



**Kirkwood City Council
Agenda
Kirkwood City Hall
Council Chambers
139 South Kirkwood Road
Kirkwood, MO 63122
Thursday, April 21, 2022, 7:00 p.m.
*Revised & Posted on April 19, 2022***

I. PLEDGE OF ALLEGIANCE

II. ROLL CALL

III. INTRODUCTIONS AND RECOGNITIONS

1. 40th Anniversary of Charter Commission

IV. PRESENTATIONS

1. Human Rights Commission Denis Hart Awards

V. PUBLIC HEARINGS - NONE

VI. PUBLIC COMMENTS – 3 MINUTE LIMIT PER PERSON

The Public Comments portion of the meeting is an opportunity for the City Council to listen to comments from citizens. It is not a question and answer session and the City Council will not respond to comments or answer questions during this period. The Mayor may refer any matter brought up to the City Council to the Chief Administrative Officer or City Clerk if action is needed.

VII. CONSENT AGENDA

All items within the Consent Agenda will be enacted by one motion of the Council with no separate discussion. If separate discussion is desired, that item may be removed from the Consent Agenda and placed on the Regular Agenda by request of a member of the City Council. The expenditures listed in the consent agenda are items already approved in the current city budget.

- a) Approval of the April 7, 2022 Council Meeting Minutes
- b) Resolution 48-2022, accepting the bid of Don Brown Chevrolet in the amount of \$30,260 (pursuant to State of Missouri Cooperative Contract) for the purchase of a 2023 Chevrolet Silverado 2500 Crew Cab 4x4 Short Box for the Facilities Department and authorizing and directing the Director of Procurement to issue a Purchase Order
- c) Resolution 49-2022, amending the contract with Tech Electronics in the amount of \$35,656 for the purchase of upgraded MITEL Phone Software and Support Services and authorizing and directing the Mayor to enter into an amended contract
- d) Resolution 50-2022, accepting the bid of First Due in the amount of \$14,990 for National Fire Incident Report Software for the Fire Department for an initial term



- of 12 months with the option to annually, pending budgetary approval, and authorizing and directing the Mayor to enter into an agreement
- e) Resolution 51-2022, granting the property owner of 446 North Geyer Road, Kirkwood, Missouri, authorization for an encroachment of approximately 3 feet into the public right-of-way of Geyer Road, 109 feet to the south and 15 feet to the north of the driveway approach on said property, for the partial replacement of an existing retaining wall
 - f) Resolution 52-2022, accepting the bid of Sievers JCB in the amount of \$74,081.17 (pursuant to Sourcewell Cooperative Contract) for the purchase of a Mini-Excavator for the Water Department and authorizing and directing the Director of Procurement to issue a Purchase Order

VIII. UNFINISHED BUSINESS

- 1. Bill 10926, adopting and enacting the subsections of the Mechanical Code pertaining to Elevators, Conveying Systems and Amusement Rides Sections only and the Electrical Code for all Buildings and Structures except One and Two Family Uses of St. Louis County, as amended, as the Subsection of the Mechanical Code pertaining to Elevators, Conveying Systems and Amusement Rides Sections only and the Commercial Electrical Code of the City of Kirkwood, Missouri
- 2. Bill 10927, amending the Kirkwood Code of Ordinances, Chapter 2. "Administration", Article V. "Fiscal Management", Division 1. "Generally", Section 2-313. "Appropriations", Subsection (c)(1)(a)
- 3. Bill 10928, authorizing the City of Kirkwood, Missouri, to enter into a Lease Purchase Transaction, the proceeds of which will be used to pay the costs of acquiring, constructing, installing and equipping certain improvements to the City's electric system and acquiring, installing and equipping various public safety vehicles and equipment; appropriating basic rent payments for the original term; and authorizing the execution of certain documents and actions in connection therewith

IX. NEW BUSINESS - NONE

X. CONSENT AGENDA ITEMS FOR DISCUSSION (IF ANY)

XI. CITY COUNCIL REPORTS

XII. CHIEF ADMINISTRATIVE OFFICER REPORTS

XIII. CITY ATTORNEY REPORTS

XIV. CITY CLERK REPORTS

- 1. Planning & Zoning Commission Meeting Reports (if any)
- 2. Upcoming Public Hearings:
 - May 5, 2022
 - a) A request for a Zoning Map Amendment to rezone 10414 Big Bend Boulevard from R-4 to R-MM.
 - b) A request for a Zoning Code Text Amendment to add Dog Training Homes as a Special Use in Single-Family Residential Districts and grant a Special Use Permit to the property owner at 551 North Clay Avenue.



- c) A request for a Special Use Permit (Animal Facility, Minor, with Outdoor Use) and Site Plan Review for Kennelwood Pet Resorts, 10936 Manchester Road.
- 3. Certified Results of the April 5, 2022 General Municipal Election
- 4. Destruction of Records Report from Police Department

XV. MEETING ADJOURNMENT

The next regular meeting of the Kirkwood City Council will take place at **7:00 p.m. on May 5, 2022.**

CONTINUED ITEMS

NONE

TABLED ITEMS

NONE

Kirkwood City Council: Mayor Tim Griffin, Council Members Maggie Duwe, Liz Gibbons, Bob Sears, Wallace Ward, Kara Wurtz, and Mark Zimmer

Contact Information: For full City Council contact information visit www.kirkwoodmo.org/council. To contact the City Clerk call 314-822-5802. To contact the Chief Administrative Officer call 314-822-5803.

Accommodation: The City of Kirkwood is interested in effective communication for all persons. Persons requiring an accommodation to attend and participate in the meeting should contact the City Clerk at 314-822-5802 at least 48 hours before the meeting. With advance notice of seven calendar days, the City of Kirkwood will provide interpreter services at public meetings for languages other than English and for the hearing impaired. Upon request, the minutes from this meeting can be made available in an alternate format, such as CD by calling 314-822-5802.

THE CONSENT AGENDA IS ATTACHED

- a) Approval of the April 7, 2022 Council Meeting Minutes
- b) Resolution 48-2022, accepting the bid of Don Brown Chevrolet in the amount of \$30,260 (pursuant to State of Missouri Cooperative Contract) for the purchase of a 2023 Chevrolet Silverado 2500 Crew Cab 4x4 Short Box for the Facilities Department and authorizing and directing the Director of Procurement to issue a Purchase Order
- c) Resolution 49-2022, amending the contract with Tech Electronics in the amount of \$35,656 for the purchase of upgraded MITEL Phone Software and Support Services and authorizing and directing the Mayor to enter into an amended contract
- d) Resolution 50-2022, accepting the bid of First Due in the amount of \$14,990 for National Fire Incident Report Software for the Fire Department for an initial term of 12 months with the option to annually, pending budgetary approval, and authorizing and directing the Mayor to enter into an agreement
- e) Resolution 51-2022, granting the property owner of 446 North Geyer Road, Kirkwood, Missouri, authorization for an encroachment of approximately 3 feet into the public right-of-way of Geyer Road, 109 feet to the south and 15 feet to the north of the driveway approach on said property, for the partial replacement of an existing retaining wall
- f) Resolution 52-2022, accepting the bid of Sievers JCB in the amount of \$74,081.17 (pursuant to Sourcewell Cooperative Contract) for the purchase of a Mini-Excavator for the Water Department and authorizing and directing the Director of Procurement to issue a Purchase Order



WHERE COMMUNITY AND SPIRIT MEET™

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Kirkwood City Council Meeting Minutes

Kirkwood City Hall

Thursday, April 7, 2022, 7:00 p.m.

Pursuant to notice of meeting duly given by the Mayor, the City Council convened on Thursday, April 7, 2022, at 7:00 p.m. at Kirkwood City Hall, 139 South Kirkwood Road, Kirkwood, Missouri. Present were Mayor Griffin, Council Member Duwe, Gibbons, Sears, Ward, Wurtz and Zimmer. Also in attendance were Chief Administrative Officer Russell Hawes, Assistant Chief Administrative Officer David Weidler, City Clerk Laurie Asche, Deputy City Clerk Kim Sansegraw, Planning & Development Services Director Jonathan Raiche, Director of Public Services Bill Bensing, City Engineer Chris Krueger, Electric Director Mark Petty, Finance Director Sandy Stephens, Assistant Finance Director Jen Forgy, Communications Manager Freddy Doss, and Assistant City Attorney Sarah White.

INTRODUCTIONS AND RECOGNITIONS

NONE

PRESENTATIONS

1. Mayor Griffin presented the Arbor Day Proclamation to the Urban Forestry Commission Chair Carol Rush.
2. Human Rights Commission Chair Geoff Morrison presented the 2021 Human Rights Commission Annual Report.
3. Director of Electric Mark Petty gave an update on the Grain Belt Project & Senate Bill HB2005.

PUBLIC HEARINGS

NONE

PUBLIC COMMENTS

1. Ed Golterman, 542 Wooddell, spoke regarding the problem of drivers tailgating.

CONSENT AGENDA

Motion was made by Council Member Zimmer and seconded by Council Member Duwe to approve the Consent Agenda. It was requested that item (g) be pulled and placed at the end of the agenda for further discussion. The Consent Agenda with items (g) removed was unanimously approved.

- a) Approval of the March 17, 2022 Council Meeting Minutes
- b) Resolution 34-2022, accepting the bid of McCoy Construction & Forestry in the amount of \$115,095.19 (pursuant to MoDOT Cooperative Contract) for the purchase of a Backhoe - Loader for the Street Department and authorizing and directing the Director of Procurement to issue a Purchase Order
- c) Resolution 35-2022, amending and readopting the City of Kirkwood City Fee Schedules



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- d) Resolution 36-2022, accepting the bid of Clark Equipment Co d/b/a Bobcat Company in the amount of \$36,560.80 (pursuant to Sourcewell Cooperative Contract) for the purchase of a Skid Steer Loader for Recycler for the Sanitation Department and authorizing and directing the Director of Procurement to issue a Purchase Order
- e) Resolution 37-2022, accepting the proposal of Jan-Pro of St. Louis and Central Missouri at the rates provided in the memo (a copy of which is attached hereto and incorporated by reference herein) for Kirkwood Performing Arts Center – Janitorial Services for an initial term of 12 months with the option to renew for up to four additional 12 month terms and authorizing and directing the Mayor to enter into a contract
- f) Resolution 38-2022, accepting the bid of Polaris in the amount of \$34,582.80 (pursuant to Sourcewell Cooperative Contract) for the purchase of a Polaris Ranger XP1000 UTV for the Fire Department and authorizing and directing the Director of Procurement to issue a Purchase Order
- g) Resolution 39-2022, accepting the bid of Joe Machens Ford in the amount of \$44,552 (pursuant to State of Missouri Cooperative Contract) for the purchase of a 2022 Ford Mustang Mach E for the Administration Department and authorizing and directing the Director of Procurement to issue a Purchase Order ***Removed and placed at the end of the agenda**
- h) Resolution 40-2022, accepting the bid of Joe Machens Ford in the amount of \$43,580 (pursuant to State of Missouri Cooperative Contract) for the purchase of a 2022 Ford F-150 Crew Cab 4x4 Lightning for the Water Department and authorizing and directing the Director of Procurement to issue a Purchase Order
- i) Resolution 41-2022, accepting the amended bid of Don Brown Chevrolet in the amount of \$39,286 (pursuant to State of Missouri Cooperative Contract) for the purchase of a 2023 Chevy Tahoe 4WD for the Fire Department and authorizing and directing the Director of Procurement to issue a Purchase Order
- j) Resolution 42-2022, approving the annual License Agreement for ESRI Software Licenses for the MIS Department at a cost of \$20,823.52, for a term of April 15, 2022 through April 14, 2023

UNFINISHED BUSINESS

Bill 10921, an ordinance appropriating \$15,000 from the Equitable Sharing Fund Fund Balance to the Police Department Training Account for Fiscal Year 2022/2023 Budget for training for the Police Department was brought before the council.

Roll Call:

Mayor Griffin	"Yes"
Council Member Duwe	"Yes"
Council Member Zimmer	"Yes"
Council Member Ward	"Yes"
Council Member Wurtz	"Yes"
Council Member Gibbons	"Yes"
Council Member Sears	"Yes"



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The bill, having received majority approval of the Council, was adopted and became Ordinance 10752.

Bill 10922, an ordinance appropriating \$7,065 from Equitable Sharing Fund Fund Balance to the Police Department Machinery and Equipment Account and accepting the single source quotation of CovertTrack Group, LLC in the amount of \$7,065 for the purchase of CovertCam Surveillance and Tracking System for the Police Department for Fiscal Year 2022/2023 Budget was brought before the council.

Roll Call:

Mayor Griffin	"Yes"
Council Member Duwe	"Yes"
Council Member Zimmer	"Yes"
Council Member Ward	"Yes"
Council Member Wurtz	"Yes"
Council Member Gibbons	"Yes"
Council Member Sears	"Yes"

The bill, having received majority approval of the Council, was adopted and became Ordinance 10753.

Bill 10923, an ordinance amending the Kirkwood Code of Ordinances, Chapter 14, Article VIII. Section 14-393 "Schedule C: No Parking Zones" by adding no parking on the west side of Whitson Avenue was brought before the council. A discussion took place.

Roll Call:

Mayor Griffin	"Yes"
Council Member Duwe	"Yes"
Council Member Zimmer	"Yes"
Council Member Ward	"Yes"
Council Member Wurtz	"Yes"
Council Member Gibbons	"Yes"
Council Member Sears	"Yes"

The bill, having received majority approval of the Council, was adopted and became Ordinance 10754.

Bill 10924, an ordinance amending the Kirkwood Code of Ordinances, Chapter 14, Article VIII. Section 14-394 "Schedule D: Limited Parking", Subsection (b) "No parking for longer period than 15 minutes between 8:00 a.m. and 7:00 p.m. on any day, except for Sundays and legal holidays" was brought before the council. A discussion took place.



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Roll Call:

Mayor Griffin	"Yes"
Council Member Duwe	"Yes"
Council Member Zimmer	"Yes"
Council Member Ward	"Yes"
Council Member Wurtz	"Yes"
Council Member Gibbons	"Yes"
Council Member Sears	"Yes"

The bill, having received majority approval of the Council, was adopted and became Ordinance 10755.

Bill 10925, an ordinance adopting a revised City of Kirkwood Classification and Pay Plan, effective April 8, 2022 was brought before the council.

Roll Call:

Mayor Griffin	"Yes"
Council Member Duwe	"Yes"
Council Member Zimmer	"Yes"
Council Member Ward	"Yes"
Council Member Wurtz	"Yes"
Council Member Gibbons	"Yes"
Council Member Sears	"Yes"

The bill, having received majority approval of the Council, was adopted and became Ordinance 10756.

NEW BUSINESS

Bill 10926, an ordinance adopting and enacting the subsections of the Mechanical Code pertaining to Elevators, Conveying Systems and Amusement Rides Sections only and the Electrical Code for all Buildings and Structures except One and Two Family Uses of St. Louis County, as amended, as the Subsection of the Mechanical Code pertaining to Elevators, Conveying Systems and Amusement Rides Sections only and the Commercial Electrical Code of the City of Kirkwood, Missouri was brought before the council. Motion was made by Council Member Duwe and seconded by Council Member Wurtz to accept the bill for first reading approval. A discussion took place.

The bill received first reading approval and was held over.

Bill 10927, an ordinance amending the Kirkwood Code of Ordinances, Chapter 2. "Administration", Article V. "Fiscal Management", Division 1. "Generally", Section 2-313. "Appropriations", Subsection (c)(1)(a) was brought before the council. Motion was made by Council



WHERE COMMUNITY AND SPIRIT MEET*

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Member Zimmer and seconded by Council Member Wurtz to accept the bill for first reading approval.

The bill received first reading approval and was held over.

Resolution 43-2022, authorizing and directing the Mayor to enter into a Supplemental Agreement with Union Pacific Rail Road for Preliminary Engineering Services for the Geyer Road Phase II Project in the not to exceed amount of \$10,000 was brought before the council. Motion was made by Council Member Duwe and seconded by Council Member Wurtz to accept the Resolution as read. A discussion took place.

Roll Call:

Mayor Griffin	"Yes"
Council Member Duwe	"Yes"
Council Member Zimmer	"Yes"
Council Member Ward	"Yes"
Council Member Wurtz	"Yes"
Council Member Gibbons	"Yes"
Council Member Sears	"Yes"

Resolution 44-2022, authorizing and directing the Mayor to enter into a Joint Use Pole Agreement between Kirkwood Electric and Everstream Solutions LLC for fiber installation on Kirkwood Electric poles was brought before the council. Motion was made by Council Member Gibbons and seconded by Council Member Ward to accept the Resolution as read.

Roll Call:

Mayor Griffin	"Yes"
Council Member Duwe	"Yes"
Council Member Zimmer	"Yes"
Council Member Ward	"Yes"
Council Member Wurtz	"Yes"
Council Member Gibbons	"Yes"
Council Member Sears	"Yes"

Resolution 45-2022, accepting the proposal of Tyler Technologies in the not to exceed amount of \$2,019,244 for Enterprise Resource Planning Software and Implementation for a four year term with the option to renew and authorizing and directing the Mayor to enter into a contract was brought before the council. Motion was made by Council Member Ward and seconded by Council Member Zimmer to accept the Resolution as read. A discussion was held.



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Roll Call:

Mayor Griffin	"Yes"
Council Member Duwe	"Yes"
Council Member Zimmer	"Yes"
Council Member Ward	"Yes"
Council Member Wurtz	"Yes"
Council Member Gibbons	"Yes"
Council Member Sears	"Yes"

Resolution 46-2022, accepting the proposal of BerryDunn at the rates provided in the fee schedule for ERP Project Management Consulting Services and authorizing and directing the Mayor to enter into a contract was brought before the council. Motion was made by Council Member Duwe and seconded by Council Member Ward to accept the Resolution as read.

Roll Call:

Mayor Griffin	"Yes"
Council Member Duwe	"Yes"
Council Member Zimmer	"Yes"
Council Member Ward	"Yes"
Council Member Wurtz	"Yes"
Council Member Gibbons	"Yes"
Council Member Sears	"Yes"

Resolution 47-2022, selecting a placement agent relating to the proposed sale of the City's Certificates of Participation (City of Kirkwood, Missouri, Lessee), Series 2022; and acknowledging certain matters pursuant to MSRB Rules was brought before the council. Motion was made by Council Member Ward and seconded by Council Member Gibbons to accept the Resolution as read.

