

ORDINANCE #71377
Board Bill No. 73

An Ordinance recommended by the Board of Estimate and Apportionment authorizing The City of St. Louis, Missouri to issue its Taxable Industrial Development Revenue Bonds (Vande East Partners, LLC Project), Series 2021, in a principal amount of not to exceed \$125,000,000 for the purpose of providing funds to pay the costs of purchasing and constructing an industrial development project in the City; approving a plan for such project; authorizing and directing the Mayor and the Comptroller to execute certain documents related thereto; and authorizing and directing the taking of other actions and approval and execution of other documents as are necessary or desirable to carry out and comply with the intent hereof.

WHEREAS, The City of St. Louis, Missouri, a constitutional charter city and political subdivision of the State of 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, inclusive, of the Revised Statutes of Missouri, as amended (collectively, the "Act"), and the City 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, office industry, warehousing and industrial development purposes upon such terms and conditions as the City shall deem advisable; and

WHEREAS, the Act requires the City to prepare a plan in connection with any industrial development project undertaken pursuant to the Act; and

WHEREAS, a Plan for an Industrial Development Project (the "Plan") has been prepared in the form of **Exhibit A** attached hereto; and

WHEREAS, notice of the City's consideration of the Plan has been given in the manner required by the Act, and the Board of Aldermen has fairly and duly considered all comments submitted to the Board of Aldermen regarding the proposed Plan; and

WHEREAS, the Board of Aldermen 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 Development Revenue Bonds (Vande East Partners, LLC Project), Series 2021, in a principal amount not to exceed \$125,000,000 (the "Bonds"), for the purpose of (a) acquiring a leasehold interest in certain real estate located within Redevelopment Project Area 2 of the City Foundry Saint Louis Redevelopment Area (the "Project Site") and (b) constructing office, multi-family residential, retail and structured parking uses thereon (the "Project Improvements" and, together with the acquisition of a leasehold interest in the Project Site, the "Project"), all as more fully described in the Indenture and in the Lease Agreement hereinafter authorized; (3) lease the Project to Vande East Partners, LLC (the "Company"); and (4) enter into a Performance Agreement with the Company, under which the Company will make certain payments in consideration of the City issuing the Bonds, including a community benefit contribution to support affordable housing; and

WHEREAS, the Board of Aldermen 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 that the City take certain other actions and approve the execution of certain other documents as herein provided;

BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:

SECTION ONE. The Board of Aldermen hereby approves the Plan for an Industrial Development Project attached as **Exhibit A** hereto.

SECTION TWO. The City is hereby authorized to provide for the lease, purchase and construction of the Project, all in the manner and as more particularly described in the Indenture and the Lease Agreement hereinafter authorized.

SECTION THREE. 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 described below and shall have such terms, provisions, covenants and agreements as are set forth in the Indenture.

SECTION FOUR. 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 described below. 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 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 FIVE. The Board of Aldermen hereby approves the following documents (collectively, the “City Documents”), in substantially the forms presented to the Board of Aldermen and attached to this Ordinance:

(a) Trust Indenture (the “Indenture”) between the City and the Trustee attached hereto 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) Base Lease (the “Base Lease”) between the Company and the City attached hereto as **Exhibit C**, under which the Company will lease the Project Site to the City during the construction of the Project;

(c) Lease Agreement (the “Lease Agreement”) between the City and the Company attached hereto as **Exhibit D**, under which the City will lease the Project to the Company pursuant to the terms and conditions therein, in consideration of rental payments by the Company that will be sufficient to pay the principal of and interest on the Bonds;

(c) Bond Purchase Agreement between the City and the Company attached hereto as **Exhibit E**; and

(d) Performance Agreement (the “Performance Agreement”) between the City and the Company attached hereto as **Exhibit F**.

The Mayor or her designated representatives and the Comptroller or her designated representatives, with the advice and concurrence of the City Counselor and after approval by the Board of Estimate and Apportionment, are hereby further authorized and directed to make any changes to the documents, agreements and instruments approved and authorized by this Ordinance as may be consistent with the intent of this Ordinance and necessary and appropriate to carry out the matters herein authorized, with no further action of the Board of Aldermen necessary to authorize such changes made by the Mayor or her designated representatives or the Comptroller or her designated representatives.

SECTION SIX. The City shall cause the Affordable Housing Commission (the “AHC”) to apply the Equitable Development Contribution received pursuant to Section 3.1 of the Performance Agreement in a manner consistent with these requirements:

(a) 50 percent of the Equitable Development Contribution shall be used to fund affordable housing preservation, maintenance and services for residents living within the current boundaries of the 17th ward (and if any such funding remains unspent after five years from the AHC’s receipt of the Equitable Development Contribution, such funds shall be applied as provided in (b) below);

(b) 50 percent of the Equitable Development Contribution shall be used to fund affordable housing preservation, maintenance and services for residents living in neighborhoods located North of Delmar Boulevard; and

(c) Priority for receipt of funding will be given to (i) senior citizens (62+ years of age) of low to moderate income, (ii) people with disabilities, (iii) low to moderate income homeowners, (iv) individuals on the city’s wait list that shall be serviced by providers awarded contributions from the Affordable Housing Trust Fund and (v) individuals on the Healthy Home Repair waiting list. Individuals on the Affordable Housing Trust Fund and Healthy Home Repair waiting list must own and occupy their home as a primary residence. Eligible homeowners must also be current on real estate taxes and have clear title to their applicable property.

SECTION SEVEN. The Mayor and the Comptroller are hereby authorized and directed to execute the Bonds and to deliver the Bonds to the Trustee for authentication for and on behalf of and as the act and deed of the City in the manner provided in the Indenture. The Mayor and the Comptroller are hereby authorized and directed to execute the City Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance (including, without limitation, to implement and enforce the requirements of Section Six), for and on behalf of and as the act and deed of the City. The City Register 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 EIGHT. The City shall, and the officials, agents and employees of the City 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. The Mayor and the Comptroller are hereby authorized, through the term of the Lease Agreement, to execute all documents or take any other actions on behalf of the City (including documents pertaining to the transfer of property, the financing

or refinancing of the Project by the Company and such easements, licenses, rights-of-way, plats and similar documents requested by the Company) as may be required to carry out and comply with the intent of this Ordinance and the City Documents. The Mayor and the Comptroller are further authorized, on behalf of the City, to grant such consents, estoppels and waivers relating to the Bonds or the City Documents, or extend the Completion Date (as defined in the Indenture), 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 therein, waive an Event of Default (as defined in the Lease Agreement) or materially change the nature of the transaction unless approved by Ordinance of the Board of Aldermen.

SECTION NINE. If any section, subsection, sentence, clause, phrase or portion of this ordinance is held to be invalid or unconstitutional, or unlawful for any reason, by any court of competent jurisdiction, such portion shall be deemed and is hereby declared to be a separate, distinct and independent provision of this Ordinance, and such holding or holdings shall not affect the validity of the remaining portions of this Ordinance.

SECTION TEN. After adoption of this Ordinance by the Board of Aldermen, this Ordinance shall become effective on the 30th day after its approval by the Mayor or adoption over her veto.

**EXHIBIT A
PLAN FOR INDUSTRIAL DEVELOPMENT**

**BOARD BILL NUMBER 73
EXHIBIT A**

The City of St. Louis, Missouri

**PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT
AND
COST/BENEFIT ANALYSIS**

FOR

VANDE EAST PARTNERS, LLC

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I. Purpose of this Plan

The City of St. Louis, Missouri (the “City”) intends to issue one or more series of taxable industrial revenue bonds in a cumulative principal amount of not to exceed \$125,000,000 (the “Bonds”) to finance the costs of a proposed industrial development project (the “Project”) for Vande East Partners, LLC (including its affiliates, the “Developer”). The Bonds will be issued pursuant to the provisions of Sections 100.010 to 100.200 of the Revised Statutes of Missouri, as amended, Article VI, Section 27(b) of the Missouri Constitution and the City Charter (collectively, the “Act”). The Bonds will initially be owned by the Developer, and cannot be transferred, other than to the Developer’s affiliates and lenders, without the City’s prior approval.

This Plan for an Industrial Development Project and Cost/Benefit Analysis (this “Plan”) has been prepared to satisfy requirements of the Act and to analyze the potential costs and benefits, including the related tax impact on affected taxing jurisdictions, of using industrial development bonds to finance the Project and to facilitate the sales tax exemption on construction materials purchased to construct the bond-financed property.

II. Description of Chapter 100 Financings

General. The Act authorizes cities, counties, towns and villages to issue industrial development bonds to finance the purchase, construction, extension and improvement of warehouses, distribution facilities, research and development facilities, office industries, agricultural processing industries, service facilities that provide interstate commerce, industrial plants and other commercial facilities. Bond proceeds may be used to finance land, 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 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 company will lease to the municipality title to (1) the site on which the industrial development project will be located. At the same time, the municipality will lease the project site and the improvements to be constructed thereon back to the benefited company pursuant to a lease agreement. The lease agreement will require the company, acting on behalf of the municipality, to use the bond proceeds to purchase and construct the project.

Under the lease agreement, the company typically: (1) will unconditionally agree to make payments sufficient to pay the principal of and interest on the bonds as they become due; (2) will agree, at its own expense, to maintain the project, to pay all taxes and assessments with respect to the project, and to maintain adequate insurance; (3) has the right, at its own expense, to 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) will covenant to maintain its corporate existence during the term of the bond issue; and (6) will agree to indemnify the municipality for any liability the municipality might incur as a result of its participation in the transaction.

Property Tax Abatement. While the Act is often used to facilitate real and personal property tax abatement, no property tax abatement will be granted for the herein-defined Project. The Project, however, is located in the City Foundry Saint Louis tax increment financing district.

Sales Tax Exemption. The purpose of this Plan is to provide a sales tax exemption on qualified building materials. Under the Act and other applicable state law, qualified building materials can be exempt from sales tax if approved by the municipality. The sales tax exemption is evidenced by a project exemption certificate issued by the municipality.

III. Description of the Parties

A. Vande East Partners, LLC. The Developer is an affiliate of New + Found, a St. Louis-based development group that has been involved in several redevelopment projects in the City, including the Park Pacific Building, the Marquette Building, the Security Building, the Southside Tower, 4100 Lindell, Hotel Ignacio, Grand Center Arts Academy, the Sun Theatre, Angad Arts Hotel and the City Foundry Saint Louis.

B. The City of St. Louis, Missouri. The City is a charter city and a political subdivision of the State of Missouri. 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 Developer intends to construct approximately 59,000 square feet of office space, 280 multi-family apartment units, 17,000 square feet of retail space and 492 structured parking spaces within an area near the intersection of Forest Park Avenue and Vandeventer Avenue (and within Redevelopment Project Area 2 of the City Foundry Saint Louis Redevelopment Area). The Developer expects to begin construction of the Project in 2021 and be complete the Project by December 31, 2023. The City will acquire the Project with the Bond proceeds and will lease or sublease the Project to the Developer.

B. Estimate of the Costs of the Project. The Project is estimated to cost approximately \$123,700,000. The Bonds will be issued in the maximum principal amount of \$125,000,000 to provide for contingencies.

C. Source of Funds to be Expended for the Project. The source of funds to be expended for the Project will be the proceeds of one or more series of Bonds in the cumulative maximum principal amount of \$125,000,000 and other available funds of the Developer. The Bonds will be payable solely from the revenues derived by the City from the lease or other disposition of the Project to the Developer (as further described below). The Bonds will not be an indebtedness or general obligation, debt or liability of the City or the State of Missouri.

D. Statement of the Terms Upon Which the Project is to be Leased or Otherwise Disposed of by the City. The City will lease or sublease the Project to the Developer for lease payments equal to the principal and interest on the Bonds during the construction of the Project. Under the terms of the lease agreement with the City, the Developer (or applicable affiliate) will have the option to purchase the applicable portion of the Project at any time for nominal consideration. All leases or subleases entered into in furtherance of this Plan in connection with the Project Improvements will terminate following completion of the Project Improvements.

E. Affected School District, Community College District, Ambulance District, Fire District, County and City. The St. Louis Public School District is the school district affected by the Project. The Community College District of St. Louis, St. Louis County, Missouri is the community college district affected by the Project. No ambulance districts or fire districts are affected by the Project. The City of St. Louis is the city affected by the Project. Because the City is not located within a county, no county is affected by the Project.

F. Current Assessed Valuation. The parcel where the Project will be primarily built (Parcel No. 391803115) has a current assessed value of \$216,900. Following construction of the Project, the assessed value is expected to increase to approximately \$17,410,383 (however, tax increment financing will capture taxes attributable to increases in assessed value).

G. Payments in Lieu of Taxes. The Project will not receive any real property tax abatement, but is located in a tax increment financing district.² Accordingly, this Plan does not provide any for any payments in lieu of taxes and reference is made to the applicable tax increment financing documents for discussion of real property taxes and tax increment financing revenues associated with the Project.

H. Equitable Development Contribution. In connection with the Project, and as a condition of receiving the sales tax exemption contemplated by this Plan, the Developer will make a \$1,800,000 equitable development contribution to the Affordable Housing Trust Fund administered by the City's Affordable Housing Commission. This contribution will be used to provide affordable housing in the City's 17th Ward (or, following redistricting, a successor ward including the majority of the current 17th Ward) and various City neighborhoods located north of Delmar Boulevard.

I. Cost/Benefit Analysis. In compliance with Section 100.050.2(3) of the Revised Statutes of Missouri, as amended, this Plan has been prepared to show the costs and benefits to the City and to other taxing jurisdictions affected by the sales tax exemption for the Project. This Plan does not attempt to quantify the overall economic impact of the Project.

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 exemption granted by the City on the affected taxing jurisdictions, it was assumed that:

- \$49,480,000 of the total costs of the Project Improvements will be allocated to construction material costs;
- the applicable sales tax rate is 9.679%, of which 4.225% is allocated to the State of Missouri and 5.454% is allocated to St. Louis City and various citywide taxing districts (i.e., Metrolink, St. Louis Public School District and Regional Parks and Trails);
- the applicable use tax rate is 9.013%, of which 4.225% is allocated to the State of Missouri and 4.788% is allocated to the City and various citywide taxing districts (i.e., Metrolink and Regional Parks and Trails; the St. Louis Public School District does not have a use tax);
- 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; and
- 10% of the qualified construction materials will be subject to the City's and various citywide districts' sales tax and 20% will be subject to the City's and various citywide districts' use tax.

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 \$2,834,214, allocated as follows:

	<u>Sales Tax</u>	<u>Use Tax</u>	<u>Total</u>
State of Missouri	\$1,672,424	\$418,106	\$2,090,530
City (including all citywide taxing districts)	269,864	473,820	192,384
Total	\$1,942,288	\$891,926	\$2,834,214

V. Assumptions and Basis of Plan

In preparing this Plan, we have made some key assumptions to estimate the fiscal impact of the abatement proposed for the Project. In addition to the foregoing, in order to complete this Plan, we have generally reviewed and relied upon information furnished to us by, and have participated in conferences with, representatives of the City, representatives of the Developer and its consultants, and other persons as we have deemed appropriate. We do not assume any responsibility for the accuracy, completeness or fairness of any of the information provided to us; we have not independently verified the accuracy, completeness or fairness of such information.

* * *

EXHIBIT B FORM OF INDENTURE

BOARD BILL NUMBER 73 EXHIBIT B

THE CITY OF ST. LOUIS, MISSOURI,

AND

UMB Bank, N.A.
as Trustee

TRUST INDENTURE

Dated as of [*Date*]

Relating to:

\$125,000,000
(Aggregate Maximum Principal Amount)
The City of St. Louis, Missouri
Taxable Industrial Revenue Bonds

**(Vande East Partners, LLC Project)
Series 2021**

TRUST INDENTURE

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TRUST INDENTURE

THIS TRUST INDENTURE, dated as of [*Date*] (the “Indenture”), between **THE CITY OF ST. LOUIS, MISSOURI**, a constitutional charter city organized and existing under the laws of the State of Missouri (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 St. Louis, 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, Sections 100.010 through 100.200, inclusive, of the Revised Statutes of Missouri, as amended (collectively, the “Act”), and the City 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 Board of Aldermen passed an ordinance (the “Ordinance”) on _____, 2021, authorizing the City to issue its Taxable Industrial Revenue Bonds (Vande East Partners, LLC Project), Series 2021, in the maximum principal amount of \$125,000,000 (the “Bonds”), for the purpose of acquiring a leasehold interest in certain real property located within Redevelopment Project Area 2 of the City Foundry Saint Louis Redevelopment Area (as further described on Exhibit A attached hereto, the “Project Site”) and constructing approximately 59,000 square feet of office space, 280 multi-family apartment units, 17,000 square feet of retail space and 492 structured parking spaces thereon (the “Project Improvements” and, together with the acquisition of a leasehold interest in the Project Site, the “Project”).

3. 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 Agreement of even date herewith (the "Lease") with Vande East Partners, LLC (the "Developer"), under which the City, as lessor, will, or will cause the Developer to, purchase and construct the Project and will lease the Project to the Developer, as lessee, in consideration of rentals that will be sufficient to pay the principal of and interest on the Bonds.

4. All things necessary to make the Bonds, when authenticated by the Trustee and issued as provided in this Indenture, the valid and legally binding obligations of the City, and to constitute this Indenture a valid and legally binding pledge and assignment of the Trust Estate (defined herein) herein made for the security of the payment of the principal of and interest on the Bonds, have been done and performed, and the execution and delivery of this Indenture and the execution and issuance of the Bonds, subject to the terms hereof, have in all respects been duly authorized.

NOW, THEREFORE, THIS TRUST INDENTURE WITNESSETH:

GRANTING CLAUSES

That the City, in consideration of the premises, the acceptance by the Trustee of the trusts hereby created, the purchase and acceptance of the Bonds by the Owners (as defined herein) thereof, and of other good and valuable consideration, the receipt of which is hereby acknowledged, and in order to secure the payment of the principal of and interest on all of the Bonds issued and Outstanding (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 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 Developer 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 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 shall be deemed to be incorporated herein, and terms defined elsewhere in this Indenture, the following words and terms as used in this Indenture shall have the following meanings, unless some other meaning is plainly intended:

“**Act**” means, collectively, Article VI, Section 27(b) of the Missouri Constitution, as amended, and Sections 100.010 through 100.200 of the Revised Statutes of Missouri, as amended.

“**Additional Rent**” means the additional rental described in **Section 5.2** of the Lease.

“**Approved Investor**” means (a) the Developer, (b) a “qualified institutional buyer” under Rule 144A promulgated under the Securities Act of 1933, or (c) any general business corporation or enterprise with total assets in excess of \$100,000,000.

“**Authorized Developer Representative**” means the Person at the time designated to act on behalf of the Developer as evidenced by written certificate furnished to the City and the Trustee containing the specimen signature of such Person and signed on behalf of the Developer by an authorized officer of the Developer. Such certificate may designate an alternate or alternates, each of whom may perform all duties of the Authorized Developer Representative.

