allow or permit anyone else to do so except in the ordinary course of the operation of the Company's business and in material compliance with all applicable Environmental Laws.

(f) The Company agrees to indemnify, protect and hold harmless the City and the Trustee and their directors, officers, shareholders, officials or employees from and against any and all claims, demands, costs, liabilities, damages or expenses, including reasonable attorneys' fees and expenses, arising from (i) any release (as defined in 42 U.S.C. § 9601 (22)), actual or alleged, of any Hazardous Substances, upon the Project or respecting any products or materials previously, now or thereafter located upon the Project, regardless of whether such release or alleged release has occurred before the date hereof or hereafter occurs and regardless of whether such release or alleged release occurs as a result of any act, omission, negligence or misconduct of the Company or any third party or otherwise (except, with respect to the City, to the extent such release occurs as a result of any gross negligence or willful misconduct of the City), (ii) (A) any violation now existing or hereafter arising (actual or alleged) of, or any other liability under or in connection with, any applicable Environmental Laws relating to or affecting the Project, or (B) any violation now existing or hereafter arising, or any other liability, under or in connection with, any applicable Environmental Laws relating to any products or materials previously, now or hereafter located upon the Project, regardless of whether such violation or alleged violation or other liability is asserted or has occurred or arisen before the date hereof or hereafter is asserted or occurs or arises and regardless of whether such violation or alleged violation or other liability occurs or arises, as the result of any act, omission, negligence or misconduct of the Company or any third party or otherwise (except, with respect to the City, to the extent such release occurs as a result of any act, gross negligence or willful misconduct of the City), (iii) any assertion by any third party of any claims or demands for any loss or injury arising out of, relating to or in connection with any Hazardous Substances on or allegedly on the Project Site, or (iv) any material breach, falsity or failure of any of the representations, warranties, covenants and agreements contained in this Section; provided, however, that the Company's obligations under this **Section 10.9(f)** shall not apply to the City to the extent such claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, are the result of (i) work being performed at the Project by employees of the City or (ii) gross negligence or willful misconduct by the City. The City shall cooperate with the Company in the defense of any matters included within the foregoing indemnity without any obligation to expend money. This subsection (f) shall survive any termination of this Lease.

## ARTICLE XI

### OPTION AND OBLIGATION TO PURCHASE THE PROJECT

**Section 11.1. Option to Purchase the Project.** The Company shall have, and is hereby granted, the option to purchase all or any portion of the City's interest in the Project at any time, upon payment in

full or redemption of the Outstanding Bonds to be redeemed or provision for their payment or redemption having been made pursuant to **Article XIII** of the Indenture. To exercise such option, the Company shall give written notice to the City, Lender and to the Trustee, and shall specify therein the date of closing of such purchase, which date shall be not less than 15 nor more than 90 days from the date such notice is mailed, and, in case of a redemption of the Bonds in accordance with the provisions of the Indenture, the Company shall make arrangements satisfactory to the Trustee for the giving of the required notice of redemption. Notwithstanding the foregoing, if the City or the Trustee provides notice of its intent to exercise its remedies hereunder upon an Event of Default (a "Remedies Notice"), the Company shall be deemed to have exercised its repurchase option under this Section on the 29th day following the issuance of the Remedies Notice without any further action by the Company; provided said Remedies Notice has not been rescinded by such date (such option to take place on the 29th day following the issuance of the Remedies Notice). The Company may rescind such exercise by providing written notice to the City and the Trustee on or before the 29th day and by taking such action as may be required to cure the default that led to the giving of the Remedies Notice. The purchase price payable by the Company in the event of its exercise of the option granted in this Section shall be the sum of the following:

- (a) an amount of money which, when added to the amount then on deposit in the Bond Fund, will be sufficient to redeem all or a portion of the then-Outstanding Bonds on the earliest redemption date next succeeding the closing date, including, without limitation, principal and interest to accrue to said redemption date and redemption expense; plus
- (b) an amount of money equal to the Trustee's and the Paying Agent's agreed to and reasonable fees, charges and expenses under the Indenture accrued and to accrue until such redemption of the Bonds; plus
- (c) an amount of money equal to the City's reasonable charges and expenses incurred in connection with the Company exercising its option to purchase all or a portion of the Project; plus
- (d) an amount of money equal to all payments due and payable pursuant to the Development Agreement through the end of the calendar year in which the date of purchase occurs; plus
- (e) the sum of \$10.00.

At its option, to be exercised at least five days before the date of closing such purchase, the Company may deliver to the Trustee for cancellation Bonds not previously paid, and the Company shall receive a credit against the purchase price payable by the Company in an amount equal to 100% of the principal amount of the Bonds so delivered for cancellation, plus the accrued interest thereon.

**Section 11.2. Conveyance of the Project.** At the closing of the purchase of the Project pursuant to this Article, the City will upon receipt of the purchase price deliver to the Company the following:

- (a) a release from the Trustee of the Project from the lien and/or security interest of the Indenture and this Lease and appropriate termination of financing statements as required under the Uniform Commercial Code; and
- (b) documents, including without limitation a special warranty deed as to the Project Site, in substantially the form attached as **Exhibit C** and incorporated herein by reference, conveying to the Company legal title to the Project, as it then exists, in recordable form, subject to

the following: (i) those liens and encumbrances, if any, to which title to the Project was subject when conveyed to the City; (ii) those liens and encumbrances created by the Company or to the creation or suffering of which the Company consented; (iii) those liens and encumbrances resulting from the failure of the Company to perform or observe any of the agreement on its part contained in this Lease; (iv) Permitted Encumbrances other than the Indenture and this Lease; and (v) if the Project or any part thereof is being condemned, the rights and title of any condemning authority.

**Section 11.3. Relative Position of Option and Indenture.** The option to purchase the Project granted to the Company in this Article shall be and remain prior and superior to the Indenture; provided that such option will not result in nonfulfillment of any condition to the exercise of any such option (including the payment of all amounts specified in **Section 11.1**) and further provided that all options herein granted shall terminate upon the termination of this Lease.

**Section 11.4. Obligation to Purchase the Project.** The Company hereby agrees to purchase, and the City hereby agrees to sell, the Project upon the occurrence of (a) the expiration of the Lease Term following full payment of the Bonds or provision for payment thereof having been made in accordance with the provisions of the Indenture, and (b) the final payment due under the Development Agreement. The amount of the purchase price under this Section shall be an amount sufficient to redeem all the then Outstanding Bonds, plus accrued interest and the reasonable fees and expenses of the City and the Trustee.

**Section 11.5. Tax Ownership.** The Company alone shall be entitled to all of the federal income tax attributes of ownership of the Project, including without limitation the right to claim depreciation or cost recovery deductions. This Lease is intended to convey to the Company all of the benefits and burdens of ownership and to cause the Company to be treated as the owner of the Project for federal income tax purposes. The Trustee, the Company and the City agree to treat this Lease in a manner consistent with such treatment.

**Section 11.6. Right to Set-Off.** At its option, to be exercised at least five days before the date of closing on any purchase of the Project, the Company may deliver to the Trustee for cancellation Bonds not previously paid, and the Company shall receive a credit against the purchase price payable by the Company in an amount equal to 100% of the principal amount of the Bonds so delivered for cancellation, plus the accrued interest thereon. The Company may set-off any payment obligation under **Section 11.1(a)** by tendering, or causing the tender of, a corresponding amount of the Bonds to the Trustee for cancellation.

## ARTICLE XII

### DEFUALTS AND REMEDIES

**Section 12.1. Events of Default.** If any one or more of the following events occurs and is continuing, it is hereby defined as and declared to be and to constitute an “Event of Default” under this Lease:

(a) default in the due and punctual payment of Basic Rent or Additional Rent within 10 days after written notice thereof from the City to the Company and the Lender; or

(b) default in the due observance or performance of any other covenant, agreement, obligation or provision of this Lease on the Company’s part to be observed or performed, and such default continues for 60 days after the City or the Trustee has given the Company and the Lender written notice specifying such default (or such longer period as is reasonably required to cure such

default, provided that (i) the Company or the Lender, as applicable, has commenced such cure within said 60-day period, and (ii) the Company or the Lender, as applicable, diligently prosecutes such cure to completion); or

(c) the Company: (i) admits in writing its inability to pay its debts as they become due; or (ii) files a petition in bankruptcy or for reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the Bankruptcy Code as now or in the future amended or any other similar present or future federal or state statute or regulation, or files a pleading asking for such relief; or (iii) makes an assignment for the benefit of creditors; or (iv) consents to the appointment of a trustee, receiver or liquidator for all or a major portion of its property or fails to have the appointment of any trustee, receiver or liquidator made without the Company's consent or acquiescence, vacated or set aside; or (v) is finally adjudicated as bankrupt or insolvent under any federal or state law; or (vi) is subject to any proceeding, or suffers the entry of a final and non-appealable court order, under any federal or state law appointing a trustee, receiver or liquidator for all or a major part of its property or ordering the winding-up or liquidation of its affairs, or approving a petition filed against it under the Bankruptcy Code, as now or in the future amended, which order or proceeding, if not consented to by it, is not dismissed, vacated, denied, set aside or stayed within 90 days after the day of entry or commencement; or (vii) suffers a writ or warrant of attachment or any similar process to be issued by any court against all or any substantial portion of its property, and such writ or warrant of attachment or any similar process is not contested, stayed, or is not released within 60 days after the final entry, or levy or after any contest is finally adjudicated or any stay is vacated or set aside; or

(d) an Event of Default under the Development Agreement, as defined in **Section 6.1** thereof.

**Section 12.2. Remedies on Default.** If any Event of Default referred to in **Section 12.1** has occurred and continues beyond the period provided to cure, then the City may at the City's election (subject, however, to any restrictions against acceleration of the maturity of the Bonds or termination of this Lease in the Indenture), then or at any time thereafter, and while such default continues, take any one or more of the following actions, in addition to the remedies provided in **Section 12.5**:

(a) cause all amounts payable with respect to the Bonds for the remainder of the term of this Lease to become due and payable, as provided in the Indenture; or

(b) give the Company written notice of intention to terminate this Lease on a date specified therein, which date shall not be earlier than 60 days after such notice is given, and if all defaults have not then been cured, on the date so specified, the Owners shall tender or be deemed to have tendered the Outstanding principal amount of the Bonds for cancellation with instruction that such tender is in lieu of payment in accordance with **Section 11.1**, the Company's rights to possession of the Project shall cease and this Lease shall thereupon be terminated, and the City may re-enter and take possession of the Project; provided, however, if the Company has paid all obligations due and owing under the Indenture, this Lease and the Development Agreement, the City shall convey the Project in accordance with **Section 11.2**.

**Section 12.3. Survival of Obligations.** The Company covenants and agrees with the City and Owners that its obligations under this Lease shall survive the cancellation and termination of this Lease, for any cause, and that the Company shall continue to pay the Basic Rent and Additional Rent (to the extent the Bonds remain Outstanding) and perform all other obligations provided for in this Lease, all at the time

or times provided in this Lease; provided, however, that except for the indemnification contained in **Section 10.5**, upon the payment of all Basic Rent and Additional Rent required under **Article V**, and upon the satisfaction and discharge of the Indenture under **Section 1301** thereof, and upon the Company's exercise of the purchase option contained in **Article XI** hereof, the Company's obligation under this Lease shall thereupon cease and terminate in full, except that obligations with respect to compensation and indemnification of the City and the Trustee shall not so terminate.