Roll Call:

Mayor Griffin	"Yes"
Council Member Duwe	"Yes"
Council Member Zimmer	"Yes"
Council Member Ward	"Yes"
Council Member Wurtz	"Yes"
Council Member Gibbons	"Yes"
Council Member Sears	"Yes"

Bill 10928, an ordinance authorizing the City of Kirkwood, Missouri, to enter into a Lease Purchase Transaction, the proceeds of which will be used to pay the costs of acquiring, constructing, installing and equipping certain improvements to the City's electric system and



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acquiring, installing and equipping various public safety vehicles and equipment; appropriating basic rent payments for the original term; and authorizing the execution of certain documents and actions in connection therewith was brought before the council. Motion was made by Council Member Ward and seconded by Council Member Zimmer to accept the bill for first reading approval. A discussion was held.

The bill received first reading approval and was held over.

CONSENT AGENDA ITEMS FOR DISCUSSION

Resolution 39-2022, accepting the bid of Joe Machens Ford in the amount of \$44,552 (pursuant to State of Missouri Cooperative Contract) for the purchase of a 2022 Ford Mustang Mach E for the Administration Department and authorizing and directing the Director of Procurement to issue a Purchase Order was brought before the council. Motion was made by Council Member Sears and seconded by Council Member Wurtz to accept the Resolution as read. A discussion took place.

Roll Call:

Mayor Griffin	"Yes"
Council Member Duwe	"Yes"
Council Member Zimmer	"Yes"
Council Member Ward	"Yes"
Council Member Wurtz	"Yes"
Council Member Gibbons	"Yes"
Council Member Sears	"Yes"

CITY COUNCIL REPORTS

Mayor Griffin congratulated Council Member Ward and Council Member Zimmer on their re-election to City Council.

Council Member Gibbons reported the Missouri House had passed the budget which included funding for two Amtrak trains to run next year. The Senate still has to approve.

CHIEF ADMINISTRATIVE OFFICER REPORT

NONE

CITY ATTORNEY REPORT

NONE



WHERE COMMUNITY AND SPIRIT MEET

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CITY CLERK REPORT

Ms. Asche read the report of the April 6, 2022 meeting of the Planning and Zoning Commission. The following action was taken:

1. The Commission recommended approval of a Special Use Permit of an outdoor use for exercise yards at an Animal Facility, Minor, and Site Plan Review for Kennelwood Pet Resorts at 10936 Manchester Road. A public hearing will be scheduled.
2. After a presentation by staff and Kurt Eller for a Special Use Permit of an outdoor use for outdoor dining at Taco Buddha at 11111 Manchester Road, Commissioners Adkins and Diel were appointed to the Subcommittee. A Subcommittee meeting will be held on site April 11 at 8 a.m.
3. The Commission failed to approve a Zoning Code Text Amendment to add Dog Training Homes as a Special Use Permit category in single-family residential districts. A public hearing will be scheduled.
4. Commissioners Eagleton, Evens, Feiner, and Salzer-Lutz were appointed to the Subcommittee for the five-year review of the Envision Kirkwood 2035 Comprehensive Plan.

Ms. Asche reported on the following upcoming Public Hearings:

May 5, 2022

1. A request for a Special Use Permit (Animal Facility, Minor, with Outdoor Use) and Site Plan Review for Kennelwood Pet Resorts, 10936 Manchester Road.
2. A request for a Zoning Code Text Amendment to add Dog Training Homes as a Special Use in Single-Family Residential Districts and grant a Special Use Permit to the property owner at 551 North Clay Avenue.
3. A request for a Zoning Map Amendment to rezone 10414 Big Bend Boulevard from R-4 to R-MM.

ADJOURNMENT

There being no further business to come before the Council, the meeting was adjourned at 7:47 p.m. The next regular council meeting is scheduled for April 21, 2022 at 7:00 p.m.

Laurie Asche
City Clerk

Approved:

RESOLUTION 48-2022

A RESOLUTION ACCEPTING THE BID OF DON BROWN CHEVROLET IN THE AMOUNT OF \$30,260 (PURSUANT TO STATE OF MISSOURI COOPERATIVE CONTRACT) FOR THE PURCHASE OF A 2023 CHEVROLET SILVERADO 2500 CREW CAB 4X4 SHORT BOX FOR THE FACILITIES DEPARTMENT AND AUTHORIZING AND DIRECTING THE DIRECTOR OF PROCUREMENT TO ISSUE A PURCHASE ORDER.

WHEREAS, the City may purchase items and services that have been competitively bid and awarded by State of Missouri Cooperative Contract, and

WHEREAS, staff recommends that the City purchase a 2023 Chevrolet Silverado 2500 Crew Cab 4X4 short box for the Facilities Department from Don Brown Chevrolet in the amount of \$30,260 under State of Missouri Cooperative Contract #IFB605CO22000068, and

WHEREAS, funds are available in Account #301-1704-600-75.06, Project #FO2301.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KIRKWOOD, MISSOURI, AS FOLLOWS:

SECTION 1. The Director of Procurement is hereby authorized and directed to issue a Purchase Order in the amount of \$30,260 to Don Brown Chevrolet under State of Missouri Cooperative Contract #IFB605CO22000068 for the purchase of a 2023 Chevrolet Silverado 2500 Crew Cab 4X4 short box for the Facilities Department.

SECTION 2. This Resolution shall be in full force and effect after its passage and approval.

PASSED AND APPROVED THIS 21st DAY OF APRIL 2022.

Mayor, City of Kirkwood

ATTEST:

City Clerk

Legislation Request

Resolution

Place On The Agenda Of: 4/21/2022

Step #1:

Strategic Plan Select... Goal # & Title Facilities Asset # 5881 Replacement Vehicle Purchase

Background To Issue:

The City of Kirkwood may use cooperative contracts that are competitively bid. State of Missouri competitively bid 2023 Chevrolet Silverado 2500 Crew Cab 4 x 4 Short Box and Don Brown Chevrolet was the lowest responsible and responsive bid. The State of Missouri contract number is IFB605CO22000068.

Recommendations and Action Requested:

It is recommended that the Procurement Director be authorized to issue a purchase order in the amount of \$ 30,260.00 to Don Brown Chevrolet for replacement of asset #5881 as it has exceeded the replacement criteria. This truck is heavily relied on for snow removal and daily facility operations.

Alternatives Available:

Does this project have a public information component? ☐ Yes ☒ No

Cost: \$30,260.00 Account #: 30117046007506 Project #: FO2301 Budgeted: YES

If YES, Budgeted Amount: \$32,500.00 If NO, or if insufficient funding (Complete Step #3).

Department Head Comments:

BY: Sara Foan-Oliver

Date: 4/11/2022

Authenticated: foanolsm

You can attach up to 3 files along with this request.

 File Attachment

 File Attachment

 File Attachment

Step #2: If request involves approval of bids, contracts, proposals, purchases, etc. **(Must have Purchasing Director's approval).**

Approve

Purchasing Director's Comments:

BY: Sara Foan-Oliver

Date: 4/12/2022

Authenticated: foanolsm

You can attach up to 3 files along with this request.



Resolution 500471.pdf
Adobe Acrobat Document
139 KB



File Attachment



File Attachment

Step #3: If budgetary approval is required (Must have Finance Department's approval).

Budgetary Approval

From Account # or Fund Name:

To Account # or Fund Name:

Finance Director's Comments:

Budgetary appropriation is available and sufficient for \$30,260 in account 301-1704-600-75-06, Rolling Stock, Project FO2301, Pickup 1/2 Ton to approve the above request.

BY: Sandra Stephens

Date: 4/12/2022

Authenticated: stephesf

Step #4: All Requests Require Chief Administrative Officer Approval for Placement on Meeting Agenda.



Approve



Disapprove

Chief Administrative Officer's Comments:

BY: 

Date: 4-15-22

April 12, 2022

To: Russell B. Hawes, Chief Administrative Officer

For Your Consideration: 2023 Chevrolet Silverado 2500 Crew Cab 4x4 short box #500471

The City of Kirkwood may use cooperative contracts that are competitively bid. State of Missouri competitively bid 2023 Chevrolet Silverado 2500 Crew Cab 4x4 short box and Don Brown Chevrolet was the lowest responsible and responsive bid. The State of Missouri contract number is IFB605CO22000068.

Attached is a request from Sara Foan-Oliver, Procurement Director, for a resolution authorizing a purchase order in the amount of \$30,260.00 to be issued to Don Brown Chevrolet for the purchase of a 2023 Chevrolet Silverado Crew Cab 4x4 short box for use in the Facilities Department.

Respectfully,

A handwritten signature in black ink, appearing to read "Sara Foan-Oliver", written in a cursive style.

Sara Foan-Oliver
Director of Procurement

RESOLUTION 49-2022

A RESOLUTION AMENDING THE CONTRACT WITH TECH ELECTRONICS IN THE AMOUNT OF \$35,656 FOR THE PURCHASE OF UPGRADED MITEL PHONE SOFTWARE AND SUPPORT SERVICES AND AUTHORIZING AND DIRECTING THE MAYOR TO ENTER INTO AN AMENDED CONTRACT.

WHEREAS, the City of Kirkwood competitively bid and awarded Phone System Maintenance and Support Services to Tech Electronics on June 18, 2020, and

WHEREAS, the current phone system has been declared end of life, resulting in limited support and requiring an upgrade to the software, and

WHEREAS, Tech Electronics submitted a proposal in the amount of \$35,656 for the purchase of upgraded MITEL Phone Software and Support Services, and

WHEREAS, the City of Kirkwood is currently under contract with Tech Electronics for Phone System Maintenance and Support, therefore is the single source provider of the City, and

WHEREAS, funds are available in Account #301-1105-600.75.05.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KIRKWOOD, MISSOURI, AS FOLLOWS:

SECTION 1. The Mayor is hereby authorized and directed to enter into an amended contract with Tech Electronics in the amount of \$35,656 for the purchase of upgraded MITEL Phone Software and Support Services.

SECTION 2. This Resolution shall be in full force and effect after its passage and approval.

PASSED AND APPROVED THIS 21ST DAY OF APRIL 2022.

Mayor, City of Kirkwood

ATTEST:

City Clerk

Legislation Request

Resolution

Place On The Agenda Of: 4/21/2022

Step #1:

Strategic Plan NO

Goal # & Title

Background To Issue:

The City voice-mail system is no longer supported and has been deferred for the last couple of years.

Recommendations and Action Requested:

Received a quote from Tech Electronics to install the new version of the MITEL voice mail system. This will be considered a Single Source as Tech Electronics currently holds our City voice mail system maintenance contract.

Alternatives Available:

Does this project have a public information component? ☐ Yes ☒ No

Cost: \$35,656.00 Account #: 30111056007505 Project #: IT2302 Budgeted: YES

If YES, Budgeted Amount: \$40,000.00 If NO, or if insufficient funding (Complete Step #3).

Department Head Comments:

BY: Kevin Campe

Date: 4/6/2022

Authenticated: campekr

You can attach up to 3 files along with this request.

 File Attachment

 File Attachment

 File Attachment

Step #2: If request involves approval of bids, contracts, proposals, purchases, etc. **(Must have Purchasing Director's approval).**

Approve

Purchasing Director's Comments:

BY: Sara Foan-Oliver

Date: 4/12/2022

Authenticated: foanolsm

You can attach up to 3 files along with this request.



Resolution 13591.pdf
Adobe Acrobat Document
38.1 KB

📎 File Attachment

📎 File Attachment

Step #3: If budgetary approval is required (**Must have Finance Department's approval**).

Budgetary Approval

From Account # or Fund Name:

To Account # or Fund Name:

Finance Director's Comments:

Budgetary appropriation is available and sufficient for \$35,656 in account 301-1105-600-75-05, Machinery and Equipment, Project IT2302 to approve the above as requested.

BY: Sandra Stephens

Date: 4/13/2022

Authenticated: stephesf

Step #4: All Requests Require Chief Administrative Officer Approval for Placement on Meeting Agenda.

☒ Approve ☐ Disapprove

Chief Administrative Officer's Comments:

BY: 

Date: 4-15-22

March 29, 2022

To: Russell Hawes, Chief Administrative Officer

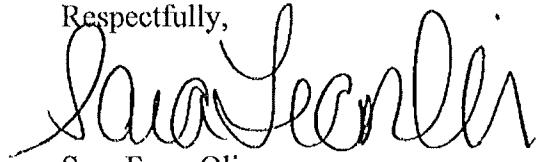
For Your Consideration: City of Kirkwood Phone System Maintenance and Support Services, RFP #13591 - Amendment

The City of Kirkwood MIS department is requesting approval to amend contract number 13591 with Tech Electronics for phone system maintenance and support services. The current system being utilized by The City has been declared end of life, resulting in difficulty receiving the support needed and a need to upgrade the software.

Given the City is currently under contract with Tech Electronics, the upgraded MITEL software will be treated as a single source purchase as Tech Electronics already holds our phone system maintenance and support contract.

Attached is a request from Kevin Campe, Director MIS; for approval to proceed with the purchase of the upgraded MITEL Phone Software and Support Services, totaling \$35,656.00.

Respectfully,

A handwritten signature in black ink, appearing to read 'Sara Foan-Oliver', written in a cursive style.

Sara Foan-Oliver
Director of Procurement

RESOLUTION 50-2022

A RESOLUTION ACCEPTING THE BID OF FIRST DUE IN THE AMOUNT OF \$14,990 FOR NATIONAL FIRE INCIDENT REPORT SOFTWARE FOR THE FIRE DEPARTMENT FOR AN INITIAL TERM OF 12 MONTHS WITH THE OPTION TO ANNUALLY, PENDING BUDGETARY APPROVAL, AND AUTHORIZING AND DIRECTING THE MAYOR TO ENTER INTO AN AGREEMENT.

WHEREAS, pursuant to law, the City solicited bids for National Fire Incident Report Software for the Fire Department, and

WHEREAS, the most responsible bid received were that of First Due in the amount of \$14,990 for an initial term of 12 months with the option to renew annually, pending budgetary approval, and

WHEREAS, funds are available in Account #1011-1301-422.31.10.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KIRKWOOD, MISSOURI, AS FOLLOWS:

SECTION 1. The bid of First Due in the amount of \$14,990 for National Fire Incident Report Software for the Fire Department for an initial term of 12 months with the option to renew annually, pending budgetary approval, is hereby accepted and approved.

SECTION 2. The Mayor is hereby authorized and directed to enter into a contract with First Due in the amount of \$14,990 for National Fire Incident Report Software for the Fire Departments for an initial term of 12 months with the option to renew annually, pending budgetary approval.

SECTION 3. This Resolution shall be in full force and effect after its passage and approval.

PASSED AND APPROVED THIS 21ST DAY OF APRIL 2022.

Mayor, City of Kirkwood

ATTEST:

City Clerk

Legislation Request

Resolution

Place On The Agenda Of: 4/21/2022

Step #1:

Strategic Plan Select... Goal # & Title

Background To Issue:

The Fire Department currently uses Emergency Reporting software for completion of National Fire Incident Reports, asset tracking, inspections and permitting and records management. This company has been purchased by ESO and our software is no longer being supported. This has caused the department to lose the ability to conduct inspections as the Inspect ER is no longer supported. In addition, the mining of data has become extremely difficult as ESO is killing the platform and attempting to transition over existing customers to ESO.

Recommendations and Action Requested:

The FD has investigated solutions, including examining if Tyler Technologies has a FD/NFIRS solution. Tyler Technologies was not able to provide any NFIRS solution nor able to provide a timeline for any type of this software. The FD investigated ESO Fire as well as First Due and found that First Due was a more intuitive product that provided functionality for fire reporting, records management, asset tracking, fire inspection and permitting as well as invoicing, a service not currently available. The FD is recommending the purchase of the First Due software for a one year contract with the option, pending annual budgetary approval, to extend for additional years.

Alternatives Available:

Alternatives to this solution are to remain with Emergency Reporting, an unsupported product. This could lead to data loss as well as possible security risks to data.

Does this project have a public information component? ☐ Yes ☒ No

Cost: \$14,990.00 Account #: 10113014223110 Project #: Budgeted: YES

If YES, Budgeted Amount: If NO, or if insufficient funding (Complete Step #3).

Department Head Comments:

BY: James Silvernail

Date: 4/9/2022

Authenticated: zaitzbt

You can attach up to 3 files along with this request.

 File Attachment

 File Attachment

 File Attachment

Step #2: If request involves approval of bids, contracts, proposals, purchases, etc. **(Must have Purchasing Director's approval).**

Approve

Purchasing Director's Comments:

BY: Sara Foan-Oliver

Date: 4/13/2022

Authenticated: foanolsm

You can attach up to 3 files along with this request.



File Attachment

File Attachment

Step #3: If budgetary approval is required (**Must have Finance Department's approval**).

Budgetary Approval

From Account # or Fund Name:

To Account # or Fund Name:

Finance Director's Comments:

Budgetary appropriation is available and sufficient for \$14,990 in account 301-1301-422-31-10, Other Professional Services to approve the above as requested.

BY: Sandra Stephens

Date: 4/13/2022

Authenticated: stephesf

Step #4: All Requests Require Chief Administrative Officer Approval for Placement on Meeting Agenda.

☒ Approve ☐ Disapprove

Chief Administrative Officer's Comments:

BY:

Date: 4-15-22

April 12, 2022

To: Russell B. Hawes, Chief Administrative Officer

For Your Consideration: National Fire Incident Report Software; Kirkwood Fire Department, Bid #500475.

The City of Kirkwood Fire Department is requesting approval to purchase new, upgraded NFIRS (National Fire Incident Report Software). The current software being utilized by the Fire Department is being phased out and will no longer be supported. The new NFIRS software would allow for fire reporting, record management, asset tracking, fire inspections and permitting, as well as invoicing; a service that is not available with the current software.

The purchase of this new software will not only assist the Fire Department with their daily tasks, but also significantly reduce data security risks.

The Procurement department solicited three bids, with First Due being the lowest responsive and responsible supplier at a cost of \$14,990.00. The agreement with First Due would be set for an initial 12-month term, with additional automatic 12-month renewals every year following. While this is currently under the City's threshold, this agreement does have the potential to exceed that threshold in future years. Funding for future years will be contingent upon budgetary approval.