“**Authorized SLDC Representative**” means the Executive Director of the St. Louis Development Corporation or such other Person at the time designated to act on behalf of the City with respect to certain matters as prescribed herein, as evidenced by written certificate furnished to the Developer, the Comptroller and the Trustee containing the specimen signature of such Person and signed on behalf of the City by its Mayor. Such certificate may designate an alternate or alternates, each of whom shall be entitled to perform all duties of the Authorized SLDC Representative.

“**Base Lease**” means the Base Lease dated as of [*Date*] by and between the City and the Developer, as may be amended from time to time.

“**Basic Rent**” means the rental described in **Section 5.1** of the Lease.

“**Bond**” or “**Bonds**” means the Taxable Industrial Revenue Bonds (Vande East Partners, LLC Project), Series 2021, in the maximum aggregate principal amount of \$125,000,000, issued, authenticated and delivered under and pursuant to this Indenture.

“**Bond Fund**” means the “City of St. Louis, Missouri, Bond Fund Vande East Partners, LLC” 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 St. Louis, Missouri, a constitutional charter city organized and existing under the laws of the State.

“**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 Developer from its own funds on or before the Closing Date (including any funds deposited into the Cost of Issuance Fund pursuant to **Section 505**), and, at the Developer’s option, the costs of issuance of the Bonds if such costs are not paid for from Bond proceeds.

“**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, 2025 if not actually executed and filed by December 31, 2025, except as otherwise provided in **Section 4.5** of the Lease.

“**Costs of Issuance Fund**” means the “City of St. Louis, Missouri, Costs of Issuance Fund Vande East Partners, LLC” created in **Section 501**.

“**Cumulative Outstanding Principal Amount**” means the aggregate principal amount of all Bonds Outstanding under the provisions of this Indenture, not to exceed \$125,000,000, as reflected in the records maintained by the Trustee as provided in the Bonds and this Indenture.

“**Developer**” means Vande East Partners, LLC, a Missouri limited liability company, and its successors or assigns.

“**Event of Default**” means, with respect to this Indenture, any Event of Default as defined in **Section 901** hereof and, with respect to the Lease, any Event of Default as described in **Section 12.1** of the Lease.

“**Financing Document**” means any loan agreement, deed of trust, credit agreement, security 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 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 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 Developer 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, Farmers Home Administration and 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 each such undertaking;
- (e) shares of a fund registered under the Investment Company Act of 1940, as amended, whose shares are registered under the Securities Act of 1933, as amended, having assets of at least \$100,000,000, and which shares, at the time of purchase, are rated by Standard & Poor’s and Moody’s in one of the two highest rating categories (without regard to any refinements or gradation of rating category by numerical modifier or otherwise) assigned by such rating agencies for obligations of that nature; or
- (f) any other investment approved in writing by the Authorized SLDC Representative and the Owners of all of the Outstanding Bonds.

“**Lease**” means the Lease Agreement dated as of [*Date*] between the City, as lessor, and the Developer, as lessee, as from time to time amended and supplemented by Supplemental Leases in accordance with the provisions thereof and of **Article XII** of this Indenture.

“**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.

“**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, 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.

“**Performance Agreement**” means the Performance Agreement dated as of [*Date*] between the City and the Developer, as may be amended from time to time.

“**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 TIF Agreement, (c) the Indenture, the Lease, the Base Lease, and the Performance Agreement, (d) utility, access and other easements and rightsofway, 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, including encumbrances permitted under **Section 10.4** of the Lease, (e) such minor defects, irregularities, encumbrances, easements, mechanic’s liens, rightsofway 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, (f) liens or security interests granted pursuant to any Leasehold Mortgage or any Financing Documents, and (g) such exceptions to title shown on the title commitment report prepared by _____ (File Number _____).

“**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 Developer from time to time, the same being on file at the principal office of the Developer, 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 referred to in the recitals of this Indenture, including acquisition of a leasehold interest in the Project Site and construction of the Project Improvements.

“**Project Costs**” means all costs of purchasing and constructing of the Project, including the following:

- (a) all costs and expenses necessary or incident to the acquisition, construction and improvement of the Project Site and the Project Improvements located on the Project Site;

(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, machinery, furnishings and equipment as payable to contractors, builders and materialmen in connection with the purchase and construction of the Project;

(d) interest accruing on the Bonds during the construction period of the Project;

(e) the cost of title insurance policies and the cost of any other insurance maintained during the construction period in accordance with **Article VII** of the Lease;

(f) reasonable expenses of administration, supervision and inspection properly chargeable to the Project, legal fees and expenses, 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 Developer 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 St. Louis, Missouri, Project Fund Vande East Partners, LLC” created in **Section 501**.

“Project Improvements” means the construction of approximately 59,000 square feet of office space, 280 multi-family apartment units, 17,000 square feet of retail space and 492 structured parking spaces on the Project Site pursuant to Article IV of the Lease and paid for in whole from the proceeds of Bonds, 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.

“SLDC” means the St. Louis Development Corporation or its successors and assigns.

“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**.

“TIF Agreement” means the Amended and Restated Redevelopment Agreement dated as of _____, 2021 between the City and FOPA Partners, LLC, as assigned in part to the Developer pursuant to the Parcel Development Agreement dated as of _____, 2021 between FOPA Partners, LLC and the Developer, as may be amended from time to time.

“Trust Estate” means the Trust Estate described in the Granting Clauses of this Indenture.

“Trustee” means UMB Bank, N.A., St. Louis, Missouri, a national banking association duly organized and existing and authorized to accept and execute trusts of the character herein set forth under the laws of the United States of America, and its successor or successors and any other corporation which at the time may be substituted in its place pursuant to and at the time serving as Trustee under this Indenture.

“**Unassigned Rights**” means the City’s 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 shall otherwise indicate, the words importing the singular number shall include the plural and vice versa, and words importing Persons shall include firms, associations and corporations, including public bodies, as well as natural Persons.

(b) Wherever in this Indenture it is provided that either party shall or will make any payment or perform or refrain from performing any act or obligation, each such provision shall, even though not so expressed, be construed as an express covenant to make such payment or to perform, or not to perform, as the case may be, such act or obligation.

(c) All references in this instrument to designated “Articles,” “Sections” and other subdivisions are, unless otherwise specified, to the designated Articles, Sections and subdivisions of this instrument as originally executed. The words “herein,” “hereof,” “hereunder” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or subdivision.

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

(e) The Table of Contents and the Article and Section headings of this Indenture shall not be treated as a part of this Indenture or as affecting the true meaning of the provisions hereof.

(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.

**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 “The City of St. Louis, Missouri, Taxable Industrial Revenue Bonds (Vande East Partners, LLC Project), Series 2021.” The maximum total principal amount of Bonds that may be issued hereunder is hereby expressly limited to \$125,000,000.

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 related political subdivision thereof shall be liable thereon, and the Bonds shall not constitute an indebtedness within the meaning of any constitutional, charter or statutory debt limitation or restriction, and are not payable in any manner by taxation.

Section 203. Denomination, Number and Dating of the Bonds.

(a) The Bonds shall be issuable in the form of one fully-registered Bond, in substantially the form set forth in **Exhibit B** hereto, in the denomination of \$0.01 or any multiple thereof.

(b) The Bonds shall be dated by the Trustee as of the date of initial delivery thereof as provided herein. If the Bonds are at any time thereafter transferred, any replacement Bonds shall be dated as of the date of authentication thereof.

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 on the Bonds shall be noted on the Bonds on **Schedule I** thereto and the registration books maintained by the Trustee pursuant to **Section 206**. 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 Developer (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 continental United States.

(e) If the Developer is the sole Owner of the Bonds, then the Developer may set-off its obligation to the City as lessee under the Lease against the City's obligations to the Developer 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 Developer to the contrary as evidence that such set-off has occurred and that pursuant to the set-off, the Developer 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 Developer as Bondholder to pay principal of and interest on the Bonds under this Indenture. On the final Payment Date, the Developer may deliver to the Trustee for cancellation the Bonds and the Developer shall receive a credit against the Basic Rent payable by the Developer under **Section 5.1** of the Lease in an amount equal to the remaining principal on the Bond so tendered for cancellation plus accrued interest thereon.

Section 205. Execution and Authentication of Bonds.

(a) The Bonds shall be executed on behalf of the City by the manual or facsimile signature of its Mayor and Comptroller and attested by the manual or facsimile signature of the City Register, 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.

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** hereto. Upon any such transfer, the City shall execute and the Trustee shall authenticate and deliver in exchange for such Bond a new fully registered Bond or Bonds, registered in the name of the transferee, of any denomination or denominations authorized by this Indenture, in an aggregate principal amount equal to the Outstanding principal amount of such Bond, of the same maturity and bearing interest at the same rate.

(c) In all cases in which Bonds are exchanged or transferred hereunder the provisions of any legend restrictions on the Bonds shall be complied with and the City shall execute and the Trustee shall authenticate and deliver at the earliest practicable time Bonds in accordance with the provisions of this Indenture. All Bonds surrendered in any such exchange or transfer shall forthwith be cancelled by the Trustee. The City or the Trustee may make a reasonable charge for every such exchange or transfer of Bonds sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange

or transfer, and such charge shall be paid before any such new Bond shall be delivered. Neither the City nor the Trustee shall be required to make any such exchange or transfer of Bonds during the 15 days immediately preceding a Payment Date on the Bonds or, in the case of any proposed redemption of Bonds, during the 15 days immediately preceding the selection of Bonds for such redemption or after such Bonds or any portion thereof has been selected for redemption.

(d) If any Owner fails to provide a certified taxpayer identification number to the Trustee, the Trustee may make a charge against such Owner sufficient to pay any governmental charge required to be paid as a result of such failure, which amount may be deducted by the Trustee from amounts otherwise payable to such Owner under such Owner's Bond.

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 \$125,000,000 for the purpose of providing funds to pay the costs of the Project, which Bonds shall be designated "The City of St. Louis, Missouri, Taxable Industrial Revenue Bonds (Vande East Partners, LLC Project) Series 2021." The Bonds shall be dated as provided in **Section 203(b)**, shall become due on December 1, 2030 (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** hereto and delivered to the Trustee for authentication. Prior to or simultaneously with the authentication and delivery of the Bonds by the Trustee, there shall be filed with the Trustee the following:

(1) An original or certified copy of the ordinance passed by the Board of Aldermen authorizing the issuance of the Bonds and the execution of this Indenture, the Performance Agreement, the Base Lease, the Bond Purchase Agreement and the Lease;

(2) Original executed counterparts of this Indenture, the Performance Agreement, the Base Lease, the Bond Purchase Agreement and the Lease;

(3) A representation letter from the Purchaser in substantially the form attached as **Exhibit C** hereto;

(4) A request and authorization to the Trustee on behalf of the City, executed by the Mayor, Comptroller and/or Authorized SLDC 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 may conclusively rely upon such request and authorization as to names of the purchaser and the amount of such purchase price; and

(5) Such other certificates, statements, receipts, opinions and documents as the Trustee shall reasonably require for the delivery of the Bonds.

(d) When the documents specified in subsection (c) of this Section have been filed with the Trustee, and when the Bonds have been executed and authenticated as required by this Indenture, 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 Developer 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 Developer (or another purchaser designated by the Developer).

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 Developer 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, 2020, and continuing thereafter until the Cumulative Outstanding Principal Amount is paid in full, but not later than December 1, 2030. Interest shall be calculated on the basis of a year of 360 days consisting of twelve months of 30 days each.

(g) The Trustee shall keep and maintain a record of the amount deposited or deemed to be deposited into the Project Fund pursuant to the terms of this Indenture as "Principal Amount Advanced" and shall enter the aggregate principal amount of the Bonds then Outstanding on its records as the "Cumulative Outstanding Principal Amount" on **Schedule I** to the Bonds. 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 the principal amount paid on the Bonds as "Principal Amount Redeemed," and shall enter the then Outstanding principal amount of the Bonds as "Cumulative Outstanding Principal Amount." The records maintained by the Trustee as to amounts deposited into the Project Fund or principal amounts paid on the Bonds shall be the official records of the Cumulative Outstanding Principal Amount for all purposes, absent manifest error, and shall be in substantially the form of the Table of Cumulative Outstanding Principal Amount as set out in the form of Bonds in **Exhibit B** hereto. If any moneys are deposited by the Trustee into the Project Fund, then the Trustee shall provide a statement of receipts and disbursements with respect thereto to the City and the Developer on a monthly basis. After the Project has been completed and the certificate of payment of all costs is filed as provided in **Section 504**, 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 Developer.

Section 209. Mutilated, Lost, Stolen or Destroyed Bonds. If any Bond becomes mutilated, or is lost, stolen or destroyed, the City shall execute and the Trustee shall authenticate and deliver a new Bond of like series, date and tenor as the Bond mutilated, lost, stolen or destroyed; provided that, in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Trustee, and in the case of any lost, stolen or destroyed Bond, there shall be first furnished to the City and the Trustee evidence of such loss, theft or destruction satisfactory to the Trustee, together with indemnity satisfactory to the Trustee to save each of the City and the Trustee harmless. If any such Bond has matured, instead of delivering a substitute Bond, the Trustee may pay the same without surrender thereof. Upon the issuance of any substitute Bond, the City and the Trustee may require the payment of an amount sufficient to reimburse the City and the Trustee for any tax or other governmental charge that may be imposed in relation thereto and any other reasonable fees and expenses incurred in connection therewith.

Section 210. Cancellation and Destruction of Bonds Upon Payment.

(a) All Bonds 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 Developer.

**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 Developer, (1) in whole, if the Developer 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 Developer prepays additional Basic Rent pursuant to the Lease. If only a portion of the Bonds are to be redeemed, (1) Bonds aggregating at least 10% of the maximum aggregate principal amount of Bonds authorized hereunder shall not be subject to redemption and payment before the stated maturity thereof, and (2) the Trustee shall keep a record of the amount of Bonds to remain Outstanding following such redemption. Any redemption of Bonds pursuant to this paragraph shall be at a redemption price equal to the par value thereof being redeemed, plus accrued interest thereon, without premium or penalty, to the redemption date.

(b) The Bonds are subject to mandatory redemption, in whole or in part, to the extent of amounts deposited in the Bond Fund pursuant to **Sections 9.1(f) or 9.2(c)** of the Lease, in the event of substantial damage to or destruction or condemnation of substantially all of the Project. Bonds to be redeemed pursuant to this paragraph shall be called for redemption by the Trustee on the earliest practicable date for which timely notice of redemption may be given as provided hereunder. Any redemption of Bonds pursuant to this paragraph shall be at a redemption price equal to the par value thereof being redeemed, plus accrued interest thereon, without premium or penalty, to the redemption date. Before giving notice of redemption to the Owners pursuant to this paragraph (b), money in an amount equal to the redemption price shall have been deposited in the Bond Fund.

(c) At its option, the Developer may deliver to the Trustee for cancellation any Bonds owned by the Developer and not previously paid, and the Developer shall receive a credit against the amounts payable by the Developer for the redemption of such Bonds in an amount equal to the principal amount of the Bonds so tendered for cancellation, plus accrued interest. Upon expiration or earlier termination of the Base Lease, the Developer shall have been deemed to have tendered the portion of the Outstanding Bonds attributable to the Project Improvements for cancellation.

Section 302. Effect of Call for Redemption. Before or on the date fixed for redemption, funds, Government Securities, or a combination thereof, shall be placed with the Trustee which are sufficient to pay the Bonds called for redemption and accrued interest thereon, if any, to the redemption date. Upon the happening of the above conditions and appropriate written notice having been given, the Bonds or the portions of the principal amount of Bonds thus called for redemption shall cease to bear interest on the specified redemption date, and shall no longer be entitled to the protection, benefit or security of this Indenture and shall not be deemed to be Outstanding under the provisions of this Indenture. If the Bonds are fully redeemed before maturity and an amount of money equal to the Trustee's and the Paying Agent's agreed to fees and expenses hereunder accrued and to accrue in connection with such redemption is paid or provided for, the City shall, at the Developer's direction, deliver to the Developer 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 Developer 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, provided that the City may waive such right to notice in its sole discretion without the consent of the Trustee. 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 electronic means 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 St. Louis, Missouri, Project Fund – Vande East Partners, LLC" (herein called the "Project Fund").
- (b) "City of St. Louis, Missouri, Costs of Issuance Fund – Vande East Partners, LLC" (herein called the "Costs of Issuance Fund").
- (c) "City of St. Louis, Missouri, Bond Fund – Vande East Partners, LLC" (herein called the "Bond Fund").

Section 502. Deposits into the Project Fund. The proceeds of the sale of the Bonds (whether actually paid or deemed paid under **Section 208(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 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 Developer (or any other party that has made payment on behalf of the Developer) for payment of, Project Costs upon receipt of requisition certificates signed by the Developer 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 Developer, 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 Developer (or such other purchaser designated by the Developer) in satisfaction of the requisition certificate.

(c) In paying any requisition under this Section, the Trustee may conclusively rely as to the completeness and accuracy of all statements in such requisition certificate if such requisition certificate is signed by the Authorized Developer Representative and the Authorized SLDC 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 materialmen's lien releases or otherwise supervise the Project. The approval of each requisition certificate by the Authorized Developer Representative and Authorized SLDC 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. One year after the Completion Date, any balance remaining in the Project Fund shall without further authorization be transferred by the Trustee to the Bond Fund and applied as provided in **Section 4.6** of the Lease.

Section 505. Deposits into and Disbursements from the Costs of Issuance Fund. Any money deposited by the Developer in the Costs of Issuance Fund shall be used solely to pay costs of issuing the Bonds or refunded to the Developer as hereinafter provided. The Trustee shall without further authorization disburse from the Costs of Issuance Fund, to the extent available, money sufficient to pay the amounts shown in a closing memorandum provided to the Trustee on or before the date of delivery of the Bonds, which shall have attached thereto the statements, invoices and related items described in said closing memorandum. The Trustee may rely conclusively on the amounts due as shown in the closing memorandum and will not be required to make any independent inspection or investigation in connection therewith. Any of such money not used to pay costs of issuance within 90 days of the Closing Date shall be refunded to the Developer.

Section 506. 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 Developer 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 Developer to the City specified in **Section 5.1** of the Lease; (3) any Additional Rent payable by the Developer 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** hereof upon completion of the Project or pursuant to **Section 506** hereof upon acceleration of the Bonds; (5) 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 investments of Bond Fund moneys as provided in **Section 702** hereof; and (8) all other moneys received by the Trustee under and pursuant to any of the provisions of the Lease when accompanied by directions from the Person depositing such moneys that such moneys are to be paid into the Bond Fund.

(b) The Trustee shall notify the Developer 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 Developer 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 the interest on the Bonds as the same mature and become due or upon the redemption thereof before maturity; provided, however, that any amounts received by the Trustee as Additional Rent under Section 5.2 of the Lease and deposited to the Bond Fund as provided in **Section 601** above, shall be expended by the Trustee for such items of Additional Rent as they are received or due without further authorization from the City.