**Section 12.4. Performance of the Company's Obligations by the City.** Upon an Event of Default, the City, or the Trustee in the City's name, may (but shall not be obligated so to do) upon the continuance of such failure on the Company's part for 60 days after written notice of such failure is given the Company by the City or the Trustee, and without waiving or releasing the Company from any obligation hereunder, as an additional but not exclusive remedy, make any such payment or perform any such obligation, and all reasonable sums so paid by the City or the Trustee and all necessary incidental reasonable costs and expenses incurred by the City or the Trustee (including, without limitation, reasonable attorneys' fees and expenses) in performing such obligations shall be deemed Additional Rent and shall be paid to the City or the Trustee on demand, and if not so paid by the Company, the City or the Trustee shall have the same rights and remedies provided for in **Section 12.2** in the case of default by the Company in the payment of Basic Rent.

**Section 12.5. Rights and Remedies Cumulative.** The rights and remedies reserved by the City and the Company hereunder are in addition to those otherwise provided by law and shall be construed as cumulative and continuing rights. No one of them shall be exhausted by the exercise thereof on one or more occasions. The City and the Company shall each be entitled to specific performance and injunctive or other equitable relief for any breach or threatened breach of any of the provisions of this Lease, notwithstanding the availability of an adequate remedy at law, and each party hereby waives the right to raise such defense in any proceeding in equity. Notwithstanding anything in this **Section 12.5** or elsewhere in this Lease to the contrary, however, the Company's option to re-purchase the Project as provided in **Article XI** above shall not be terminated upon an Event of Default unless and until this Lease is terminated to the extent permitted pursuant to **Section 12.2(b)** above.

**Section 12.6. Waiver of Breach.** No waiver of any breach of any covenant or agreement herein contained shall operate as a waiver of any subsequent breach of the same covenant or agreement or as a waiver of any breach of any other covenant or agreement, and in case of a breach by the Company of any covenant, agreement or undertaking by the Company, the City may nevertheless accept from the Company any payment or payments hereunder without in any way waiving the City's right to exercise any of its rights and remedies provided for herein with respect to any such default or defaults of the Company which were in existence at the time such payment or payments were accepted by the City.

**Section 12.7. Trustee's Exercise of the City's Remedies.** Whenever any Event of Default has occurred and is continuing, the Trustee may, but except as otherwise provided in the Indenture shall not be obligated to, exercise any or all of the rights of the City under this Article, upon notice as required of the City unless the City has already given the required notice. In addition, the Trustee shall have available to it all of the remedies prescribed by the Indenture.

## ARTICLE XIII

### ASSIGNMENT AND SUBLEASE

#### **Section 13.1. Assignment; Sublease.**

(a) The Company may assign, transfer, encumber or dispose of this Lease or any interest herein or part hereof for any lawful purpose under the Act. Except as otherwise provided in this Section, the Company must obtain the City's prior written consent before any such disposition, unless such disposition is to (i) an entity controlled by or under common control with or controlling the Company or (ii) the Lender. Notwithstanding the foregoing and subject to the applicable Financing Documents, a Financing Party may sell at foreclosure sale or by deed in lieu of foreclosure, the interest of the Company in this Lease.

(b) With respect to any assignment, the Company or the Financing Party, as applicable, shall comply with the following conditions:

(i) the Company shall notify the City and the Trustee of the assignment in writing;

(ii) such assignment shall be in writing, duly executed and acknowledged by the assignor and in proper form for recording;

(iii) such assignment shall include the entire then unexpired term of this Lease; and

(iv) a duplicate original of such assignment shall be delivered to the City and the Trustee within 10 days after the execution thereof, together with an assumption agreement, duly executed and acknowledged by the assignee and in proper form for recording, by which the assignee shall assume all of the terms, covenants and conditions of this Lease on the part of the Company to be performed and observed.

(c) Any assignee of all the rights of the Company shall agree to be bound by the terms of this Lease, the Development Agreement and any other documents related to the issuance of the Bonds. Upon such assignment of all the rights of the Company and agreement by the assignee to be bound by the terms of this Lease, the Development Agreement and any other documents related to the Bonds, the Company shall be released from and have no further obligations under this Lease, the Development Agreement or any agreement related to the issuance of the Bonds.

(d) Notwithstanding the foregoing, the Company may, in its ordinary course of business, sublease all or portions of the Project to tenants without the prior consent of or notice to the City so long as the Company remains obligated to perform all of its obligations under the Lease and the Development Agreement.

**Section 13.2. Assignment of Revenues by City.** The City shall assign and pledge any rents, revenues and receipts receivable under this Lease, to the Trustee pursuant to the Indenture as security for payment of the principal of, interest and premium, if any, on the Bonds, and the Company hereby consents to such pledge and assignment.

**Section 13.3. Prohibition Against Fee Mortgage of Project.** The City shall not mortgage its fee interest in the Project without the consent of the Company, but may assign its interest in and pledge any moneys receivable under this Lease to the Trustee pursuant to the Indenture as security for payment of the principal of and interest on the Bonds.

**Section 13.4. Restrictions on Sale or Encumbrance of Project by City.** During the Lease Term, the City agrees that, except to secure the Bonds to be issued pursuant to the Indenture and except to enforce its rights under **Section 12.2(b)**, it will not sell, assign, encumber, mortgage, transfer or convey the Project or any interest therein.

## ARTICLE XIV

### AMENDMENTS, CHANGES AND MODIFICATIONS

**Section 14.1. Amendments, Changes and Modifications.** Except as otherwise provided in this Lease or in the Indenture, subsequent to the issuance of Bonds and before the payment in full of the Bonds (or provision for the payment thereof having been made in accordance with the provisions of the Indenture), this Lease may not be effectively amended, changed, modified, altered or terminated without the prior written consent of the Trustee and Lender, given in accordance with the provisions of the Indenture, which consent, however, shall not be unreasonably withheld, and the written consent of all of the bondholders. This Lease shall also not be amended, changed, modified, altered or terminated without the prior written consent of each Financing Party.

## ARTICLE XV

### MISCELLANEOUS PROVISIONS

**Section 15.1. Notices.** All notices, certificates or other communications required or desired to be given hereunder shall be in writing and shall be deemed duly given when (i) mailed by registered or certified mail, postage prepaid, or (ii) sent by overnight delivery or other delivery service which requires written acknowledgment of receipt by the addressee, addressed as follows:

(a) To the City:

City of University City, Missouri  
6801 Delmar Boulevard  
University City, Missouri 63130  
Attn: City Manager

with a copy to:

John F. Mulligan, Jr.  
Attorney at Law  
6 Carrswold  
Clayton, Missouri 63105

(b) To the Trustee:

UMB Bank, N.A.  
2 S. Broadway, Suite 600  
St. Louis, Missouri 63102  
Attn: Corporate Trust Department

(c) To the Company:

WY Hospitality Group LLC  
6632 Delmar Boulevard  
St. Louis, Missouri 63130  
Attn: Xin Wei

with a copy to:

Stone, Leyton & Gershman, P.C.  
7733 Forsyth Boulevard, Suite 500  
St. Louis, Missouri 63105  
Attn: Steven H. Stone, Esq.

(d) To the Lender:

Carrollton Bank  
7911 Forsyth Blvd.  
Clayton, MO 63105  
Attention: Ryan McKillips

with a copy to:

Carmody MacDonald P.C.  
120 S. Central Ave., Suite 1800  
St. Louis, Missouri 63105  
Attn: Joe Palumbo

All notices given by certified or registered mail as aforesaid shall be deemed fully given as of the date they are so mailed, provided, however, that notice to the Trustee shall be effective only upon receipt. A duplicate copy of each notice, certificate or other communication given hereunder by either the City or the Company to the other shall also be given to the Trustee and the Lender. The City, the Company, the Lender and the Trustee may from time to time designate, by notice given hereunder to the others of such parties, such other address to which subsequent notices, certificates or other communications shall be sent.

**Section 15.2. City Shall Not Unreasonably Withhold Consents and Approvals.** Wherever in this Lease it is provided that the City shall, may or must give its approval or consent, or execute supplemental agreements or schedules, the City shall not unreasonably, arbitrarily or unnecessarily withhold or refuse to give such approvals or consents or refuse to execute such supplemental agreements or schedules; provided, however, that nothing in this Lease shall be interpreted to affect the City's rights to approve or deny any additional project or matter unrelated to the Project subject to zoning, building permit or other regulatory approvals by the City.

**Section 15.3. Net Lease.** The parties hereto agree (a) that this Lease shall be deemed and construed to be a net lease, (b) that the payments of Basic Rent are designed to provide the City and the Trustee funds adequate in amount to pay all principal of and interest accruing on the Bonds as the same become due and payable, (c) that to the extent that the payments of Basic Rent are not sufficient to provide the City and the Trustee with funds sufficient for the purposes aforesaid, the Company shall be obligated to pay, and it does hereby covenant and agree to pay, upon demand therefor, as Additional Rent, such further

sums of money, in cash, as may from time to time be required for such purposes, and (d) that if after the principal of and interest on the Bonds and all costs incident to the payment of the Bonds (including the fees and expenses of the City and the Trustee) have been paid in full the Trustee or the City holds unexpended funds received in accordance with the terms hereof such unexpended funds shall, after payment therefrom of all sums then due and owing by the Company under the terms of this Lease, and except as otherwise provided in this Lease and the Indenture, become the absolute property of and be paid over forthwith to the Company.

**Section 15.4. Limitation on Liability of City.** No provision, covenant or agreement contained in this Lease, the Indenture or the Bonds, or any obligation herein or therein imposed upon the City, or the breach thereof, shall constitute or give rise to or impose upon the City a pecuniary liability or a charge upon the general credit or taxing powers of the City or the State of Missouri.

**Section 15.5. Governing Law.** This Lease shall be construed in accordance with and governed by the laws of the State of Missouri.

**Section 15.6. Binding Effect; Third Party Beneficiary.** This Lease shall be binding upon and shall inure to the benefit of the City and the Company and their respective successors and assigns. The Lender shall be a third-party beneficiary of any provisions contained herein granting rights to the Lender.

**Section 15.7. Severability.** If for any reason any provision of this Lease shall be determined to be invalid or unenforceable, the validity and enforceability of the other provisions hereof shall not be affected thereby.

**Section 15.8. Execution in Counterparts.** This Lease may be executed in several counterparts, each of which shall be deemed to be an original and all of which shall constitute but one and the same instrument.

**Section 15.9. Electronic Transaction.**

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

(b) The counterparts of this Lease may be executed and delivered by facsimile or electronic signature (including portable document format) by either of the parties hereto, and the receiving party may rely on the receipt of any counterpart so executed and delivered electronically or by facsimile as if the original had been received. Each party may sign and transmit an electronic signature on this Lease, which signature shall be binding on the party whose name is contained thereon. The intentional action in electronically signing this Lease shall be evidence of consent to be legally bound by this Lease. Each party agrees to not contest the admissibility or enforceability of the electronically signed copy of this Lease in any proceeding arising out of the terms and conditions of this Lease.

(c) Notwithstanding anything in this Section to the contrary and with respect to the recording of any electronic documents, the parties shall comply with the requirements of Section 59.569 of the Revised Statutes of Missouri.

**Section 15.10. City Consent.** Pursuant to the Ordinance, the City Manager is authorized to execute all documents on behalf of the City (including documents pertaining to the transfer of property or the financing and refinancing of the Project) as may be required to carry out and comply with the intent of the Ordinance. The City Manager is also authorized, unless expressly provided herein, to grant on behalf of the City such consents, estoppels and waivers relating to the Bonds, the Indenture, the Development Agreement or this Lease as may be requested during the term thereof; provided, such consents, estoppels and/or waivers shall not increase the principal amount of the Bonds, increase the term of this Lease or the tax exemption as provided for herein, waive an Event of Default or materially change the nature of the transaction unless otherwise approved by the City Council.