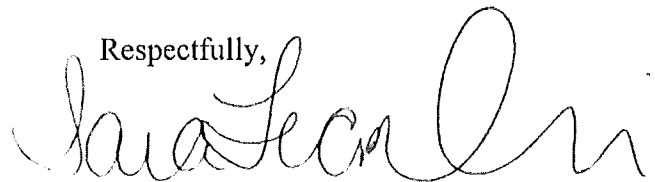
Vendor

First Due

\$14,990.00

Attached is a request from James Silvernail, Fire Chief, for a resolution authorizing the City to enter into an agreement with First Due in the amount of \$14,990.00 for the initial term of twelve (12) months for the purchase and implementation of new National Fire Incident Report Software.

Respectfully,

A handwritten signature in black ink, appearing to read 'Sara Foan-Oliver', written in a cursive style.

Sara Foan-Oliver

Director of Procurement



AGREEMENT FOR SERVICES

This Agreement for Services (this "Agreement") dated as of May 1, 2022 (the "Effective Date") is made by and between Locality Media, Inc dba First Due a Delaware corporation, having offices at 107 7th St, Garden City, NY, 11530 ("Locality Media") and the Kirkwood Fire Department located at 11804 Big Bend Blvd, Kirkwood, MO 63122 (the "Customer").

1. Locality Media maintains a website through which Customer members may access Locality Media's First Due Size-Up™ Community Connect™, Mobile Responder™ and/or other software-as-a-service platforms and solutions identified in Exhibit A (collectively, the "Service") in connection with the performance of their Customer duties. Locality Media agrees to grant the Customer access to the Service pursuant to the terms and conditions set forth below and in Exhibit A, and the Customer agrees to use the Service only in strict conformity with and subject to such terms and conditions.
2. Locality Media may provide the Customer with one or more user ID's, initial passwords, digital certificates and/or other devices (collectively, "Credentials") and/or application programming interfaces ("APIs") to access the Service. The Customer shall access the Service only by using such Credentials and APIs. The Customer authorizes Locality Media to act on any instructions Locality Media receives from users of the Service who present valid Credentials and such individuals shall be deemed authorized to act on behalf of the Customer, including, without limitation, to change such Credentials. It is the Customer's sole responsibility to keep all Credentials and other means of access within the Customer's direct or indirect possession or control both confidential and secure from unauthorized use. The Customer understands the utility of the First Due Size Up Service depends on the availability of data and information relating to Locations and structures in the Customer's jurisdiction, including but not limited to building system and structural information, building inspection codes and incident report data (collectively, "Location Data"). Locality Media also may process and furnish through the Service, in addition to Location Data, other data regarding residents and roadways within the Customer's jurisdiction ("Community Data"). Location Data and Community Data are referred to collectively herein as "Data". Locality Media may acquire Data from third party public and/or private sources in Locality Media's discretion. In addition, the Customer will upload to the Service or otherwise provide to Locality Media in such form and using such methods as Locality Media reasonably may require from time to time, any and all Data from the Customer's records and systems which the parties mutually designate for inclusion in the Service database. The Customer agrees not to filter or alter such records except to conform such Data to the formats reasonably required by Locality Media. Subject to any third-party license restrictions identified expressly in writing by the Customer, the Customer grants to Locality Media a perpetual, non-exclusive, worldwide, royalty-free right and license to process, use and disclose the Data furnished to Locality Media by the Customer in connection with the development, operation and performance of Locality Media's business, including but not limited to the Service.
3. As between the parties, the Customer and its employees, contractors, members, users, agents and representatives (collectively, "Customer Users") are solely responsible for determining whether and how to use Data accessed through the Service. The Customer acknowledges that Locality Media, through the Service, provides an interface for viewing Data compiled from the Customer and other sources over which Locality Media has no control and for which Locality Media assumes no responsibility. Locality Media makes no representations or warranties regarding any Location or structure (including but not limited to a Location's safety, construction, occupancy, materials, hazards, water supply, contents, location, surrounding structures, exposures, size, layout, compliance, condition or history)), residents, roadways, or any actual or expected outcome from use of the Data, nor does Locality Media make any representation or warranty regarding the accuracy or reliability of the Data received by Locality Media. Locality Media provides administrative and information technology services only and does not advise, recommend, or render an opinion with respect to any information communicated through the Service and shall not be responsible for the Customer's or any third party's use of any information obtained through the Service.

4. The Customer shall obtain and maintain, at its own expense, computers, operating systems, Internet browsers, tablets, phones, telecommunications equipment, third-party application services and other equipment and software ("Equipment") required for the Customer to access and use the Service (the Service being accessible to users through standard Internet browsers subject to third party network availability and signal strength). Locality Media shall not be responsible for any problem, error or malfunction relating to the Service resulting from Customer error, data entry errors or malfeasance by the Customer or any third party, or the performance or failure of Equipment or any telecommunications service, cellular or wifi network, Internet connection, Internet service provider, or any other third-party communications provider, or any other failure or problem not attributable to Locality Media ("Technical Problems").
5. This Agreement will be effective for an initial term of **12 months** (the "Initial Term") commencing on the Effective Date. After the Initial Term, this Agreement will automatically renew for successive terms of **12 months** each (a "Renewal Term"), subject to the right of either party to cancel renewal at any time upon at least 60 days' written notice. Locality Media reserves the right to increase Customer's renewal Service fees by no more than 5% per annum, applied to the Service fees set forth in the previous term. A renewal estimate will be provided to the Customer no less than 90 days before term expiration. Either party also may terminate this Agreement immediately upon written notice if the other party: (i) becomes insolvent; (ii) becomes the subject of a petition in bankruptcy which is not withdrawn or dismissed within 60 days thereafter; (iii) makes an assignment for the benefit of creditors; or (iv) materially breaches its obligations under this Agreement and fails to cure such breach within 30 days after the non-breaching party provides written notice thereof.
6. Upon termination, the Customer shall cease use of the Service and all Credentials then in the Customer's possession or control. This Section 6 and Sections 8 through 11 and 15 through 25 hereof shall survive any termination or expiration of this Agreement.
7. The Customer agrees to pay the fees set forth in Exhibit A for use of those Service features described in Exhibit A (as available as of the Effective Date). Locality Media may charge separately for services offered from time to time that are not included in the scope of Exhibit A (such as new Service features, systems integration services and applications of the Service for new purposes), subject to the Customer's acceptance of the terms of use and fees associated with such services. The Customer shall be responsible for the payment of all taxes associated with provision and use of the Service (other than taxes on Locality Media's income). The Customer represents it has not received and agrees that it shall not collect any fee, payment or remuneration of any kind from any Data provider, other municipal agency or other third party in connection with the Customer's purchase or use of the Service under this Agreement.
8. Locality Media owns and shall retain all right, title, and interest in and to the Service, all components thereof, including without limitation all related applications, APIs, user interface designs, software and source code (which shall further include without limitation any and all source code furnished by Locality Media to the Customer in connection with the delivery or performance of any services hereunder) and any and all future enhancements or modifications thereto howsoever made and all intellectual property rights therein but not Data furnished by the Customer. Except as expressly provided in this Agreement or as otherwise authorized in advance in writing by Locality Media, the Customer and Customer Users shall not copy, distribute, license, reproduce, decompile, disassemble, reverse engineer, publish, modify, or create derivative works from, the Service; provided, however, that nothing herein shall restrict the Customer's use of the Data that the Customer has provided.
9. "Confidential Information" means any and all information disclosed by either party to the other which is marked "confidential" or "proprietary," including oral information that is designated confidential at the time of disclosure. Without limiting the foregoing, all information relating to the Service and associated software and the terms of this Agreement shall be deemed Locality Media's Confidential Information. Notwithstanding the foregoing, "Confidential Information" does not include any information that the receiving party can demonstrate (i) was known to it prior to its disclosure hereunder; (ii) is or becomes publicly known through no wrongful act of the receiving party; (iii) has been rightfully received from a third party authorized to make such disclosure without restriction; (iv) is independently developed by the receiving party, without the use of any Confidential Information of the other party; (v) has been approved for release by the disclosing party's prior written authorization; or (vi) is required to be

disclosed by court order or applicable law, provided that the party required to disclose the information provides prompt advance notice thereof to the other party (except to the extent such notice is prohibited by law).

10. Each party hereby agrees that it shall not use any Confidential Information belonging to the other party other than as expressly permitted under the terms of this Agreement or as expressly authorized in writing by the other party. Each party shall use the same degree of care to protect the other party's Confidential Information as it uses to protect its own confidential information of like nature, but in no circumstances with less than reasonable care. Neither party shall disclose the other party's Confidential Information to any person or entity other than its employees, agents or consultants who need access thereto in order to effect the intent of this Agreement and in each case who have been advised of the confidentiality provisions of this Agreement, have been instructed to abide by such confidentiality provisions, entered into written confidentiality agreements consistent with Sections 9-11 or otherwise are bound under substantially similar confidentiality restrictions.
11. Each party acknowledges and agrees that it has been advised that the use or disclosure of the other's Confidential Information inconsistent with this Agreement may cause special, unique, unusual, extraordinary, and irreparable harm to the other party, the extent of which may be difficult to ascertain. Accordingly, each party agrees that, in addition to any other remedies to which the nonbreaching party may be legally entitled, the nonbreaching party shall have the right to seek to obtain immediate injunctive relief, without the necessity of posting a bond, in the event of a breach of Section 9 or 10 by the other party, any of its employees, agents or consultants.
12. LOCALITY MEDIA REPRESENTS AND WARRANTS THAT IT SHALL USE COMMERCIALY REASONABLE EFFORTS TO PROVIDE THE SERVICE WITHOUT INTRODUCING ERRORS OR OTHERWISE CORRUPTING DATA AS SUBMITTED BY THE CUSTOMER. OTHER THAN THE FOREGOING, THE SERVICE, INCLUDING ALL DATA, IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTY OF ANY KIND. WITHOUT LIMITING THE FOREGOING, LOCALITY MEDIA MAKES NO WARRANTY THAT THE SERVICE WILL BE UNINTERRUPTED, ERROR FREE OR AVAILABLE AT ALL TIMES, NOR DOES LOCALITY MEDIA WARRANT THAT THE SERVICE WILL REMAIN COMPATIBLE WITH, OR OPERATE WITHOUT INTERRUPTION ON, ANY EQUIPMENT OF THE CUSTOMER OR CUSTOMER USERS.
13. EXCEPT AS SET FORTH ABOVE IN SECTION 12, LOCALITY MEDIA MAKES AND THE CUSTOMER RECEIVES NO WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY REGARDING OR RELATING TO THE SUBJECT MATTER HEREOF. LOCALITY MEDIA SPECIFICALLY DISCLAIMS, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT WITH RESPECT TO THE SUBJECT MATTER HEREOF, INCLUDING WITHOUT LIMITATION THE SERVICE.
14. The Customer represents and warrants that the Customer is authorized and has all rights necessary to enter into this Agreement, to provide the Data furnished by the Customer to Locality Media, and to use the Service and Data, and Customer will only use the Service and Data, as permitted under this Agreement and in accordance with the laws, regulations and any third-party agreements applicable to the Customer and Customer Users. Without limiting the generality of the foregoing, Customer shall not cause or permit any Data to be uploaded to the Service or used in connection with the Service in any manner that would violate any third-party intellectual property rights or license between Customer and any third party. Customer agrees not to use or permit the use of the Service and Data in connection with any public or private enterprise other than operation and performance of the Customer's functions and services. In addition, the Customer and the Customer Users shall not copy, distribute, license, reproduce, publish, modify or otherwise use any Personally Identifiable Information (PII) contained within the Data accessed through the Service for any purpose other than to lawfully carry out the services and duties of the Customer. The Customer shall remain responsible for the performance, acts and omissions of each Customer User as if such activities had been performed by the Customer.
15. Locality Media will indemnify, defend and hold harmless the Customer from and against any and all damages, liabilities, losses, costs and expenses (including, but not limited to, reasonable attorneys' fees) (collectively, "Losses") resulting from any third-party claim, suit, action, investigation or proceeding (each, an "Action") brought against the Customer based on the infringement by Locality Media of any third-party issued patent, copyright or registered trademark, except to the extent such Action is based on Data furnished from the Customer, the Customer's breach of any third party agreement, or any combination or integration of the Service with any Customer- or third-party property, method or system.

16. The Customer will indemnify, defend and hold Locality Media harmless from and against any and all Losses arising from or relating to: (i) any breach by the Customer of Section 8; or (ii) any Action by a Customer User or third party arising from or relating to the use of the Service or Data accessed through the Service, except to the extent such Losses are subject to Section 15 above or result from the gross negligence or willful misconduct of Locality Media.
17. Such indemnification under Sections 15 and 16 will be provided only on the conditions that: (a) the indemnifying party is given written notice reasonably promptly after the indemnified party receives notice of such Action; (b) the indemnifying party has sole control of the defense and all related settlement negotiations, provided any settlement that would impose any monetary or injunctive obligation upon the indemnified party shall be subject to such party's prior written approval; and (c) the indemnified party provides assistance, information and authority as reasonably required by the indemnifying party.
18. EXCEPT FOR ITS INDEMNIFICATION OBLIGATIONS IN SECTION 15, AND EXCEPT FOR CLAIMS OF GROSS NEGLIGENCE, WILLFUL MISCONDUCT OR FRAUD, LOCALITY MEDIA SHALL NOT BE LIABLE TO THE CUSTOMER OR CUSTOMER USERS FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR EXEMPLARY DAMAGES ARISING FROM OR RELATING TO THIS AGREEMENT OR THE SERVICES OR DATA, EVEN IF THE CUSTOMER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT FOR ITS INDEMNIFICATION OBLIGATIONS IN SECTION 15, AND EXCEPT FOR CLAIMS OF GROSS NEGLIGENCE, WILLFUL MISCONDUCT OR FRAUD, LOCALITY MEDIA SHALL NOT BE LIABLE TO THE CUSTOMER OR CUSTOMER USERS FOR ANY DAMAGES IN CONNECTION WITH THIS AGREEMENT IN EXCESS OF THE GREATER OF (A) THE AMOUNT OF FEES PAID OR PAYABLE BY THE CUSTOMER TO LOCALITY MEDIA WITHIN THE 12 MONTH PERIOD IMMEDIATELY PRIOR TO THE EVENT GIVING RISE TO SUCH LIABILITY, OR (B) \$5,000.
19. All notices, requests, demands or consents under this Agreement must be in writing, and be delivered personally, by email or facsimile followed by written confirmation, or by internationally recognized courier service to the addresses of the parties set forth in this Agreement.
20. Except as otherwise provided below, neither party may assign this Agreement or any rights or obligations hereunder without the prior written consent of the other party. Locality Media may assign this Agreement or any rights or obligations hereunder to any Locality Media affiliate or in connection with the merger or acquisition of Locality Media or the sale of all or substantially all of its assets related to this Agreement, without such consent. This Agreement shall be binding upon and inure to the benefit of the parties, their respective successors and permitted assigns.
21. This Agreement shall be governed by and construed in accordance with the laws of the State of Missouri.
22. Any modification, amendment or waiver to this Agreement shall not be effective unless in writing and signed by the party to be charged. No failure or delay by either party in exercising any right, power, or remedy hereunder shall operate as a waiver of such right, power, or remedy.
23. The parties are independent contractors with respect to each other, and neither shall be deemed an employee, agent, partner or legal representative of the other for any purpose or shall have any authority to create any obligation on behalf of the other. Neither party intends to grant any third-party beneficiary rights as a result of this Agreement.
24. Any delay in or failure of performance by either party under this Agreement will not be considered a breach and will be excused to the extent caused by any event beyond the reasonable control of such party including, but not limited to, acts of God, acts of civil or military authorities, strikes or other labor disputes, fires, interruptions in telecommunications or Internet or network provider services, power outages, and governmental restrictions.
25. This Agreement supersedes all prior agreements, understandings, representations, warranties, requests for proposal and negotiations, if any. Each provision of this Agreement is severable from each other provision for the purpose of determining the enforceability of any specific provision.

26. Agreement Billing Information

a. Accounts Payable Contact

Name: _____

Email: _____

Phone: _____

b. Tax Exempt _____ (Yes/No)

If Yes, please email a copy of the Exempt Certificate to accounting@firstdue.com.

c. Purchase Order Required _____ (Yes/No)

If Yes, return a copy of the Purchase Order with the signed agreement or email a copy to accounting@firstdue.com.

LOCALITY MEDIA, INC.

Kirkwood Fire Department

By: _____

Name: Andreas Huber

Title: CEO

Date: _____

By: _____

Name: _____

Title: _____

Date: _____



Locality Media, Inc. dba First Due
107 Seventh St, Garden City
New York, 11530, United States
Phone: +1 (516) 874-2258
Website: <https://www.firstdue.com/>

Exhibit A - Quote
Prepared By: Dre Mihaylo
Valid Until: May 31, 2022
Quote Number: 1545132000081902339

BILL TO:

Brian Zaitz
Kirkwood Fire Department
11804 Big Bend Blvd
Kirkwood, MO 63122

Account: Kirkwood Fire Department
Subscription Start: May 1, 2022
Initial Term: 12 months
Annual Subscription: \$14,990.00

Product Details	Total
Occupancy Management & Pre-Incident Planning Manage Occupancies, Hydrants, Pre-Incident Mapping, GIS data, Fire Systems, Hazardous Material, and Contacts.	
Responder Web Responder dashboard and Responder iOS/Android App with notifications, statusing and routing.	
Inspections Field Inspections, Configurable Checklists, Violation Management, Virtual Inspections, Inspections Scheduler, and Integrated Pre-Incident Planning.	
Invoicing Invoice Management, Bulk Mailing, Billing Report and Customizable Fee Schedules.	
Permitting Permit Management, Customizable Permit Types, Plan Review and Permit Fees.	
Incident Reporting – NFIRS NFIRS Incident Documentation, State and Federal Compliance with automated submission.	
Personnel Management Store, Manage and Access Employee Records including demographic data, certifications and employment information.	
Training Records Assign Training, Record Completions, View Training Logs, and Manage Certifications.	
Events & Activities Create Events, View Global Activity Log, and Access Global Calendar.	
Assets & Inventory Assets, equipment and inventory management, assets and equipment checks, and work order management.	
CAD Integration Automated importing of CAD calls via XML, Database Connector or API.	

Implementation and Configuration Services

Services related to configuring and customizing the First Due Platform as described in the Statement of Work.

One-Time Fees Subtotal	\$ 0.00
Subscription Fees Subtotal	\$ 14,990.00
Grand Total	\$ 14,990.00

Statement of Work

Please see attached Statement of Work detailing the Implementation, Training and Support for this Exhibit A – Quote.