(b) The City hereby authorizes and directs the Trustee to withdraw sufficient funds from the Bond Fund to pay the principal of and the interest on the Bonds as the same become due and payable and to make said funds so withdrawn available to the Paying Agent for the purpose of paying said principal and interest.

(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 Developer, 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 Developer. 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 Developer is not in default with respect to any payments under the Lease and to the extent said moneys are in excess of the amount required for payment of Bonds theretofore matured or called for redemption and past due interest, if any, in all cases when such Bonds have not been presented for payment.

(d) After payment in full of the principal of and interest, if any, on the Bonds (or provision has been made for the payment thereof as provided in this Indenture), and the fees, charges and expenses of the Trustee, the City and any Paying Agent and any other amounts required to be paid under this Indenture, the Lease, the Base Lease and the Performance Agreement, all amounts remaining in the Bond Fund shall be paid to the Developer upon the expiration or sooner termination of the Lease.

(e) To the extent the Developer is the Owner of all of the Bonds Outstanding, payment may be made via a transaction entry on the trust records held by the Trustee.

Section 603. Payments Due on Days Other than Business Days. In any case where the date of maturity of principal of or interest, if any, on the Bonds or the date fixed for redemption of any Bonds is not a Business Day, then payment of principal or interest, if any, need not be made on such date but may be made on the next succeeding Business Day with the same force and effect as if made on the date of maturity or the date fixed for redemption, and no interest, if any, shall continue to accrue for the period after such date.

Section 604. Nonpresentment of Bonds. If any Bond is not presented for payment when the principal thereof becomes due, either at maturity or otherwise, or at the date fixed for redemption thereof, if funds sufficient to pay such Bond shall have been made available to the Trustee, all liability of the City to the Owner thereof for the payment of such Bond shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Trustee to hold such fund or funds, without liability for interest thereon, for the benefit of the Owner of such Bond who shall thereafter be restricted exclusively to such fund or funds for any claim of whatever nature on his part under this Indenture or on, or with respect to, said Bond. If any Bond is not presented for payment within one year following the date when such Bond becomes due, whether by maturity or otherwise, the Trustee shall without liability for interest thereon repay to the Developer 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 Developer, and the Owner thereof may look only to the Developer for payment, and then only to the extent of the amount so repaid, and the Developer 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 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 Developer, signed by the Authorized Developer 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 Developer fails to provide written directions concerning investment of moneys held in the Project Fund and the Bond Fund, the Trustee is hereby directed to invest in such Investment Securities specified in paragraph (c) of the definition of Investment Securities, provided they mature or are subject to redemption before the date such funds will be needed. The Trustee is specifically authorized to implement its automated cash investment system to assure that cash on hand is invested and to charge its normal cash management fees and cash sweep account fees, which may be deducted from income earned on investments; provided that any such fees shall not exceed the interest income on the investment. Any such Investment Securities shall be held by or under the control of the Trustee and shall be deemed at all times a part of the fund in which such moneys are originally held, and the interest accruing thereon and any profit realized from such Investment Securities shall be credited to such fund, and any loss resulting from such Investment Securities shall be charged to such fund. After the Trustee has notice pursuant to **Section 1001(h)** 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 shortterm 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 issue the Bonds and to pledge and assign the Trust Estate in the manner and to the extent herein set forth; that all action on its part for the execution and delivery of this Indenture and the issuance of the Bonds has been duly and effectively taken; that the Bonds in the hands of the Owners thereof are and will be valid and enforceable obligations of the City according to the import thereof.

Section 803. Performance of Covenants. The City covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Indenture, in the Bonds and in all proceedings of its governing body pertaining thereto. The Trustee may take such action as it deems appropriate to enforce all such covenants, undertakings, stipulations and provisions of the City hereunder.

Section 804. Instruments of Further Assurance. The City covenants that it will do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, such Supplemental Indentures and such further acts, instruments, financing statements and other documents as the Trustee may reasonably require for the better pledging and assigning unto the Trustee the property and revenues herein described to the payment of the principal of and interest, if any, on the Bonds. The City covenants and agrees that, except as herein and in the Lease provided, it will not sell, convey, mortgage, encumber or otherwise dispose of any part of the Project or the rents, revenues and receipts derived therefrom or from the Lease, or of its rights under the Lease.

Section 805. Recordings and Filings. The City shall file or cause to be kept and filed all financing statements, and hereby authorizes the Trustee to file or cause to be kept and filed continuation statements with respect to such originally filed financing statements related to this Indenture and all supplements hereto and such other documents as it is notified in writing by the City, the Developer or the Owners of 100% of the Bonds then Outstanding are required under the Uniform Commercial Code in order to fully preserve and protect the security of the Owners and the rights of the Trustee hereunder; provided, unless otherwise notified in writing by the City, the Developer or the Owners, the Trustee may conclusively rely upon any originally-filed financing statements

in filing any continuation statements hereunder. The City will cooperate in causing this Indenture and all Supplemental Indentures, the Lease and all Supplemental Leases and all other security instruments to be recorded and filed in such manner and in such places as may be required by law in order to fully preserve and protect the security of the Owners and the rights of the Trustee hereunder.

Section 806. Inspection of Project Books. The City covenants and agrees that all books and documents in its possession relating to the Project and the rents, revenues and receipts derived from the Project shall at all times be open to inspection by such accountants or other agencies as the Trustee may from time to time designate.

Section 807. Enforcement of Rights Under the Lease. The 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 Developer 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 on any Bond, whether at the stated maturity or accelerated maturity thereof, or at any date fixed for redemption thereof;
- (b) Default in the due and punctual payment of the interest on any Bond, whether at the stated maturity or accelerated maturity thereof, or at any date fixed for redemption thereof;
- (c) Default as specified in **Section 12.1** of the Lease has occurred; or
- (d) Default in the performance, or breach, of any other covenant or agreement under this Indenture.

No default specified above shall constitute an Event of Default until the City, the Trustee or the Owners of 25% in aggregate principal amount of all Bonds Outstanding has given actual notice of such default by registered or certified mail or a recognized overnight delivery service to the Developer, and the Developer has had 30 days after receipt of such notice to correct said default or cause said default to be corrected and has not corrected said default or caused said default to be corrected within such period; provided, however, if any such default (other than a default in the payment of any money) is such that it cannot be corrected within such period, it shall not constitute an Event of Default if corrective action is instituted by the Developer or the City (as the case may be) within such period and diligently pursued until the default is corrected.

Section 902. Acceleration of Maturity in Event of Default .

(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 and the Developer, 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 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 12.2** of the Lease.

(c) In case of any rescission, then and in every such case the City, the Trustee, the Developer and the Owners shall be restored to their former position 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.

(d) Pursuant to **Section 12.2(b)** of the Lease, the City may give the Developer written notice of intention to terminate the 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** of the Lease.

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 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 Performance 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 Developer 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 Developer 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 subsection (l) of **Section 1001**, 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 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)**, and, provided further, that the Trustee shall have the right to decline to follow any such directions if the Trustee shall in good faith determine that the proceedings so directed would involve the Trustee in personal liability.

(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 first be applied 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 be applied to the obligations outstanding under the Lease and the Performance Agreement. Any remaining moneys shall be deposited in the Bond Fund and applied as follows:

(1) Unless the principal of all the Bonds shall have become or shall have been declared due and payable, all such moneys shall be applied:

FIRST To the payment to the Persons entitled thereto of all installments of interest, if any, then due and payable on the Bonds, in the order in which such installments of interest became due and payable, and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the Persons entitled thereto, without any discrimination or privilege;

SECOND To the payment to the Persons entitled thereof of the unpaid principal of any of the Bonds which shall have become due and payable (other than Bonds called for redemption for the payment of which moneys are held pursuant to the provisions of this Indenture), in the order of their due dates, and, if the amount available shall not be sufficient to pay in full Bonds due on any particular date, together with such interest, then to the payment, ratably, according to the amount of principal due on such date, to the Persons entitled thereto without any discrimination or privilege.

(2) If the principal of all the Bonds shall have become due or shall have been declared due and payable, all such moneys shall be applied to the payment of the principal and interest, if any, then due and unpaid on all of the Bonds, without preference or priority of principal over interest or of interest over principal or of any installment of interest over any other installment of interest or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the Person entitled thereto, without any discrimination or privilege.

(3) If the principal of all the Bonds shall have been declared due and payable, and if such declaration shall thereafter have been rescinded and annulled under the provisions of **Section 910**, then, subject to the provisions of subsection (2) of this Section in the event that the principal of all the Bonds shall later become due or be declared due and payable, the moneys shall be applied in accordance with the provisions of subsection (1) of this Section.

(b) Whenever moneys are to be applied pursuant to the provisions of this Section, such moneys shall be applied at such times and from time to time as the Trustee shall determine, having due regard to the amount of such moneys available and which may become available for such application in the future. Whenever the Trustee shall apply such moneys, it shall fix the date (which shall be a Payment Date unless it shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such dates shall cease to accrue.

(c) Whenever all of the Bonds and interest thereon, if any, have been paid under the provisions of this Section, and all fees, expenses and charges of the City and the Trustee and any other amounts required to be paid under this Indenture and the Lease have been paid (including any amounts payable under the Performance Agreement), any balance remaining in the Bond Fund shall be paid to the Developer 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 Developer, 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, shall have been paid or provided for. In case of any such waiver or rescission, or in case any proceeding taken by the Trustee on account of any such default shall have been discontinued or abandoned or determined adversely, then and in every such case the City, the Developer, the Trustee and the Owners shall be restored to their former positions, rights and obligations hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other default, or impair any right consequent thereon and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

ARTICLE X THE TRUSTEE

Section 1001. Acceptance of the Trusts. The Trustee hereby accepts the trusts imposed upon it by this Indenture, but only upon and subject to the following express terms and conditions, and no implied covenants or obligations shall be read into this Indenture against the Trustee:

(a) The Trustee, before the occurrence of an Event of Default and after the curing or waiver of all Events of Default that may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. If any Event of Default has occurred and is continuing, subject to **Section 1001(i)** 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 bad faith, 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. 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 Developer, 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 of the Bonds. The

Trustee shall not be responsible or liable for any loss suffered in connection with any investment of funds made by it in accordance with **Article VII**.

(d) The Trustee shall not be accountable for the use of any Bonds authenticated and delivered hereunder. The Trustee, in its individual or any other capacity, may become the Owner or pledgee of Bonds with the same rights that it would have if it were not Trustee. The Trustee shall not be accountable for the use or application by the City or the Developer of the proceeds of any of the Bonds or of any money paid to or upon the order of the City or Company under any provision of this Indenture.

(e) The Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, affidavit, letter, telegram or other paper or document provided for under this Indenture believed by it to be genuine and correct and to have been signed, presented or sent by the proper Person or Persons. Any action taken by the Trustee pursuant to this Indenture upon the request or authority or consent of any Person who, at the time of making such request or giving such authority or consent is an Owner, shall be conclusive and binding upon all future Owners of the same Bond and upon Bonds issued in exchange therefor or upon transfer or in place thereof.

(f) As to the existence or nonexistence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, or whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established before taking, suffering or omitting any action hereunder, the Trustee may rely upon a certificate signed by the Authorized SLDC Representative or an Authorized Developer 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.

(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.

(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 Developer's reasonable and standard security procedures, the Trustee and its duly authorized agents, attorneys, experts, engineers, accountants and representatives may, but shall not be required to, inspect any and all of the Project, and all books, papers and records of the City pertaining to the Project and the Bonds, and to take such memoranda from and in regard thereto as may be desired. The Trustee shall treat all proprietary information of the Developer as confidential.

(j) The Trustee shall not be required to give any bond or surety in respect to the execution of its trusts and powers hereunder or otherwise in respect of the Project.

(k) The Trustee may, but shall not be required to, demand, in respect of the authentication of any Bonds, the withdrawal of any cash, the release of any property, or any action whatsoever within the purview of this Indenture, any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required, as a condition of such action by the Trustee deemed desirable for the purpose of establishing the right of the City to the authentication of any Bonds, the withdrawal of any cash, or the taking of any other action by the Trustee.

(l) Notwithstanding anything in the Indenture or the Lease to the contrary, before taking any action under this Indenture, the Trustee may require that satisfactory indemnity be furnished to it for the reimbursement of all costs and expenses (including, without limitation, attorneys' fees) to which it may be put and to protect it against all liability which it may incur in or by reason of such action, except liability which is adjudicated to have resulted from its negligence or willful misconduct by reason of any action so taken.

(m) Notwithstanding any other provision of this Indenture to the contrary, any provision relating to the conduct of, intended to provide authority to act, right to payment of fees and expenses, protection, immunity and indemnification to the Trustee, shall be interpreted to include any action of the Trustee, whether it is deemed to be in its capacity as Trustee, bond registrar or Paying Agent.

(n) The Trustee agrees to accept and act on instructions or directions pursuant to this Indenture sent by the City or the Developer, as the case may be, by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods, provided, however, that the City or the Developer, 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 the Developer, 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 Developer, 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 shall have reasonable grounds for believing that repayment of such funds or indemnity satisfactory to it against such risk or liability is not assured to it.

Section 1002. Fees, Charges and Expenses of the Trustee. The Trustee shall be entitled to payment of and/or reimbursement for reasonable fees for its ordinary services rendered hereunder and all advances, agent and counsel fees and other ordinary expenses reasonably made or incurred by the Trustee in connection with such ordinary services. If it becomes necessary for the Trustee to perform extraordinary services, it shall be entitled to reasonable extra compensation therefor and to reimbursement for reasonable extraordinary expenses in connection therewith; provided that if such extraordinary services or extraordinary expenses are occasioned by the neglect or willful misconduct of the Trustee, it shall not be entitled to compensation or reimbursement therefor. The Trustee shall be entitled to payment and reimbursement for the reasonable fees and charges of the Trustee as Paying Agent for the Bonds. Pursuant to the provisions of **Section 5.2** of the Lease, the Developer 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 Developer 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 required to take notice or if notice of default is given as provided in **Section 1001(h)**, then the Trustee shall give written notice thereof to the last known Owners of all Bonds then Outstanding as shown by the bond registration books required by **Section 206** to be kept at the corporate trust office of the Trustee.

Section 1004. Intervention by the Trustee. In any judicial proceeding to which the City is a party and which, in the opinion of the Trustee and its counsel, has a substantial bearing on the interests of Owners, the Trustee may intervene on behalf of Owners and, subject to the provisions of **Section 1001(i)**, shall do so if requested in writing by the Owners of at least 25% of the aggregate principal amount of Bonds then Outstanding.

Section 1005. Successor Trustee Upon Merger, Consolidation or Sale. With the prior written consent of the Developer, 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 Developer and the Owners, and such resignation shall take effect at the end of such 30 days, or upon the earlier appointment of a successor Trustee by the Owners or by the City; provided, however, that in no event shall the resignation of the Trustee or any successor trustee become effective until such time as a successor trustee has been appointed and has accepted the appointment. If no successor has been appointed and accepted the appointment within 30

days after the giving of such notice of resignation, the Trustee may, at the Developer's expense, petition any court of competent jurisdiction for the appointment of a successor Trustee.

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 Developer and signed by the Owners of a majority in aggregate principal amount of Bonds then Outstanding, or (b) so long as no Event of Default under this Indenture or the Lease shall have occurred and be continuing, delivered to the Trustee, the City and the Owners and signed by the Developer.

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 Developer (so long as no Event of Default has occurred and is continuing), or (b) reasonably acceptable to the City and the Developer may be appointed by the Owners of a majority in aggregate principal amount of Bonds then Outstanding, by an instrument or concurrent instruments in writing; provided, nevertheless, that in case of such vacancy, the City, by an instrument executed and signed by its Mayor and Comptroller and attested by its City Register 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 \$125,000,000. If no successor Trustee has been so appointed and accepted appointment in the manner herein provided, the Trustee, at the Developer's expense, or any Owner may petition any court of competent jurisdiction for the appointment of a successor Trustee, until a successor shall have been appointed as above provided.

Section 1009. Vesting of Trusts in Successor Trustee. Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the City and the Developer 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 all 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, and thereupon the obligations and duties of the predecessor Trustee hereunder shall cease and terminate. Should any instrument in writing from the City be required by any predecessor or successor Trustee for more fully and certainly vesting in such successor the trusts, powers, rights, obligations, duties, remedies, immunities and privileges hereby vested in the predecessor, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the City.

Section 1010. Right of Trustee to Pay Taxes and Other Charges. If any tax, assessment or governmental or other charge upon, or insurance premium with respect to, any part of the Project is not paid as required herein or in the Lease, the Trustee may pay such tax, assessment or governmental charge or insurance premium, without prejudice, however, to any rights of the Trustee or the Owners hereunder arising in consequence of such failure; any amount at any time so paid under this Section, with interest thereon from the date of payment at the rate of 10% per annum, shall become an additional obligation secured by this Indenture, and the same shall be given a preference in payment over any payment of principal of or interest on the Bonds, and shall be paid out of the proceeds of rents, revenues and receipts collected from the Project, if not otherwise caused to be paid; but the Trustee shall be under no obligation to make any such payment unless it shall have been requested to do so by the Owners of at least 25% of the aggregate principal amount of Bonds then Outstanding and shall have been provided adequate funds for the purpose of such payment.

Section 1011. Trust Estate May be Vested in Co-Trustee

(a) It is the purpose of this Indenture that there shall be no violation of any law of any jurisdiction (including particularly the State) denying or restricting the right of banking corporations or associations to transact business as trustee in such jurisdiction. It is recognized that in case of litigation under this Indenture or the Lease, and in particular in case of the enforcement of either this Indenture or the Lease upon the occurrence of an Event of Default or if the Trustee deems that by reason of any present or future law of any jurisdiction it cannot exercise any of the powers, rights or remedies herein granted to the Trustee, or take any other action which may be desirable or necessary in connection therewith, it may be necessary or desirable that the Trustee appoint an additional individual or institution as a co-trustee or separate trustee, and the Trustee is hereby authorized to appoint such co-trustee or separate trustee.

(b) If the Trustee appoints an additional individual or institution as a co-trustee or separate trustee (which appointment shall be subject to the approval of the Developer), 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 Developer and to any Owner requesting the same and, upon the request of the Developer or any Owner, at such Owner's expense, a monthly accounting to the Developer and the Owner, showing in reasonable detail all financial transactions relating to the Trust Estate during the accounting period and the balance in any funds or accounts created by this Indenture as of the beginning and close of such accounting period.

Section 1013. Performance of Duties Under the Lease. The Trustee hereby accepts and agrees to perform all duties and obligations assigned to it under the Lease.