**Section 15.11. Anti-Discrimination Against Israel Act.** Pursuant to Section 34.600 of the Revised Statutes of Missouri, the Company certifies it is not currently engaged in and shall not, for the duration of this Lease, engage in a boycott of goods or services from (a) the State of Israel, (b) companies doing business in or with the State of Israel or authorized by, licensed by or organized under the laws of the State of Israel or (c) persons or entities doing business in the State of Israel.

**Section 15.12. Subordination of Lease.** By its execution hereof, each of the Company and the City hereby agree that this Lease shall be, is and shall continue to be, subordinate and inferior to the Fee Deed of Trust and the other Financing Documents until all indebtedness or obligations secured by the Fee Deed of Trust have been indefeasibly paid and performed in full, including but not limited to, all future advances and future obligations secured by the Fee Deed of Trust. Such subordination shall be self-operative and shall be irrespective of the time, manner, order of recording or perfection or any other priority that ordinarily would result under the Uniform Commercial Code as enacted in each and every applicable jurisdiction, and as amended from time to time, and other applicable law for the order of granting or perfecting any security interests referred to herein.

[Remainder of Page Intentionally Left Blank]

**IN WITNESS WHEREOF**, the parties hereto have caused this Lease to be executed in their respective names by their duly authorized signatories, all as of the date first above written.

**CITY OF UNIVERSITY CITY, MISSOURI**

By: \_\_\_\_\_  
Gregory Rose, City Manager

[SEAL]

ATTEST:

By: \_\_\_\_\_  
LaRette Reese, City Clerk

[Lease Agreement]

**WY HOSPITALITY GROUP LLC,**  
a Missouri limited liability company

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

[Lease Agreement]

**EXHIBIT A**  
**PROJECT SITE**

**EXHIBIT B**

**FORM OF REQUISITION CERTIFICATE**

Requisition No. \_\_\_\_\_  
Date:

## **REQUISITION CERTIFICATE**

TO: UMB BANK, N.A., AS TRUSTEE UNDER A TRUST INDENTURE DATED AS OF [\*Date\*], 2026, BETWEEN THE CITY OF UNIVERSITY CITY, MISSOURI, AND THE TRUSTEE, AND THE LEASE AGREEMENT DATED AS OF [\*Date\*], 2026, BETWEEN THE CITY OF UNIVERSITY CITY, MISSOURI, AND WY HOSPITALITY GROUP LLC

The undersigned Authorized Company Representative hereby states and certifies that:

1. A total of \$ \_\_\_\_\_ is requested to pay for Project Costs (as defined in the Indenture). The total amount of this requisition and all prior requisitions is as follows:

2. Said Project Costs shall be paid in whole from Bond proceeds in such amounts, to such payees and for such purposes as set forth on **Schedule 1** hereto.

3. Each of the items for which payment is requested is or was desirable and appropriate in connection with the purchase and construction of the Project (as defined in the Trust Indenture), has been properly incurred and is a proper charge against the Project Fund, and has been paid by the Company or is justly due to the Persons whose names and addresses are stated on **Schedule 1**, and has not been the basis of any previous requisition from the Project Fund.

4. As of this date, except for the amounts referred to above, to the best of my knowledge there are no outstanding disputed statements for which payment is requested for labor, wages, materials, supplies or services in connection with the purchase and construction of the Project which, if unpaid, might become the basis of a vendors', mechanics', laborers' or materialmen's statutory or similar lien upon the Project or any part thereof.

5. Capitalized words and terms used in this Requisition Certificate have the meanings given to such words and terms in **Section 101** of the Indenture.

6. With respect to this disbursement, the Company (i) certifies it has reviewed any wire instructions set forth herein to confirm such wire instructions are accurate and (ii) agrees it will not seek recourse from the Trustee as a result of losses incurred by it for making the disbursement in accordance with the instructions herein.

**WY HOSPITALITY GROUP LLC**

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

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**CITY OF UNIVERSITY CITY, MISSOURI**

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

**SCHEDULE 1 TO REQUISITION CERTIFICATE**

**PROJECT COSTS**

<u>Payee and Address</u>	<u>Description</u>	<u>Amount</u>
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**EXHIBIT C**  
**FORM OF SPECIAL WARRANTY DEED**

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**Space Above for Recorder's Use Only**

**DOCUMENT COVER SHEET**

**TITLE OF DOCUMENT:** Special Warranty Deed

**DATE OF DOCUMENT:** \_\_\_\_\_, 20\_\_\_\_

**GRANTOR:** CITY OF UNIVERSITY CITY, MISSOURI

Mailing Address: 6801 Delmar Boulevard  
University City, Missouri 63130

**GRANTEE:** WY HOSPITALITY GROUP LLC

Mailing Address: 6632 Delmar Boulevard  
St. Louis, Missouri 63130  
Attn: Xin Wei

**LEGAL DESCRIPTION:** See Exhibit A

**RETURN DOCUMENTS TO:** Mark A. Spykerman  
Gilmore & Bell, P.C.  
One Metropolitan Square  
211 N. Broadway, Suite 2000  
St. Louis, Missouri 63102

**REFERENCE BOOK & PAGE:** \_\_\_\_\_

## SPECIAL WARRANTY DEED

**THIS DEED** is made and entered into to be effective as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the **CITY OF UNIVERSITY CITY, MISSOURI**, a home-rule charter city organized and existing under the laws of the State of Missouri and its charter (the “Grantor”), and **WY HOSPITALITY GROUP LLC**, a Missouri limited liability company (the “Grantee”). Terms not otherwise described herein shall have the meanings ascribed them in the Trust Indenture between the Grantor and UMB Bank, N.A., as trustee, dated as of [\*Date\*], 2026, with respect to the Grantor’s issuance of its \$8,000,000 Taxable Industrial Revenue Bonds (8021 Olive Boulevard Project), Series 2026.

**WITNESSETH**, that the Grantor, for and in consideration of the sum of One Dollar (\$1.00), and other good and valuable consideration, paid by the Grantee, the receipt of which is hereby acknowledged, does by these presents **BARGAIN AND SELL, CONVEY AND CONFIRM** unto the Grantee, the real property described on Exhibit A attached hereto and incorporated by reference (the “Project Site”) and the buildings, structures, improvements and fixtures located thereon (the “Project Improvements”), all as located in the County of St. Louis, State of Missouri.

**TO HAVE AND TO HOLD** the same, together with all rights and appurtenances to the same belonging, unto the Grantee, and to its successors and assigns forever. The Grantor hereby covenants that it and its successors and assigns shall and will **WARRANT AND DEFEND** the title to the premises unto the Grantee, and to its successors and assigns forever, against the lawful claims of all persons claiming by, through or under Grantor but none other, subject to: (i) those liens and encumbrances, if any, to which title to the Project Site and the Project Improvements was subject when conveyed to the Grantor; (ii) those liens and encumbrances created by the Grantee, all persons claiming by, through or under Grantee, or to the creation or suffering of which the Grantee consented or permitted; (iii) those liens and encumbrances resulting from the failure of the Grantee to perform or observe any of Grantee’s obligations contained in the Development Agreement or the Lease; (iv) Permitted Encumbrances other than the Indenture; (v) taxes not yet due and payable for the calendar year 20\_\_\_\_ and thereafter and the special taxes becoming a lien after the date of this deed; (vi) all current zoning laws; and (vii) all other easements, conditions and restrictions of record.

[Remainder of Page Intentionally Left Blank]

**IN WITNESS WHEREOF**, the Grantor has executed these presents the day and year first above written.

**“GRANTOR”**

**CITY OF UNIVERSITY CITY, MISSOURI**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: City Manager

[SEAL]

ATTEST:

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

(insert notary)

**“GRANTEE”**

**WY HOSPITALITY GROUP LLC,**  
a Missouri limited liability company

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

(insert notary)

**EXHIBIT A**  
**LEGAL DESCRIPTION**

**EXHIBIT E**  
**BOND PURCHASE AGREEMENT**

(On file in the office of the City Clerk)



**\$8,000,000**  
**(AGGREGATE MAXIMUM PRINCIPAL AMOUNT)**  
**UNIVERSITY CITY, MISSOURI**  
**TAXABLE INDUSTRIAL REVENUE BONDS**  
**(8021 OLIVE BOULEVARD PROJECT)**  
**SERIES 2026**

**Dated as of [\*Date\*], 2026**

**BOND PURCHASE AGREEMENT**

Honorable Mayor and City Council  
University City, Missouri

On the basis of the representations and covenants and upon the terms and conditions contained in this Bond Purchase Agreement, WY Hospitality Group LLC, a Missouri limited liability company (the “Purchaser”), offers to purchase from the City of University City, Missouri (the “City”), the above-referenced bonds (the “Bonds”), to be issued by the City under and pursuant to Ordinance No. \_\_\_\_ adopted by the City Council of the City on \_\_\_\_\_, 2026 (the “Ordinance”) and a Trust Indenture dated as of [\*Date\*], 2026 (the “Indenture”) by and between the City and UMB Bank, N.A., as trustee (the “Trustee”). *Capitalized terms not otherwise defined herein shall have the meanings set forth in the Indenture.*

**SECTION 1. REPRESENTATIONS AND AGREEMENTS**

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

(1) The City is a home-rule charter city duly organized and validly existing under the laws of the State of Missouri and its charter. The City is authorized pursuant to the Constitution, the laws of the State of Missouri, and the ordinances, orders and resolutions of the City, and all necessary action has been taken to authorize, issue and deliver the Bonds and to consummate all transactions contemplated by the Ordinance, this Bond Purchase Agreement, the Indenture, the Lease Agreement dated as of [\*Date\*], 2026 (the “Lease”) by and between the City and the Purchaser, the Development Agreement dated as of [\*Date\*], 2026 (the “Development Agreement”) by and between the City and the Purchaser, and any and all other agreements relating thereto. The proceeds of the Bonds shall be used for the purpose of acquiring the Project Site, constructing the Project Improvements and paying the costs incurred in connection with the issuance of the Bonds.

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

(b) The Purchaser represents as follows:

(1) *Organization.* The Purchaser is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Missouri.

(2) *No Conflict or Breach.* The execution, delivery and performance of this Bond Purchase Agreement by the Purchaser have been duly authorized by all necessary action of the Purchaser and do not and will not conflict with or result in the breach of any of the terms, conditions or provisions of, or constitute a default under, its organizational documents, any law, court or administrative regulation, decree or order applicable to or binding upon the Purchaser, or, to the best of its knowledge, any agreement, indenture, mortgage, lease or instrument to which the Purchaser is a party or by which it is bound.

(3) *Document Legal, Valid and Binding.* When executed and delivered by the Purchaser, this Bond Purchase Agreement will be, and is, a legal, valid and binding obligation, enforceable in accordance with its terms, subject, as to enforcement, to any applicable bankruptcy, reorganization, insolvency, moratorium or other laws affecting the enforcement of creditors' rights generally and further subject to the availability of equitable remedies. The party executing this Bond Purchase Agreement on behalf of the Purchaser has been duly authorized to execute this Bond Purchase Agreement by action of the governing body of the Purchaser.