Terms and Conditions

The above-listed Grand Total will be invoiced on or around the Subscription Start date. For subsequent annual periods, the Service fees are due and payable annually in advance.

Payment Terms: Net 60 days

For electronic ACH payment: JPMorgan Chase Bank | ABA Routing: 021000021 | Account #: 803527972



Locality Media, Inc. dba First Due
107 Seventh St, Garden City
New York, 11530, United States
Phone: +1 (516) 874-2258
Website: <https://www.firstdue.com/>

Statement of Work
For Quote Number: 1545132000081902339

Statement of Work | Kirkwood Fire Department

Introduction

The purpose of this Statement of Work (SoW) document is to clearly define the Implementation, Training and Support.

1. Implementation:

First Due works very closely with you to ensure the application is ready for go-live. During the Implementation you will be assigned a Client Success Manager and Implementation Manager who will lead you through the process. Below is a description of each component of our implementation.

- a) **Discovery & Planning:** During a project kick-off meeting we will flesh out the key components of the configuration, customer stakeholders and project timelines. After this stage we will have a clear plan to when and how your agency will be live with First Due.
- b) **Configuration:** First Due is an out-of-the box system but can be configured for your Agency's needs. Our team will work with you to configure all the parts of the application necessary for go-live and beyond. These configuration sessions will generally occur weekly, and also act as administrator training.
- c) **Optimization:** Once the account is configured, we will arrange a small end-user testing group to begin to use the application out-in-the-field. This is an iterative process in which we listen to feedback and make adjustments to the product on the fly.
- d) **Training:** Once we have sign-off the product is ready for go-live we will build the necessary training plan together, which may include train-the-trainer sessions, end user training, custom training videos/content or even onsite sessions. The training section below provides more detail on included training.
- e) **Roll Out:** After training is complete, we are ready to roll-out the platform. We will work closely with you to ensure First Due is rolled out effectively across your agency.
- f) **Support:** Once we achieve sign-off that the system is live and stable, we will transition to support (as described in the support section below). However, you will continue to have a dedicated Client Success Manager moving forward.

2. Training:

Training is an integral part of any successful implementation. First Due is focused on providing your agency adequate training to ensure effective user adoption of the platform. As part of this Statement of Work, the customer will receive training throughout the implementation process as outlined below:

1. Webinar Administrator training during configuration sessions as needed
2. Webinar formal Train-the-Trainer Session(s) during the training phase as needed
3. Access to online training videos, documents, content and interactive knowledgebase

Customized onsite training may be purchased from First Due at a rate of \$1,800/day per First Due employee.

3. Integrations:

Any scoped integrations included in this document will be described below. Any additional integration scoped at a later date will be provided in a separate SoW at that time.

4. Data Migration:

First Due understands the importance of data migration to our customers and has extensive experience working to migrate historical records into the platform. First Due will use best efforts to migrate applicable data from Customer's existing systems utilizing data migration best practices. This includes:

1. Data Migration Planning Session
2. Assistance/Guidance in extracting data from existing system/s
3. Mapping extracted data to First Due import workbooks
4. Importing of Data into First Due

5. Support:

First Due provides Support as part of the base subscription. This includes:

1. Email, Phone, Ticketing System Support Channels and Live Chat
2. Dedicated Client Success Manager
3. Access to knowledge base including online training videos and FAQs

RESOLUTION 51-2022

A RESOLUTION GRANTING THE PROPERTY OWNER OF 446 NORTH GEYER ROAD, KIRKWOOD, MISSOURI, AUTHORIZATION FOR AN ENCROACHMENT OF APPROXIMATELY 3 FEET INTO THE PUBLIC RIGHT-OF-WAY OF GEYER ROAD, 109 FEET TO THE SOUTH AND 15 FEET TO THE NORTH OF THE DRIVEWAY APPROACH ON SAID PROPERTY, FOR THE PARTIAL REPLACEMENT OF AN EXISTING RETAINING WALL.

WHEREAS, the property owner of 446 North Geyer Road wishes to rebuild 35' of the existing retaining wall that runs 109 feet to the south and 15 feet to the north of the driveway; and

WHEREAS, the Kirkwood Municipal Code Section 20-89 allows the placement of objects within streets, alleys or sidewalks when authorized to do so by the City Council and, by implication, the City Council has the authority to allow an encroachment upon the public right-of-way, and;

WHEREAS, the property owner of 446 North Geyer Road is responsible for the installation and maintenance of the retaining wall and accepts full responsibility for said retaining wall.

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KIRKWOOD, MISSOURI, AS FOLLOWS:

SECTION 1. The City Council hereby grants authority to the property owner of 446 North Geyer Road, Kirkwood, Missouri, authorization for an encroachment of approximately 3 feet into the public right-of-way on North Geyer Road, 109 feet to the south and 15 feet to the north of the driveway approach on said property, for the partial replacement of an existing retaining wall.

SECTION 2. The property owner of 446 North Geyer Road shall be responsible for the installation and maintenance of the retaining wall, and accepts full responsibility for said retaining wall.

SECTION 3. If there is a need for removal of the retaining wall in the public right-of-way for public improvements, the owner shall be responsible for removal of said retaining wall.

SECTION 4. This Resolution shall be in full force and effect after its passage and approval, as provided by law.

PASSED AND APPROVED THIS 21ST DAY OF APRIL 2022.

Mayor, City of Kirkwood

ATTEST:

City Clerk

Legislation Request

Resolution

Place On The Agenda Of: 4/21/2022

Step #1:

Strategic Plan NO

Goal # & Title

Background To Issue:

The property owner of 446 N. Geyer Road is seeking authorization to reset an existing private retaining wall that is within the City's right of way. This is to accommodate a slightly large driveway approach which would be a maximum of 13' wide which is allowed by City Code. The current retaining wall on the south side of the driveway extending approximately 109' to the south stands at 3' tall. This wall is tilted slightly towards the sidewalk. The property owner is requesting to rebuild approximately 20' of the retaining wall at a softer radius to allow a larger turning radius into the driveway. The current retaining wall on the north side of the driveway stands at approximately 1' tall and extends approximately 15' to the north. The property owner is requesting the north wall to be rebuilt, and raised to a maximum height of 3' tall. Both walls currently encroach into the City's right of way by approximately 3' for the entire length of both the south and north walls.

Recommendations and Action Requested:

Reviewing existing City records it appears the existing retaining wall was not installed by the City. No records of an existing encroachment agreement could be found. The wall does not appear to be needed to support existing structures. There are several trees and a fence on private property that may need to be removed in order to rebuild the wall on private property. City staff does not recommend the property owner be granted authorization to reconstruct either the north or south retaining wall as proposed within the public right of way. Should council grant the encroachment, the property owner of 446 N. Geyer, is responsible for the installation and maintenance of the wall and accepts full responsibility for said wall.

Alternatives Available:

Does this project have a public information component? ☐ Yes ☒ No

Cost: \$0.00 Account #: 00000000000000 Project #: Budgeted: YES

If YES, Budgeted Amount: \$0.00 If NO, or if insufficient funding (Complete Step #3).

Department Head Comments:

BY: Christopher Krueger

Date: 4/13/2022

Authenticated: kruegeca

You can attach up to 3 files along with this request.



Right-Of-Way Encroachment
App..pdf
Adobe Acrobat Document
6.19 MB

File Attachment

File Attachment

Step #2: If request involves approval of bids, contracts, proposals, purchases, etc. **(Must have Purchasing Director's approval).**

Select...

Purchasing Director's Comments:

BY: Select...

Date:

Authenticated:

You can attach up to 3 files along with this request.

File Attachment

File Attachment

File Attachment

Step #3: If budgetary approval is required **(Must have Finance Department's approval).**

Select...

From Account # or Fund Name:

To Account # or Fund Name:

Finance Director's Comments:

BY: Select...

Date:

Authenticated:

Step #4: All Requests Require Chief Administrative Officer Approval for Placement on Meeting Agenda.



Approve



Disapprove

Chief Administrative Officer's Comments:

BY:

A handwritten signature in blue ink, written over a horizontal line. The signature is stylized and cursive.

Date:

4-15-22



RIGHT-OF-WAY ENCROACHMENT APPLICATION

NOTICE

- Certain improvements may require approval of the Architectural Review Board prior to applying for an encroachment.
- This application is solely for the approval of an encroachment. If the encroachment is approved, applicant is responsible for obtaining the proper permits to construct the improvements.
- The City Council is the authority providing approval of encroachments. The City Engineer provides recommendations to the City Council.
- You will be notified in writing of the Council's decision and provided a copy of the legislation.

APPLICATION DATE: March 30, 2022

APPLICANT NAME: Bright-Mann Contracting Inc.

APPLICANT ADDRESS: 2220 Gravois Rd., Ste. A., High Ridge, MO 63049

APPLICANT PHONE NUMBER: 314-962-8100

APPLICANT E-MAIL ADDRESS: bright-mann@bright-mann.com

ADDRESS/LOCATION OF ENCROACHMENT: 446 North Geyer Rd., Kirkwood, MO 63122

DESCRIPTION AND REASON FOR ENCROACHMENT:

Reset and rebuild current retaining wall corner so driveway can be widened slightly.

REQUIRED DOCUMENTS:

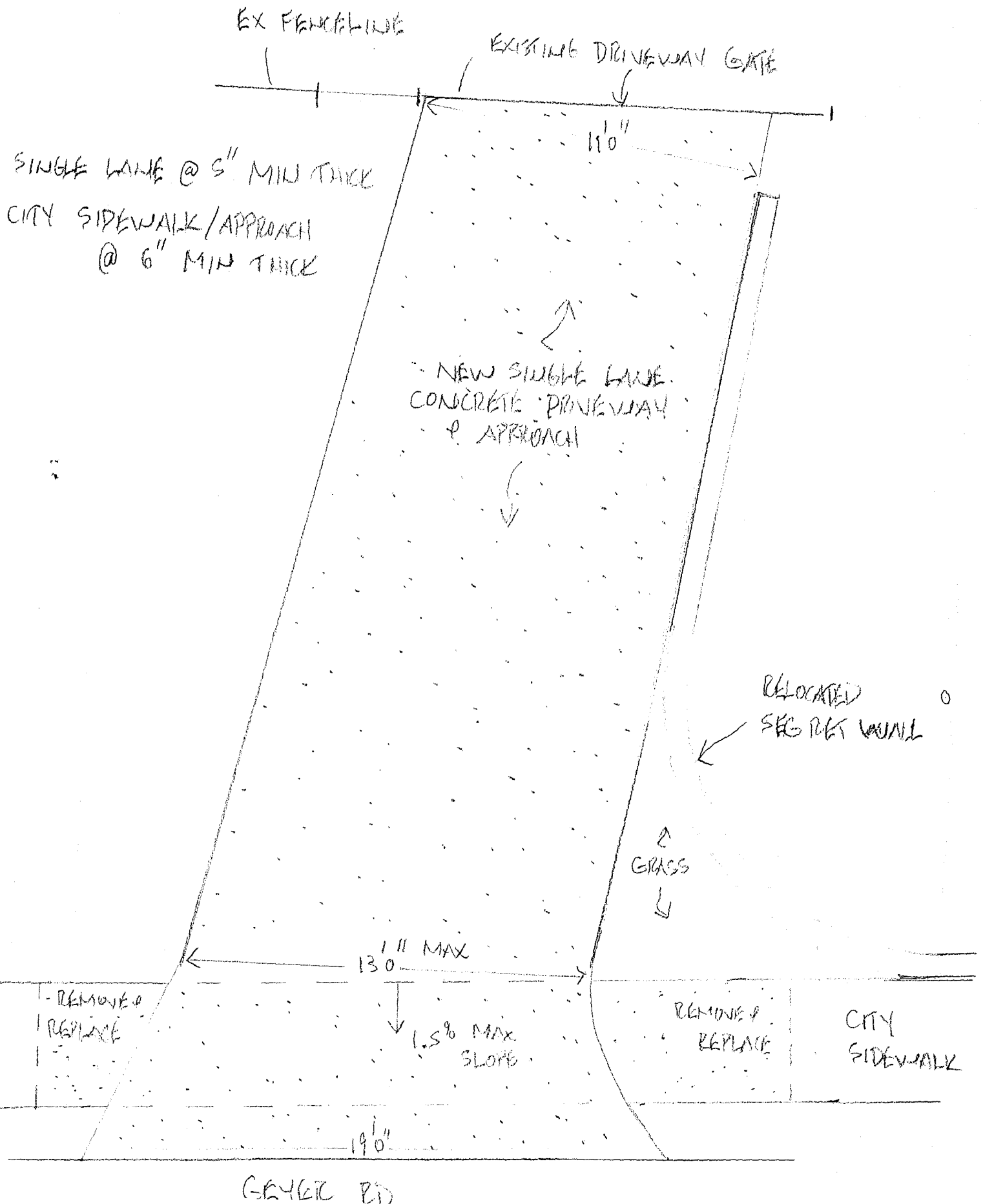
- Site plan with dimensions of encroachments into the right-of-way.
- Construction plans or construction details of improvement.

APPLICANT'S SIGNATURE: Marlo Nachtwijk, Office Mgr.

ENGINEERING DEPARTMENT USE ONLY	
Recommended for approval by City Engineer:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Date: April 13, 2022
Date of City Council Meeting:	April 21, 2022
Approved by City Council:	<input type="checkbox"/> Yes <input type="checkbox"/> No Resolution:

PROJECT ADDRESS:
446 N. GENE RD

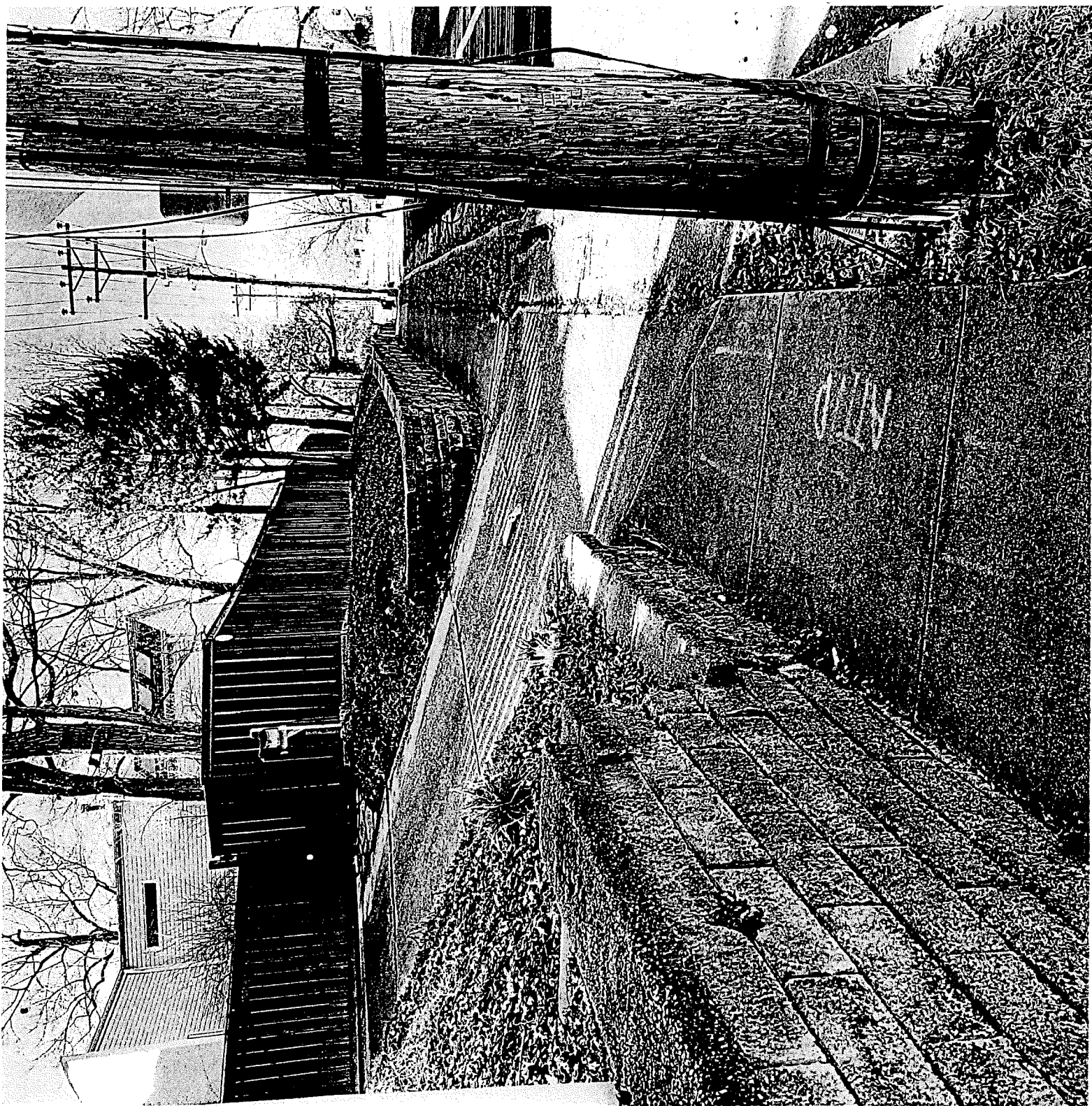
CONTRACTOR:
BRIGHT-MANN CONTRACTING INC





THIS WALL TO BE REBUILT
RAISED AND EXTENDED
MAX HEIGHT 5'0"

THIS CORNER OF LOT ADJ
TO BE REBUILT TO S
CURVE AND ALLOW ST
DRIVEWAY WIDTH
INCREASE 1'0"
MAX HEIGHT 5'0"



PROJECT ADDRESS:

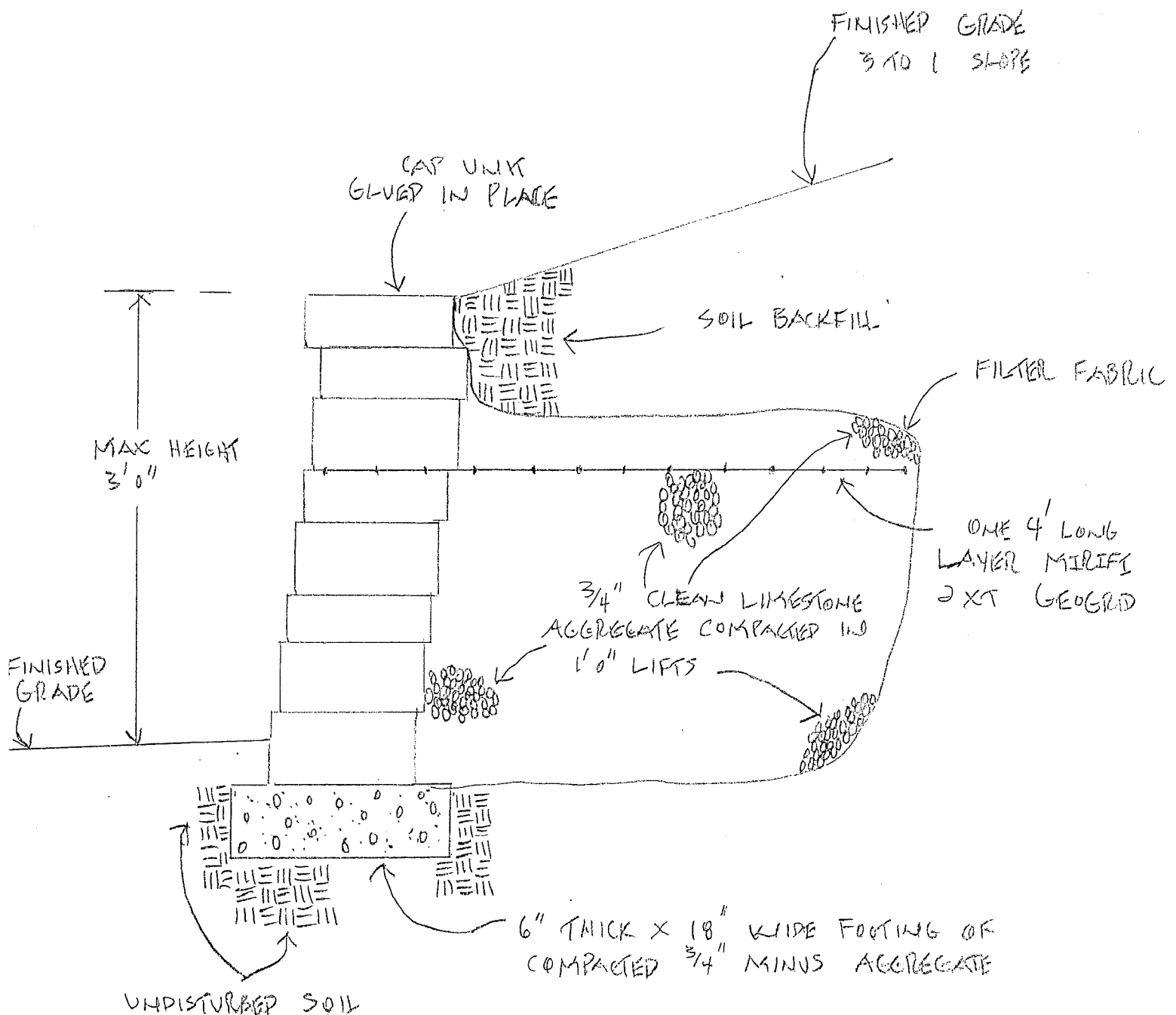
446 NORTH GENEAL RD

COMPLIES WITH ST LOUIS
COUNTY MASTER PLAN #

700-03-03

SECTIONAL DETAIL - SINGLE TIER
VERSA-LOK MOSAIC RETAINING WALL

SCALE: 1" = 1'0"



RESOLUTION 52-2022

A RESOLUTION ACCEPTING THE BID OF SIEVERS JCB IN THE AMOUNT OF \$74,081.17 (PURSUANT TO SOURCEWELL COOPERATIVE CONTRACT) FOR THE PURCHASE OF A MINI-EXCAVATOR FOR THE WATER DEPARTMENT AND AUTHORIZING AND DIRECTING THE DIRECTOR OF PROCUREMENT TO ISSUE A PURCHASE ORDER.

WHEREAS, the City may purchase items and services that have been competitively bid and awarded by Sourcewell Cooperative Contract, and

WHEREAS, staff recommends that the City purchase a Mini-Excavator for the Water Department from Sievers JCB in the amount of \$74,081.17 under Sourcewell Cooperative Contract #040319-JCB, and

WHEREAS, funds are available in Account #505-2215-481.75.05, Project #WA2305.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KIRKWOOD, MISSOURI, AS FOLLOWS:

SECTION 1. The Director of Procurement is hereby authorized and directed to issue a Purchase Order in the amount of \$74,081.17 to Sievers JCB under Sourcewell Cooperative Contract #040319-JCB for the purchase of a Mini-Excavator for the Water Department.

SECTION 2. This Resolution shall be in full force and effect after its passage and approval.

PASSED AND APPROVED THIS 21st DAY OF APRIL 2022.

Mayor, City of Kirkwood

ATTEST:

City Clerk

Legislation Request

Resolution

Place On The Agenda Of: 4/21/2022

Step #1:

Strategic Plan Select...

Goal # & Title

Background To Issue:

In the Water Divisions FY23 budget, funds are allocated for the replacement of equipment no. 8506 ,a 2013 mini excavator. This piece of equipment is used daily in the repair of water mains, valves, meters and emergency repairs.

The new mini excavator will be purchased under the cooperative purchasing agreement Sourcewell, through Seivers Equipment. This purchase does include a \$20,000 trade-in for a total purchase price of \$74,081.17.

Recommendations and Action Requested:

It is recommended that the City Council accept the proposal from Seivers Equipment in the amount of \$74,081.17 for the purchase of a mini excavator for the Water Division.

Alternatives Available:

Does this project have a public information component? ☐ Yes ☒ No

Cost: \$74,081.17 Account #: 50522154817505 Project #: WA2305 Budgeted: YES

If YES, Budgeted Amount: \$80,000.00 If NO, or if insufficient funding (Complete Step #3).

Department Head Comments:

BY: Bill Bensing

Date: 4/11/2022

Authenticated: bensinwe

You can attach up to 3 files along with this request.



Water Mini Excavator.pdf
Adobe Acrobat Document
1.50 MB

File Attachment

File Attachment

Step #2: If request involves approval of bids, contracts, proposals, purchases, etc. (Must have Purchasing Director's approval).

Approve

Purchasing Director's Comments:

BY: Sara Foan-Oliver

Date: 4/19/2022

Authenticated: foanolsm

You can attach up to 3 files along with this request.



Resolution 500488.pdf
Adobe Acrobat Document
125 KB

File Attachment

File Attachment

Step #3: If budgetary approval is required (**Must have Finance Department's approval**).

Budgetary Approval

From Account # or Fund Name:

To Account # or Fund Name:

Finance Director's Comments:

Budgetary appropriation is available and sufficient for \$74,081.17 in account 505-2215-481-75-05, Machinery and Equipment, Project WA2305, Mini Excavator to approve the above as requested.

BY: Sandra Stephens

Date: 4/19/2022

Authenticated: stephesf

Step #4: All Requests Require Chief Administrative Officer Approval for Placement on Meeting Agenda.

☒ Approve ☐ Disapprove

Chief Administrative Officer's Comments:

BY:

Date: 4-19-22



A DIVISION OF SIEVERS EQUIPMENT CO.

Auburn, IL | Carlinville, IL | Greenfield, IL

Hamel, IL | Hillsboro, IL | Jerseyville, IL

St. Peters, MO

INVOICE	www.SieversJCB.com	MSS	SOLD TO: City of Kirkwood	PH: 636-692-1079
---------	--------------------	-----	---------------------------	------------------

QTY	N/U	STOCK #	SERIAL #	EQUIPMENT	AMOUNT
1	N	48K110	2890694	Model: 48Z-1T41	\$ 55,262.17
				CAB WITH AIRCON: WITH TOUGHENE D GLASS	
				16" (400MM) RUBBER TRACKS, ISO/SAE CONTROL PATTERN	
				HIGH FLOW: DOUBLE ACTING AUX T4, FULL RADIO KIT:	
				CAMERA INSTALLATION	\$ 1,000.00
		QC45H4G3	TBD	QC45H4G3 Hyd Variable Ctrs Coupler	\$ 2,495.00
				800091-00 JCB, 800091-1 JCB 48Z, Hyd Kit Gelth Coupler	\$ 4,439.00
				980/B0258 HM033T - 1,000 lb energy class, 135405 HOSE KIT,	\$ 9,615.00
				INSTALLATION	\$ 1,500.00
		980/B0258	TBD	151005 EXCAVATOR PLATE COMPACTOR 24" X 12"	\$ 9,080.00
		151005	TBD	151005 EXCAVATOR PLATE COMPACTOR 24" X 12"	\$ 9,080.00
		H06-0450	TBD	H06-0450 18" HD BKT	\$ 1,610.00

TRADE-INS	BUYER CERTIFIES BELOW TRADE-INS TO BE FREE FROM ENCUMBRANCES			FREIGHT & SETUP	\$
STOCK #	SERIAL #	DESCRIPTION	ALLOWANCE	CASH PRICE	\$ 94,081.17
	1056704	2013 8040ZTS	\$ 20,000.00	TRADE ALLOWANCE	\$ 20,000.00
				UNPAID BALANCE	\$ 74,081.17
				SALES TAX	\$
				DELIVERY CHARGE	\$
				PROCESSING FEE	\$
				BALANCE DUE	\$ 74,081.17
				DOWN PAYMENT	\$
				BALANCE DUE	\$ 74,081.17
				FINANCE WITH	\$ CASH

DELIVERY INSTRUCTIONS

TERMS & CONDITIONS

Check One: ☐ Used
☒ New

When the equipment covered by this order is used equipment, THE PURCHASER STATES THAT HE HAS EXAMINED THE EQUIPMENT and is buying the equipment AS IS and with NO REPRESENTATION OR WARRANTIES, unless otherwise specified in writing below

Manufacturers standard warranty.

Warranty Acknowledgement

X *Charles A. Patton*

SPECIAL AGREEMENTS

ALL WARRANTY REPAIRS MADE UNDER THIS AGREEMENT must be made in dealers shop and buyer is responsible for having equipment for repair. No warranty is given by the dealer for tires, batteries, or accessories, and the buyer is fully responsible for repairs necessitated by accident, misuse, or negligence. This guarantee is not transferable. I hereby agree to the conditions of this order, expressed in the foregoing, constituting a purchase order contract. I hereby certify that I am 21 years of age and older and acknowledge receipt of a copy of this order. NOTICE TO BUYER: Do not sign this contract before you read it or if it contains blank spaces. You are entitled to a copy of the contract you sign. The price and terms of this sale are subject to change by the seller providing additions or subtractions of various attachments and accessories are necessary due to conditions beyond the seller's control. Arithmetic and writing errors are subject to correction. All sales are contingent upon stock, accidents, fees, availability of materials and all other causes beyond our control. Signature of buyer confirms acceptance of purchase, along with Terms and Conditions set forth by this and accompanying documents.

Buyer's Signature

X *Charles A. Patton*

Sales Rep.

Dealer's Signature

☒ Exemption Form On Hand

I CERTIFY THAT THE MACHINERY AND EQUIPMENT BEING PURCHASED WILL BE USED OR LEASED FOR PRODUCTION AGRICULTURE

Buyer's Signature: X

April 19, 2022

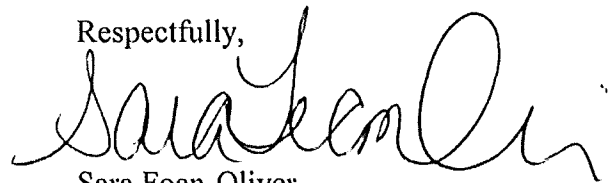
To: Russell B. Hawes, Chief Administrative Officer

For Your Consideration: Mini-Excavator, #500488

The City of Kirkwood may use cooperative contracts that are competitively bid. Sourcewell competitively bid this equipment and Sievers JCB was the lowest responsible and responsive bid. The Sourcewell contract number is 040319-JCB.

Attached is a request from Bill Bensing, Public Works Director, for a resolution authorizing a purchase order in the amount of \$74,081.17 to be issued to Sievers JCB for the purchase of a Mini-Excavator for the Water Department.

Respectfully,

A handwritten signature in black ink, appearing to read 'Sara Foan-Oliver', written in a cursive style.

Sara Foan-Oliver
Director of Procurement

BILL 10926

ORDINANCE

AN ORDINANCE ADOPTING AND ENACTING THE SUBSECTIONS OF THE MECHANICAL CODE PERTAINING TO ELEVATORS, CONVEYING SYSTEMS AND AMUSEMENT RIDES SECTIONS ONLY AND THE ELECTRICAL CODE FOR ALL BUILDINGS AND STRUCTURES EXCEPT ONE AND TWO FAMILY USES OF ST. LOUIS COUNTY, AS AMENDED, AS THE SUBSECTION OF THE MECHANICAL CODE PERTAINING TO ELEVATORS, CONVEYING SYSTEMS AND AMUSEMENT RIDES SECTIONS ONLY AND THE COMMERCIAL ELECTRICAL CODE OF THE CITY OF KIRKWOOD, MISSOURI.

WHEREAS, in April 1998, the City Council by Ordinance #8714 entered into an agreement with St. Louis County for Administration of the City's Elevator and Amusement Devices Code, and, the Commercial Electrical Code, and

WHEREAS, the City of Kirkwood, Missouri must amend its Mechanical Code (Elevator, Conveying Systems and Amusement Rides sections only) and Electrical Code (for All Buildings and Structures, except One and Two Family Uses) to conform with the codes and amendments of St. Louis County, in order for St. Louis County to continue to administer the Mechanical Code (Elevator, Conveying Systems and Amusement Rides sections only) and the Electrical Code (for All Buildings and Structures, except One and Two Family Uses) for the City of Kirkwood, Missouri.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KIRKWOOD, MISSOURI, AS FOLLOWS:

SECTION 1: The St. Louis County Mechanical (Elevator and Conveyor Systems and Amusements Rides sections only) and the Electrical (All buildings and structures except one and two family uses) Codes as amended by the County of St Louis, Missouri through the date of last amendatory ordinances:

- a) Subsections of the Mechanical Code pertaining to Elevators, Conveyor Systems and Amusement Rides only, Chapter 1108, SLCRO 27,619 (Approved 12/05/19, Adopted 04/01/20), as amended
- b) Electrical Code (All buildings and structures except one and two family uses), Chapter 1102, SLCRO 27,430 (Approved 06/18/19, Adopted 10/01/19), as amended

are hereby adopted as the Elevator Code and the Commercial Electrical Code (for all Buildings and Structures, except One and Two Family Uses) of the City of Kirkwood, Missouri, a copy of which is attached hereto, as if fully set out herein.

SECTION 2: All ordinances, parts of ordinances or provisions of the Municipal Code of the City of Kirkwood, Missouri in conflict with any provisions of this ordinance are hereby repealed.

SECTION 3: This ordinance, and the code adopted hereby, shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED THIS DAY OF 2022

Mayor, City of Kirkwood

ATTEST:

City Clerk
1st Reading:
2nd Reading:

Legislation Request

Ordinance

Place On The Agenda Of: 4/7/2022

Step #1:

Strategic Plan Select...

Goal # & Title :

Background To Issue:

The City contracts with St. Louis County to perform electrical inspections within the City except for those that occur in one and two-family buildings. The City also contracts with St. Louis County to perform elevator and amusement ride inspections as-needed. St. Louis County periodically updates the codes that pertain to these services and when this occurs, all municipalities that contract with the County are required to adopt the versions of the code that the County has adopted to ensure the inspections are conducted under the updated Codes. Copies of the current codes (National Electric Code and International Mechanical Code) that pertain to these contracted services are attached to this request.

Recommendations and Action Requested:

In order to maintain the current contracted inspection services with St. Louis County, Staff recommends that the Council pass the attached ordinance to adopt the current applicable codes within St. Louis County.

Alternatives Available:

Does this project have a public information component? ☐ Yes ☒ No

Cost: \$0.00

Account #: 0

Project #:

Budgeted: YES

If YES, Budgeted Amount: \$0.00

If NO, or if insufficient funding (Complete Step #3).

Department Head Comments:

BY: Jonathan Raiche

Date: 3/29/2022

Authenticated: raichejd

You can attach up to 3 files along with this request.



Amended elevator electrical
ordinance st louis county.docx
Microsoft Word Document
14.1 KB

 File Attachment

 File Attachment

Step #2: If request involves approval of bids, contracts, proposals, purchases, etc. **(Must have Purchasing Director's approval).**

Select...

Purchasing Director's Comments:

BY: Select...

Date:

Authenticated:

You can attach up to 3 files along with this request.



File Attachment



File Attachment



File Attachment

Step #3: If budgetary approval is required (**Must have Finance Department's approval**).

Select...

From Account # or Fund Name:

To Account # or Fund Name:

Finance Director's Comments:

BY: Select...

Date:

Authenticated:

Step #4: All Requests Require Chief Administrative Officer Approval for Placement on Meeting Agenda.



Approve



Disapprove

Chief Administrative Officer's Comments:

BY:

Date:

3-30-22

User friendly version of the **St. Louis County Electrical Code**
This is provided for your convenience. For an official copy of this ordinance contact the
County Clerk at 41 S. Central Ave. 1st floor, Clayton, Missouri 63105.
Request ordinance # 27,430. A fee will be charged for an official copy.

AMENDING TITLE XI SLCRO 1974 AS AMENDED,
"PUBLIC WORKS AND BUILDING REGULATIONS" BY
REPEALING AND RE-ENACTING CHAPTER 1102,
"ELECTRICAL CODE."

BE IT ORDAINED BY THE COUNTY COUNCIL OF ST. LOUIS COUNTY,
MISSOURI, AS FOLLOWS:

SECTION 1. Title XI SLCRO 1974 as amended, "Public Works and Building Regulations," Chapter 1102, "Electrical Code," is amended by repealing and re-enacting Chapter 1102, which shall read as follows:

1102.010 Short Title. --This chapter shall be known and may be cited as "The Electrical Code".

1102.020 National Electrical Code Adopted. --Certain documents, three copies of which are filed in the Office of the Administrative Director of the County Council and in the Office of the Director of Highways and Traffic and Public Works, said copies being marked and designated as "National Electrical Code, 2014 as published by the National Fire Protection Association, are hereby adopted as the Electrical Code of St. Louis County, Missouri for the regulation of electrical equipment as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said code are hereby referred to, adopted and made a part hereof as if fully set out herein with the additions, deletions and changes as prescribed in this ordinance.