ARTICLE XI SUPPLEMENTAL INDENTURES

Section 1101. Supplemental Indentures Not Requiring Consent of Owners. The City and the Trustee may from time to time, without the consent of or notice to any of the Owners, enter into such Supplemental Indenture or Supplemental Indentures as shall not be inconsistent with the terms and provisions hereof, for any one or more of the following purposes:

- (a) To cure any ambiguity or formal defect or omission in this Indenture, or to make any other change which, in the judgment of the Trustee, is not to the material prejudice of the Trustee or the Owners (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 either of them;
- (c) To more precisely identify any portion of the Project or to add additional property thereto;
- (d) To conform the Indenture to amendments to the Lease made by the City and the Developer; 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 or of the interest, if any, on any Bond issued hereunder, or (2) a reduction in the principal amount of any Bond or the rate of interest thereon, if any, or (3) a privilege or priority of any Bond or Bonds over any other Bond or Bonds, or (4) a reduction in the aggregate principal amount of Bonds the Owners of which are required for consent to any such Supplemental Indenture.

(b) If at the time the City requests the Trustee to enter into any such Supplemental Indenture for any of the purposes of this Section, the Trustee shall cause notice of the proposed execution of such Supplemental Indenture to be mailed to each Owner as shown on the bond registration books required by **Section 206**. 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 Developer has 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 Developer's rights) together with a copy of the proposed Supplemental Indenture to be mailed to the Developer and any Financing Party 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, 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 Developer 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 Developer 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 Developer 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 Trustee or the City from executing the same or from taking any action pursuant to the provisions thereof.

Section 1203. Opinion of Counsel. In executing or consenting to any Supplemental Lease permitted by this Article, the City and the Trustee shall receive, and shall be fully protected in relying upon, an opinion of counsel addressed to the Trustee and the City stating that the executing of such Supplemental Lease is authorized or permitted by the Lease and this Indenture and the applicable law and will upon the execution and delivery thereof be valid and binding obligations of the parties thereof.

ARTICLE XIII SATISFACTION AND DISCHARGE OF INDENTURE

Section 1301. Satisfaction and Discharge of this Indenture.

(a) When the principal of and interest on all the Bonds have been paid in accordance with their terms or provision has been made for such payment, as provided in **Section 1302**, and provision also made for paying all other sums payable hereunder and under the Lease and the Performance Agreement, including the reasonable fees and expenses of the Trustee, the City and Paying Agent to the date of retirement of the Bonds, then the right, title and interest of the Trustee in respect hereof shall thereupon cease, determine and be void. Thereupon, the Trustee shall cancel, discharge and release this Indenture and shall upon the written request of the City or the Developer 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 Developer 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) have been made or caused to be made in accordance with the terms thereof, or (2) have been provided for by depositing with the Trustee or other commercial bank or trust company having full trust powers and authorized to accept trusts in the State in trust and irrevocably set aside exclusively for such payment (i) moneys sufficient to make such payment or (ii) Government Securities maturing as to principal and interest in such amount and at such times as will insure the availability of sufficient moneys to make such payment, or (3) have been provided for by surrendering the Bonds to the Trustee for cancellation. At such time as Bonds are deemed to be paid hereunder, as aforesaid, they shall no longer be secured by or entitled to the benefits of this Indenture, except for the purposes of such payment from such moneys or Government Securities.

(b) Notwithstanding the foregoing, in the case of Bonds which by their terms may be redeemed before the stated maturities thereof, no deposit under clause (2) of the immediately preceding paragraph shall be deemed a payment of such Bonds as aforesaid until, as to all such Bonds which are to be redeemed before their respective stated maturities, proper notice of such redemption shall have been given in accordance with **Article III** or irrevocable instructions shall have been given to the Trustee to give such notice.

(c) Notwithstanding any provision of any other section of this Indenture which may be contrary to the provisions of this Section, all moneys or Government Securities set aside and held in trust pursuant to the provisions of this Section for the payment of Bonds shall be applied to and used solely for the payment of the particular Bonds, with respect to which such moneys and Government Securities have been so set aside in trust.

(d) Notwithstanding anything to contrary contained herein or in the Lease, upon expiration or earlier termination of the Base Lease, the Developer shall have been deemed to have tendered the portion of the Outstanding Bonds attributable to the Project Improvements for cancellation and, thereafter, the Outstanding maximum principal amount of the Bonds shall not exceed \$16,000,000.

**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 Developer 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 Developer 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 Developer or any affiliate thereof.

Section 1402. Limitation of Rights Under this Indenture. With the exception of rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Indenture or the Bonds is intended or shall be construed to give any Person other than the parties hereto, and the Owners, if any, any right, remedy or claim under or in respect to this Indenture, this Indenture and all of the covenants, conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the parties hereto and the Owners, as herein provided.

Section 1403. Notices. It shall be sufficient service of any notice, request, complaint, demand or other paper required by this Indenture to be given or filed with the City, the Trustee, the Developer or Owners if the same is duly mailed, postage prepaid, sent by overnight delivery or other delivery service, as follows:

(a) To the City:

The City of St. Louis, Missouri
Office of the Mayor
City Hall
1200 Market Street, Room 200
St. Louis, Missouri 63103

and

The City of St. Louis, Missouri
Office of the Comptroller
1520 Market Street, Room 3005
St. Louis, Missouri 63103
ATTN: Deputy Comptroller for Finance and Development

with copies to:

St. Louis Development Corporation
1520 Market Street, Suite 2000
St. Louis, Missouri 63103
ATTN: Executive Director

and

St. Louis Development Corporation
1520 Market Street, Suite 2000
St. Louis, Missouri 63103
ATTN: Legal Department

and

Armstrong Teasdale LLP
7700 Forsyth Boulevard, Suite 1800
St. Louis, Missouri 63105
ATTN: Thomas J. Ray

(b) To the Trustee:

UMB Bank, N.A.
2 South Broadway, Suite 600
St. Louis, Missouri 63102
ATTN: Corporate Trust Department

(c) To the Developer:

Vande East Partners, LLC
c/o Lawrence Group
319 N. 4th Street, Suite 1000
St. Louis, Missouri 63102
Attn: Steve Smith

With a copy to:

Spencer Fane LLP
1 N. Brentwood, Suite 1000
St. Louis, Missouri 63105
Attention: Robert Preston

(d) To the Owners if the same is duly mailed by first class, registered or certified mail addressed to each of the Owners of Bonds at the time Outstanding as shown by the bond registration books required by **Section 206** 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 Developer. The City, the Developer and the Trustee may from time to time designate, by notice given hereunder to the others of such parties, such other address to which subsequent notices, certificates or other communications shall be sent.

Section 1404. Severability. If any provision of this Indenture 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 whatever.

Section 1405. Execution in Counterparts. This Indenture may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 1406. Governing Law. This Indenture shall be governed exclusively by and construed in accordance with the applicable laws of the State.

Section 1407. Electronic Storage. The parties agree that the transaction described herein may be conducted and related documents may be sent, received or stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

Section 1408. City Consent. Pursuant to the Ordinance, the Mayor and the Comptroller are 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 or any portion thereof) as may be required to carry out and comply with the intent of the Ordinance. The Mayor and the Comptroller are also authorized, unless expressly provided herein, to grant on behalf of the City such consents, estoppels and waivers relating to the Bonds, the Lease, the Base Lease, the Performance Agreement or this Indenture 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 herein, waive an Event of Default or materially change the nature of the transaction unless otherwise approved by the Board of Aldermen.

Section 1409. Anti-Israel Discrimination Act. Pursuant to Section 34.600, RSMo., 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 the State of Israel; companies doing business in or with 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.]

IN WITNESS WHEREOF, City of St. Louis, Missouri, has caused this Indenture to be signed in its name and behalf by its Mayor and Comptroller and the seal of the City to be hereunto affixed and attested by the City Register, 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.

THE CITY OF ST. LOUIS, MISSOURI

By: _____
Tishaura Jones
Mayor

By: _____
Darlene Green
Comptroller

APPROVED AS TO FORM

Matthew Moak
City Counselor

ATTEST:

Amber Simms
Register

[Trust Indenture]

UMB Bank, N.A., as Trustee

By: _____
Name: Nancy Prives
Title: Vice President

[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
\$125,000,000**

**UNITED STATES OF AMERICA
STATE OF MISSOURI**

**THE CITY OF ST. LOUIS, MISSOURI
TAXABLE INDUSTRIAL REVENUE BOND
(Vande East Partners, LLC Project)
SERIES 2021**

Interest Rate	Maturity Date	Dated Date
5.0%	December 1, 2025	_____, 2021

OWNER: _____

MAXIMUM PRINCIPAL AMOUNT: ONE HUNDRED TWENTY-FIVE MILLION DOLLARS

THE CITY OF ST. LOUIS, MISSOURI, a constitutional charter city organized and existing under the laws of the State of Missouri (the "City"), for value received, promises to pay, but solely from the source hereinafter referred to, to the Owner named above, or registered assigns thereof, on the Maturity Date shown above, the principal amount shown above, or such lesser amount as may be outstanding hereunder as reflected on **Schedule I** hereto held by the Trustee as provided in the hereinafter referred to Indenture. The City agrees to pay such principal amount to the Owner in any coin or currency of the United States of America which on the date of payment thereof is legal tender for the payment of public and private debts, and in like manner to pay to the Owner hereof, either by check or draft mailed to the Owner at a stated address as it appears on the bond registration books of the City kept by the Trustee under the within mentioned Indenture or, in certain situations authorized in the Indenture, by internal bank transfer or by wire transfer to an account in a commercial bank or savings institution located in the continental United States. Interest on the Cumulative Outstanding Principal Amount (as hereinafter defined) at the per annum Interest Rate stated above, payable in arrears on each December 1, commencing on December 1, 2022, and continuing thereafter until the earlier of the date on which said Cumulative Outstanding Principal Amount is paid in full or the Maturity Date. Interest on each advancement of the principal amount of this Bond shall accrue from the date that such advancement is made, computed on the basis of a year of 360 days consisting of 12 months of 30 days each.

As used herein, the term "Cumulative Outstanding Principal Amount" means all Bonds outstanding under the terms of the hereinafter-defined Indenture, as reflected on **Schedule I** hereto maintained by the Trustee.

THIS BOND is one of a duly authorized series of Bonds of the City designated "The City of St. Louis, Missouri, Taxable Industrial Revenue Bonds (Vande East Partners, LLC Project), Series 2021," in the maximum aggregate principal amount of \$125,000,000 (the "Bonds"), to be issued for the purpose of a acquiring a leasehold interest in certain real property located within Redevelopment Project Area 2 of the City Foundry Saint Louis Redevelopment Area (the "Project Site") and constructing approximately 59,000 square feet of office space, 280 multi-family apartment units, 17,000 square feet of retail space and 492 structured parking spaces thereon (the "Project Improvements" and, together with the acquisition of a leasehold interest in the Project Site, the "Project"). The City will lease the Project to Vande East Partners, LLC, a Missouri limited liability company (the "Company"), under the terms of a Lease Agreement dated as of [*Date*] (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 Developer, all pursuant to the authority of and in full compliance with the provisions, restrictions and limitations of the Constitution, the statutes of the State of Missouri, including particularly the Act, the charter of the City and pursuant to proceedings duly had by the governing body 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*] (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., St. Louis, Missouri, as trustee (the "Trustee"). *Capitalized terms not defined herein shall have the meanings set forth in the Indenture.*

Reference is hereby made to the Indenture for a description of the provisions, among others, with respect to the nature and extent of the security for the Bonds, the rights, duties and obligations of the City, the Trustee and the Owners, and the terms upon which the Bonds are issued and secured.

THE BONDS are subject to redemption and payment at any time before the stated maturity thereof, at the option of the City, upon written instructions from the Developer, (1) in whole, if the Developer 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 Developer 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 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, money in an amount equal to the redemption price shall have been deposited in the Bond Fund.

If the Bonds are to be called for optional redemption, the Developer 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 said State shall be liable thereon, and the Bonds shall not constitute an indebtedness within the meaning of any constitutional, charter or statutory debt limitation or restriction, and are not payable in any manner by taxation. Pursuant to the provisions of the Lease, rental payments sufficient for the prompt payment when due of the principal of and interest on the Bonds are to be paid by the Developer 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 St. Louis, Missouri, Bond Fund Vande East Partners, LLC"

THE OWNER of this Bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any Event of Default under the Indenture, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Indenture. In certain events, on the conditions, in the manner and with the effect set forth in the Indenture, the principal of all the Bonds issued under the Indenture and then Outstanding may become or may be declared due and payable before the stated maturity thereof, together with interest accrued thereon. Modifications or alterations of this Bond or the Indenture may be made only to the extent and in the circumstances permitted by the Indenture.

THIS BOND is transferable, as provided in the Indenture, only upon the books of the City kept for that purpose at the abovementioned 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 \$125,000,000.

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 shall have been executed by the Trustee.

IT IS HEREBY CERTIFIED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the execution and delivery of the Indenture and the issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by the Constitution and laws of the State of Missouri.

IN WITNESS WHEREOF, the City of St. Louis, Missouri, has caused this Bond to be executed in its name by the manual or facsimile signature of its Mayor and Comptroller, attested by the manual or facsimile signature of its City Register and its corporate seal to be affixed hereto or imprinted hereon.

THE CITY OF ST. LOUIS, MISSOURI

By: _____

Tishaura Jones
Mayor

By: _____

Darlene Green
Comptroller

APPROVED AS TO FORM

Matthew Moak
City Counselor

ATTEST:

Amber Simms
Register

CERTIFICATE OF AUTHENTICATION

This Bond is the Taxable Industrial Revenue Bond (Vande East Partners, LLC Project), Series 2021, described in the Trust Indenture. The effective date of registration of this Bond is set forth below.

UMB Bank, N.A., as Trustee

By _____
Authorized Signatory

Date

SCHEDULE I

TABLE OF CUMULATIVE OUTSTANDING PRINCIPAL AMOUNT				
THE CITY OF ST. LOUIS, MISSOURI TAXABLE INDUSTRIAL REVENUE BOND (Vande East Partners, LLC Project) SERIES 2021				
Bond No. 1				
Date	Principal Amount Advanced	Principal Amount Redeemed	Cumulatiave Outstanding Principal Amount	Notation Made By

FORM OF ASSIGNMENT

(NOTE RESTRICTIONS ON TRANSFERS)

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

Print or Typewrite Name, Address and Social Security or other Taxpayer Identification Number of Transferee

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____ 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**

The City of St. Louis, Missouri
City Hall
1200 Market Street, Room 200
St. Louis, Missouri 63103

UMB Bank, N.A.
2 South Broadway, Suite 600
St. Louis, Missouri 63102
ATTN: Corporate Trust Department

Re: \$125,000,000 Maximum Principal Amount of Taxable Industrial Revenue Bonds (Vande East Partners, LLC Project), Series 2021 of The City of St. Louis, 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*] (the "Indenture"), between the City of St. Louis, Missouri (the "City") and UMB Bank, N.A., as trustee (the "Trustee"), and (b) the Bonds are payable solely out of certain rents, revenues and receipts to be derived from the leasing or sale of the Project (as defined in the Indenture) to Vande East Partners, LLC, a Missouri limited liability company (the "Company"), under a Lease Agreement dated as of [*Date*] (the "Lease"), between the City and the Developer, with certain of such rents, revenues and receipts being pledged and assigned by the City to the Trustee under the Indenture to secure the payment of the principal of and interest on the Bonds.

2. The 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 its 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 Developer 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. The Developer 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.*][*Delete if Company is also the Purchaser*]

5. The undersigned is now, and was when it agreed to purchase the Bonds, familiar with the operations of the Developer and fully aware of terms and risks 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 the lessee under the Lease or (a) a "qualified institutional buyer" under Rule 144A promulgated under the Securities Act of 1933, or (b) 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
FORM OF BASE LEASE
BOARD BILL NUMBER 73
EXHIBIT C

(The above space is reserved for Recorder's Certification.)

TITLE OF DOCUMENT: BASE LEASE
DATE OF DOCUMENT: [*Date*], 2021
GRANTOR: VANDE EAST PARTNERS, LLC,
a Missouri limited liability company
GRANTOR'S MAILING ADDRESS: c/o Lawrence Group
319 N. 4th Street, Suite 1000
St. Louis, Missouri 63102
GRANTEE: CITY OF St. Louis, MISSOURI,
a constitutional charter city organized and existing under the laws of the State of Missouri
GRANTEE'S MAILING ADDRESS: 1200 Market Street, Room 200
St. Louis, Missouri 63103
RETURN DOCUMENTS TO: Mark A. Spykerman, Esq.
Gilmore & Bell, P.C.
211 North Broadway, Suite 2000
St. Louis, Missouri 63102
LEGAL DESCRIPTION: See Exhibit A

BASE LEASE

THIS BASE LEASE (this “Base Lease”) is made and entered into as of the 1st day of _____, 2021 (the “Effective Date”), by and between **VANDE EAST PARTNERS, LLC**, a Missouri limited liability company (the “Developer”), and **THE CITY OF ST. LOUIS, MISSOURI**, a constitutional charter city organized and existing under the laws of the State of Missouri (the “City”).

RECITALS:

A. The City is authorized and empowered pursuant to the provisions of Article VI, Section 27(b) of the Missouri Constitution, Sections 100.010 through 100.200, inclusive, of the Revised Statutes of Missouri, as amended (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 shall deem advisable.

B. The Developer owns ____ acres of land located in Redevelopment Project Area 2 of the City Foundry Saint Louis Redevelopment Area and legally-described on **Exhibit A** attached hereto (the “Project Site”), which is the subject of an industrial development plan approved pursuant to the Act by Ordinance No. _____ passed by the City’s Board of Aldermen on _____, 2021 (the “Ordinance”).

C. Pursuant to the Act and the Ordinance, the City is authorized to (a) issue its Taxable Industrial Revenue Bonds (Vande East Partners, LLC Project), Series 2021, in the maximum principal amount of \$125,000,000 (the “Bonds”), for the purpose of acquiring a leasehold interest in the Project Site and constructing approximately 59,000 square feet of office space, 280 multi-family apartment units, 17,000 square feet of retail space and 492 structured parking spaces thereon (the “Project Improvements” and, together with the acquisition of a leasehold interest in the Project Site, the “Project”), (2) enter into this Base Lease for the purpose of acquiring a leasehold interest in the Project Site during the construction of the Project Improvements and (3) enter into a Lease Agreement with the Developer of even date herewith (the “Lease”) for the purpose of leasing the Project back to the Developer for rent sufficient to pay debt service on the Bonds.

D. Pursuant to the Performance Agreement dated as of [*Date*], 2021 between the City and the Developer, the City has agreed to cooperate with the Developer and its contractors in acquiring the benefits of sales tax exemption for purchases of materials used to construct the Project Improvements.

E. The Developer desires to lease the Project Site to the City, and the City desires to lease the Project Site from the Developer for the term of this Base Lease as more fully described herein.