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

## **SECTION 2. PURCHASE, SALE AND DELIVERY OF THE BONDS**

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

The Bonds shall be sold to the Purchaser by the City on the Closing Date (hereinafter defined) upon payment of an amount equal to the Closing Price (hereinafter defined), which amount shall be applied as provided in the Indenture and the Lease. From time to time after the Closing Date, the Purchaser shall make additional payments with respect to the Bonds ("Additional Payments") to the Trustee under the Indenture, which Additional Payments shall be applied to the payment or reimbursement of Project Costs or as provided in the Indenture and the Lease; provided that the sum of the Closing Price and all such Additional Payments shall not, in the aggregate, exceed \$8,000,000 plus the costs of issuance of the Bonds (if such costs of issuance are not paid with Bond proceeds).

As used herein, the term "Closing Date" shall mean \_\_\_\_\_, 2026, or such other date as shall be mutually agreed upon by the City and the Purchaser; the term "Closing Price" shall mean the amount specified in writing by the Purchaser and agreed to by the City as the amount required to pay for the initial issuance of the Bonds on the Closing Date, which amount shall be equal to any Project Costs spent by the Purchaser from its own funds on or before the Closing Date, and, at the Purchaser's option, the costs of issuance of the Bonds if such costs are not paid for from Bond proceeds.

The Bonds shall be issued under and secured as provided in the Ordinance, the Indenture and the Lease authorized thereby, and the Bonds shall mature, accrue interest and be subject to redemption as set forth therein. The delivery of the Bonds shall be made in definitive form as a fully-registered bond in the maximum aggregate principal denomination of \$8,000,000; provided, that the principal amount of the Bonds outstanding at any time shall be that amount recorded in the records of the Trustee, absent manifest error, and further provided that interest shall be payable on the Bonds only on the outstanding principal amount of the Bonds, as more fully provided in the Indenture.

### **SECTION 3. CONDITIONS TO THE OBLIGATIONS**

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

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

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

(c) The Purchaser shall execute a certificate, dated the Closing Date, to the effect that (1) no litigation, proceeding or investigation is pending against the Purchaser or its affiliates or, to the knowledge of the Purchaser, threatened which would (A) contest, affect, restrain or enjoin the issuance, validity, execution, delivery or performance of the Bonds, or (B) in any way contest the corporate existence or powers of the Purchaser, (2) no litigation, proceeding or investigation is pending or, to the knowledge of the Purchaser, threatened against the Purchaser that could reasonably be expected to adversely affect its ability to perform its obligations hereunder or under the Lease or the Development Agreement, (3) the representations and warranties of the Purchaser herein were and are true and correct in all material respects and not misleading as of the date made and as of the Closing Date, and (4) such other matters as are reasonably requested by the other parties in connection with the issuance of the Bonds.

### **SECTION 4. THE PURCHASER'S RIGHT TO CANCEL**

The Purchaser may cancel its obligation hereunder to purchase the Bonds by notifying the City in writing at or before the Closing Date.

## **SECTION 5. CONDITIONS OF OBLIGATIONS**

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

## **SECTION 6. REPRESENTATIONS AND AGREEMENTS TO SURVIVE DELIVERY**

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

## **SECTION 7. NOTICE**

Any notice or other communication to be given under this Bond Purchase Agreement may be given in writing by mailing or delivering the same as follows:

(a) To the City:

City of University City, Missouri  
6801 Delmar Boulevard  
University City, Missouri 63130  
Attn: City Manager

with a copy to:

John F. Mulligan, Jr.  
Attorney at Law  
6 Carrswold  
Clayton, Missouri 63105

(b) To the Trustee:

UMB Bank, N.A.  
2 S. Broadway, Suite 600  
St. Louis, Missouri 63102  
Attn: Corporate Trust Department

(c) To the Purchaser:

WY Hospitality Group LLC  
6632 Delmar Boulevard  
St. Louis, Missouri 63130  
Attn: Xin Wei

with a copy to:

Stone, Leyton & Gershman, P.C.  
7733 Forsyth Boulevard, Suite 500  
St. Louis, Missouri 63105  
Attn: Steven H. Stone, Esq.

## **SECTION 8. APPLICABLE LAW; ASSIGNABILITY**

This Bond Purchase Agreement shall be governed by the laws of the State of Missouri. This Bond Purchase Agreement may be assigned by the Purchaser, in whole as to all or any part of the Bond to any Person that expressly assumes in writing all of the obligations of the Purchaser contained in the Lease and the Development Agreement, or if such assignment is in part as to the Bond, the obligations of the Purchaser contained in the Lease; provided that the consent of the City for the assignment of this Bond Purchase Agreement shall not be required if the consent of the City is not required for such Person's assumption of the Lease under the provisions of **Article XIII** thereof. Any such assignee shall agree to be bound by the terms of this Bond Purchase Agreement. This Bond Purchase Agreement may be assigned, without approval of, but with notice to the City, by the Purchaser to any lender of the Purchaser as collateral for a loan secured by a deed of trust or mortgage of the Project (as defined in the Lease) and the Bond may be pledged, without approval of the City, by the Purchaser to any lender of the Purchaser as collateral for a loan secured by a deed of trust or mortgage of the Project.

## **SECTION 9. EXECUTION IN COUNTERPARTS; ELECTRONIC SIGNATURE**

(a) This Bond Purchase Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same document.

(b) The counterparts of this Bond Purchase Agreement may be executed and delivered by facsimile or electronic signature (including portable document format) by either of the parties hereto, and the receiving party may rely on the receipt of any counterpart so executed and delivered electronically or by facsimile as if the original had been received. Each party may sign and transmit an electronic signature on this Bond Purchase Agreement, which signature shall be binding on the party whose name is contained thereon. The intentional action in electronically signing this Bond Purchase Agreement shall be evidence of consent to be legally bound by this Bond Purchase Agreement. Each party agrees to not contest the admissibility or enforceability of the electronically signed copy of this Bond Purchase Agreement in any proceeding arising out of the terms and conditions of this Bond Purchase Agreement.

## **SECTION 10. ANTI-ISRAEL DISCRIMINATION ACT**

Pursuant to Section 34.600 of the Revised Statutes of Missouri, the Purchaser certifies it is not currently engaged in and shall not, for the duration of this Bond Purchase Agreement, engage in a boycott of goods or services from the State of Israel; companies doing business in or with the State of Israel or authorized by, licensed by, or organized under the laws of the State of Israel; or persons or entities doing business in the State of Israel.

[Remainder of Page Intentionally Left Blank]

Very truly yours,

**WY HOSPITALITY GROUP LLC,**  
a Missouri limited liability company

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

DATE OF EXECUTION: \_\_\_\_\_, 2026.

[Bond Purchase Agreement]

Accepted and Agreed to this \_\_\_\_\_ day of \_\_\_\_\_, 2026.

**CITY OF UNIVERSITY CITY, MISSOURI**

By: \_\_\_\_\_  
Gregory Rose, City Manager

[SEAL]

ATTEST:

By: \_\_\_\_\_  
LaRette Reese, City Clerk

[Bond Purchase Agreement]



**EXHIBIT F**  
**DEVELOPMENT AGREEMENT**

(On file in the office of the City Clerk)



## DEVELOPMENT AGREEMENT

**THIS DEVELOPMENT AGREEMENT** (this “Agreement”) is made and entered into as of [\*Date\*], 2026, by and between the **CITY OF UNIVERSITY CITY, MISSOURI**, a home-rule charter city organized and existing under the laws of the State of Missouri and its charter (the “City”), and **WY HOSPITALITY GROUP LLC**, a Missouri limited liability company (the “Company”).

### RECITALS

**A.** The City is authorized and empowered pursuant to the provisions of Article VI, Section 27(b) of the Missouri Constitution and Sections 100.010 through 100.200 of the Revised Statutes of Missouri (collectively, the “Act”) and the City Charter, to purchase, construct, extend and improve certain projects (as defined in the Act) and to issue industrial development revenue bonds for the purpose of providing funds to pay the costs of such projects and to lease or otherwise dispose of such projects to private persons or corporations for manufacturing, commercial, warehousing, office industry and industrial development purposes upon such terms and conditions as the City deems advisable.

**B.** Pursuant to the Act, the City Council passed Ordinance No. \_\_\_\_ on \_\_\_\_\_, 2026 (the “Ordinance”) approving a Plan for an Industrial Development Project and Cost/Benefit Analysis (the “Plan”) relating to the acquisition of certain property located at 8021 Olive Boulevard in the City (as more fully described on **Exhibit A**, the “Project Site”) and the construction of a 13,275-square-foot commissary and 3,500 square feet of retail and restaurant space (the “Project Improvements” and, together with the Project Site, the “Project”).

**C.** The Ordinance also authorizes the City to (1) issue its Taxable Industrial Revenue Bonds (8021 Olive Boulevard Project), Series 2026, in the maximum principal amount of \$8,000,000 (the “Bonds”), for the purpose of acquiring the Project Site and constructing the Project Improvements thereon, (2) acquire fee title to the Project Site upon the issuance of the Bonds, and (3) enter into a Lease Agreement with the Company for the purpose of leasing the Project to the Company for rent sufficient to pay debt service on the Bonds.

**D.** The Ordinance also authorizes the City to enter into this Agreement, governing the development of the Project and the availability of certain economic development incentives available to the Project.

**E.** The City has determined that the implementation of the Project and the fulfillment generally of this Agreement are in the best interests of the City and in accord with the public purposes specified in the Plan.

### AGREEMENT

Now, therefore, in consideration of the premises and mutual promises contained herein and other good and valuable consideration, the adequacy and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

## ARTICLE I

### DEFINITIONS

**Section 1.1. Definitions.** In addition to the words and terms defined in the Recitals, the following words and terms shall have the following meanings:

“*Abatement Compliance Manager*” means the St. Louis County officer performing the duties as set forth herein on behalf of the St. Louis County Department of Revenue - Office of Compliance, or any successor thereto.

“*Abatement Initiation Date*” means January 1 of the year immediately following the year in which a Certificate of Substantial Completion is approved or deemed approved pursuant to **Section 3.7**, unless the Company notifies the City in writing by July 1 of such year that the Abatement Initiation Date should be January 1 of such year.

“*Actual Taxable Sales*” means total sales subject to the City’s sales taxes occurring at the Project Site, as reported on an Annual Report and documented with sales tax returns filed with the Missouri Department of Revenue or other evidence reasonably acceptable to the City Manager.

“*Annual Report*” means, collectively, a report in substantially the form of **Exhibit E** attached hereto and the documentation of Actual Taxable Sales, to be submitted by the Company to the City pursuant to **Section 4.4**.

“*Approved Site Plan*” means the detailed site plan attached as **Exhibit B** and approved by the City Council on January 27, 2025 (SPR-25-02), as may be revised or amended from time to time in accordance with the Municipal Code.

“*Assessor*” means the Assessor of St. Louis County, Missouri.

“*Base Value*” means the most recent assessed valuation of the Project Site, as determined by the Assessor, when the Project Site is acquired by the City.

“*Bond Counsel*” means Gilmore & Bell, P.C., St. Louis, Missouri, or an attorney at law or a firm of attorneys selected by the City of nationally recognized standing in matters pertaining to obligations issued by states and their political subdivisions.

“*Bond Documents*” means this Agreement and the Trust Indenture, the Lease, the Bond Purchase Agreement and other documents to be entered into in connection with the issuance of the Bonds.

“*Bonds*” means the City’s Taxable Industrial Revenue Bonds (8021 Olive Boulevard Project), Series 2026, in the maximum principal amount of \$8,000,000, as authorized by the Ordinance, the Plan and this Agreement.