1102.030 Jurisdictional Title. --Throughout the National Electrical Code 2014, wherever the terms "Name of Jurisdiction" or "Local Jurisdiction" appear it shall be deemed to mean "St. Louis County, Missouri." Likewise, wherever the term "Department of Electrical Inspection" appears it shall be deemed to mean "St. Louis County Department of Transportation and Public Works" and wherever the term "code" appears it shall mean the National Electrical Code 2014, as adopted herein with the additions, deletions and changes as prescribed in this ordinance.

1102.040 Contracting with Municipalities and Fire Protection Districts for Code Enforcement Services. - 1. The Code Official, with the approval of the County Executive, is hereby authorized to contract with municipalities and fire protection districts within St. Louis County to provide appropriate electrical code enforcement and further to collect fees for the applicable permits and inspections issued or made pursuant to such contracts. Contracts shall be approved by the Code Official and the County Executive, and shall be approved as to legal form by the County Counselor. No contract shall be entered into until the municipality or fire protection district desiring to contract with St. Louis County for electrical code enforcement shall first have duly adopted appropriate legislation authorizing said contract (a certified copy to be attached to and made a part of the contract) and duly adopted an electrical code identical in substance to this code.

2. The Code Official is authorized to contract with fire protection districts in St. Louis County to provide code enforcement services with respect to building construction and application of commercial and multi-family fire codes adopted by the fire protection districts, including administration, application processing, plan review, permit issuance, and inspections and for County to charge the fire protection districts fees as set out in Section 1100.130 SLCRO as amended to cover the costs of providing such code enforcement services. The contract may further provide for the fire protection district, at its option, to refer for prosecution in St. Louis County Municipal Court, violations of such fire protection district's codes as are enforced within the fire protection district by the County; for the County to retain the proceeds of fines and costs assessed in such prosecutions; and for such other terms and conditions as are approved by the County Counselor.

1102.080 Article 80 - Administration.

80-1 GENERAL

(A) *Title:* These regulations shall be known as the Electrical Code of St. Louis County, Missouri referred to as "this code".

(B) *Intent:* This code shall be construed to secure its expressed intent, which is to insure public health, safety and welfare insofar as they are affected by the installation and maintenance of electrical equipment and electrical systems.

(C) *Scope:* The provisions of this code shall apply to all matters affecting or relating to electrical systems within the unincorporated area of St. Louis County, Missouri and in contracting municipalities. Licensing provisions for licenses issued by St. Louis County shall apply throughout incorporated and unincorporated areas of St. Louis County. Any electrical requirement essential for the safety of an electrical system which is not specifically covered by this code shall be determined by the Code Official.

(D) *Committee of Electrical Code Review - Created:* There is hereby created a Committee of Electrical Code Review. The Committee shall consist of five (5) members appointed by the County Executive and confirmed by the County Council as follows: a graduate engineer actually engaged in the design of electrical equipment, appointed initially for a term of one year and for a term of four (4) years thereafter; a member affiliated with the electrical industry, appointed initially for a term of two (2) years and for a term of four (4) years thereafter; an electrician actually engaged in the trade, appointed initially for a term of three (3) years and for a term of four (4) years thereafter; a registered engineer actually engaged in the design of electrical systems, appointed initially for term of three (3) years and for a term of four (4) years thereafter; an electrical contractor who shall be appointed for a term of four (4) years. The Code Official is a non-voting member and shall act as secretary and shall keep full and complete minutes of the acts and proceedings of the said Committee. The Committee shall elect one of their members to be the chairman and one to be vice chairman. All members shall serve until their successors are appointed and shall serve at the pleasure of the County Executive.

(1) *Committee of Electrical Code Review - Powers and Duties:* The Committee of Electrical Code Review shall meet at least annually in order to consider any proposed changes in this code and to make recommendations to the Building Commission.

(2) *Compensation:* The members of the Electrical Code Review Committee with the exception of full time County employees shall be compensated in accordance with Chapter 201, SLCRO 1974 as amended.

(E) *Applications of References:* Unless otherwise specifically provided for in this code, all references to chapter or section numbers, or to provisions not

specifically identified by number, shall be construed to refer to such chapter, section or provision of this code.

(F) *Board of Electrical Examiners - Created:* The County Executive shall appoint a Board of Electrical Examiners in accordance with the provisions of Article IV, Section 4.330 of the Charter of St. Louis County comprised of one licensed electrical contractor, one educator engaged in the instruction of electrical engineering at the college level, one person affiliated with the electrical industry, one communications contractor, one electrician actively engaged in the trade. The Code Official is a non-voting member and shall act as secretary and shall keep full and complete minutes of the acts and proceedings of said Board. All members shall serve until their successors are appointed and shall serve at the pleasure of the County Executive.

(1) *Board of Electrical Examiners - Powers and Duties:* The electrical contractor shall act as chairman of the Board. The Board members shall elect one of their members to serve as vice chairman. The Code Official shall provide all applicants for a license issued by St. Louis County with proper application forms. The members of the Board shall meet at least six (6) times per year and as often thereafter as shall be necessary for the performance of their duties.

The Board of Electrical Examiners shall determine the qualifications of and provide for the examination of applicants for licenses issued by St. Louis County and have the authority to conduct hearings for violations of this code and determine appropriate sanctions as listed in 1102.80-24.

80-2 APPLICABILITY

(A) *General:* The provisions of this code shall apply to all matters affecting or relating to electrical systems or communications equipment, as set forth in this code.

(B) *Existing Utilization Continued:* Except as otherwise provided for in this code, a provision in this code shall not require the removal, alteration or abandonment of, nor prevent the continued utilization of, an existing electrical system that is maintained in a safe condition.

Exceptions:

(1) Electrical systems serving an occupancy other than the occupancy such systems served at the time this code became applicable.

(2) Electrical systems in a structure moved as specified in this code.

(3) Electrical systems installed by unlicensed persons or without the permits required by this code.

(C) *Additions or Alterations:* Any addition or alteration, regardless of cost, made to an electrical system shall be made in compliance with the applicable regulations of this code. Where additions or alterations subject parts of existing systems to loads exceeding those permitted herein, such parts shall be made to comply with this code.

(D) *Moved Structures:* Buildings and structures moved into or within the jurisdiction shall comply with the provisions of this code for new buildings or structures.

(E) *Seismic Requirements:* Where required by the building code adopted by St. Louis County, electrical equipment shall be designed and installed to resist seismic forces in accordance with the building code.

80-3 EXISTING ELECTRICAL SYSTEMS

(A) *Occupancy Continued:* The legal use group or occupancy of any structure existing on the date of the adoption of this code or for which it had been heretofore approved may be continued without change except as may be specifically covered in this code or deemed necessary by the Code Official for the general safety and welfare of the occupants and the public.

(B) *Alteration, modification or Repairs:* Alteration or substantial repairs shall be permitted to be made to any existing electrical system without causing the complete system to comply with all the requirements of this code provided such work conforms to that required for a new electrical system. Alterations or repairs shall not cause an existing electrical system to become unsafe or adversely affect the performance of the system.

(1) The Code Official may approve the modification or repair of an existing electrical system or part of an electrical system that complies with the code requirements

under which the system or part was installed. Such modification or repair must meet the requirements for licensure and permits contained in this code. Alterations or repairs shall not cause an existing electrical system to become unsafe or adversely affect the performance of the system.

(C) *Additional Loads on Existing Electrical System:* Where additions or alterations subject parts of existing systems to loads exceeding those permitted herein, such parts shall be made to comply with this code.

80-4 MAINTENANCE

(A) *Maintenance of Electrical Systems:* All electrical systems, both existing and new, shall be maintained in a safe condition. All service equipment, devices and safeguards which are required by this code or which were required in the building or structure by previous statute or ordinance shall be maintained in good working order when installed, altered or repaired.

(B) *Owner Responsibility:* The owner or a designated agent shall be responsible for the safe maintenance of the electrical systems in any building, structure or premises at all times.

80-5 VALIDITY

(A) *Partial Invalidity:* In the event any part or provision of this code is held to be illegal or void, this shall not have the effect of making void or illegal any of the other parts or provisions thereof, which are determined to be legal; and it shall be presumed that this code would have been passed without such illegal or invalid parts or provisions.

(B) *Segregation of Invalid Provisions:* Any invalid part of this code shall be segregated from the remainder of this code by the court holding such part invalid, and the remainder shall remain effective.

(C) *Existing Structures:* The invalidity of any provision in any section of this code as applied to existing structures shall not be held to affect the validity of such section in its application to structures hereafter erected.

80-6 OFFICE OF ELECTRICAL INSPECTION

(A) *Office of Electrical Inspection - Created:* There is hereby created and established within the Department of Highways and Traffic and Public Works an Office of Electrical Inspection which has jurisdiction coextensive with the provisions of this code and is charged with the enforcement of the provisions of this code, except as otherwise provided herein or in the Charter of St. Louis County, Missouri. The Office of Electrical Inspection is under the supervision of the Code Official.

(B) *Restriction of Employees:* An official or employee connected with the office of electrical inspection, except one whose only connection is that of a member of the Board of appeals established under the provisions of Chapter 1115, SLCRO 1974 as amended, shall not be engaged in, or directly or indirectly connected with the furnishing of labor, materials or equipment for the construction, alteration or maintenance of an electrical system, or the preparation of construction documents thereof, unless that person is the owner of the building; nor shall such officer or employee engage in any work that conflicts with official duties or with the interests of the office.

(C) *Relief from Personal Liability:* The Code Official, officer or employee charged with the enforcement of this code while acting within the scope of his employment shall not thereby render himself personally liable and he is hereby relieved of all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his official duties. Any suit instituted against any officer or employee arising out of an act performed by him in the lawful discharge of his duties and under the provisions of this code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The Code Official or any of his subordinates shall not be liable for cost in any action, suit or proceeding that may be instituted pursuant to the provisions of this code; and any officer of the Office of Electrical Inspection acting in good faith and without malice shall be free from liability for acts performed under any of its provisions or by reason of any act or omission in the performance of his official duties in connection therewith.

(D) *Official Records:* An official record shall be kept of all business and activities of the department specified in the provisions of this code, and all such records shall be

open to public inspection pursuant to Sections 101.250 to 101.280 SLCRO 1974 as amended.

80-7 DUTIES AND POWERS OF THE CODE OFFICIAL

(A) *General:* It shall be the duty of the Code Official to cause inspections to be made of all electrical installations for which permits have been issued, in a manner and to the extent necessary to carry out the provisions of the code regulating electrical installations of all buildings and premises, public and private, in the course of erection, alteration, reconstruction or repair and cause the inspection of existing electrical installations as often as may be necessary. The Code Official shall make all of the required inspections, or the Code Official shall accept reports of inspection by approved agencies or individuals. All reports of such inspection shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The Code Official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority. He shall see that all electrical work is done in accordance with the provisions of this code and that the work is done by persons duly authorized to do such work. He shall have the power to recommend suspension or revocation of licenses issued under this code. The Code Official is authorized and directed to order the electrical power company to forthwith disconnect electrical service, power or current to any building, structure or premise that is in violation of any of the provisions of this code or where the electrical wiring, installation or apparatus in such building, structure or premises is unsafe to person or property.

(B) *Applications and Permits:* The Code Official shall receive applications and issue permits for the installation and alteration of electrical systems and equipment, inspect the premises for which such permits have been issued and enforce compliance with the provisions of this code.

(C) *Notices and Orders:* The Code Official shall issue all necessary notices or orders to ensure compliance with this code.

(D) *Identification:* The Code Official shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

(E) *Rule-Making Authority:* The Code Official shall have power as necessary in the interest of public health, safety and general welfare, to adopt and promulgate rules and regulations, to interpret and implement the provisions of this code, to secure the intent thereof and to designate requirements applicable because of local climatic or other conditions. Such rules shall not have the effect of waiving structural or fire performance requirements specifically provided for in this code, or the building code adopted in Chapter 1115, SLCRO 1974 as amended, or of violating accepted engineering practice involving public safety.

(1) *Authorization to Proceed:* The Code Official may authorize the commencement of construction prior to issuance of a building or electrical permit, when it can be shown that:

(a) the project is in compliance with the applicable regulations of St. Louis County for that portion of the work to be performed, and

(b) the applicant agrees to proceed at his own risk.

Note: All necessary inspections shall be performed as required by this code.

(F) *Department Records:* The Code Official shall keep official records of applications received, permits, licenses and certificates issued, fees collected, reports of inspections, and notices and orders issued. Such records shall be retained in the official records as long as the structure to which such records relate remains in existence unless otherwise provided for by other regulations. License records shall be kept on file indefinitely.

(G) *Annual Report:* At least annually, the Code Official shall submit to the County Executive a written statement of operations in the form and content as shall be prescribed.

(H) *Code Interpretations:* When the Code Official deems it appropriate, or at the request of the Building Commission, the Code Official may issue formal code interpretations to the provisions in this code. A written record of all such code interpretations shall be maintained and subject to review and appeal in accordance with this code.

80-8 APPROVAL

(A) *Listed and Approved Materials and Equipment:* All materials, equipment and devices shall be listed and approved by the Code Official and shall be constructed and installed in accordance with such approval.

(1) Listing shall be by a nationally recognized testing laboratory (NRTL) capable of factory listing and field certification of non-listed materials and equipment and shall analyze electrical, mechanical and worker safety standards.

(2) Electrical equipment and products made of listed or recognized components shall bear an overall listing as an assembly.

(3) Buildings, structures or portions thereof which are within the jurisdiction of St. Louis County, Missouri, including municipalities which have contracted for Code Enforcement with St. Louis County, are subject to the requirements of this code and shall have all electrical material, equipment and devices installed in compliance with this code. The Code Official may approve pre-wired buildings, structures or portions thereof which bear an overall assembly listing by a NRTL.

(B) *Approved:* When considering the approval of material, equipment and devices, the Code Official shall verify all of the following:

(1) Suitability for installation and use in compliance with the technical and administrative requirements of this code and the listing

(2) Suitability for the environment and conditions that exist at the installation location

(3) Type, size, voltage and current suitability

(4) Safeguarding of persons using or coming in contact with the installation

(5) Mechanical strength and durability

(6) Other factors deemed essential to safety by the Code Official

(C) *Damaged or Contaminated Material, Equipment and Devices:* Material, equipment, parts and devices that have been damaged in shipment, storage or installation or that have been contaminated by water or any other foreign substance shall be replaced.

(D) *Modifications:* Where there are practical difficulties involved in carrying out the provisions of this code, the Code Official shall have the right to vary or modify such provisions upon application of the owner or the owner's representative, provided that the spirit and intent of the law is observed and that the public health, safety and welfare is assured.

(1) *Records:* The application for modification and the final decision of the Code Official shall be in writing and shall be officially recorded with the application for the permit in the permanent records of the office of electrical inspection. A copy of all records shall be distributed to the Electrical Code Review Committee and the Building Commission.

(E) *Material and Equipment Reuse:* Materials, equipment and devices shall not be reused unless such elements have been reconditioned, tested and placed in good and proper working condition and approved.

(F) *Alternative Materials and Equipment:* The provisions of this code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material or method of construction shall be approved where the Code Official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire-resistance, durability and safety.

(1) *Research and Investigation:* Sufficient technical data shall be submitted to substantiate the proposed installation of any material or assembly. If it is determined that the evidence submitted is satisfactory proof of performance for the proposed installation, the Code Official shall approve such alternative subject to the requirements of this code. The costs of

all tests, reports and investigations required under these provisions shall be paid for by the applicant.

80-9 APPLICATION FOR PERMIT

(A) *Permits Required:* No person, firm, corporation, limited liability company or other business entity, institution or organization shall begin any work of installing, erecting or altering material, wiring, fixtures, or other apparatus to be used for generation, transmission or utilization of electricity or communications equipment or on any structures or premises unless and until written application shall have been filed in the Office of Electrical Inspection for a permit to do the work contemplated at least twenty-four (24) hours before such work shall be commenced and the permit obtained. Such application shall bear the date of beginning such work. In the event of emergency, as defined in this code, work may begin upon notification to the Code Official upon condition that written application be filed in said office the next working day. The application shall describe in detail the nature of such work and shall state the location thereof. In the event of a disaster, as defined in this code, no work shall begin on an electrical system unless the Code Official issues the appropriate permit.

(B) *Permit Form:* Application for a permit shall be made by the licensed person, or an authorized agent, to install all or part of any electrical system. The applicant shall meet all qualifications established by rules promulgated under this code or by ordinance, resolution or statute. The full names and addresses of the owner, lessee, applicant and of the responsible officers, if the owner or lessee is a corporate body, shall be stated in the application. Any person purporting to be an authorized agent of the license holder shall submit proof of authorization at the time of permit application.

(C) *Construction Documents:* The application for permit shall be accompanied by four or more complete sets of construction documents. The Code Official is permitted to waive the requirements for filing construction documents when the scope of the work is of a minor nature or can be adequately described by other means. When the quality of the materials is essential for conformity to this code, specific information shall be given to establish such quality, and this code shall not be cited, or the term

"Legal" or its equivalent used as a substitute for specific information.

(D) *Engineering Details:* The Code Official shall require to be filed adequate details of electrical work including computations, diagrams and other essential technical data. All construction documents shall be signed and sealed by the registered design professional of record. Construction documents for structures more than two stories in height shall indicate how required structural and fire-resistance rating integrity will be maintained, and where penetrations will be made for electrical and communication conduits, pipes, cables and systems.

(E) *Amendments to Application:* Subject to the limitations of this code, amendments to the construction documents, application or other records accompanying the same shall be filed at any time before completion of the work for which the permit is sought or issued. Such amendments shall be deemed part of the original application and shall be filed therewith.

(1) *Transfers Prohibited:* The transfer of an application for an electrical permit from one location to another shall be prohibited. When relocation is necessary, the original application shall be canceled and a new application submitted.

(F) *Time Limitation of Application:* An application for a permit for any proposed work shall be deemed to have been abandoned six months after the date of filing, unless such application has been diligently pursued or a permit shall have been issued. However the Code Official may grant one or more extensions of time for additional periods not exceeding ninety (90) days each if there is reasonable cause. The Code Official shall notify those delinquent applicants in writing and give them fourteen (14) days notice prior to abandonment of the application and destruction of the plans. An application extension fee in the amount specified in Chapter 1100 shall be paid for each additional extension period. An additional inspection fee may be charged for an inspection to verify that work has not started.