NOW, THEREFORE, in consideration of the premises and the mutual representations, covenants and agreements herein contained, the City and the Developer do hereby represent, covenant and agree as follows:

Section 1. Definitions. In addition to any words and terms defined elsewhere in this Base Lease, capitalized words and terms used in this Base Lease shall have the meanings given to such terms in the Trust Indenture dated as of [*Date*], 2021 between the City and UMB Bank, N.A., as trustee (the “Indenture”), and the Lease Agreement dated as of [*Date*], 2021 between the City and the Developer (the “Lease”).

Section 2. Representations by the City. The City makes the following representations as the basis for the undertakings on its part herein contained:

- (a) The City is a constitutional charter city duly organized and validly existing under the laws of the State of Missouri.
- (b) Under the provisions of the Act and its charter, the City has lawful power and authority to enter into the transactions contemplated by this Base Lease and to carry out its obligations hereunder.
- (c) By proper action of its governing body, the City has been duly authorized to execute and deliver this Base Lease, acting by and through its duly authorized officers.

Section 3. Representations by the Developer. The Developer makes the following representations as the basis for the undertakings on its part herein contained:

- (a) The Developer is a limited liability company duly organized and in good standing under the laws of the State of Missouri.

(b) The Developer has lawful power and authority to enter into this Base Lease and to carry out its obligations hereunder and the Developer has been duly authorized to execute and deliver this Base Lease, acting by and through its duly authorized managers, officers and representatives.

(c) The Developer is the owner of a leasehold interest in the Project Site and is permitted to sublease the Project Site to the City pursuant to this Base Lease.

Section 4. Lease Term. This Base Lease shall become effective upon execution and delivery, and subject to earlier termination pursuant to the provisions hereof, but in no event later than the earlier of December 31, 2025 or the termination of the Lease.

Section 5. Granting of Leasehold Estate. The Developer hereby rents, leases and lets the Project Site to the City, and the City hereby rents, leases and hires the Project Site from the Developer, 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's leasehold estate shall be limited solely for the construction and rehabilitation of the Project Improvements in accordance with the Ordinance.

Section 6. Rent. In addition to the City's obligations under the Performance Agreement and the Lease, the City hereby agrees to pay to the Developer annual rent under this Base Lease (the "Rent") equal to One Dollar and no/100 (\$1.00), which shall be due on the date of this Base Lease and on each January 1 thereafter during the term of this Base Lease. The Developer hereby acknowledges that it has received the Rent due on the date of this Base Lease.

Section 7. Use and Possession of the Project Site. The City will have the rights of use and possession of the Project Site only to the extent permitted by the Lease.

Section 8. Assignability. The City will not assign, sublease, mortgage or otherwise transfer or encumber its interest in this Base Lease except to the Developer pursuant to the Lease.

Section 9. Repairs and Maintenance. The Developer shall, at its sole cost and expense, maintain and repair the Project Site, and all portions thereof and improvements thereon, to the extent required by the Lease. In no event shall the City be required to make any repairs, improvements, additions, replacements, reconstructions or other changes to the Project Site or perform any maintenance thereon.

Section 10. Taxes. Pursuant to **Section 6.2** of the Lease, the Developer shall promptly pay all taxes or other governmental charges that, if unpaid, would encumber the City's leasehold interest in the Project Site.

Section 11. Insurance. The Developer shall maintain the insurance policies required by Article VII of the Lease.

Section 12. Condemnation. If, at any time during the Term of this Base Lease, there is a total or partial taking of the Project Site in condemnation proceedings or by any right of eminent domain or by sale in lieu thereof, the parties shall have the rights and obligations provided in the Lease, and this Base Lease shall terminate only to the extent and in the manner provided in the Lease.

Section 13. Surrender of Project Site. Except as otherwise expressly provided in this Base Lease, the City shall immediately surrender and deliver possession of the Project Site and all improvements thereon, including all materials and supplies located thereon or acquired for the Project Improvements, to the Developer at the expiration or other termination of this Base Lease, to the limited extent that the City may have any rights to possession thereof as expressly provided in this Base Lease, without fraud or delay.

Section 14. Notices. Any and all notices, demands, requests, submissions, approvals, consents, disapprovals, objections, offers, or other communications or documents required to be given, delivered or served or which may be given, delivered or served under or by the terms and provisions of this Base Lease or pursuant to law or otherwise, shall be made in the form and manner provided in the Lease.

Section 15. Developer's Right to Terminate. The Developer may terminate this Base Lease at any time, provided that the Developer purchases the Project Improvements and terminates the Lease with respect to the Project Site in conjunction therewith (but not necessarily with respect to the Project Equipment), as contemplated by Article XI of the Lease.

Section 16. Conflict with the Lease. In the event of any conflict between the terms hereof and the terms of the Lease, the terms of the Lease shall control.

THE CITY OF ST. LOUIS, MISSOURI

By: Tishaura Jones
Mayor

By: Darlene Green
Comptroller

APPROVED AS TO FORM:

Matthew Moak
City Counselor

ATTEST:

Amber Simms
Register

ACKNOWLEDGMENT

STATE OF MISSOURI)
) SS.
CITY OF ST. LOUIS)

On this ___ day of ___, 2021, before me, the undersigned, a Notary Public, appeared TISHAURA JONES and DARLENE GREEN, to me personally known, who, being by me duly sworn, did say that they are the Mayor and Comptroller of the CITY OF ST. LOUIS, MISSOURI, respectively 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 Board of Aldermen, 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
PROJECT SITE

EXHIBIT D
FORM OF LEASE AGREEMENT

BOARD BILL NUMBER 73
EXHIBIT D

THE CITY OF ST. LOUIS, MISSOURI,
As Lessor,

AND

Vande East Partners, LLC,
As Lessee

LEASE AGREEMENT

Dated as of [*Date*], 2021

Relating to:

\$125,000,000
(Aggregate Maximum Principal Amount)
The City of St. Louis, Missouri
Taxable Industrial Revenue Bonds
(Vande East Partners, LLC Project)
Series 2021

Certain rights of The City of St. Louis, Missouri (the “City”), in this Lease Agreement have been pledged and assigned to UMB Bank, N.A., St. Louis, Missouri, as Trustee under the Trust Indenture dated as of [*Date*], 2021, between the City and the Trustee.

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LEASE AGREEMENT

THIS LEASE AGREEMENT, dated as of [*Date*], 2021 (the “Lease”), between THE CITY OF ST. LOUIS, MISSOURI, a constitutional charter city organized and existing under the laws of the State of Missouri (the “City”), as lessor, and VANDE EAST PARTNERS, LLC, a limited liability company organized and existing under the laws of the State of Missouri (the “Developer”);

RECITALS:

1. The City is authorized and empowered pursuant to the provisions of Article VI, Section 27(b) of the Missouri Constitution, Sections 100.010 through 100.200, inclusive, of the Revised Statutes of Missouri, as amended (collectively, the “Act”), and the City 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 Board of Aldermen passed an ordinance (the "Ordinance") on _____, 2021, authorizing the City to issue its Taxable Industrial Revenue Bonds (Vande East Partners, LLC Project), Series 2021, in the maximum principal amount of \$125,000,000 (the "Bonds"), for the purpose of acquiring a leasehold interest in certain real property located within Redevelopment Project Area 2 of the City Foundry Saint Louis Redevelopment Area (as further described on Exhibit A attached hereto, the "Project Site") and constructing approximately 59,000 square feet of office space, 280 multi-family apartment units, 17,000 square feet of retail space and 492 structured parking spaces thereon (the "Project Improvements" and, together with the acquisition of a leasehold interest in the Project Site, the "Project").

3. Pursuant to the Ordinance, the City is authorized to enter into a Trust Indenture of even date herewith (the "Indenture") with UMB Bank, N.A., St. Louis, Missouri, as Trustee (the "Trustee"), for the purpose of issuing and securing the Bonds, as therein provided, enter into the Base Lease of even date herewith with the Developer, and to enter into this Lease with the Developer, under which the City will acquire a leasehold interest in the Project Site and cause the purchase and construction of the Project Improvements, and will lease the Project to the Developer in consideration of rental payments by the Developer that will be sufficient to pay the principal of and interest on the Bonds.

4. In consideration of the terms and conditions of this Lease, the Ordinance, issuance of the Bonds and certain other agreements, the City and the Developer have concurrently herewith entered into a Performance Agreement of even date herewith (the "Performance Agreement") pursuant to which the Developer has agreed to certain additional obligations.

5. Pursuant to the foregoing, the City desires to lease the Project to the Developer and the Developer 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 Developer 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 shall otherwise indicate, words importing the singular number shall include the plural and vice versa, and words importing Persons shall include firms, associations and corporations, including governmental entities, as well as natural Persons.

(c) Wherever in this Lease it is provided that either party shall or will make any payment or perform or refrain from performing any act or obligation, each such provision shall, even though not so expressed, be construed as an express covenant to make such payment or to perform, or not to perform, as the case may be, such act or obligation.

(d) All references in this instrument to designated "Articles," "Sections" and other subdivisions are, unless otherwise specified, to the designated Articles, Sections and subdivisions of this instrument as originally executed. The words "herein," "hereof," "hereunder" and other words of similar import refer to this Lease as a whole and not to any particular Article, Section or other subdivision.

(e) The Table of Contents and the Article and Section headings of this Lease shall not be treated as a part of this Lease or as affecting the true meaning of the provisions hereof.

(f) Whenever an item or items are listed after the word "including," such listing is not intended to be a listing that excludes items not listed.

(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 out-of-pocket costs, expenses, obligations or liabilities in providing such reasonable cooperation and promptness.

ARTICLE II REPRESENTATIONS

Section 2.1. Representations by the City. The City makes the following representations as the basis for the undertakings on its part herein contained:

(a) The City is a constitutional charter city duly organized and validly existing under the laws of the State of Missouri. Under the provisions of the Act, the City has lawful power and authority to enter into the transactions contemplated by this Lease and to carry out its obligations hereunder. By proper action of the Board of Aldermen, 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 a leasehold interest in the Project Site pursuant to the Base Lease and cause the purchase and construction of the Project Improvements. The City agrees to lease the Project to the Developer and sell the Project to the Developer if the Developer exercises its option to purchase the Project or upon termination of this Lease (and with respect to the Project Site and Project Improvements only, the expiration or earlier termination of the Base Lease), all for the purpose of furthering the public purposes of the Act.

(c) The purchase, construction, extension, equipping and improvement of the Project and the leasing of the Project by the City to the Developer will further the public purposes of the Act.

(d) To the City's knowledge, no member of the Board of Aldermen or any other officer of the City has any significant or conflicting interest, financial, employment or otherwise, in the Developer 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 the Lease.

(g) The City will not knowingly take any affirmative action that would permit a lien to be placed on the Project or pledge the revenues derived therefrom for any bonds or other obligations, other than the Bonds, except with the written consent of the Authorized Developer Representative; provided, however, the City's execution of this Lease, the Indenture, the Redevelopment Agreement and any amendments thereto shall not be deemed to violate this subsection.

(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 Developer. The Developer makes the following representations as the basis for the undertakings on its part herein contained:

(a) The Developer is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Missouri.

(b) The Developer has lawful power and authority to enter into this Lease and to carry out its obligations hereunder and the Developer 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 Developer will not, to the best of the Developer'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 Developer is a party or by which it or any of its property is bound, or the Developer's organizational documents, or any order, rule or regulation applicable to the Developer 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 Developer under the terms of any instrument or agreement to which the Developer is a party.

(d) The estimated costs of the purchase, construction, equipping and improvement of the Project are in accordance with sound engineering and accounting principles.

(e) The Project will comply in all material respects with all applicable federal, state and local laws, statutes, ordinances, rules, regulations, executive orders and codes pertaining to or affecting the Project, including environmental laws, subject to all applicable rights of the Developer to contest the same.

ARTICLE III GRANTING PROVISIONS

Section 3.1. Granting of Leasehold Estate. The City hereby exclusively rents, leases and lets the Project to the Developer, and the Developer hereby rents, leases and hires the Project from the City, subject to the Base Lease and the Permitted Encumbrances existing as of the date of the execution and delivery hereof, for the rentals and upon and subject to the terms and conditions herein contained.

Section 3.2. Lease Term. This Lease shall become effective upon its execution and delivery. Subject to earlier termination pursuant to the provisions of this Lease, the lease of the Project shall terminate on December 31, 2025.

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 Developer 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 and may peaceably and quietly have, hold and enjoy the Project during the Lease Term. The City covenants and agrees that it will not take any action, other than expressly pursuant to **Article XII**, to prevent the Developer from having quiet and peaceable possession and enjoyment of the Project during the Lease Term and will, at the request and expense of the Developer, cooperate with the Developer to defend the Developer's quiet and peaceable possession and enjoyment of the Project.

(b) Subject to the provisions of this Section, the Developer shall have the exclusive right to use the Project for any lawful purpose contemplated by the Act and consistent with the terms of the Performance Agreement. The Developer shall use its best efforts to 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. The Developer shall also comply with the mandatory requirements, rules and regulations of all insurers under the policies carried under the provisions of **Article VII**. The Developer 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 Developer to comply with the provisions of this Section. Notwithstanding any provision contained in this Section, however, the Developer 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 Developer may refrain from complying therewith.

ARTICLE IV PURCHASE, CONSTRUCTION AND EQUIPPING 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 Developer, 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.

Section 4.2. Purchase, Construction and Equipping of the Project. The City and the Developer agree that the Developer, as the agent of the City, shall, but solely from the Project Fund, purchase, construct, equip and improve the Project as follows:

(a) The City will acquire a leasehold in the Project Site at the execution hereof pursuant to the Base Lease.

(b) On behalf of the City, the Developer 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 and the TIF Agreement. The Developer may revise the Plans and Specifications from time to time as it deems necessary to carry out the Project, but revisions that would alter the intended purpose of the Project may be made only with the prior written approval of the City and in accordance with the requirements of the TIF Agreement. The Developer 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 Developer 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 Developer will comply with the provisions of Section 107.170 of the Revised Statutes of Missouri, as amended, to the extent applicable to the construction of the Project.

(d) The Developer will cause the purchase, construction, and improvement of the Project Improvements to be completed on or before the Completion Date.

Section 4.3. Project Costs. The City hereby agrees to pay for, but solely from the Project Fund, and hereby authorizes and directs the Trustee to pay for, but solely from the Project Fund, all Project Costs upon receipt by the Trustee of a certificate pursuant to **Section 4.4**. The Developer may not submit any requisition certificates for Project Costs incurred after the Completion Date and all requisition certificates must be submitted within three (3) months after the Completion Date. The maximum amount of Project Costs for which requisition certificates may be submitted is expressly limited to \$125,000,000.

Section 4.4. Payment for Project Costs.

(a) The City hereby authorizes and directs the Trustee to make disbursements from the Project Fund and endorse the Bonds, upon receipt by the Trustee of certificates in substantially the form attached hereto as **Exhibit B**, signed by an Authorized Developer Representative and approved by an Authorized SLDC Representative. The Developer agrees that the information in each certificate will be accurate in all respects when given, and that the Developer will notify the City and SLDC if the Developer becomes aware of any material inaccuracies in a certificate after the date on which it is given.

(b) The Trustee may rely conclusively on any such certificate and shall not be required to make any independent inspection or investigation in connection therewith. The approval of any requisition certificate by the Authorized Developer Representative and an Authorized SLDC 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 SLDC (on behalf of the City) and the Trustee by a certificate signed by the Authorized Developer Representative stating (a) that the purchase, construction, equipping and improvement of the Project has been completed in accordance with the Plans and Specifications, (b) the date of completion thereof, and (c) that all costs and expenses of the purchase, construction, equipping and improvement of the Project have been incurred. Notwithstanding the foregoing, (i) such certificate shall state that it is given without prejudice to any rights against third parties which exist at the date of such certificate or which may subsequently come into being and (ii) such certificate shall be deemed given on December 31, 2025 if not actually filed with the City by December 31, 2025, subject to any delay to the extent caused by force majeure, 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, installation and occupation of the Project, shortage or delay in shipment of material or fuel, acts of God, unusually adverse weather or wet soil conditions, or other like causes beyond the Developer's reasonable control, including without limitation any litigation, court order or judgment resulting from any litigation affecting the validity of this Lease, the Indenture, the Ordinance or the Project (collectively, a "Permitted Excuse"). No Permitted Excuse shall be deemed to exist unless the Developer provides a written notice to the City, within 30 days after the Developer has actual notice of the claimed event, specifying the Permitted Excuse. In no event shall a Permitted Excuse extend the Completion Date beyond December 31, 2026. The Developer and the City agree to cooperate in causing such certificate to be furnished to the Trustee.

Section 4.6. Surplus in Project Fund. Three (3) months after the Completion Date, 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 Developer 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 Developer, to the purchase of Bonds at such earlier date or dates as the Developer 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 leasehold interest in the Project Site and the Project Improvements located thereon at the execution hereof and which the Developer desires to convey to the City, all work and materials on the Project Improvements as such work progresses, and all additions or enlargements thereto or thereof, the Project as fully completed, anything under this Lease which becomes, is deemed to be, or constitutes a part of the Project, and the Project as repaired, rebuilt, rearranged, restored or replaced by the Developer 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 any Leasehold Mortgage.

Section 4.8. Non-Project Improvements, Machinery and Equipment Property of the Developer. Any improvements or items of machinery or equipment which do not constitute part of the Project and the entire purchase price of which is paid for by the Developer with the Developer'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 Developer 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 Developer covenants and agrees to pay to the Trustee in same day funds for the account of the City during this 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 on 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 Developer 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. In furtherance of the foregoing, and notwithstanding any other provision in this Lease, the Indenture, the Bond Purchase Agreement or the Performance Agreement to the contrary, and provided that the Developer is the sole holder of the Bonds, the Developer may set-off the then-current Basic Rent payment against the City's obligation to the Developer as Bondholder 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 notice from the Developer to the contrary as evidence that such set-off has occurred. On the final Payment Date, the Developer 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 Developer shall receive a credit against the Basic Rent payable by the Developer 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 Developer 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 counsel fees and expenses, of the City, the Trustee and the Paying Agent incurred under or arising from the Indenture, this Lease or the Performance 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 Performance Agreement by the City, the Trustee or the Owners, including counsel fees and expenses; and
- (d) all other payments of whatever nature which the Developer has agreed in writing to pay or assume under the provisions of this Lease, the Performance Agreement or the Indenture.

Section 5.3. Obligations of the Developer Absolute and Unconditional.

(a) The obligations of the Developer 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, setoff, 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 non-existent, 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 Developer's use thereof, the eviction or constructive eviction of the Developer, 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 is intended or shall be deemed to affect or impair in any way the rights of the Developer 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 Developer 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 Developer of any rights or claims the Developer 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 Developer 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 Developer 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 Developer 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 Developer's expense, to cooperate fully with the Developer and to take all action necessary to effect the substitution of the Developer for the City in any such action or proceeding if the Developer shall so request.

Section 5.4. Prepayment of Basic Rent.

(a) The Developer 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 Developer shall not be obligated to make payments of Basic Rent under the provisions of this Lease.