“*Certificate of Substantial Completion*” means a Certificate of Substantial Completion in substantially the form attached as **Exhibit D**, to be delivered by the Company pursuant to **Section 3.7**.

“*City Attorney*” means John F. Mulligan, Jr. or any other person or law firm appointed as the City Attorney by the City.

“*City Council*” means the City Council of the City.

*“City Issuance Fee”* means the amount of \$40,000 (0.5% of the principal amount of the Bonds) to be paid to the City pursuant to **Section 2.1(a)** in consideration of the City’s issuance of the Bonds.

*“City Manager”* means the person duly appointed and acting as City Manager pursuant to the Municipal Code, including, without limitation, any person serving as City Manager on an interim basis.

*“Collector”* means (a) the Collector of Revenue of St. Louis County, Missouri, or (b) if the Collector of Revenue of St. Louis County, Missouri, will not perform the responsibilities of the Collector hereunder, the City.

*“Event of Default”* means any Event of Default as provided in **Section 5.1**.

*“Governmental Approvals”* means all plat approvals, re-zoning or other zoning changes, planned unit development approvals, site plan approvals, conditional use permits, variances, building permits, architectural review or other subdivision, zoning or similar approvals, or approvals required by the Municipal Code, any other applicable law or this Agreement for the completion of the Project and the issuance of the Bonds.

*“Incremental Value”* means the difference between the then-current assessed valuation of the Project, as calculated by the Assessor in accordance with **Section 4.2**, and the Base Value.

*“Lease”* means the Lease Agreement of even date herewith between the City and the Company, as may be amended from time to time.

*“Municipal Code”* means the University City Municipal Code, as may be amended from time to time.

*“Partial Tax Relief Period”* means the year in which the Abatement Initiation Date occurs and each of the fourteen years thereafter.

*“Project”* shall have the meaning set forth in the recitals.

*“Project Improvements”* shall have the meaning set forth in the recitals.

*“Project Site”* shall have the meaning set forth in the recitals.

*“Related Party”* means (a) any party related to the Company by one of the relationships described in Section 267(b) of the United States Internal Revenue Code of 1986, as amended, or (b) any party controlled by or under common control with the Company.

*“State”* means the State of Missouri.

*“Work”* means the construction of the Project Improvements, including the construction on the Project Site of a 13,275-square-foot commissary and 3,500 square feet of retail and restaurant space, as set forth on the Approved Site Plan.

## ARTICLE II

### PROJECT COSTS

#### **Section 2.1. Project Costs.**

(a) *Issuance and Legal Costs.* The Company shall pay, prior to or simultaneously with the issuance of the Bonds and the execution of this Agreement, (1) the City Issuance Fee, (2) all other costs of issuance related to the Bonds, including, without limitation, City Attorney fees, Bond Counsel fees, and trustee fees, and (3) all costs of the City Attorney, Bond Counsel and other third parties incurred by the City relating to the negotiation and execution of this Agreement. In addition, the Company shall reimburse the City for any costs of the City Attorney, Bond Counsel and other third parties incurred by the City in connection with any amendments to the Bond Documents or estoppels or similar documents associated with refinancing the Project.

(b) *Construction Costs.* The Company shall be solely responsible for funding or obtaining financing to fund all costs of acquiring and constructing the Project.

(c) *No Waivers.* Nothing in this Agreement shall be construed to waive any application fee or other cost to the Company associated with any Governmental Approval required by the Municipal Code, including but not limited to application fees for zoning changes and building permits.

## ARTICLE III

### **OWNERSHIP OF THE PROJECT SITE; SCHEDULE; CONSTRUCTION OF THE PROJECT; CITY APPROVALS**

**Section 3.1. Ownership of the Project Site.** The Company represents that it owns or has a contractual right to acquire all of the real property included in the Project Site and required for construction of the Project.

#### **Section 3.2. Project Construction.**

(a) The Company will substantially complete the Project Improvements by December 31, 2027, subject to **Section 3.8.** Substantial completion shall be determined by the City's acceptance or deemed acceptance of the Certificate of Substantial Completion pursuant to **Section 3.7.**

(b) Upon reasonable advance notice from the City, the Company and its project team shall meet with the Mayor, the City Manager and such other City staff and consultants as designated by the Mayor or the City Manager to review and discuss the design and construction of the Work, to enable the City to monitor the status of construction and the aesthetics of the Work, and to determine that the Work is being performed and completed in accordance with this Agreement and the Municipal Code.

(c) Construction of the Work shall be pursued in a good and workmanlike manner in accordance with the terms of this Agreement.

(d) In accordance with **Section 4.2** of the Lease, the Company may revise its plans for the Project as it deems necessary to carry out the Project, but revisions that affect the status of the Project as a "project" under the Act or that would materially alter the accuracy of the description of the Project in the

Plan (including, but not limited to, any change in use of the Project as a food commissary) may be made only with the prior written approval of the City.

(e) Notwithstanding any other provision herein or in the Lease to the contrary, the Project Improvements shall be designed, constructed and completed in accordance with the “Olive Boulevard Design Guidelines” currently in effect for the Project Site (available at [www.icitymo.org/468/Olive-Blvd-Design-Guidelines](http://www.icitymo.org/468/Olive-Blvd-Design-Guidelines)), unless otherwise specified or waived by the City in writing, at the City’s sole discretion. The Company hereby represents that (i) it will expend at least \$86,778 to complete streetscape work, which expenses may include excavation, concrete walkways, tree grates, trees, streetlights, irrigation, and an allocated contractor’s fee; and (ii) the streetscape work will comply with the Olive Boulevard Design Guidelines.

**Section 3.3. Construction Contracts; Insurance.** All construction contracts for the Work entered into by or on behalf of the Company shall state that the contractor has no recourse against the City in connection with the contractor’s construction of the applicable portion of the Work. The Company shall obtain or shall require any contractor to obtain workers’ compensation, commercial public liability and builder’s risk insurance coverage in the amounts required by the Bond Documents and shall deliver evidence of such insurance to the City in accordance with the provisions of the Bond Documents. The Company shall require that such insurance be maintained by the contractors for the duration of the construction of the applicable portion of the Work.

**Section 3.4. Competitive Bids; Prevailing Wage; Federal Work Authorization.**

(a) The Company shall comply with all federal, State and local laws relating to the construction of the Project, including, but not limited to, Section 107.170 of the Revised Statutes of Missouri and laws relating to the payment of prevailing wages and competitive bidding, to the extent such laws are applicable to the Project or portions thereof.

(b) The Company will comply with and satisfy the requirements of Section 285.530.2 of the Revised Statutes of Missouri, which requires (1) any business entity receiving tax abatement to, by sworn affidavit and provision of documentation, annually affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the business entity receiving tax abatement, and (2) every such business entity to annually sign an affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the entity receiving tax abatement. The Company shall provide such affidavit, in substantially the form attached as **Exhibit C**, and documentation to the City Manager or his designee on or before July 30 of each year during the term of this Agreement, beginning July 30, 2027.

**Section 3.5. Governmental Approvals.** The Company shall obtain or cause to be obtained all necessary Governmental Approvals and shall be subject to all lawful inspections and perform such necessary acts as are required under the ordinances of the City. The City agrees to cooperate with the Company and to process and timely consider all complete applications for the Governmental Approvals as received, all in accordance with the Municipal Code and laws of the State; provided, however, that nothing herein contained shall be construed as the City’s current approval of, or acquiescence to, any Governmental Approvals, the parties acknowledging that such matters can only be approved by the City in the proper exercise of its municipal functions through appropriate governmental procedures.

**Section 3.6. Approved Site Plan; Zoning.** The Approved Site Plan has been approved by the City Council on January 27, 2025 (SPR-25-02). Notwithstanding the foregoing, the Company may make changes from time to time to the Approved Site Plan as permitted by the Municipal Code and request amendments to the Approved Site Plan by following the procedures required by the Municipal Code. The

City makes no representation that it will approve any requested amendment. The City and the Company agree that the Approved Site Plan, as may be amended from time to time, shall govern the ultimate design and construction of the Project. In accordance with **Section 3.2(d)** above, no amendment to the Approved Site Plan which reflects a change in use of the Project away from its use as a food commissary may be approved without the prior written consent of the City.

### **Section 3.7. Certificate of Substantial Completion.**

(a) The Company shall furnish a Certificate of Substantial Completion, in substantially the form of **Exhibit D**, which is hereby incorporated by reference, to the City.

(b) The appropriate City official shall diligently process the submitted Certificate of Substantial Completion, including making such inspections as may be reasonably necessary to verify the accuracy of the project architect's certifications accompanying the Certificate of Substantial Completion. The appropriate City official shall accept or reject the Certificate of Substantial Completion in writing within 45 days following delivery to the City. If the City has not accepted or rejected the Certificate of Substantial Completion within such 45-day period, the Certificate of Substantial Completion shall be deemed accepted by the City as of the expiration of such 45-day period. If the appropriate City official rejects the Certificate of Substantial Completion, such rejection shall specify in reasonable detail in what respects the Company has failed to complete the Work in reasonable accordance with the provisions of this Agreement, or in what respects the Company is otherwise in default, and what measures or acts the Company must take or perform, in the good faith opinion of such City official, to obtain such acceptance.

(c) The City may issue any and all appropriate certificates of occupancy in accordance with the Municipal Code, even if the City has not yet accepted the Certificate of Substantial Completion.

**Section 3.8 Excusable Delay.** Notwithstanding anything to the contrary contained herein or in the Lease, the schedule for completion of the Project Improvements described in **Section 3.2** and any other obligations herein shall be automatically extended by the number of days of delay caused by actions or events beyond the control of the Company, including, without limitation, damage or destruction by fire or casualty, strike, lockout, civil disorder, war, restrictive government regulations, lack of issuance of any permits and/or legal authorization by the governmental entity necessary for the construction and occupation of the Project (provided that reasonable efforts have been made to obtain said permits/authorizations and all conditions precedent to the issuance of said permits and/or authorizations have been met), shortage or delay in shipment of material or fuel, acts of God, public health emergencies, unusually adverse weather or wet soil conditions, or other like causes beyond the Company's reasonable control, including without limitation any litigation, court order or judgment resulting from any litigation affecting the validity of this Agreement or the Bond Documents (collectively, an "Excusable Delay"). The parties agree that as of the date of this Agreement, no known condition or event exists that would justify an Excusable Delay. Notwithstanding the foregoing, no Excusable Delay will be deemed to exist unless the Company notifies the City in writing of such Excusable Delay within 30 days after the commencement of the event causing such Excusable Delay (or within 30 days after the date that the Company should reasonably have determined that such event will cause such Excusable Delay). An Excusable Delay shall not include any condition or circumstance caused or extended by the Company or a Related Party or attributable to the action or inaction of the Company or a Related Party, with the exception of any excusable delay under a construction contract with a Related Party. If unforeseen site conditions on the Project Site, such as unknown environmental contamination or geotechnical conditions not identified prior to the inception of the Project, cause significant delay in completing the Work, the deadlines provided in **Section 3.2** shall be extended for that period of time which the Company can demonstrate to the reasonable satisfaction of the City Council to be necessary to remediate such conditions, but in no event shall the date for substantial completion in **Section 3.2** be extended beyond December 31, 2028.

## **ARTICLE IV**

### **TAX ABATEMENT & OTHER INCENTIVES**

**Section 4.1. Sales and Use Tax Exemption.** The City will issue the Bonds and the City and the Company will enter into the Bond Documents to facilitate a sales and use tax exemption on qualified building materials used to construct the Project Improvements. Simultaneously with the closing of the Bonds, the City will provide a project exemption certificate to the Company.