80-10 PERMITS

(A) *Action on Application:* The Code Official shall examine, or cause to be examined, all applications for permits and

amendments thereto within a reasonable time after filing. If the application or the construction documents do not conform to the requirements of all pertinent laws, the Code Official shall notify the applicant in writing of all such deficiencies. If the Code Official is satisfied that the proposed work conforms to the requirements of the code and all laws and ordinances applicable thereto, the Code Official shall issue a permit therefore as soon as practicable. No permit issued under the provisions of these regulations shall be assignable or transferable or be used to aid or abet any unlicensed person, firm, corporation, limited liability company or other business entity in the performance of electrical work. The permit shall authorize the licensed contractor and their employees as defined in section 100 to proceed with the proposed construction.

(B) *Permit Issued to Whom:* A permit may be issued only to a person duly licensed under the provisions of this code.

Exception: Homeowner permits pursuant to this code may be issued to qualifying persons.

(C) *Homeowner Permits:* A permit may be issued for detached single family dwellings and accessory structures to add branch circuits to an existing electrical system where the Code Official determines the service is adequate to serve the additional load. An inspection may be required to determine the condition of the existing electrical system prior to the issuance of a permit. The inspection shall be paid for by the applicant. Such permit may be issued to the owner or immediate family members residing with owner under the following conditions:

(1) The dwelling shall be designed and used solely for living purposes and be occupied by the owner.

(2) The dwelling shall be occupied by or vacant and intended for immediate occupancy by the owner and owner's family and no other persons.

(3) The permittee shall personally perform all required work. Prior to the issuance of a permit under this section, the Code Official may require an affidavit or other reasonable proof that the request for a permit complies with the foregoing provisions and that the applicant has the necessary knowledge and ability to perform the proposed work. This section does not authorize a waiver or modification of any

provision of this code relating to the materials, design, installation, or practice of electrical work, or to the preparation and approval of construction documents, or to required fees for permits or inspections. Submission of false information may result in revocation of the permit.

Note: An examination on branch circuits may be required to determine applicant's knowledge and ability as used in this section. One re-test may be allowed provided a different test is used.

(4) A homeowner's permit does not apply to the following:

- (a) Main Service
- (b) In-ground swimming pool
- (c) Replacement of equipment and wiring due to fire, flood, earthquake or other disaster
- (d) Repairs to aluminum conductors and wiring
- (e) Generators or transfer switches
- (f) Alternative power sources
- (g) Vehicle charging or refueling stations
- (h) Classified locations

Exception: A homeowner's permit may be issued for items A through H if the homeowner is a construction electrician with twelve thousand (12,000) hours of verifiable experience while employed by an electrical contractor licensed by St. Louis County.

(D) *Fees To Be Paid Before Permit Issued:* A permit to begin work for new construction or alterations shall not be issued until the permit application has been approved and permit fees prescribed in this code have been paid. Nor shall any amendment to a permit necessitating an additional fee, due to additional work involved, be issued until the additional fee shall have been paid.

- (1) If the Code Official determines that an applicant for a permit governed by this code has failed to pay any permit fees or related charges, the Code

Official shall not issue such permit until the applicant pays such fees and related charges.

(E) *Previous Approvals:* This code shall not require changes in the construction documents or electrical work for which a lawful permit has been heretofore issued or otherwise lawfully authorized, and the construction of which has been actively prosecuted within ninety (90) days after the effective date of this code and is completed with dispatch.

(F) *Signature to Permit:* The Code Official's signature shall be attached to every permit; or the Code Official shall authorize a subordinate to affix such signature thereto.

(G) *Approved Construction Documents:* The Code Official shall stamp or endorse in writing all sets of approved construction documents "Approved". One set of approved construction documents shall be retained by the Code Official and another set shall be kept at the construction site, open to inspection by the Code Official at all reasonable times.

(H) *Suspension of Permit:* Any permit issued shall become invalid if the authorized work is not commenced within six months after issuance of the permit, or if the authorized work is suspended or abandoned for a period of six months after the time of commencing the work.

(1) *Extension of Permits:* Electrical permits may be extended at any time up to thirty (30) days prior to the date of abandonment or expiration date of the specific permit.

(I) *Revocation of Permit:* The Code Official shall revoke a permit or approval issued under the provisions of this code in case of any false statement or misrepresentation of fact in the application or on the construction documents upon which the permit or approval was based.

(J) *Homeowner Permits - Revoked:* A permit issued to a homeowner pursuant to this code may be revoked by the Code Official if he determines that work under the permit is not being properly performed, that the application did not comply or no longer complies with said section, or contains any false statement or misrepresentation of fact. Upon revocation, the property owner may be required by the Code

Official to proceed immediately to procure a licensed person to correct or complete the work.

(K) *Posting of Permit:* A true copy of the electrical permit shall be kept on the construction site, open to public inspection during the entire time of prosecution of the work and until the completion of the same.

(L) *Notice of Start:* At least twenty-four (24) hour notice of start of work under a permit shall be given to the Code Official.

(M) *Separate Permits:* Permit applicants may submit separate applications for building, mechanical, electrical, or plumbing permits. As a condition of approval, the owner or owner's agent shall agree to assume full responsibility for the coordination of all applicable code requirements relating to these permits.

(N) *Addendums to Permits:* Once a permit is issued, all addendums submitted as an amendment to the approved construction documents shall be charged an additional review fee as specified in this code.

(O) *Integrated Permits:* The Code Official shall be permitted to issue integrated building, plumbing, electrical and/or mechanical permits on a single permit application.

(1) *Applicant Responsibility:* The integrated permit applicant shall be responsible for the return to the Department of Highways and Traffic and Public Works copies of the plumbing, electrical, and/or mechanical permit form with the name, signature and license number of the appropriate subcontractor. Any change in the identity of the named subcontractor after issuance of the permit shall result in the assessment of a transfer fee in the amount specified in this code.

(Q) *Approval of Part:* The Code Official is authorized to issue a permit for a portion of the electrical work to be performed for a particular project (a partial permit), provided that adequate information and detailed statements have been filed complying with all of the pertinent requirements of this code. The holder of such permit for a portion of the electrical work shall proceed, at the holder's own risk, with the electrical installation and

without assurance that a permit for the entire electrical project will be granted.

(1) **Partial Permit:** A partial permit may be issued by the Code Official prior to the review approval and/or issuance of other applicable permit applications normally required prior to such issuance upon the following conditions:

(a) Receipt from applicant of a signed application for issuance of a partial permit; and

(b) Receipt from applicant of a signed statement containing a release of all liability, indemnifying and holding harmless St. Louis County, its officers, employees, agents and assigns for any expense, error or omission resulting from such issuance; and

(c) The construction documents, and other documentation, including but not limited to any approval required from the St. Louis County Department of Public Health, are in order, and all other provisions of this code are met.

80-11 DEMOLITION OF STRUCTURES

(A) *Equipment Removal:* Electrically supplied equipment shall not be removed from any structure to be demolished until the service supplied to the structure for such equipment has been terminated by the utility company. Notification of the termination shall be given to the code official in writing prior to the authorization for removal of such equipment.

80-12 MOVED STRUCTURES

(A) *General:* Before any structure that has been moved in the jurisdiction is occupied, all electrical equipment and devices shall be inspected and tested for safe operation and compliance with the requirements of this code.

80-13 CONDITIONS OF PERMIT

(A) *Payment of Fees:* A permit shall not be issued until the fees prescribed Chapter 1100 SLCRO 1974, as amended, have been paid to the Treasurer of St. Louis County.

(1) Disaster Damage Repair Permits: The Code Official may reduce or waive electrical permit fees for repairs related to a disaster as defined in this code if the permit is issued within 90 days after the end of a disaster, as determined by the Code Official, and authorizes the work indicated therein to be completed within one year of the date of issuance. The Code Official may extend the 90 day period if the Code Official determines that just cause exists.

(B) *Compliance with Code:* The permit constitutes permission to proceed with the work and shall not be construed as authority to violate, cancel or set aside any of the provisions of this code, except as specifically stipulated by modification or legally granted variation as described in the application.

(1) *Compliance with Code and Ordinances:* Subject to the provisions of this code, neither the granting of a permit, nor the approval of the construction documents, nor inspections made by the Code Official, or his authorized representative, during the electrical installation or any alteration or addition thereto, shall in any way relieve the owner or tenant of such building or property from carrying out the work or maintenance of the property in accordance with the requirements of this code, the St. Louis County Building Code, the St. Louis County Zoning Ordinance, the Property Maintenance Code, or any other applicable law or ordinance.

(2) Federal, State or other public entities: The Code Official may withhold issuance of a permit for any facility or site if any Federal, State or other public entity determines that such facility or site is in violation of any code or regulation of such entity.

(3) Existing Violations. The Code Official may refuse to issue a permit pursuant to this code if the work to be authorized is for a site or facility for which there are unabated written violations of this code, or the Plumbing, Mechanical, Building or Land Disturbance Codes. The Code Official may issue a permit once it is determined that such violations are corrected or an acceptable plan for correction is submitted by the applicant and approved by the Code Official.

(C) *Compliance with Permit:* All work shall conform to the approved application and the approved construction documents for which the permit has been issued and any approved amendments to the approved application or the approved construction documents.

(D) *Deposit Required:* Prior to the issuance of any permit, the applicant therefor shall have on deposit with the Office of Electrical Inspection the sum of \$50.00 which shall be used to pay any amount of inspection fees herein described which at any time may become due from such applicant and remain unpaid.

80-14 FEES

(A) *General:* A permit to begin work for new construction or alteration shall not be issued until the prescribed fees in Chapter 1100 SLCRO 1974, as amended shall have been paid to the Treasurer of St. Louis County, nor shall an amendment to a permit necessitating an additional fee because of the additional work involved be approved until the additional fee has been paid.

(B) *Fees:* The fees for plan examinations, filing fee, permits and inspections pursuant to this code shall be charged at the rate specified in Chapter 1100 SLCRO 1974 as amended, and shall be paid to the Treasurer of St. Louis County.

(1) *Fees for Amending Permits:* After a permit has been issued and an amendment or supplemental revision is applied for, the fee or service charge shall be as follows:

(a) All amendments which involve additional work not originally applied for to complete the project, shall be charged the appropriate fee for the additional work calculated in the normal manner, plus the partial permit fee. The minimum fee shall be as established in this code.

(b) All amendments or supplements not involving additional work shall be charged a minimum fee or service charge at the rate prescribed in this code, even though the scope of the work may be reduced.

(2) *Partial Permit Fee:* The fee for a partial permit as described in this code shall be charged in addition to the permit fee as normally computed for that part of the work involved at the rate prescribed in this code.

(3) *Permit Extension Fee:* Permits that are extended in accordance with this code are charged an extension fee at the rate prescribed in this code.

(4) *Board of Appeals Filing Fee:* All appeals filed for review by the Board of Appeals under the procedures described in this code are to be accompanied by a filing fee as prescribed in this code.

(5) *Subcontractor Transfer Fee, Integrated Permit:* A transfer fee shall be charged whenever a subcontractor is replaced by another subcontractor for whatever reason. The amount of the transfer fee shall be at the rate prescribed in this code.

(6) *Work Not Commenced, Suspended or Abandoned:* An extra inspection fee may be charged for each inspection made to determine the status of a project when work is not commenced, or is suspended or abandoned, for more than six months.

(C) *Refunds:* In the case of revocation of a permit no refund shall be permitted. Any excess fee for the incomplete work on abandoned or discontinued projects shall be returned to the permit holder upon written request received not later than twelve (12) months after the date the permit was issued. All plan examination and permit processing fees and all penalties that have been imposed upon the permit holder under the requirements of this code shall be deducted from the refund or paid by the permit holder prior to any refund being issued.

80-15 INSPECTIONS

(A) *Inspections Required:* Inspections shall be made of all electrical installations for which permits have been issued in a manner and to the extent necessary to carry out the provisions of the code. Inspections of existing electrical installations shall be made as often as deemed necessary by the Code Official. Upon completion of any electrical installation for which a permit has been issued, the permittee shall notify the Office of Electrical Inspection

and final inspection shall be made. No installation shall be covered or concealed until inspected. Equipment regulated by this code shall not be connected to the power supply and placed in normal operation until such equipment complies with all applicable requirements of this code, and a final inspection has been completed.

(1) Upon request the Code Official may perform an inspection prior to the issuance of a permit. The fee for such inspections shall be as prescribed in this code and paid by the requestor before the inspection is performed.

(B) *Third Party Inspections:* The Code Official, in lieu of making required inspections, may accept reports of inspection by a recognized third party inspection agency approved by the Code Official. All reports of such inspections shall be in writing and certified by a responsible officer of such agency.

(C) *Final Inspection:* Upon completion of the electrical work and before final approval is given, a final inspection shall be made. All violations of the approved construction documents and permit shall be noted and the holder of the permit shall be notified of the discrepancies.

(D) *Right of Entry:* When the Code Official has reasonable cause to believe that a code violation exists, the Code Official shall, prior to entering into a space not otherwise open to the general public, make a reasonable effort to locate the owner or other person having charge or control of the structure or premises, present proper identification and request entry. If requested entry is refused or not obtained, the Code Official shall pursue recourse as provided by law.

(E) *Coordination of Inspections:* Whenever in the enforcement of this code or ordinance, the responsibility of more than one Code Official of the jurisdiction is involved, it shall be the duty of the Code Officials involved to coordinate their inspections and administrative orders as fully as practicable so that the owners and occupants of the structure shall not be subjected to visits by numerous inspectors or multiple or conflicting orders. Whenever an inspector from any agency or department observes an apparent or actual violation of some provision of some law, ordinance or code not within the inspector's authority to enforce, the inspector shall report the

findings to the Code Official through the proper division of the Department of Highways and Traffic and Public Works.

(F) *Supplemental Inspections:* In addition to the required inspections herein specified, the Code Official may make other inspections which in his judgment are reasonably necessary due to unusual construction or circumstances. The Code Official shall have the authority to inspect any construction work in order to ascertain whether compliance with the electrical code is being met and in order that he may properly enforce the provisions of this code. Fees for supplemental inspections shall be as specified in this code, and shall be assessed prior to issuing the permit.

(G) *Extra Inspections:* In addition to the inspections otherwise required, the Code Official is authorized to perform extra inspections or re-inspections which in his judgment are reasonably necessary due to non-compliance with electrical code requirements, or work not ready or accessible for inspection when requested. Fees for extra inspections shall be as specified in this code and shall be assessed when incurred.

(1) A holder of a license issued pursuant to this code shall be responsible for all inspection fees on permits issued to the license. Failure to pay these fees shall cause the license to be rendered inactive without further notice. A license shall be re-activated within thirty days after inspection fees are received by the Department of Highways and Traffic and Public Works.

80-16 WORKMANSHIP

(A) *General:* All work shall be conducted, installed and completed in a workmanlike and approved manner so as to secure the results intended by this code.

80-17 VIOLATIONS

(A) *General:* It shall be unlawful and deemed a violation of this code for any person, firm, corporation, limited liability company or other business entity to:

1. install, extend, alter, repair or maintain electrical systems in any building or structure or on any premises except in conformity with this code;

2. fail to obtain or maintain a license in conformity with this code;
3. fail to timely pay all fees required by this code and Chapter 1100 SLCRO;
4. fail to arrange for all inspections, including final inspections, required by this code;
5. fail to timely correct any deficiencies or violations of this code after notification;
6. fail to commence work within six months of permit issuance or suspend or abandon work for more than six months;
7. perform any act prohibited by this code or fail to perform any act required by this code; or
8. continue any work in or about a structure after having been served a stop work order, except for such work which that person, firm or corporation has been directed to perform to remove a violation or unsafe condition.

(B) *Notice of Violations:* When the Code Official determines that a violation of this code exists, the Code Official shall notify the violator as soon as practical of the specific infraction. The notification shall be in writing and shall be delivered to the violator or his legally authorized representative or mailed to his last known address via first class mail postage prepaid. Any person having been notified that a violation exists by means other than a stop work order and who fails to abate the violation within ten days after notification shall be subject to the penalties enumerated in this code. Violations involving the licensing and permit provisions of this code shall be issued and pursued first against those persons, companies, corporations, or other entities, if known, performing such work or activities which constitute said violations. Otherwise, the owner shall be issued the violation.

1. If the Code Official determines that a permit applicant has failed to correct violations of this code, the Code Official shall not issue permits related to this code to such applicant except to correct such violations.

(C) *Penalties, Fines, Stop Work Orders, Notices of Violation, Other Actions:* Any person, firm, corporation,

limited liability company or other business entity who shall violate any provision of this code, or any owner or tenant of a building or premises or any other person who commits, takes part or assists in any violation of this code or who maintains any building, structure or premises in which such violation shall exist, shall be guilty of a misdemeanor, punishable by a fine of not more than \$1,000.00 or by imprisonment not exceeding ninety (90) days or both such fine or imprisonment. Each day that a violation continues shall be deemed a separate offense.

(1) *No-Permit, No-Inspection Request, and Lapsed Permit Penalties:* In addition to the penalties set out in this code, the following procedure shall be followed where the Code Official determines that work has been started prior to the acquisition of a permit required by this code or the permit holder failed to schedule the required inspection, or allowed the permit to lapse without requesting a final inspection:

(a) The Code Official may issue a stop work order when work requiring a permit was started prior to the acquisition of that permit or when requests for inspections were not submitted.

(b) The Code Official may issue a Notice of Violation when a required inspection was not requested.

(c) The Code Official may impose a penalty not to exceed \$500.00 on a licensee or permittee who:

i. commences work prior to issuance of the appropriate permit;

ii. fails to schedule required inspections, including final inspections;

iii. allows a permit to lapse without requiring final inspection;

iv. continues to perform work after issuance of a Stop Work Order.

(d) The Code Official shall notify the holder of the license or permit of the action to be taken and allow sufficient time for response to such action if appropriate.

(e) The Stop Work Order for failure to obtain a permit or the violation for failure to request an inspection shall remain in full force and effect until such time as the penalty amount is paid and the violator has complied with all other regulations pertaining to the issuance of the required permit, or requested the required inspection.

(f) No-permit, no-inspection request, and lapsed permit penalties are appealable to the Board of Appeals in the same manner as other decisions of the Code Official. The Code Official may revise an assessment upon notice to both the Board of Appeals and the alleged violator at any time prior to the hearing. Likewise, at any time prior to the hearing, the violator may accept and pay the assessed penalty amount and the hearing will be canceled.

(g) At the hearing before the Board of Appeals, said board shall afford both the Code Official and the alleged violator an opportunity to present any evidence or make any statements they wish to have considered.