(b) At its option, the Developer may deliver to the Trustee for cancellation Bonds owned by the Developer and not previously paid, and the Developer shall receive a credit against amounts payable by the Developer 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 Developer 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 Developer 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 Developer 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 Developer therein) or any buildings, improvements, machinery and equipment at any time installed thereon by the Developer, 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 Developer shall be obligated to pay only such installments thereof as become due and payable during the Lease Term.

(b) The Developer 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 Developer is required to bear, pay and discharge pursuant to the terms of this Article by appropriate legal proceedings instituted at least 10 days before the tax, assessment or other governmental charge complained of becomes delinquent if and provided (i) the Developer, before instituting any such contest, gives the City written notice of its intention to do so, (ii) the Developer diligently prosecutes any such contest, at all times effectively stays or prevents any official or judicial sale therefor, under execution or otherwise, and (iii) the Developer 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 Developer in connection with any and all administrative or judicial proceedings related to any tax, assessment or other governmental charge. The Developer shall save and hold harmless the City from any costs and expenses the City may incur related to any of the above.

(c) Nothing in this Lease shall be construed to require the Developer to make duplicate tax payments. The Developer shall receive a credit against the PILOT Payments (as defined in the Performance Agreement) to be made by the Developer under the Performance 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 Developer in, on or about the Project shall be paid by the Developer and shall be contracted by the Developer in the Developer's own name, and the Developer shall, at its sole cost and expense, procure any and all permits, licenses or authorizations necessary in connection therewith.

Section 6.4. Property Taxes. The City and the Developer expect that the Project Site and the Project Improvements will be subject to ad valorem real property taxes, including any payments in lieu of taxes related to the Project Site's location within a tax increment financing district.

ARTICLE VII INSURANCE

Section 7.1. Title Commitment or Report. Before execution of this Lease and the Base Lease, the Developer will purchase, from a title insurance company reasonably acceptable to the City, a commitment for title insurance or provide such other report in a form reasonably acceptable to the City's legal counsel 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) The Developer shall at its sole cost and expense obtain and shall maintain throughout the Lease Term a policy or policies of insurance (including, if appropriate, builder's risk insurance) to keep the Project constantly insured against loss or damage by fire, lightning and all other risks covered by the extended coverage insurance endorsement then in use in the State of Missouri in an amount equal to the Full Insurable Value thereof (subject to reasonable loss deductible provisions). The insurance required pursuant to this Section shall be maintained with a generally recognized responsible insurance company or companies authorized to do business in the State of Missouri or generally recognized international insurers or reinsurers with an A.M. Best rating of not less than "A-" or the equivalent thereof as may be selected by the Developer. The Developer shall deliver certificates of insurance for such policies to the City and the Trustee on the date of execution of this Lease 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 Developer as insureds, as their respective interests may appear (and, if the Developer is not the sole Owner of the Bonds, shall name the Trustee as loss payee) and shall contain an agreement by the insurer that, notwithstanding any right of cancellation reserved to such insurer, such policy or contract shall continue in force for at least 10 days after written notice of cancellation to the Developer, the Trustee and each other insured or loss payee named therein.

(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 and shall be applied as provided in Article IX of this Lease, 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 Documents.

Section 7.3. Public Liability Insurance.

(a) The Developer 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 Developer 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, as amended (subject to reasonable loss deductible clauses not to exceed the amounts normally or generally carried by the Developer). The policies of said insurance shall contain an agreement by the insurer that, notwithstanding any right of cancellation reserved to such insurer, such policy or contract shall continue in force for at least 10 days after written notice of cancellation to the Developer, the Trustee and each other insured or loss payee named therein. Certificates of such policies shall be furnished to the Trustee on the date of execution of this Lease and promptly after renewal 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; Self Insurance. The Developer 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. The Developer may satisfy any of the insurance requirements set forth in this Article using self-insurance or insurance through a subsidiary or affiliate; so long as (i) the insurance is underwritten by a subsidiary or other affiliate of the Developer with a separate net worth of at least \$50,000,000, or (ii) the Developer funds such self-insurance by appropriate reserves. The Developer shall provide to the City and the Trustee copies of financial statements or similar evidence of net worth of such affiliate on the date hereof and every three (3) years, or, in the case of actuarial reports, on the

date of delivery of this Lease and, thereafter, not less than 30 days after receipt of such reports. The Trustee may conclusively rely on the Developer's written submissions pursuant to this Section and shall have no responsibility confirm or review any evidence of net worth submitted by the Developer.

Section 7.5. Worker's Compensation. The Developer 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, as amended, 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.

(a) The Developer may make such additions, modifications and improvements in and to any part of the Project Site or Project Improvements as the Developer from time to time may deem necessary or desirable for its business purposes. All additions, modifications and improvements made by the Developer pursuant to this Section shall (i) be made in a good and workmanlike manner and in strict compliance with all laws, orders and ordinances applicable thereto and (ii) when commenced, be prosecuted to completion with due diligence.

(b) The Developer shall, following the Completion Date, notify the City in writing of any improvements to the Project Site or Project Improvements, other than the Project being financed with the proceeds of the Bonds, that in the aggregate are reasonably expected to exceed \$1,000,000 during any calendar year.

Section 8.2. Reserved.

Section 8.3. Additional Improvements on the Project Site. Subject to Section 8.1(b), the Developer 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 Developer 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 Developer, and not paid for with Bond proceeds, pursuant to the authority of this Section shall not be included as Project Improvements and, during the life of this Lease, shall remain the property of the Developer and may be added to, altered or razed and removed by the Developer 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 Developer 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 Developer shall pay all ad valorem taxes and assessments payable with respect to such additional buildings and improvements which remain the property of the Developer. If for any reason the City Assessor determines that such additional buildings and improvements are not subject to ad valorem taxes, the Developer shall make payments in lieu of taxes in an amount equal to the taxes that would otherwise be due under this Section.

Section 8.4. Permits and Authorizations. The Developer shall not do or permit others under its control to do any work on the Project related to any repair, rebuilding, restoration, replacement, modification or addition to the Project, or any part thereof, unless all requisite municipal and other governmental permits and authorizations shall have been first procured. The City agrees to act promptly on all requests for such municipal permits and authorizations. In its capacity as owner of the Project, the City shall cooperate with the Developer to obtain, amend, or maintain any existing or future municipal or other governmental permit or authorization for the Project that requires the City's signature, certification, or consent as the owner of any part of the Project, including executing any required applications, certifications, or reports; provided, however, that nothing herein contained shall be construed as the City's current approval of, or acquiescence to, any permit or authorization in its capacity as a municipal corporation, it being acknowledged that such matters can only be approved by the City in the proper exercise of its municipal functions through appropriate governmental procedures and in the exercise of the City's unlimited legislative discretion. 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 8.5. Mechanics' Liens.

(a) The Developer 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 Developer shall promptly notify the City of the imposition of such lien of which the Developer 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 Developer shall discharge the same of record. Notice is hereby given that the City shall not be liable for any labor or materials furnished the Developer or anyone claiming by, through or under the Developer upon credit, and that no mechanics' or other similar lien for any such labor, services or materials shall attach to or affect the reversionary or other estate of the City in and to the Project or any part thereof.

(b) Notwithstanding paragraph (a) above, the Developer may contest any such mechanics' or other similar lien if the Developer (i) within 60 days after the Developer becomes aware of any such lien notifies the City and the Trustee in writing of its intention so to do, (ii) diligently prosecutes such contest, (iii) 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, (iv) promptly pays or otherwise satisfies any final judgment adjudging or enforcing such contested lien claim and (v) thereafter promptly procures record release or satisfaction thereof. The Developer may permit the lien so contested to remain unpaid during the period of such contest and any appeal therefrom unless the Developer 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 Developer 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 Developer shall save and hold harmless the City from any loss, costs or expenses the City may incur related to any such contest. The Developer 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 Developer in any such contest.

**ARTICLE IX
DAMAGE, DESTRUCTION AND CONDEMNATION****Section 9.1. Damage or Destruction.**

(a) If the Project is damaged or destroyed by fire or any other casualty, whether or not covered by insurance, the Developer, 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 is of a value not less than the value thereof immediately before the occurrence of such damage or destruction or, at the Developer'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, and fixtures will not impair the character of the Project as an enterprise permitted by the Act.

If the Developer elects to construct any such new buildings and improvements, for all purposes of this Lease, any reference to the words "Project Improvements" shall be deemed to also include any such new buildings and improvements and all additions thereto and all replacements and alterations thereof.

Unless the Developer 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. Insurance monies in an amount less than \$1,000,000 may be paid to or retained by the Developer to be held in trust and used as provided herein. Insurance monies in any amount of \$1,000,000 or more shall be (i) paid to the Trustee and deposited in the Project Fund and shall be disbursed as provided in **Section 4.4** to pay the cost of repairing, restoring, replacing or rebuilding the Project or any part thereof, or (ii) applied as directed in writing by, or on behalf of, the Owners of 100% in principal amount of the Bonds Outstanding. If the Developer makes the determination described in subsection (f) below, the Net Proceeds shall be deposited with the Trustee and used to redeem Bonds as provided in subsection (f).

(b) 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 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 Developer 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 Developer shall remain and continue liable for the payment of all Basic Rent and Additional Rent and all other charges required hereunder to be paid by the Developer, as though no damage by fire or any other casualty has occurred.

(d) The City and the Developer agree that they will cooperate with each other, to such extent as such other party may reasonably require, in connection with the prosecution or defense of any action or proceeding arising out of, or for the collection of any insurance monies that may be due in the event of, any loss or damage, and that they will execute and deliver to such other parties such instruments as may be required to facilitate the recovery of any insurance monies.

(e) The Developer agrees to give prompt written notice to the City and the Trustee with respect to all fires and any other casualties occurring in, on, at or about the Project Site causing (in the Developer's opinion) damage of more than \$1,000,000.

(f) If the Developer determines that rebuilding, repairing, restoring or replacing the Project is not practicable or desirable, or if the Developer 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 the mortgagee under the Leasehold Mortgage (if any) and the Financing Party under the Financing Documents (if any). The Developer agrees to be reasonable in exercising its judgment pursuant to this subsection (f). Alternatively, if the Developer 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 Developer 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 Developer under this Lease or of any other obligations of the Developer under this Lease except as expressly provided in this Section.

(h) Nothing herein shall be deemed to authorize the Developer to allow an unsafe, dangerous, unhealthy or injurious condition on the Project, Project Site or a portion thereof, 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 \$1,000,000, the Developer 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 in writing, the Trustee, the mortgagee under the Leasehold Mortgage (if any) and the Financing Party under the Financing Document (if any) in writing as to the nature and extent of such condemnation or loss of title and whether it is practicable and desirable to acquire or construct substitute improvements.

(b) If the Developer determines that such substitution is practicable and desirable, the Developer 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 Developer's operations at the Project (which improvements will be deemed a part of the Project and available for use and occupancy by the Developer without the payment of any rent other than herein provided, to the same extent as if such other improvements were specifically described herein and demised hereby); provided, that such improvements will be acquired by the City subject to no liens, security interests or encumbrances before the lien and/or security interest afforded by the Indenture and this Lease other than Permitted Encumbrances. In such case, any Net Proceeds received from any award or awards with respect to the Project or any part thereof made in such condemnation or eminent domain proceedings, or of the sale proceeds, shall be applied in the same manner as provided in **Section 9.1** (with respect to the receipt of casualty insurance proceeds).

(c) If the Developer determines that it is not practicable or desirable to acquire or construct substitute improvements, any Net Proceeds of condemnation awards received by the Developer 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 (if any). Alternatively, if the Developer 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 condemnation awards, and retain such proceeds for its own account, all subject to the rights of the mortgagee under the Leasehold Mortgage (if any) and Financing Party under the Financing Documents (if any).

(d) The Developer 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 Developer under this Lease nor of any other obligations hereunder except as expressly provided in this Section.

(e) The City shall cooperate fully with the Developer 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 Developer 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 Developer.

Section 9.3. Bondowner Approval. Notwithstanding anything to the contrary contained in this **Article IX**, the proceeds of any insurance received subsequent to a casualty or of any condemnation proceedings (or threats thereof) may before the application thereof by the City or the Trustee be applied as directed in writing by the Owners or pledgees of 100% of the principal amount of Bonds Outstanding, 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 Performance 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 Developer's purposes or needs. The Developer 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 Developer's use thereof, unless such loss is the result of the City's or the Trustee's 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 reentry to the extent provided in **Section 12.2(b)**, the Developer shall peacefully surrender possession of the Project to the City in good condition and repair; provided, however, the Developer 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 Developer 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 Developer, and during said 90-day (or extended) period the Developer 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 Developer and not constituting part of the Project. All buildings, improvements, furniture, trade fixtures, machinery and equipment owned by the Developer 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. Notwithstanding the foregoing, if the Developer has paid all obligations due and owing under the Indenture (or such obligations have been cancelled by the Owners), this Lease and the Performance Agreement, the City shall convey the Project in accordance with **Section 11.2**.

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 Developer 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 Day's prior notice, subject to the Developer'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 Developer'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 Developer'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 Developer'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, rightofway 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 Developer Representative requesting such instrument, and (iii) a certificate executed by an Authorized Developer Representative stating that such grant or release is not detrimental to the proper conduct of the business of the Developer, 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, will be a Permitted Encumbrance, and will (if requested by the City) limit recourse against the City to the City's interest in the Project and defend, indemnify and hold harmless the City against any claims, demands, costs, liabilities, damages or expenses, including attorneys' fees in connection therewith. If no Event of Default has happened and is continuing beyond any applicable grace period, any payments or other consideration received by the Developer for any such grant or with respect to or under any such agreement or other arrangement shall be and remain the property of the Developer; 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 Developer or (ii) the occurrence and continuance of an Event of Default by the Developer, all rights then existing of the Developer with respect to or under such grant shall inure to the benefit of and be exercisable by the City and the Trustee.

(b) The Developer may at any time or times (i) grant subleases, easements, licenses, rights-of-way (including the dedication of public highways) and other rights or privileges in the nature of easements that are for the direct use of the Project, or part thereof, by the grantee, (ii) release or terminate existing subleases, easements, licenses, rights of way and other rights or privileges, all with or without consideration and upon such terms and conditions as the Company shall determine, or (iii) incur Permitted Encumbrances. The Developer may take such actions and may execute any applicable documents in the Company's own name. No separate signature of or authorization from the City shall be required for the execution and delivery of any such document so long as the Developer's obligations under this Lease are not impaired, although the City agrees to execute and deliver such confirming documents as provided in (a) above upon written request of the Developer. The Developer 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 Developer'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 Performance Agreement are paid.

(c) The City acknowledges and agrees that the Developer may finance and refinance its rights and interests in the Project, this Lease and the leasehold estate created hereby and, in connection therewith, the Developer may execute Financing Documents with one or more Financing Parties. Notwithstanding anything contained to the contrary in this Lease, the Developer 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 Developer to the City in writing that the Developer 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 of each such Financing Party and any Financing Party existing as of the date of the execution and delivery hereof:

(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 such 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 Developer under this Lease, at the same time as such notice is served upon the Developer. No such notice to the Developer 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 Developer 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 Developer;

(iv) the City may exercise any of its rights or remedies with respect to any other Event of Default by the Developer, 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 Leasehold Mortgage may cause the sale of the leasehold interest of the Developer to be sold at foreclosure sale conducted in accordance with applicable law and the terms of the Leasehold Mortgage, 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 Developer under this Lease, other than a default in the payment of money, the City shall take no action to effect a termination of this Lease by service of a notice or otherwise, without first giving notice thereof to each such 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 the 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 the Financing Party (or its designee, nominee, assignee or transferee) shall pay or cause to be paid to the City and the Trustee all expenses, including reasonable counsel fees, court costs and disbursements incurred by the City or the Trustee in connection with any such default;

(vi) the Financing Parties (and their 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; and

(vii) this Lease may not be modified, amended, canceled or surrendered by agreement between the City and the Developer, without prior written consent of such Financing Party.

(e) In connection with the execution of one or more Financing Documents, upon the request of the Developer, the City agrees to execute such documents as shall be reasonably requested by a Financing Party and which are usual and customary in connection with the closing of the financing or refinancing pursuant to the Financing Documents (including, without limitation, subordination of the City's interest in the Project (and this Lease) to any Financing Document); provided, however, that such documents, upon the City's request, will limit recourse against the City to the City's interest in the Project. The Developer 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) The Developer's obligations under any mortgage or Financing Document relating to the Project entered into after the date of execution of this Lease shall be subordinate to the Developer's obligations under this Lease.

(g) Notwithstanding the foregoing, the City may agree to other provisions and documents requested by the Developer or any Financing Party not contemplated by this **Section 10.4**, subject to approval by Order of the Board of Aldermen.

Section 10.5. Indemnification of City and Trustee. The Developer shall indemnify and save and hold harmless the City, SLDC 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 Performance 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 attorneys' fees, arising during the Lease Term from (a) any condition of the Project, (b) any breach or default on the part of the Developer in the performance of any of its obligations under the Performance Agreement, this Lease or any related document, (c) any contract entered into in connection with the acquisition, purchase, construction, equipping, extension, installation or improvement of the Project, (d) any act of negligence of the Developer or of any of its agents, contractors, servants, employees or licensees, (e) unless the Developer has been released from liability pursuant to **Section 13.1(c)**, any act of negligence of any assignee or sublessee of the Developer, or of any agents, contractors, servants, employees or licensees of any assignee or sublessee of the Developer, (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, as amended; provided, however, the indemnification contained in this **Section 10.5** shall not extend to the City or SLDC to the extent that such claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, are (i) the result of work being performed at the Project by employees of the City or SLDC, (ii) the result of negligence or willful misconduct by the City or SLDC, and shall not extend to the Trustee to the extent that such claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, are the result of the gross negligence or willful misconduct of the Trustee, or (iii) a material and intentional breach of this Lease, the Performance Agreement, or the Bond Purchase Agreement by the City. Upon written notice from the City, SLDC or the Trustee of any such claims or demand, the Developer shall defend them or either of them in any such action or proceeding; provided, that the City and SLDC shall, at the Developer's expense, cooperate with the Developer and provide reasonable assistance in such defense. All costs related to the defense of the City, SLDC or the Trustee shall be paid by the Developer. This **Section 10.5** shall survive any termination of the Performance 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 Developer, and the City will, at the Developer's expense, fully cooperate with the Developer in any effort by the Developer to avail itself of any such depreciation, investment tax credit or other tax benefits.

Section 10.7. Developer to Maintain its Existence. The Developer agrees that until the Bonds are paid or payment is provided for in accordance with the terms of the Indenture, it will maintain its existence, and will not dissolve or otherwise dispose of all or substantially all of its assets; provided, however, that the Developer 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, provided, the surviving, resulting or transferee Person expressly assumes in writing all the obligations of the Developer contained in this Lease.