**Section 4.2. Partial Real Property Tax Abatement.**

(a) In accordance with the provisions of the Act, the Plan and the Bond Documents, the City will issue the Bonds in connection with the development of the Project. Pursuant to the Bond Documents, fee title to the Project will be deeded to the City upon the issuance of the Bonds. The City expects the Project will be exempt from ad valorem real property taxes so long as the City owns title thereto.

(b) The Assessor will, until this Agreement is terminated, determine an assessed valuation with respect to the applicable portion of the Project in accordance with Article X, Section 4(b) of the Missouri Constitution and Section 137.115 of the Revised Statutes of Missouri, as if title to the Project were in the name of the Company and not the City. Such assessment shall be performed as of January 1 of each year. To facilitate the assessment, the Company agrees to provide to the Assessor such information as the Assessor may reasonably require to complete the assessment of the Project.

(c) The Assessor shall notify the Company of the assessed valuation in writing. The Company shall notify the City, the Assessor and the Abatement Compliance Manager if the Company has not received such notice by July 1.

(d) On or about the same date on which the Collector notifies taxpayers of taxes due under Missouri law, the Collector shall notify the Company of the amount of PILOT Payments due hereunder. The amount of PILOT Payments due for each year shall be as follows:

(1) In each year before the Abatement Initiation Date occurs, an amount equal to 100% of the real property taxes that would otherwise be due to all of the affected taxing jurisdictions, but for the City's ownership thereof.

(2) In the first five years of the Partial Tax Relief Period, 100% of the ad valorem real property taxes that would otherwise be due, but for the City's ownership of the Project, based on the Base Value;

(3) In the last ten years of the Partial Tax Relief Period, the amount described in subsection (2) above, plus 50% of the ad valorem real property taxes that would otherwise be due, but for the City's ownership of the Project, based on the Incremental Value.

(e) Each PILOT Payment shall be payable to the Collector. The Company covenants and agrees to make such PILOT Payments on or before December 31 of each year during the term of this Agreement. The Company's failure to receive notices under (c) or (d) of this Section does not relieve the Company of its obligation to make the applicable PILOT Payments by December 31 as provided herein.

(f) Within 30 days after receipt of each PILOT Payment, the Collector shall, after deducting its customary fee for collection thereof, divide each PILOT Payment among the taxing jurisdictions in proportion to the amount of the then-current ad valorem tax levy of each taxing jurisdiction.

(g) The Company shall purchase the Project pursuant to **Section 11.4** of the Lease no later than December 31 of the 14th year following the year that the Abatement Initiation Date occurs in.

(h) If title to the Project or the applicable portion thereof is not conveyed by the City to the Company before January 1 following the earlier of (1) the expiration of the term of this Agreement or (2) the date determined in accordance with paragraph (g) above, then on December 31 of such year and each year thereafter until title to the Project is transferred to the Company, the Company shall pay to the Collector a PILOT Payment equal to 100% of the real property taxes that would otherwise be due, but for the City's ownership of the Project.

(i) The property tax exemption provided by the City's ownership of the Project is expected to apply to all interests in the Project during the period it is owned by the City. If any ad valorem real property taxes are levied by or on behalf of any taxing jurisdiction against any interest in the Project while the City owns the Project (including, without limitation, any ad valorem taxes levied against the Company's rights in the Lease), the amount of the PILOT Payments the Company is obligated to pay pursuant to this Agreement shall be reduced by the amount of ad valorem tax payments paid by the Company and received by the Collector with respect to the Project. The Company shall be responsible for any taxes related to any interest in the Project that the Company owns in its own name or granted to the Company other than pursuant to the Lease. Notwithstanding the foregoing, there shall be no reduction in PILOT Payments for any sales taxes imposed by any governmental authority, including the Missouri Department of Revenue, in connection with the Company's acquisition of construction materials for real property improvements or equipment at the Project Site.

(j) If the Company exercises its option to purchase the Project pursuant to **Section 11.1** of the Lease before the Collector notifies the Company of the annual PILOT Payment due under this Agreement, the Company shall pay to the City an amount equal to 100% of the ad valorem real property taxes that would have been payable to each taxing jurisdiction, but for the City's ownership of the Project, for the preceding calendar year (the "Escrowed Amount"). Once the Collector notifies the Company of the PILOT Payment due under this Section for the calendar year in which the Company purchases the Project, the Company will forward the Collector's notification to the City, and the City will use the Escrowed Amount to pay the PILOT Payment to the Collector and refund the remaining amount, if any, to the Company.

(k) If the Company exercises its option to purchase the Project pursuant to **Section 11.1** of the Lease after receiving notification of the PILOT Payment due under this Agreement for the calendar year in which the Company purchases the Project, the Company shall pay that amount to the Collector (to be distributed as provided herein) prior to closing on the purchase of the Project.

**Section 4.3. No Abatement on Special Assessments, Personal Property Taxes, Licenses or Fees.** The City and the Company hereby agree that the property tax exemptions described in this Agreement shall not apply to special assessments or ad valorem personal property taxes and shall not serve to reduce or eliminate any other licenses or fees owing to the City or any other taxing jurisdiction with respect to the Project. The Company (and subsequent owners of the Project or portions thereof) will make payments with respect to all special assessments, personal property taxes, licenses and fees that would otherwise be due with respect to the Project or portions thereof if such Project or portions thereof were not owned by the City.

**Section 4.4. Economic Development Sales Tax Grant.** For the purposes of offsetting a portion of the Company's costs of installing certain streetscape improvements that comply with the Olive Boulevard Design Guidelines, the City will provide a grant of not to exceed \$86,778 to the Company, payable in three installments of not to exceed \$28,926 (each, an "Installment"), subject to the following terms:

(a) The Company shall submit an Annual Report to the City for each of calendar years 2028, 2029 and 2030 no later than July 1 of the year following the applicable Annual Report year (for example, the Company shall submit the Annual Report for 2028 to the City no later than July 1, 2029). The City shall have 45 days to review and provide any written objections to the Annual Report. If no written objections are provided to the Company during the 45-day period, the Annual Report shall be deemed accepted by the City. If the City does provide written objections to the Company, the Company will have 30 days to submit a revised Annual Report and the City will have 30 days to provide any written objections to the revised Annual Report (and if no written objections are provided by the City within such 30-day period, the revised Annual Report shall be deemed accepted by the City). The procedures in the foregoing sentence may be repeated until an Annual Report is accepted or deemed accepted by the City; provided, however, if no Annual Report is submitted within the timeframes permitted by this subsection, the Company shall be deemed to have waived payment of an Installment for the applicable year.

(b) The amount of each Installment will be based on the Actual Taxable Sales at the Project for the applicable year, as reported on the applicable Annual Report approved or deemed approved by the City, pursuant to the following formulas:

(1) If the Actual Taxable Sales for the applicable year listed below equals or exceeds the corresponding "Benchmark" for such year, the Installment for the applicable year shall equal \$28,926.

Year	Benchmark
2028	\$6,365,604
2029	6,556,572
2030	6,753,269

(2) If the Actual Taxable Sales for the applicable year is less than the corresponding Benchmark stated above, the Installment amount shall be calculated as follows:

2028:  $(1 - ((\$6,365,604 - 2028 \text{ Actual Taxable Sales}) / \$1,993,557)) * \$28,926$   
= 2028 Installment amount

2029:  $(1 - ((\$6,556,572 - 2029 \text{ Actual Taxable Sales}) / \$2,053,385)) * \$28,926$   
= 2029 Installment amount

2030:  $(1 - (\$6,753,269 - \text{Actual 2030 Taxable Sales}) / \$2,114,986)) * \$28,926 =$   
2030 Installment amount

*For example, if 2028 Actual Taxable Sales are \$6,000,000, the 2028 Installment amount will equal  $(1 - ((\$6,365,604 - \$6,000,000) / \$1,993,557)) * \$28,926 = \$23,621.18$ .*

(c) Notwithstanding anything to the contrary contained herein, an Installment shall be deemed waived by the Company if the Installment amount, as calculated pursuant to (b)(2) above, is less than \$5,000.

(d) The City shall pay any Installment due under this Section to or at the direction of the Company within 15 days following the approval or deemed approval of an Annual Report.

(e) Notwithstanding anything to the contrary contained herein or otherwise in this Agreement, the Company's inability to obtain any of the Installments described in this **Section 4.4** (Economic Development Sales Tax Grant) shall have no effect on the incentives granted under **Section 4.1** (Sales and Use Tax Exemption) or **Section 4.2** (Partial Real Property Tax Abatement).

## ARTICLE V

### EVENTS OF DEFAULT; REMEDIES

**Section 5.1. Events of Default.** If any one or more of the following events occurs and is continuing, it is hereby defined as and declared to be and to constitute an Event of Default hereunder:

(a) any Party fails to perform any of its material obligations hereunder for a period of 30 days (or such longer period as the City and the Company may agree in writing) following written notice to the defaulting party of such failure, or if such failure is not subject to cure within such 30 days after such notice, the defaulting party fails to initiate action to cure the default within such 30 days after such notice is given and fails to pursue such action diligently; or

(b) any representation of any Party contained herein proves to be materially false or erroneous and is not corrected or brought into compliance within 30 days (or such longer period as the City and the Company may agree in writing) following written notice to the defaulting party specifying the false or erroneous representation and requiring it to be remedied, or if such matter is not subject to cure within such 30 days after such notice, the defaulting party fails to initiate action to cure the default within such 30 days after such notice is given and fails to pursue such action diligently.

**Section 5.2. Remedies on Default.** Any Event of Default referred to in **Section 5.1** caused by the action or inaction of the Company shall also constitute an Event of Default under the Bond Documents, affording the City the remedies specified therein, to the extent permitted by State law.

**Section 5.3. Remedies.** Upon the occurrence of an Event of Default, the aggrieved party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default, including, but not limited to proceedings to compel specific performance by the defaulting party or to terminate this Agreement.

## **ARTICLE VI**

### **GENERAL PROVISIONS**

**Section 6.1. Term of Agreement.** This Agreement shall become effective upon execution by the parties hereto and shall terminate upon the earliest to occur of the following:

- (a) the payment in full of the Bonds (or any bonds issued to refund the Bonds) and the payment of all amounts due under this Agreement;
- (b) the occurrence and continuance of an Event of Default beyond the cure period and the subsequent termination of this Agreement pursuant to the provisions of this Agreement; or
- (c) the expiration of the Lease (including, without limitation, termination as a result of the Company's purchase of the Project by tendering the Bonds for cancellation pursuant to **Article XI** of the Lease).

**Section 6.2. Successors and Assigns.**

(a) The Company shall not assign its interest in this Agreement prior to the City's acceptance or deemed acceptance of the Certificate of Substantial Completion without the consent of the City unless such assignment is to a Related Party or made as part of a collateral assignment in connection with the financing or refinancing of the Project. Notwithstanding the foregoing, the City shall not withhold its consent if it is reasonably satisfied that the proposed assignee has significant experience developing multi-family projects and has the financial ability to complete the Project.

(b) The Company shall, immediately upon the consummation of any assignment of its interests in this Agreement, provide the City with a copy of the assignment and assumption agreement between the Company and the assignee.

**Section 6.3. Notices.** All notices, certificates or other communications required or desired to be given hereunder shall be in writing and shall be deemed duly given when mailed by registered or certified mail, postage prepaid, delivered personally, or sent by overnight delivery or other delivery service which requires written acknowledgment of receipt by the addressee, addressed as follows:

(a) If to the City:

City of University City, Missouri  
6801 Delmar Boulevard  
University City, Missouri 63130  
Attn: City Manager

with a copy to:

John F. Mulligan, Jr.  
Attorney at Law  
6 Carrswold  
Clayton, Missouri 63105

(b) If to the Company:

WY Hospitality Group LLC  
6632 Delmar Boulevard  
St. Louis, Missouri 63130  
Attn: Xin Wei

with a copy to:

Stone, Leyton & Gershman, P.C.  
7733 Forsyth Boulevard, Suite 500  
St. Louis, Missouri 63105  
Attn: Steven H. Stone, Esq.

The City and the Company may from time to time designate, by notice given hereunder to the other party, such other address to which subsequent notices, certificates or other communications shall be sent. Attorneys for a party may give notice on behalf of their client.

**Section 6.4. Contractual Liability Insurance Requirements.** The Company shall maintain contractual liability insurance covering the Company's indemnification obligations under **Section 6.5** below. The contractual liability insurance shall be placed with an insurance company or companies authorized to do business in the State of Missouri or generally recognized international insurers or reinsurers with an A.M. Best rating of not less than "A-" or the equivalent thereof as may be selected by the Company, provided, the City Attorney must be reasonably satisfied that this Agreement is an "insured contract" (or equivalent terminology) under the policy or policies obtained by the Company. The Company shall provide the City with copies of such insurance policy and a current certificate of insurance to evidence the current effectiveness of such insurance coverage upon the execution of this Agreement and from time to time thereafter upon written request of the City. If requested by the City Attorney, the Company shall cause the City to be named as an additional insured under the contractual liability insurance coverage required by this subsection.

#### **Section 6.5. Release and Indemnification.**

(a) The indemnification and covenants contained in this Section shall survive expiration or earlier termination of this Agreement.

(b) The Company hereby agrees that, anything to the contrary herein notwithstanding, it will defend, indemnify and hold harmless the City and its governing body members, employees, attorneys and agents against any and all claims, demands, actions, causes of action, loss, damage, injury, liability and/or expense (including reasonable attorneys' fees and court costs) from third party claims resulting from, arising out of, or in any way connected with (1) the Company's breach (beyond any applicable notice and opportunity to cure) of this Agreement or the Bond Documents, (2) the negligence or intentional misconduct of the Company or an affiliate thereof or its respective employees and agents, (3) the presence of hazardous wastes, hazardous materials or other environmental contaminants on the Project Site, except to the extent the same are released or introduced by the City, (4) any loss or damage to property or any injury to or death of any person occurring in or about the Project Site in connection with any activities, acts or omissions of the Company or a Related Party or any of its respective contractors, agents or employees, or (5) otherwise arising out of the adoption or administration of this Agreement, the Bond Documents or the construction of the Project. In the event that the validity or construction of the Act and/or any other ordinance of the City adopted in connection with this Agreement or the Bond Documents or affecting the Project are contested

in court, the City shall be defended, held harmless and indemnified by the Company from and against all claims, demands and/or liabilities of any kind whatsoever including, without limitation, any claim for reasonable attorneys' fees and court costs, and the Company shall pay any monetary judgment and all court costs rendered against the City, if any.

(c) Notwithstanding anything herein to the contrary, the City and its governing body, employees, attorneys and agents shall not be liable to the Company for damages or otherwise in the event that all or any part of the Act and/or any other ordinance of the City adopted in connection with this Agreement, the Bond Documents or the Project is declared invalid or unconstitutional in whole or in part by the final (as to which all rights of appeal have expired or have been exhausted) judgment of any court of competent jurisdiction.

(d) Notwithstanding the foregoing terms of this Section, the Company shall have no obligation to defend, hold harmless or indemnify the City with respect to any matter or expense resulting from or arising out of the negligence or willful misconduct of the City.

(e) All covenants, stipulations, promises, agreements and obligations of the City contained herein shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the City and not of any of the City's governing body members, employees, attorneys or agents in their individual capacities.

**Section 6.6. Property Maintenance.** The Company shall maintain the Project in good repair and in compliance with the City's generally applicable property maintenance codes, standards and ordinances.

**Section 6.7 Choice of Law.** This Agreement shall be taken and deemed to have been fully executed, made by the parties in, and governed by the laws of State for all purposes and intents. Any action arising out of, or concerning, this Agreement shall be brought only in the Circuit Court of St. Louis County, Missouri. All parties to this Agreement consent to the jurisdiction and venue of such court.

**Section 6.8. Counterparts.** This Agreement is executed in multiple counterparts, each of which shall constitute one and the same instrument.

**Section 6.9. Severability.** If any term or provision of this Agreement is held to be unenforceable by a court of competent jurisdiction, the remainder shall continue in full force and effect, to the extent the remainder can be given effect without the invalid provision.

**Section 6.10. No Waiver of Sovereign Immunity.** Nothing in this Agreement shall be construed or deemed to constitute a waiver of the City's sovereign immunity.

**Section 6.11. No Third Party Beneficiaries.** This Agreement constitutes a contract solely between the City and the Company. No third party has any beneficial interest in or derived from this Agreement.

**Section 6.12. City Consent.** Pursuant to the Ordinance, the City Manager is authorized to execute all documents on behalf of the City (including, without limitation, documents relating to the financing or refinancing of the Project by the Company) as may be required to carry out and comply with the intent of this Agreement and the Bond Documents. The City Manager is also authorized, unless expressly prohibited herein, to grant on behalf of the City such consents, estoppels and waivers relating to this Agreement, the Bonds, and the Bond Documents as may be requested during the term hereof; provided, such consents, estoppels and/or waivers shall not increase the principal amount of the Bonds, increase the

term of any leasehold interests set forth in the Bond Documents, alter the sales and use tax exemption described in **Section 4.1**, or waive an Event of Default or materially change the nature of the transactions contemplated by this Agreement and the Bond Documents unless otherwise approved by the City Council.

## ARTICLE VII

### REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE PARTIES

**Section 7.1. Representations of the City.** The City makes the following representations and warranties, which are true and correct on the date hereof:

(a) *No Violations.* The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the fulfillment of the terms and conditions hereof do not and will not conflict with or result in a breach of any of the terms or conditions of any agreement or instrument to which it is now a party, and do not and will not constitute a default under any of the foregoing.

(b) *No Litigation.* To the City's knowledge, no litigation, proceedings or investigations are pending or threatened against the City with respect to the Project or this Agreement. In addition, no litigation, proceedings or investigations are pending or, to the knowledge of the City, threatened against the City seeking to restrain, enjoin or in any way limit the approval or issuance and delivery of the Bonds or this Agreement or which would in any manner challenge or adversely affect the existence or powers of the City to enter into and carry out the transactions described in or contemplated by the execution, delivery, validity or performance by the City of, the terms and provisions of this Agreement.

(c) *No Default.* No default or Event of Default has occurred and is continuing, and no event has occurred and is continuing which with the lapse of time or the giving of notice, or both, would constitute a default or an Event of Default in any material respect on the part of the City under this Agreement.

(d) *Compliance with Laws.* The City has, to date, complied with the procedural and other requirements concerning the Governmental Approvals granted in connection with the development of the Project, the approval of this Agreement and the issuance of the Bonds.

**Section 7.2. Representations of the Company.** The Company makes the following representations and warranties, which are true and correct on the date hereof:

(a) *No Violations.* The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the fulfillment of the terms and conditions hereof do not and will not conflict with or result in a breach of any of the terms or conditions of any corporate or organizational restriction or of any agreement or instrument to which it is now a party, and do not constitute a default under any of the foregoing.

(b) *No Litigation.* To the Company's knowledge, no litigation, proceedings or investigations are pending or threatened against the Company with respect to the Project or this Agreement. In addition, to the Company's knowledge, no litigation, proceedings or investigations are pending or threatened against the Company seeking to restrain, enjoin or in any way limit the approval or execution and delivery of this Agreement or which would in any manner challenge or adversely affect the existence or powers of the Company to enter into and carry out the transactions described in or contemplated by the execution, delivery, validity or performance by the Company of, the terms and provisions of this Agreement.

(c) *No Default.* No default or Event of Default has occurred and is continuing, and no event has occurred and is continuing which with the lapse of time or the giving of notice, or both, would constitute a default or an Event of Default in any material respect on the part of the Company under this Agreement, or any other material agreement or material instrument related to the Company's ability to perform pursuant to this Agreement to which the Company is a party or by which the Company is bound.

(d) *Compliance with Laws.* With respect to its ability to perform pursuant to this Agreement, the Company is, to its knowledge, in material compliance with all valid laws, ordinances, orders, decrees, decisions, rules, regulations and requirements of every duly constituted governmental authority, commission and court applicable to any of its affairs, business and operations as contemplated by this Agreement.

(e) *Accuracy of Project Data.* The Company has provided certain financial and other information regarding the Project (the "Project Data") to the City. The parties agree that project costs, estimated tax revenues and other financial information included within the Project Data may change as the Project evolves from concept to completion, and such changes may be material. Nevertheless, the Company represents that (1) the most recently supplied Project Data was, to the Company's knowledge, developed and provided in good faith and (2) to the Company's knowledge, the Approved Site Plan set forth on **Exhibit B** is a good faith representation of the uses that the Company will endeavor to locate on the Project Site.

(f) *Anti-Discrimination Against Israel Act.* Pursuant to Section 34.600 of the Revised Statutes of Missouri, the Company certifies it is not currently engaged in and shall not, for the duration of this Agreement, engage in a boycott of goods or services from (1) the State of Israel, (2) companies doing business in or with the State of Israel or authorized by, licensed by or organized under the laws of the State of Israel or (3) persons or entities doing business in the State of Israel.

[Remainder of Page Intentionally Left Blank]

**IN WITNESS WHEREOF**, the City and the Company have caused this Agreement to be executed in their respective names and the City has caused its seal to be affixed hereto and attested, as of the date first above written.

**CITY OF UNIVERSITY CITY, MISSOURI**

(SEAL)

Attest: By: \_\_\_\_\_  
Gregory Rose, City Manager

LaRette Reese, City Clerk

**WY HOSPITALITY GROUP LLC,**  
a Missouri limited liability company

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

**EXHIBIT A**

**LEGAL DESCRIPTION OF PROJECT SITE**

**EXHIBIT B**  
**APPROVED SITE PLAN**

**EXHIBIT C**

**COMPANY'S AFFIDAVIT**

STATE OF MISSOURI )  
 ) SS  
COUNTY OF ST. LOUIS )

I, the undersigned, am over the age of 18 years and have personal knowledge of the matters stated herein.

I am a duly authorized officer of WY Hospitality Group LLC, a Missouri limited liability company (the “*Company*”), and am authorized by the Company to attest to the matters set forth herein.

The Company does not now have any employees, but to the extent the Company should become a “business entity or employer” pursuant to Section 285.530 of the Revised Statutes of Missouri, the Company will enroll in and participate in a “federal work authorization program” as defined in Section 285.525 of the Revised Statutes of Missouri.

The Company does not knowingly employ any person who is an "unauthorized alien" as defined in Section 285.525 of the Revised Statutes of Missouri.

Further Affiant Sayeth Not.

**WY HOSPITALITY GROUP LLC,**  
a Missouri limited liability company

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

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2026.