Section 10.8. Security Interests. The City and the Developer hereby authorize the Trustee to file all appropriate financing and continuation statements as may be required under the Uniform Commercial Code in order to fully preserve and protect the security of the Owners and the rights of the Trustee under the Indenture. At the written request of the Owners of 100% of the Bonds then Outstanding, the City and the Developer agree to enter into any other instruments necessary for perfection of and continuance of the perfection of the security interests of the City and the Trustee in the Project. Upon the written instructions of the Owners or pledgees of 100% of the Bonds then Outstanding, the Trustee shall file all instruments the Owners deem necessary to be filed and shall continue or cause to be continued such instruments for so long as the Bonds are Outstanding. Notwithstanding the foregoing, the Trustee shall not be obligated to file any original instrument unless such instrument has been prepared by an attorney acceptable to the Trustee (and any attorney's fees incurred in connection therewith shall be paid by the Developer), and the Trustee shall not be responsible for the accuracy or sufficiency of any such original instrument. The City and the Developer shall cooperate with the Trustee in this regard by providing such information as the Trustee may require to file or to renew such statements.

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 nowexisting 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 cleanup, (ii) toxic waste, (iii) underground storage tanks, (iv) asbestos or asbestoscontaining 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, petroleumbased 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) The Developer warrants and represents to the City and the Trustee that to the knowledge of the Developer 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 Developer 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 Developer to any federal, state or local or other agencies or authorities or which are received by the Developer 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 Developer. The Trustee shall hold such copies as repository only and shall not be required to review or deemed to have knowledge of the contents of such copies. The Developer 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 Site and the Project Improvements; upon the completion of the City's review of the Assessments and the Reports, the City shall immediately return to the Developer all originals and copies of the Assessments and Reports.

(d) The Developer warrants and represents that the Developer 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 2 years preceding the date hereof, as of the date hereof, by the Developer to any federal, state or local

governmental authority or agency as required pursuant to the Emergency Planning and Community RighttoKnow Act of 1986, 42 U.S.C.A. §11001 et seq., or any other applicable Environmental Laws. The Developer 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 RighttoKnow 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. The Trustee shall hold such copies as repository only and shall not be required to review or deemed to have knowledge of the contents of such copies.

(e) The Developer 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 Developer 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 Developer's business and in material compliance with all applicable Environmental Laws.

(f) The Developer 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, 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 hereafter 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 Developer or any third party or otherwise (except to the extent such release occurs as a result of any negligent omission or 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 Developer or any third party or otherwise (except to the extent such release occurs as a result of any act, negligent omission or 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 Developer's obligations under this **Section 10.9(f)** shall not apply 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, (ii) negligence or willful misconduct by the City or the Trustee, respectively, or (iii) a material and intentional breach of this Lease, the Performance Agreement, or the Bond Purchase Agreement by the City. The City shall cooperate with the Developer 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.

Section 10.10. Other Covenants.

(a) The Developer covenants and agrees that it will comply in all material respects with all applicable governmental, legal and regulatory requirements, including without limitation all applicable laws, codes, regulations, rules, ordinances, judgments, orders and decrees, including, without limitation, those related to labor, employment, non-discrimination and equal employment opportunities. This covenant may be enforced by the City or SLDC. The Developer further agrees that a provision containing the covenants in this Section shall be included in all agreements pertaining to the lease or conveyance or transfer (by any means) of all or a portion of the Project, except that no such covenants will be required for the conveyance or transfer of any portion of the Project purchased by the Developer pursuant to **Section 8.1** or **Article XI**. Without limiting any of the foregoing, the Developer agrees, to the extent permitted by law, to comply with the requirements of the TIF Agreement with respect to non-discrimination, minority and women contracting, and workforce requirements.

ARTICLE XI OPTION AND OBLIGATION TO PURCHASE THE PROJECT

Section 11.1. Option to Purchase the Project. The Developer shall have, and is hereby granted, the option to purchase all or any portion of 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 Developer shall give written notice to the City 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. Such notice may be waived by the City and the Trustee in their discretion. In case of a redemption of the Bonds in accordance with the provisions of the Indenture, the Developer 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 Developer 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 Developer; 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 Developer 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 Developer 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 Developer 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 Performance 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 Developer may deliver to the Trustee for cancellation Bonds not previously paid, and the Developer shall receive a credit against the purchase price payable by the Developer 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 Developer 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 termination of this Lease and the Base Lease and bills of sale or other documentation sufficient, in the reasonable view of the Developer, to convey the equipment and other personal property to the Developer.

Section 11.3. Relative Position of Option and Indenture. The option to purchase the Project granted to the Developer in this Article shall be and remain prior and superior to the Indenture and may be exercised whether or not the Developer is in default under this Lease, 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.

(a) The Developer hereby agrees to purchase, and the City hereby agrees to sell, the Project upon the occurrence of (1) 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 (2) the final payment due under the Performance Agreement. The amount of the purchase price under this Section shall be an amount sufficient to redeem all the then Outstanding Bonds, plus all payments due and payable pursuant to the Performance Agreement through the end of the calendar year in which the date of purchase occurs, plus accrued interest and the reasonable fees and expenses of the City and the Trustee (including, without limitation, any attorneys' fees and expenses).

(b) The Developer hereby agrees to purchase and the City hereby agrees to sell, the City's interest in the Project Site and the Project Improvements upon expiration or earlier termination of the Base Lease. The amount of the purchase price under this subsection shall be an amount sufficient to redeem Bonds attributable to the Project Site and the Project Improvements, plus accrued interest and reasonable fees and expenses of the City and the Trustee (including, without limitation, any attorneys' fees and expenses). The Developer may pay all or a portion of such purchase price by tendering (or being deemed to have tendered) Bonds to the Trustee for cancellation.

Section 11.5. Right of Set-Off. At its option, to be exercised at least 5 days before the date of closing such purchase, the Developer may deliver to the Trustee for cancellation Bonds not previously paid, and the Developer shall receive a credit against the purchase price payable by the Developer in an amount equal to 100% of the principal amount of the Bonds so delivered for cancellation, plus the accrued interest thereon. The Developer may set-off any payment obligation under this Article by tendering a corresponding amount of the Bonds to the Trustee for cancellation.

ARTICLE XII DEFAULTS 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 Developer; or
- (b) default in the due observance or performance of any other covenant, agreement, obligation or provision of this Lease on the Developer’s part to be observed or performed, and such default continues for 90 days after the City or the Trustee has given the Developer written notice specifying such default (or such longer period as is reasonably required to cure such default, provided that (i) the Developer has commenced such cure within said 90-day period, and (ii) the Developer diligently prosecutes such cure to completion); or
- (c) the Developer: (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 United States 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 Developer’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 windingup 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 Performance 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 Developer 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 Developer’s rights to possession of the Project shall cease and this Lease shall thereupon be terminated, and the City may reenter and take possession of the Project; provided, however, if the Developer has paid all obligations due and owing under the Indenture (or such obligations have been cancelled by the Owners), this Lease and the Performance Agreement, the City shall convey the Project in accordance with **Section 11.2**.

Section 12.3. Survival of Obligations. The Developer 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 Developer 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** hereof, upon the payment of all Basic Rent and Additional Rent required under **Article V** hereof, and upon the satisfaction and discharge of the Indenture under **Section 1301** thereof, and upon the Developer's exercise of the purchase option contained in **Article XI** hereof, the Developer'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 Developer'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 Developer's part for 90 days after written notice of such failure is given the Developer by the City or the Trustee, and without waiving or releasing the Developer 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, attorney's 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 Developer, 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 Developer in the payment of Basic Rent.

Section 12.5. Rights and Remedies Cumulative. The rights and remedies reserved by the City and the Developer 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 Developer 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 Developer's option to re-purchase the property 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 Developer of any covenant, agreement or undertaking by the Developer, the City may nevertheless accept from the Developer any payment or payments hereunder without in any way waiving City's right to exercise any of its rights and remedies provided for herein with respect to any such default or defaults of the Developer 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 obliged to, exercise any or all of the rights of the City under this Article, upon notice as required of the City unless the City has already given the required notice. In addition, the Trustee shall have available to it all of the remedies prescribed by the Indenture.

ARTICLE XIII ASSIGNMENT AND SUBLEASE

Section 13.1. Assignment; Sublease.

(a) The Developer may sublease, assign, transfer, encumber or dispose of this Lease or any interest herein or part hereof for any lawful purpose under the Act upon providing written notice to the City (provided, however, that no written notice shall be required for leases, subleases, licenses and similar disposition of office, retail, residential or parking space to tenants in the ordinary course of the Developer's business). Except as otherwise provided in this Section, the Developer must obtain the approval of the City's Board of Estimate and Apportionment prior to any such disposition, unless such disposition is to (i) an entity controlled by or under common control with or controlling the Developer, (ii) the same entity that is an assignee under the TIF Agreement, (iii) an entity receiving such disposition in the ordinary course of the Developer's business (i.e., subleases to tenants) or (iv) unless such disposition is in connection with a sale of all or substantially all of the assets of the Developer.

(b) With respect to any assignment, the Developer shall comply with the following conditions:

- (i) The Developer 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 Developer to be performed and observed.

(c) Any assignee of all the rights of the Developer shall agree to be bound by the terms of this Lease, the Performance Agreement and any other documents related to the issuance of the Bonds. Upon such assignment of all the rights of the Developer and agreement by the assignee to be bound by the terms of this Lease, the Base Lease, the Performance Agreement and any other documents related to the Bonds, the Developer shall be released from and have no further obligations under this Lease, the Performance Agreement or any agreement related to the issuance of the Bonds.

Section 13.2. Assignment of Revenues by City. The City shall assign and pledge any rents, revenues and receipts receivable under this Lease, to the Trustee pursuant to the Indenture as security for payment of the principal of, interest and premium, if any, on the Bonds and the Developer 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, 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 (a) to secure the Bonds to be issued pursuant to the Indenture, (b) to enforce its rights under **Section 12.2(b)** and **(c)** as permitted by **Section 10.4** or **Section 10.7**, 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, 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 Owners.

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 (a) mailed by registered or certified mail, postage prepaid, or (b) sent by overnight delivery or other delivery service which requires written acknowledgment of receipt by the addressee, addressed as follows:

(i) To the City:

The City of St. Louis, Missouri
Office of the Mayor
City Hall
1200 Market Street, Room 200
St. Louis, Missouri 63103

and

The City of St. Louis, Missouri
Office of the Comptroller
1520 Market Street, Room 3005
St. Louis, Missouri 63103
ATTN: Deputy Comptroller for Finance and Development

with copies to:

St. Louis Development Corporation
1520 Market Street, Suite 2000
St. Louis, Missouri 63103
ATTN: Executive Director

and

St. Louis Development Corporation
1520 Market Street, Suite 2000
St. Louis, Missouri 63103
ATTN: Legal Department

and

Armstrong Teasdale LLP
7700 Forsyth Boulevard, Suite 1800
St. Louis, Missouri 63105
ATTN: Thomas J. Ray

(ii) To the Trustee:

UMB Bank, N.A.
2 South Broadway, Suite 600
St. Louis, Missouri 63102
ATTN: Corporate Trust Department

(iii) To the Developer:

Vande East Partners, LLC
c/o Lawrence Group
319 N. 4th Street, Suite 1000
St. Louis, Missouri 63102
Attn: Steve Smith

With a copy to:

Spencer Fane LLP
1 N. Brentwood, Suite 1000
St. Louis, Missouri 63105
Attention: Robert Preston

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 Developer to the other shall also be given to the Trustee. The City, the Developer 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 Developer 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 Developer 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 Developer.

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 any personal liability, a pecuniary liability or a charge upon the general credit or taxing powers of the City or the State of Missouri.

Section 15.5. Governing Law. This Lease shall be construed in accordance with and governed by the laws of the State of Missouri.

Section 15.6. Binding Effect. This Lease shall be binding upon and shall inure to the benefit of the City and the Developer and their respective successors and assigns.

Section 15.7. Severability. If for any reason any provision of this Lease shall be determined to be invalid or unenforceable, the validity and enforceability of the other provisions hereof shall not be affected thereby.

Section 15.8. Execution in Counterparts. This Lease may be executed in several counterparts, each of which shall be deemed to be an original and all of which shall constitute but one and the same instrument.

Section 15.9. Electronic Storage. The parties agree that the transaction described herein may be conducted and related documents may be sent, received or stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

Section 15.10. City Consent. Pursuant to the Ordinance, the Mayor and the Comptroller are 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 or any portion thereof) as may be required to carry out and comply with the intent of the Ordinance. The Mayor and the Comptroller are 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 Performance Agreement, the Base Lease 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 Board of Aldermen.

Section 15.11. Anti-Israel Discrimination Act. Pursuant to Section 34.600, RSMo., the Developer 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 the State of Israel; companies doing business in or with 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.]

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.

THE CITY OF ST. LOUIS, MISSOURI

By: _____

Tishaura Jones
Mayor

By: _____

Darlene Green
Comptroller

APPROVED AS TO FORM

Matthew Moak
City Counselor

ATTEST:

Amber Simms
Register

[Lease Agreement]

VANDE EAST PARTNERS, LLC

By: _____
Name: _____
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*], 2021, BETWEEN THE CITY OF ST. LOUIS, MISSOURI, AND THE TRUSTEE, AND THE LEASE AGREEMENT DATED AS OF [*Date*], 2021, BETWEEN THE CITY OF ST. LOUIS, MISSOURI, AND Vande East Partners, LLC

The undersigned Authorized Developer Representative hereby states and certifies that *(capitalized words and terms used herein shall have the meanings given to such words and terms in the Indenture)*:

1. A total of \$ _____ is requested to pay for Project Costs. The total amount of this requisition and all prior requisitions are as follows:

<u><i>Date and Type of Project Costs</i></u>	<u><i>Amount Submitted in this Requisition</i></u>	<u><i>Requisitions Submitted to Date (Including this Requisition)</i></u>
	\$ _____	\$ _____
Total	\$ _____	\$ _____

2. Said Project Costs shall be paid in whole from Bond proceeds in such amounts, to such payees and for such purposes as set forth on **Schedule 1** hereto.

3. Each of the items for which payment is requested are or were desirable and appropriate in connection with the purchase and construction of the Project, have been properly incurred and are a proper charge against the Project Fund, and have been paid by the Developer or are justly due to the Persons whose names and addresses are stated on **Schedule 1**, and have not been the basis of any previous requisition from the Project Fund.

4. As of this date, except for the amounts referred to above, to the best of my knowledge there are no outstanding disputed statements for which payment is requested for labor, wages, materials, supplies or services in connection with the 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.

VANDE EAST PARTNERS, LLC

By: _____
Authorized Developer Representative

Approved this _____ day of _____, 20__.

THE CITY OF ST. LOUIS, MISSOURI

By: _____
Authorized SLDC Representative**SCHEDULE 1 TO REQUISITION CERTIFICATE****PROJECT COSTS**

Payee and Address	Description	Amount
-------------------	-------------	--------

**EXHIBIT E
FORM OF BOND PURCHASE AGREEMENT****BOARD BILL NUMBER 73
EXHIBIT E**

\$125,000,000
(AGGREGATE MAXIMUM PRINCIPAL AMOUNT)
THE CITY OF ST. LOUIS, MISSOURI
TAXABLE INDUSTRIAL DEVELOPMENT REVENUE BONDS
(VANDE EAST PARTNERS, LLC PROJECT)
SERIES 2021

Dated as of [*Date*], 2021**BOND PURCHASE AGREEMENT**

Mayor and Board of Aldermen
The City of St. Louis, Missouri

On the basis of the representations and covenants and upon the terms and conditions contained in this Bond Purchase Agreement, Square, Inc., a Delaware corporation (the "Purchaser"), offers to purchase from The City of St. Louis, Missouri (the "City"), the above-referenced bonds (the "Bonds"), to be issued by the City under and pursuant to an Ordinance adopted by the governing body of the City approved on _____, 2021 (the "Ordinance") and a Trust Indenture dated as of [*Date*], 2021 (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 OF THE CITY AND PURCHASER

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

(1) The City is a constitutional charter city duly organized and validly existing under its charter and the laws of the State of Missouri. The City is authorized pursuant to the Constitution, the laws of the State of Missouri, its charter 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*], 2021 (the "Lease") by and between the City and the Purchaser, the Performance Agreement dated as of [*Date*], 2021 (the "Performance Agreement") by and between the City and the Purchaser, the Base Lease dated as of [*Date*], 2021 (the "Base Lease") 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, constructing, equipping and improving the Project and paying the costs incurred in connection with the issuance of the Bonds.

(2) To its knowledge, there is no controversy, suit or other proceeding of any kind pending or threatened wherein or whereby any question is 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 relating 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 Base Lease, the Indenture, this Bond Purchase Agreement or the Performance Agreement.

(3) There are no other Bond Purchase Agreements pertaining to the Bonds currently outstanding and the City is not in negotiations with any other parties for the execution of a Bond Purchase Agreement pertaining to the Bonds or otherwise under the Indenture.

(b) The Purchaser represents to the City as follows:

(1) *Organization.* The Purchaser is a limited liability company 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 has been duly authorized by all necessary action of the Purchaser and does not and will not conflict with or result in the breach of any of the terms, conditions or provisions of, or constitute a default under, its organizational documents, any law, court or administrative regulation, decree or order applicable to or binding upon the Purchaser, or, to the best of its knowledge, any agreement, indenture, mortgage, lease or instrument to which the Purchaser is a party or by which it is bound.

(3) *Documents 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 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.

(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 such parties as to the statements made therein.

SECTION 2. PURCHASE, SALE AND DELIVERY OF THE BONDS

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

The Bonds shall be sold to the Purchaser by the City on the Closing Date (hereinafter defined) upon payment of an amount equal to the Closing Price (hereinafter defined), 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 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 \$125,000,000 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 _____, 2021, 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 (1) any Project Costs spent by the Purchaser from its own funds before the Closing Date or (2) the aggregate principal amount of the Bonds, if all of the proceeds of the Bonds are being transferred to the Trustee on the Closing Date.

The Bonds shall be issued under and secured as provided in the Ordinance, the Indenture and the Lease authorized thereby and the Bonds shall have the maturity, interest rate and shall be subject to redemption as set forth therein. The delivery of the Bonds shall be made in definitive form as a fully-registered bond in the maximum aggregate principal denomination of \$125,000,000; 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.

The City will not enter into any other Bond Purchase Agreements or other agreements to issue, sell or otherwise transfer Bonds to any party under the Indenture or otherwise except pursuant to this Bond Purchase Agreement.