## Notary Public

My commission expires on: \_\_\_\_\_

**EXHIBIT D**

**CERTIFICATE OF SUBSTANTIAL COMPLETION**

**WY HOSPITALITY GROUP LLC** (the “Company”), pursuant to that certain Development Agreement dated as of [\*Date\*], 2026, by and between the City of University City, Missouri (the “City”) and the Company (the “Agreement”), hereby certifies to the City as follows:

1. Capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in the Agreement.

2. That as of \_\_\_\_\_, 20\_\_\_\_, the Work has been substantially completed in accordance with the Agreement and all applicable Governmental Approvals.

3. The completed Project Improvements have been completed in a workmanlike manner and in accordance with (a) the plans and permits approved by the City and (b) the applicable zoning and other ordinances that govern the construction of the Project.

4. Lien waivers for the completed Project Improvements have been obtained.

5. This Certificate of Substantial Completion is accompanied by the project architect’s certificate of substantial completion on AIA Form G-704 (or the substantial equivalent thereof), a copy of which is attached hereto as **Appendix A** and by this reference incorporated herein), certifying that the completed Project Improvements have been substantially completed in accordance with the Agreement and the Bond Documents.

6. This Certificate of Substantial Completion is being issued by the Company to the City in accordance with the Agreement to evidence the satisfaction of all obligations and covenants of the Company under the Agreement and the Bond Documents with respect to the construction of the completed Project Improvements.

7. The City’s acceptance (below) in writing to this Certificate of Substantial Completion shall evidence the satisfaction of all obligations and covenants of the Company under the Agreement and the Bond Documents with respect to the construction of the completed Project Improvements.

This Certificate of Substantial Completion is given without prejudice to any rights against third parties which exist as of the date hereof or which may subsequently come into being. All certifications or statements made or set forth in this Certificate of Substantial Completion are made solely for the benefit of the City and shall not be relied upon or used for any purpose by any third party in any proceeding, claim or contest of any kind, nature or character.

**IN WITNESS WHEREOF**, the undersigned has hereunto set his/her hand this \_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_.

**WY HOSPITALITY GROUP LLC**,  
a Missouri limited liability company

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

ACCEPTED:

**CITY OF UNIVERSITY CITY, MISSOURI**

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

(Insert Notary Form(s) and Legal Description)

**EXHIBIT E**  
**FORM OF ANNUAL REPORT**

[Date]

City of University City, Missouri  
6801 Delmar Boulevard  
University City, Missouri 63130  
Attn: City Manager

Re: Annual Report required by the Development Agreement dated as of [\*Date\*], 2026  
between University City and WY Hospitality Group LLC (the "Development Agreement")

Dear \_\_\_\_\_:

Capitalized terms used, but not otherwise defined herein, shall have the meanings set forth in the Development Agreement. In accordance with Section 4.4 of the Development Agreement, WY Hospitality Group hereby reports Actual Taxable Sales of \$\_\_\_\_\_ occurred at the Project Site between January 1, 20\_\_ and December 31, 20\_\_. Enclosed are copies of sales tax returns filed with the Missouri Department of Revenue that document this amount of Actual Taxable Sales.

[\*Because the amount of Actual Taxable Sales equals or exceeds [\*\$6,365,604 for 2028/\$6,556,572 for 2029/\$6,753,269 for 2030\*], the Company is entitled to payment of an Installment in the amount of \$28,926 with respect to calendar year [\*2028/2029/2030\*].\*]

[\*Because the amount of Actual Taxable Sales is less than [\*\$6,365,604 for 2028/\$6,556,572 for 2029/\$6,753,269 for 2030\*], the Installment due to the Company under Section 4.4 of the Development Agreement has been calculated using the formula below:

[\*2028: (1 - (( $\$6,365,604 - 2028 \text{ Actual Taxable Sales} / \$1,993,557$ ) \* 28,926 = 2028  
Installment amount\*)]

[\*2029: (1 - (( $\$6,556,572 - 2029 \text{ Actual Taxable Sales} / \$2,053,385$ ) \* 28,926 = 2029  
Installment amount\*)]

[\*2030: (1 - (( $\$6,753,269 - \text{Actual 2030 Taxable Sales} / \$2,114,986$ ) \* 28,926 = 2030 Installment  
amount\*)]

The undersigned hereby certifies that the information reported herein is, to the best of his or her knowledge, accurate and true.

**WY HOSPITALITY GROUP LLC,**  
a Missouri limited liability company

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



**CITY OF UNIVERSITY CITY COUNCIL MEETING  
AGENDA ITEM**

NUMBER: <i>For City Clerk Use</i>	UB20260126-02
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**SUBJECT/TITLE:**

Final Plat / Minor Subdivision Approval to subdivide one lot into four (4) separate lots at 1312 Purdue Avenue.

**PREPARED BY:**

Becky Ahlvin

**DEPARTMENT / WARD**

Planning and Development / Ward 3

**AGENDA SECTION:**

Unfinished Business - Bill 9579

**CAN ITEM BE RESCHEDULED?**

Yes

**CITY MANAGER'S RECOMMENDATION OR RECOMMENDED MOTION:**

City Manager concurs with the Plan Commission and recommends approval.

**FISCAL IMPACT:**

N/A

**AMOUNT:**

N/A

**ACCOUNT No.:**

N/A

**FROM FUND:**

N/A

**TO FUND:**

N/A

**EXPLANATION:**

This is a request to subdivide the lot at 1312 Purdue Avenue into four separate lots. The subject property is located on the east side of Purdue Avenue between Wellington Avenue and Hazelwood Lane, contains an existing single-family home and detached garage, and is zoned Single Family Residential (SR). The surrounding properties are also primarily zoned SR and contain single-family homes. The exception is the property to the northeast, which is zoned Public Activity (PA).

**STAFF COMMENTS AND BACKGROUND INFORMATION:**

Staff recommends approval of the minor subdivision request.

**CIP No.****RELATED ITEMS / ATTACHMENTS:**

Attached are the Plan Commission Transmittal Letter, Staff Report, Draft Ordinance, and the Final Plat.

**LIST CITY COUNCIL GOALS (S):**

Economic Development, Community Quality of Life

**RESPECTFULLY SUBMITTED:**

City Manager, Gregory Rose

**MEETING DATE:**

January 26, 2026



## Plan Commission

6801 Delmar Boulevard, University City, Missouri 63130, Phone: (314) 862-6767, Fax: (314) 862-3168

October 23, 2025

Ms. LaRette Reese  
City Clerk  
City of University City  
6801 Delmar Boulevard  
University City, MO 63130

RE: Minor Subdivision – Record Plat (SUB 25-04)

Dear Ms. Reese,

At its regular meeting on October 22, 2025, at 6:30 p.m., held virtually, the Plan Commission considered the application of Daniel Eggers from Marler Surveying Company Inc., on behalf of Jeffery S. Harton for Final Plat Approval of a proposed minor subdivision for 1312 Purdue Avenue.

By a vote of 4 ayes, 0 nays, and 1 abstention, the Plan Commission recommended approval of said minor subdivision with the following condition:

1. The applicant shall provide a legal description for the proposed lots.

Sincerely,

Charles Gascon, Chairperson  
University City Plan Commission

**STAFF REPORT**  
**City Council**

<b>Meeting Date</b>	January 12, 2026
<b>File Number</b>	SUB-25-04
<b>Council District</b>	3
<b>Location</b>	1312 Purdue Avenue
<b>Applicant</b>	Marler Surveying Company Inc (attn. Dan Eggers)
<b>Property Owner</b>	Jeffery S. Harton
<b>Request</b>	Minor Subdivision – Final Plat; subdivide existing lot into four (4) lots

**Comprehensive Plan Conformance:**

Yes       No       No reference

**Staff Recommendation:**

Approval     Approval with Conditions     Denial

**Attachments:**

- A. Application
- B. Subdivision Plat

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**Applicant Request**

The subject property is 38,235 square feet and contains an existing single-family home and detached garage. The applicant has submitted a Minor Subdivision Plat application to request to subdivide the lot into four (4) lots. The application is subject to Chapter 400, Zoning Code, and Chapter 405, Subdivision and Land Development Regulations of the University City Municipal Code. The application is being reviewed as a Minor Subdivision because the proposal does not meet any of the characteristics of a Major Subdivision as described in §405.165(A) and is therefore only required to go through the Final Plat process.

**Surrounding Land Use and Zoning**

The subject property is located on the east side of Purdue Avenue between Wellington Avenue and Hazelwood Lane. The property is zoned Single Family Residential (SR). The surrounding properties are also primarily zoned SR and contain single-family homes. The exception is the property to the northeast, which is zoned Public Activity (PA).

**Analysis**

The subject property is zoned Single Family Residential District (SR) and is located within the W.L. Musick subdivision (this is not a private subdivision). Section 400.1020 of the Zoning Code, "Lot Area and Width Exceptions," establishes the minimum lot areas and minimum lot widths for subdivisions platted prior to the City's first Zoning Code in 1926. Per this section, properties in the W.L. Musick subdivision shall have a minimum lot area of 5,600 square feet and a minimum lot width of 50 feet.

The minimum lot area created by the proposed plat is 7,948 square feet with a minimum width of 50.10

feet on Lot A. This complies with Section 400.1020.

In addition, the existing detached accessory structure is non-conforming with regard to the rear yard setback. The non-conforming status is not affected by the changes proposed with this plat. Therefore, the requirements outlined in Article XIII Non-Conforming Situations would apply.

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#### **Staff Recommendation**

The proposal meets all other Zoning Code and Subdivision Regulation requirements for a Final Plat. Prior to any improvements to any of the proposed lots, the property owners will be required to obtain all applicable permits.

Staff recommends the Plan Commission forward a recommendation of approval of the Final Plat for the proposed Minor Subdivision subject to the following condition:

1. The applicant shall provide a legal description for the proposed lots.

#### **Plan Commission**

The Plan Commission forwarded a recommendation of approval of the Minor Subdivision Plat with the above condition by a vote of 4 ayes, 0 nays, and 1 abstention.

INTRODUCED BY: \_\_\_\_\_

DATE: \_\_\_\_\_

**BILL NO. 9579**

**ORDINANCE NO.**

**AN ORDINANCE APPROVING A FINAL PLAT FOR A MINOR SUBDIVISION  
OF A TRACT OF LAND TO BE KNOWN AS “PURDUE AVENUE LOT SPLIT.”**

**WHEREAS**, a minor subdivision application was submitted by Jeffery S. Harton on September 22, 2025, for the approval of a final plat of a tract of land that subdivides one lot into four (4) separate lots to be known as “Purdue Avenue Lot Split”; and

**WHEREAS**, in a meeting on October 22, 2025, the City Plan Commission reviewed the final plat for the minor subdivision and determined that the final plat is in substantial compliance with the requirements of the University City Municipal Code and recommended to the City Council that the final plat be approved; and

**WHEREAS**, the final plat, including all required documents submitted therewith, is before the City Council for its consideration.

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

Section 1. Attached, marked “Exhibit A”, and made a part hereof is a final plat of a tract of land to be known as “Purdue Avenue Lot Split.”

Section 2. It is hereby found and determined that the final plat is in full compliance with the University City Municipal Code, including Sections 405.165, 405.380 and 405.390. Accordingly, the final plat for the major subdivision marked “Exhibit A” is hereby approved.

Section 3. The City Clerk is hereby directed to endorse upon the final plat the approval of the City Council under the hand of the City Clerk and the seal of University City.

Section 4. This ordinance shall take effect and be in force from and after its passage as provided by law.

PASSED and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

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MAYOR

ATTEST:

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CITY CLERK

CERTIFIED TO BE CORRECT AS TO FORM:

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CITY ATTORNEY

Exhibit A