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 duly executed copies of the Ordinance, the Indenture, the Lease, the Base Lease, the Performance Agreement, this Bond Purchase Agreement and any other instrument contemplated thereby 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 to its knowledge there is no controversy, suit or other proceeding of any kind pending or 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 (i) to its knowledge, no litigation, proceeding or investigation is pending against the Purchaser or its affiliates or threatened which would (A) contest, affect, restrain or enjoin the issuance, validity, execution, delivery or performance of the Bonds, or (B) in any way contest the existence or powers of the Purchaser, (ii) to its knowledge, no litigation, proceeding or investigation is pending or threatened against the Purchaser that could reasonably be expected to adversely affect its ability to perform its obligations hereunder, (iii) the covenants 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 (iv) 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. 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 6. NOTICE

Any notice or other communication to be given under this Agreement may be given by mailing or delivering the same in writing to:

(a) To the City:

The City of St. Louis, Missouri
Office of the Mayor
City Hall
1200 Market Street, Room 200
St. Louis, Missouri 63103
Attention: Chief of Staff

and

The City of St. Louis, Missouri
Office of the Comptroller
1520 Market Street, Room 3005
St. Louis, Missouri 63103
ATTN: Deputy Comptroller for Finance and Development

with copies to:

St. Louis Development Corporation
1520 Market Street, Suite 2000
St. Louis, Missouri 63103
ATTN: Executive Director

and

St. Louis Development Corporation
1520 Market Street, Suite 2000
St. Louis, Missouri 63103
ATTN: Legal Department

and

Armstrong Teasdale LLP
7700 Forsyth Boulevard, Suite 1800
St. Louis, Missouri 63105
ATTN: Thomas J. Ray

(b) To the Trustee:

UMB Bank, N.A.
2 South Broadway, Suite 600
St. Louis, Missouri 63102
Facsimile: (314) 612-8498
ATTN: Corporate Trust Department

(c) To the Purchaser:

Vande East Partners, LLC
c/o Lawrence Group
319 N. 4th Street, Suite 1000
St. Louis, Missouri 63102
Attn: Steve Smith

With a copy to:

Spencer Fane LLP
1 N. Brentwood, Suite 1000
St. Louis, Missouri 63105
Attention: Robert Preston

SECTION 7. APPLICABLE LAW; ASSIGNABILITY

This Bond Purchase Agreement shall be governed by the internal laws of the State of Missouri applicable to contracts wholly performed therein without reference to its conflict of laws principles. This Bond Purchase Agreement may be assigned by the Purchaser to any Person that expressly assumes in writing all of the obligations of the Developer 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 to notice to the City, by 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 Authority, by Purchaser to any lender of Purchaser as collateral for a loan secured by a deed of trust or mortgage of the Project (as defined in the Lease).

SECTION 8. EXECUTION OF COUNTERPARTS

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.

SECTION 9. ANTI-ISRAEL DISCRIMINATION ACT

Pursuant to Section 34.600, RSMo., 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 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,

VANDE EAST PARTNERS, LLC

By: _____
Name: _____
Title: _____

DATE OF EXECUTION:

_____, 2021

[Bond Purchase Agreement]

Accepted and Agreed to this ___ day of _____, 2021.

THE CITY OF ST. LOUIS, MISSOURI

By: _____
Tishaura Jones
Mayor

By: _____
Darlene Green
Comptroller

APPROVED AS TO FORM:

Matthew Moak
City Counselor

ATTEST:

Amber Simms
Register

[Bond Purchase Agreement]

**EXHIBIT F
FORM OF PERFORMANCE AGREEMENT
PERFORMANCE AGREEMENT**

THIS PERFORMANCE AGREEMENT, dated as of [*Date*], 2021, as from time to time amended and supplemented in accordance with the provisions hereof (this "Agreement"), is made by and between **THE CITY OF ST. LOUIS, MISSOURI**, a constitutional charter city organized and existing under the laws of the State of Missouri (the "City"), and **VANDE EAST PARTNERS, LLC**, a Missouri limited liability company (the "Developer").

RECITALS:

1. The City is authorized and empowered pursuant to the provisions of Article VI, Section 27(b) of the Missouri Constitution, Sections 100.010 through 100.200, inclusive, of the Revised Statutes of Missouri, as amended (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 shall deem advisable.

2. Pursuant to the Act, the Board of Aldermen passed an ordinance (the “Ordinance”) on _____, 2021, authorizing the City to issue its Taxable Industrial Revenue Bonds (Vande East Partners, LLC Project), Series 2021, in the maximum principal amount of \$125,000,000 (the “Bonds”), for the purpose of acquiring a leasehold interest in certain real property located within Redevelopment Project Area 2 of the City Foundry Saint Louis Redevelopment Area (as further described on **Exhibit A** attached hereto, the “Project Site”) and constructing approximately 59,000 square feet of office space, 280 multi-family apartment units, 17,000 square feet of retail space and 492 structured parking spaces thereon (the “Project Improvements” and, together with the acquisition of a leasehold interest in the Project Site, the “Project”).

3. The Ordinance authorizes the City to lease the Project to the Developer pursuant to a Lease Agreement to be entered into by and between the City and the Developer (the “Lease”). The purpose of the Bonds and the Lease are to facilitate a sales tax exemption on construction materials used in the construction of the Project.

4. In consideration of the Bonds, the Lease and the sales tax exemption, the Developer has agreed to certain obligations set forth herein, including, without limitation, the herein-defined Equitable Development Contribution.

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 Developer hereby represent, covenant and agree as follows:

**ARTICLE I
DEFINITIONS**

Section 1.1. Definitions of Words and Terms. In addition to the words and terms defined in the Recitals, the following words and terms as used herein shall have the following meanings:

“**Affiliate**” means any entity that controls, is controlled by or under common control with the Developer.

“**Agreement**” means this Performance Agreement dated as of [*Date*], 2021, between the City and the Developer, as from time to time amended and supplemented in accordance with the provisions hereof.

“**Event of Default**” means any Event of Default as provided in **Section 6.1**.

“**Base Lease**” means the Base Lease dated as of [*Date*], 2021, between the City and the Developer.

“**Project**” means, collectively, the Project Site, the Project Improvements and the Project Equipment as they may at any time exist.

“**Project Costs**” means all costs of purchasing and constructing the Project.

“**SLDC**” means the St. Louis Development Corporation or its successors and assigns.

“**TIF Agreement**” means the Amended and Restated Redevelopment Agreement dated as of _____, 2021 between the City and FOPA Partners, LLC, as assigned in part to the Developer pursuant to the Parcel Development Agreement dated as of _____, 2021 between FOPA Partners, LLC and the Developer, as may be amended from time to time.

**ARTICLE II
ISSUANCE OF BONDS; SALES TAX EXEMPTION**

Section 2.1. Issuance of the Bonds. As described herein, the City intends to issue the Bonds (to be purchased by the Developer) under the Act for the purpose of paying a portion of the Project Costs. In connection with the issuance of the Bonds, the City will acquire a leasehold interest in the Project Site pursuant to the Base Lease and will lease the Project back to the Developer pursuant to the Lease during the construction of the Project.

Section 2.2. Sales Tax Exemptions. The City will provide a project exemption certificate to the Developer in connection with the purchase of construction materials for the Project Improvements.

ARTICLE III EQUITABLE DEVELOPMENT CONTRIBUTION

Section 3.1. Equitable Development Contribution. The Developer and the City acknowledge and agree that (a) the provision of safe, affordable and decent housing is a vital and important public interest and (b) the completion of the Project will not directly provide affordable housing to the City or its residents. To offset the need for safe, affordable and decent housing in the City, the Developer shall pay a "Equitable Development Contribution" of \$1,800,000 to the City's Affordable Housing Trust Fund. The Equitable Development Contribution shall be paid by the Developer simultaneously with its closing on the construction financing necessary to complete the Project, but in no event, later than March 31, 2022 unless an extension is granted by the City's Board of Estimate and Apportionment. Notwithstanding the foregoing, the Developer shall not be required to pay the Equitable Development Contribution in the event the Developer does not close on the construction financing necessary to complete the Project.

ARTICLE IV COVENANTS, REPRESENTATIONS AND AGREEMENTS OF THE DEVELOPER

Section 4.1. Representations.

(a) The Developer represents that as of the date of this Agreement:

(1) The Developer is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Missouri.

(2) The Developer has the right, power and authority to enter into, execute, deliver and perform its duties and obligations under this Agreement.

(3) The execution, delivery and performance by the Developer of this Agreement has been duly authorized by all necessary action, and does not violate the certificate of incorporation or the bylaws of the Developer, as the same may be amended and supplemented, or to the best of the Developer's knowledge, any applicable provision of law, nor does it constitute a breach of or default under or require any consent under any agreement, instrument or document to which the Developer is now a party or by which the Developer is now or may become bound.

(4) There are no actions or proceedings by or before any court, governmental commission, board, bureau or any other administrative agency pending, or to the best of the Developer's knowledge, threatened or affecting the Developer that would impair its ability to enter into or perform its obligations under this Agreement.

(5) The Developer has obtained (or prior to the applicable time required will obtain) and will maintain all government permits, certificates and consents (including without limitation appropriate environmental approvals) necessary to conduct its business and to purchase, construct, equip, complete and operate the Project.

(6) The Project will be leased or purchased and operated by the Developer in a manner that is consistent with the description of the Project herein and in the Lease.

(b) The City represents that as of the date of this Agreement:

(1) The City is a constitutional charter city duly organized and validly existing under the laws of the State of Missouri.

(2) The execution, delivery and performance by the City of this Agreement has been duly authorized by all necessary City actions.

(3) The City has the right, power and authority to enter into, execute, deliver and perform its duties and obligations under this Agreement.

(4) To the City's knowledge, there are no actions or proceedings by or before any court, governmental commission, board, bureau or any other administrative agency pending, threatened or affecting the City that would impair its ability to enter into or perform its obligations under this Agreement.

Section 4.2. Inspection. The City may conduct such periodic inspections of the Project as may be generally provided in the City's code. In addition, the Developer agrees that the City and its duly authorized agents may at reasonable times (during business hours but without disruption to the business), subject to at least five (5) Business Days' advance written notice and in observance of the Developer's usual business proprietary, safety, confidentiality and security requirements, enter upon the Project Site to examine and inspect the Project and the records of the Developer that demonstrate compliance with this Agreement.

Section 4.3. Compliance with TIF Agreement. The Developer shall construct the Project in compliance with the TIF Agreement.

Section 4.4. Indemnification of the City. The Developer shall indemnify and defend the City in accordance with **Section 10.5** of the Lease to the extent and subject to the limitations provided therein.

Section 4.5. Costs to be paid by the Developer.

(a) The Developer agrees to pay or provide for the payment of, on the issuance date of the Bonds, all costs of issuance incurred in connection therewith, including, without limitation, the City's legal fees and bond counsel fees and an issuance fee equal to 0.3% of the maximum principal amount of the Bonds (which issuance fee will be payable to SLDC, who will forward two-thirds of such fee to the Affordable Housing Trust Fund and retain one-third of such fee for reimbursement of administrative tasks associated with the Project).

(b) The Developer shall pay all costs and fees reasonably necessary, including the City's legal fees and bond counsel fees, to effectuate (1) an assignment or transfer of the Bonds, the Lease or this Agreement, (2) the termination of the Lease or this Agreement prior to the payment in full of the Bonds or the expiration of the Lease Term, and (3) any action requested by the Developer which requires legislative proceedings by the Board of Aldermen.

Section 4.6. Survival of Covenants. All warranties, representations, covenants and agreements of the Developer contained herein shall survive termination of this Agreement for any reason.

ARTICLE V SALE AND ASSIGNMENT

The benefits granted by the City to the Developer pursuant to this Agreement shall belong solely to the Developer, and such benefits shall not be transferred, assigned, pledged or in any other manner hypothecated, except as provided in **Section 13.1** of the Lease.

ARTICLE VI DEFAULT AND REMEDIES

Section 6.1. 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) the Developer fails to perform any of its material obligations hereunder or under the TIF Agreement for a period of 30 days (or such longer period as the City and the Developer may agree in writing) following written notice to the Developer from the City of such failure, or if such failure is not subject to cure within such 30 days after such notice, the Developer fails to initiate action to cure the default within such 30 days after such notice is given and fails to pursue such action diligently to completion; or

(b) any representation of the Developer 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 Developer may agree in writing) after the City has given written notice to the Developer specifying the false or erroneous representation and requiring it to be remedied.

Section 6.2. Remedies on Default. Any Event of Default referred to in **Section 6.1** shall also constitute an Event of Default under the Lease, affording the City the remedies specified therein.

ARTICLE VII TERM OF AGREEMENT

Section 7.1. 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 the Lease and this Agreement; or
- (c) the expiration of the Lease Term set forth in **Section 3.2** of the Lease.

ARTICLE VIII MISCELLANEOUS PROVISIONS

Section 8.1. Mutual Assistance. The City and the Developer agree to take such actions as may be necessary or appropriate to carry out the terms, provisions and intent of this Agreement and to aid and assist each other in carrying out said terms, provisions and intent.

Section 8.2. Notices. All notices, certificates or other communications required or desired to be given hereunder shall be given in the manner specified in the Lease.

Section 8.3. Severability; Effect of Invalidity. If for any reason any provision of this Agreement shall be determined to be invalid or unenforceable, such invalid or unenforceable term will be deemed severed from this Agreement and the validity and enforceability of the other provisions hereof shall not be affected thereby.

Section 8.4. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Missouri.

Section 8.5. Execution in Counterparts. This Agreement may be executed simultaneously in several counterparts, each of which shall be deemed to be an original and all of which shall constitute but one and the same instrument.

Section 8.6. Waiver. The City and the Developer acknowledge and agree that the amounts payable hereunder shall constitute payments due the City under the Lease executed in connection with the Bonds. The Developer shall not be entitled to any extension of payment of such amounts as a result of a filing by or against the Developer in any bankruptcy court.

Section 8.7. Entire Agreement. This Agreement, together with the Lease, the Indenture and any other documents entered into of even date herewith in connection with the issuance of the Bonds, constitute the entire agreement of the parties with respect to the subject matter hereof and supersede all prior agreements, representations, negotiations and understandings, both written and oral, between the City and the Developer with respect to the subject matter hereof. This Agreement shall not be modified except by written agreement signed on behalf of the City and the Developer by their duly authorized representatives.

Section 8.8. Electronic Storage. The parties agree that the transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

Section 8.9. City Consent. Pursuant to the Ordinance, the Mayor and the Comptroller are 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 or any portion thereof) as may be required to carry out and comply with the intent of the Ordinance. The Mayor and the Comptroller are 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 Lease, the Base Lease or this Performance Agreement 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 Board of Aldermen.

Section 8.10. Anti-Israel Discrimination Act. Pursuant to Section 34.600, RSMo., the Developer 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 the State of Israel; companies doing business in or with 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.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in their respective corporate names by their duly authorized officers, all as of the date first above written.

THE CITY OF ST. LOUIS, MISSOURI

By: _____
Tishaura Jones
Mayor

By: _____
Darlene Green
Comptroller

APPROVED AS TO FORM

Matthew Moak
City Counselor

ATTEST:

Amber Simms
Register

VANDE EAST PARTNERS, LLC

By: _____
Name: _____
Title: _____

[Performance Agreement]

EXHIBIT A
PROJECT SITE

BOARD BILL NUMBER 73
FISCAL NOTE

Preparer's Name: St. Louis Development Corporation staff

Contact Information: Dale Ruthsatz
Director of Commercial Development
St. Louis Development Corporation
(314) 657-3732
ruthsatzd@stlouis-mo.gov

Bill Sponsor: Alderwoman Tina Pihl

Bill Synopsis:	Board Bill Number ___ authorizes the issuance of Taxable Industrial Revenue Bonds for the Vande East Partners, LLC project, which is part of the redevelopment project described in the City Foundry Saint Louis Tax Increment Financing (TIF) Second Amended RPA 2 Redevelopment Plan (which is the subject of Board Bill Number ____). The proposed bonds will facilitate a sales and use tax exemption on construction materials used to construct the office, multi-family, retail and structured parking components of the redevelopment project. The bonds are payable only from the lease revenues paid by the Developer and not from any City tax revenues. The Board Bill (in Section 3.1 of the Performance Agreement attached to the Board Bill) also requires the Developer to make a \$1,800,000 Equitable Development Contribution to the City's Affordable Housing Trust Fund.
Type of Impact:	The City will not collect any sales or use taxes on construction materials purchased for the project.

Agencies Affected:	The City, through various agencies, will cooperate in the development of the project in generally the same manner as other large redevelopment projects (i.e., building permits, etc.).
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SECTION A

Does this bill authorize:

- An expansion of services which entails additional costs beyond that approved in the current adopted city budget? ___ Yes ___ X ___ No.
- An undertaking of a new service for which no funding is provided in the current adopted city budget? ___ Yes ___ X ___ No.
- A commitment of city funding in the future under certain specified conditions? ___ Yes ___ X ___ No.
- An issuance of bonds, notes and lease-purchase agreements which may require additional funding beyond that approved in the current adopted city budget ___ Yes ___ X ___ No.
- An execution or initiation of an activity as a result of federal or state mandates or requirements? ___ Yes ___ X ___ No.
- A capital improvement project that increases operating costs over the current adopted city budget? ___ Yes ___ X ___ No.
- A capital improvement project that requires funding not approved in the current adopted city budget or that will require funding in future years? ___ Yes ___ X ___ No.

SECTION B

- Does the bill require the construction of any new physical facilities? ___ X ___ Yes ___ No.
 - If yes, describe the facilities and provide the estimated cost:

As part of the project, the Developer will construct redevelop property for multi-family residential, office, retail and structured parking uses.
- Is the bill estimated to have a direct fiscal impact on any city department or office? ___ Yes ___ X ___ No.
- Does the bill create a program or administrative subdivision? ___ Yes ___ X ___ No.
 - If yes, then is there a similar existing program or administrative subdivision? ___ X ___ Yes ___ No.
 - If yes, explain the how the proposed programs or administrative subdivisions may overlap:

The project is included within a TIF project, which, like other TIF projects, will be subject to SLDC and Comptroller oversight.
- Describe the annual operating, equipment, and maintenance costs that would result from the proposed bill, as well as any funding sources:

Not applicable.

Complete the chart below to list the total estimated expenditures required of the City resulting from the proposed board bill and any estimated savings or additional revenue.

SLDC will provide a financial analysis of the redevelopment project.

Financial Estimate of Impact on General Fund			
Fiscal Impact	<u>Year 1 (current)</u>	<u>Year 2</u>	<u>Year 3</u>
Additional Expenditures	N/A	N/A	N/A
Additional Revenue	N/A	N/A	N/A
Net	N/A	N/A	N/A
Financial Estimate of Impact on Special Funds			
Fiscal Impact	<u>Year 1 (current)</u>	<u>Year 2</u>	<u>Year 3</u>
Additional Expenditures	N/A	N/A	N/A
Additional Revenue	N/A	N/A	N/A
Net	N/A	N/A	N/A

- Describe any assumptions used in preparing this fiscal note:
Not applicable.
- List any sources of information (including any City officials, agencies, or departments) used in preparing this fiscal note:
SLDC relied on its knowledge of economic data and information from the Developer to create its financial analysis.
- Have the financial estimates of this bill been verified by the City Budget Division? Yes No.
 - If yes, by whom? _____.

Approved: July 30, 2021