(h) Following the hearing, the Board of Appeals shall determine whether a permit or inspection was required:

i. If the Board of Appeals determines that a permit or inspection was required, an appropriate penalty amount shall be assessed. The stop work order for failure to obtain a permit or the violation for failure to request an inspection shall remain in full force and effect until such time as the penalty amount is paid and the violator has complied with all other regulations pertaining to the issuance of the required permits, or requesting the required inspection.

ii. If the Board of Appeals determines that a permit or inspection was not required, the Code Official shall immediately cancel the stop work order for failure to obtain a

permit or abate the no-inspection request violation.

(D) *Prosecution of Violation:* If the notice of violation is not complied with promptly, the Code Official may request the County Counselor to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto.

(E) *Abatement of Violation:* The imposition of the penalties herein prescribed shall not preclude the County Counselor from instituting appropriate action to prevent unlawful construction or to restrain, correct or abate a violation, or to prevent illegal occupancy of a building or to stop an illegal act, conduct business or operation of electrical equipment or systems on or about any premises.

(F) *License Violation:* All installation of material, equipment and devices subject to the requirements of this code shall be performed by a holder of the license required by 1102.80-24. Electrical installations performed without the required license shall be removed and must be reinstalled in compliance with all code requirements.

80-18 STOP WORK ORDER

(A) *Notice:* Upon notice from the Code Official that work on any building, structure, or premises is proceeding contrary to the provisions of this code or in an unsafe manner, such work shall immediately be stopped. The Code Official shall issue a stop work order in writing to the owner of the property involved or to the owner's agent, or to the person doing the work. The stop work order shall state the conditions under which the work may resume.

(B) *Unlawful Continuance of Work:* Any person who shall continue any electrical work in or about the building, structure or premise after the issuance of a stop work order, except such work that is directed to be performed to remove a violation or unsafe condition, shall be guilty of a violation of this code and subject to the penalties set out in this code.

(C) *Prosecution:* If the notice of violation issued pursuant to this code is not complied with promptly, the Code

Official may request the County Counselor to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation or to require the removal or termination of the unlawful condition of any electrical system in violation of the provisions of this code or of an order or direction made pursuant to this code.

80-19 NOTICE OF APPROVAL

(A) *Approval:* After the prescribed tests and inspections indicate that the work complies in all respects with this code, a notice of approval shall be issued by the Code Official.

(B) *Temporary Occupancy:* Upon the written request of the holder of a permit, the Code Official may issue a temporary authorization before the entire work covered by the permit is completed, provided that such portion or portions will be put into service safely prior to full completion of the structure without endangering public health or welfare.

80-20 UNSAFE CONDITIONS

(A) *Hazards:* All electrical systems, regardless of type, which constitute a hazard to human life, health or welfare are hereby declared illegal and shall be abated by repair, rehabilitation or removal.

(B) *Record:* The Code Official shall cause a report to be filed on an unsafe condition. The report shall state the occupancy of the structure and the nature of the unsafe condition.

(C) *Notice:* If an unsafe condition is found, the Code Official shall serve on the owner, agent or person in control of the structure, a written notice that describes the condition deemed unsafe and specifies the required repairs or improvements to be made to abate the unsafe condition, or that requires the unsafe material or equipment to be removed within a stipulated time. Such notice shall require the person thus notified to declare immediately to the Code Official acceptance or rejection of the terms of the order.

(D) *Method of Service:* Such notice shall be deemed properly served if a copy thereof is: (a) delivered to the owner

personally, or (b) sent by certified or registered mail addressed to the owner at the last known address with the return receipt requested. If the certified or registered letter is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice. Service of such notice in the foregoing manner upon the owner's agent or upon the person responsible for the structure shall constitute service of notice upon the owner.

(E) *Restoration*: The installation, material or equipment determined to be unsafe by the Code Official is permitted to be restored to a safe condition. To the extent that repairs, alterations or additions are made during the restoration of the structure, such repairs, alterations and additions shall comply with the requirements of this code.

(F) *Disregard of Notice*: Upon refusal or neglect of the person served with an unsafe notice to comply with the requirements of the order to abate the unsafe condition, the County Counselor may be advised of all the facts by the Code Official in order to pursue recourse provided by law.

80-21 EMERGENCY MEASURES

(A) *Imminent Danger*: When, in the opinion of the Code Official, there is imminent danger to health, safety or welfare, the Code Official is hereby authorized and empowered to order and require the occupants to vacate the building forthwith. The Code Official shall cause to be posted at each entrance to such structure a notice reading as follows: "This structure is unsafe and its occupancy has been prohibited by the Code Official." It shall be unlawful for any person to enter such structure, except for the purpose of making the required repairs or for demolition.

(B) *Temporary Safeguards*: When, in the opinion of the Code Official, there is imminent danger due to an unsafe condition, the Code Official shall cause the necessary work to be done to render such structure temporarily safe, whether or not the legal procedure herein described has been instituted.

(C) *Closing Streets*: When necessary for the public safety, the Code Official shall temporarily close structures and close, or request the authority having jurisdiction to close, sidewalks, streets, public ways and places adjacent

to unsafe structures, and prohibit the same from being used.

(D) *Emergency Repairs:* For the purposes of this section, the Code Official shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

(E) *Costs of Emergency Repairs:* Costs incurred in the performance of emergency work shall be paid from the treasury of the jurisdiction on approval of the Code Official. The County Counselor may institute appropriate action against the owner of the premises where the unsafe structure is or was located.

(F) *Unsafe Equipment:* Equipment deemed unsafe by the Code Official shall not be operated after the date stated in the notice unless the required repairs or changes have been made and the equipment has been approved, or unless an extension of time has been secured from the Code Official in writing.

(1) *Authority to Seal Equipment:* In the case of an emergency, the Code Official shall have the authority to seal out of service immediately any unsafe device or equipment regulated by this code.

(2) *Unlawful to Remove Seal:* Any device or equipment sealed out of service by the Code Official shall be plainly marked with a sign or tag indicating the reason for such sealing. The sign or tag shall not be tampered with, defaced or removed except by the Code Official.

80-22 MEANS OF APPEAL

(A) *Application for Appeal:* Any person aggrieved by a decision of the Code Official or the Board of Electrical Examiners shall have the right to appeal to the Board of Appeals in accordance with Chapter 1115, SLCRO 1974 as amended. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is to be used.

80-23 PROFESSIONAL ARCHITECTURAL AND ENGINEERING SERVICES

(A) *General*: The construction documents for new construction, alteration, repairs, expansion, addition, or modification for buildings, structures or electrical systems shall be prepared by a registered design professional in accordance with Chapter 1115 SLCRO 1974 as amended.

80-24 LICENSES ISSUED BY ST. LOUIS COUNTY

(A) *Examination and Licensing of Electricians*: No person, firm, corporation, limited liability company or other business entity, institution, organization or representative thereof shall engage in the business of making or maintaining electrical installations or installing any electrical material, apparatus, equipment, or communications equipment of any kind without having a person in responsible charge of such work who has first been examined and licensed by St. Louis County, Missouri, following examination by the St. Louis County Board of Electrical Examiners or its designee, pursuant to the provisions of this code. All applicants for examination shall deposit with their application an examination fee as prescribed in this code. The license of persons in responsible charge of work shall correspond to the appropriate license category as indicated in this code. The Building Commission of St. Louis County, Missouri, shall issue the appropriate license to each person who meets the qualifications thereof and successfully passes the examination.

(1) *Application Fee*: All applicants for examination shall submit with their application an application fee in the amount specified in this code.

(2) *Board of Electrical Examiners - Rules and Qualifications for License Applicants*.

(a) Applicants must be at least twenty-one (21) years of age.

(b) Applicants must verify, through detailed and verifiable documentation, at least twelve thousand (12,000) hours of practical experience installing the wiring, equipment and material specified in NFPA70 (National Electrical Code), or the combination of education and practical experience specified in (d) below.

(c) Applicants must submit detailed and verifiable documentation of all practical experience, education, and work history relating specifically to the type of license applied for, at the time of application. Verification of employment must be provided by copies of W2 forms and by the Affidavit of Employment Experience or original notarized letters on company letterhead. The verification must include exact employment dates, exact number of hours worked, exact type of work performed, and contact information for the license holder(s) under whose supervision the work was performed. Copies of tax returns may be required by the Board of Electrical Examiners to verify employment.

(d) Applicants' qualifications will be determined on the basis of the information they provide on the Application Form and the documentation they submit. It must be factual, clear and complete. Acceptable experience for all licensing categories, except an Elevator Controls License, shall be defined as one of the following:

1. Successful completion of an electrical apprenticeship (8,000 hours) approved by the Bureau of Apprenticeship & Training, U.S. Department of Labor. Submit certificate of completion plus proof of four thousand (4,000) hours of additional practical experience installing the wiring, equipment and materials specified in NPFA70 (NEC); or

2. Graduation from a trade school accredited by the North Central Assoc. of Colleges & Schools, with a two-year degree (for the electrical, industrial or elevator license) primarily focused on electrical theory, National Electrical Code, and power distribution wiring and equipment; or (for communications license) primarily focused on practical knowledge related to communications (sound, phones and data) installations. Graduation must be verified by an *original transcript*. The applicant must also provide proof of a minimum of 8,000 additional hours of practical

experience installing the wiring, equipment and materials specified in NFPA70 (NEC); or

3. Graduation from a college or university with a four-year degree in electrical engineering accredited by the Accreditation Board for Engineering and Technology (ABET) and the North Central Assoc. of Colleges & Schools. Graduation must be verified by an original transcript. The applicant must also provide proof of a minimum of an additional 4,000 hours of practical experience in designing electrical systems for the purposes of distributing electricity; or

4. The applicant has accumulated a minimum of 12,000 hours of experience installing the wiring, equipment and materials specified in the National Electrical Code, while in the employ of an electrical contractor (for the electrical license) or an elevator controls company (for the elevator license), or communications contractor (for the communications license) or other business whose primary function is installing, repairing and servicing electrical or communications systems, equipment, wiring and materials specified in NFPA70 (NEC) and related to the license.

5. All applicants for the electrical contractors license must complete a recognized National Electrical Code class and receive a minimum 75% final exam grade within the 24 months previous to application date.

(e) Applicants may receive credit for work-related practical experience for training in electrical wiring obtained while serving on active duty in the military, in the discretion of the Board of Electrical Examiners, if detailed and verifiable proof of the training, schooling or work experience, directly related to the wiring and equipment and material specified in NFPA 70 (NEC), is submitted. Applicants must include all information that will assist the Board in evaluating the degree of electrical or

communications experience obtained that is directly related to the license.

(f) The following types of documentation are inadequate to obtain a license under this Code: self-generated biographies, résumés or employment records which do not verify and/or adequately describe the nature of the employment, experience, duties, responsibilities or duration of time employed; documentation of maintenance on an electrical, communications or elevator system unless applicants were employed by a company whose primary business is performing maintenance on existing electrical systems (for the electrical license) or communications systems (for the communications license) or elevators (for the elevator license) license; documentation of work performed in any jurisdiction, which was not in compliance with the applicable code regulations.

(g) All applicants must complete and submit the following provided forms, identified as:

- Application
- Work Experience Summary (with verification attached)
- Trade Related Education and Formal Instruction (with verification attached), if applicable
- Affidavit(s) of Employment Experience and copies of W2 forms

(h) Applicants will be notified of the date on which their application will be reviewed by the Board of Electrical Examiners, and:

1. If the application is approved, the applicant will be notified within thirty (30) days and provided with testing information.

- If the application is denied, the applicant will be notified within 30 days and will be given the reasons

therefor. Within twelve (12) months, the Applicant may re-apply and submit additional information or documentation requested by the Board. Upon written request, the applicant will be scheduled to meet with the examining board at a later date.

2. If the examining board again rejects the application the applicant may file an appeal with the Board of Appeals, in accordance with Chapter 1115, SLCRO 1974 as amended. No new or additional documents or information will be considered at the hearing. The Board of Appeals will review the application and all documents originally submitted to determine if the examining board made an accurate decision based on the information submitted.

(i) Examination for Electrical or Communications Licenses:

1. If the application for license is approved by the Board of Electrical Examiners, St. Louis County will, within 30 days, provide the applicant with an examination registration form to be submitted to the testing agency with the required fee.

2. St. Louis County will officially notify applicants of their test score within thirty (30) days of their test dates.

3. Applicants who are unsuccessful in their first examination attempt may sit for two additional examinations within the next 12 months. Applicants who do not pass the test on their third attempt must wait 12 months before applying to sit for the next examination and any subsequent examinations. This waiting period will be enforced without regard for an applicant's subsequent success on the examination if sponsored by another jurisdiction.

4. Once applicants have scored at least 75% on the exam, they will be notified within 30 days and be given the necessary information and requirements to activate their license in St. Louis County.

5. If the applicant has scored at least 75% on the same test as is required by St. Louis County, within the 24 months prior to the date of application, the examining board will recognize the test score and no further testing will be required, provided the applicant has met all other requirements. Applicants will be notified within 30 days and be given the necessary information and requirements to activate their license in St. Louis County.

(j) False or Misleading Information:

1. If, at any time, an application is found by the Board of Electrical Examiners to contain false or misleading information, the Board will convene a hearing to determine the appropriate sanction to be imposed, including but not limited to, denial of licensure, suspension or revocation of an existing license.

(k) Criminal Convictions:

1. The Board may consider a criminal conviction in denying, suspending or revoking a license provided that the nature of the crime committed in relation to the license which the applicant seeks, the date of the conviction, and the conduct of the applicant since the date of the conviction are also considered.

(B) *Electrical Contractor's License*: The electrical contractor's license shall permit the licensees, or employees they supervise, to engage in the work of installing, erecting, or maintaining electrical wiring, fixtures, apparatus, equipment, devices or components thereof that are used for generation, transmission, or utilization of electricity in and on buildings and premises subject to the provisions of this code.

(1) *License Fee:* The fee for an electrical contractor's license shall be as specified in this code.

(C) *Electrical Maintenance License:* The electrical maintenance license shall permit the licensees, or employees they supervise, to engage in the work that is necessary for the upkeep or maintenance of existing electrical material and equipment on their own property and occupied by them. To qualify for an electrical maintenance license in or on any building or premises, there must be at least one full-time electrician employed continuously and the applicant must have completed a recognized National Electrical Code class (minimum 75% final exam grade) within the 24 months previous to application date.

(1) *License Fee:* The fee for an electrical maintenance license shall be as specified in this code.

(D) *Electrical Industrial License:* The electrical industrial license shall permit the licensees, or employees they supervise, to engage in the work of installing, erecting or maintaining electrical wiring, fixtures, apparatus, equipment, devices or components thereof that are used, for generation, transmission, or utilization of electricity in and on commercial or industrial buildings and premises occupied by the licensee and subject to the provisions of this code; however to qualify for an electrical industrial license there must be at least one full-time electrician employed continuously.

(1) *License Fee:* The fee for an electrical industrial license shall be as specified in this code.

(E) *Electrical Communication Contractor's License:* An electrical communication contractor's license shall permit the licensees or employees they supervise to engage in the work of installing, maintaining, erecting or altering communication equipment.

(1) *License Fee:* The fee for an electrical communications contractor's license shall be as specified in this code.

(F) *Elevator Electrical Controls Contractor's License:* An elevator electrical controls contractor's license shall permit the licensees, or employees they supervise, to engage in the work of installing, maintaining, altering or

erecting wiring and equipment for the operation and control of elevators, escalators and dumb-waiters. All such permitted work shall be on the load side of a disconnect switch installed to furnish electrical power to the equipment.

(1) *License Fee:* The fee for an elevator electrical control contractor's license shall be as specified in this code.

(G) *Bond & Insurance Required:* No electrical contractor's license issued by St. Louis County, communications contractor's license, elevator controls contractor's license or permit shall be issued until such applicant shall file in the Office of Electrical Inspection a surety bond in the amount of \$10,000.00 and a certificate of contractor's general liability insurance in the amount of \$500,000.00. The bonds and insurance required herein shall be approved by the County Counselor and shall be given for the faithful observance of all ordinances, laws, rules and regulations adopted for the public health and safety pertaining to electrical, communication or elevator work and shall indemnify St. Louis County, Missouri, or any other governmental agency, or any person, firm, or corporation for any damage or injury sustained through the negligence of such applicant, their servants, agents or employees in performing electrical, communication or elevator work or for any damages or injury sustained due to such applicant's failure to perform electrical or communication work in a careful and workmanlike manner in conformity with this code or for the use of St. Louis County, Missouri, due to nonpayment of fees thirty (30) days from due date, or for the use of any person, firm or corporation with whom said applicant contracts to do work to indemnify any such person, firm or corporation for damages sustained due to failure of applicant to do work so contracted.

(1) A holder of a license issued pursuant to this code or by the State of Missouri shall maintain current bond and insurance certificates with the Office of Electrical Inspection. When the effective dates on the documents on file expire, the license will be made inactive without notice. A license may be re-activated within thirty days after the required documents are received by the Office of Electrical Inspection and the \$25.00 processing fee paid. If the license was issued by the State of Missouri the

account will be deactivated and issuance of permits will cease until current certificates are received.

(2) A holder of a license issued pursuant to this code or by the State of Missouri shall notify the Code Official of any diminution of its bond which causes the actual value of the bond to be worth less than \$10,000.00. Lack of a bond with current value of \$10,000.00 will render the license immediately inactive or the State issued license account deactivated without further notice, unless and until the license holder obtains a surety bond with the actual current value of \$10,000.00, and files proof of the aforesaid bond with the Office of Electrical Inspection.

(H) *License Violation:* It shall be unlawful for any person, firm, corporation or organization, limited liability company or other business entity, or any agent thereof to engage in the business of electrical or communication work without having been duly licensed as required by the provisions of this code.

(I) *Licensed Supervisor Required:* Any firm, corporation, limited liability company or other business entity obtaining permits to install electrical or communication work shall employ a duly licensed supervisor under the provision of this code who shall be responsible for installations made by said firm, corporation, limited liability company or other business entity. Unless the license holder is a sole proprietor, the license holder in order to obtain permits shall be a full time employee as defined in Article 100 herein, and shall have the sole responsibility for compliance with the provisions of this code. This responsibility shall not be transferable or assignable.

(J) *License Limitations:* Any holder of an electrical contractor license, communication contractor license, industrial license, maintenance license or elevator controls contractor license shall be limited to obtaining permits required under the provisions of this code, for a single company, firm, corporation, limited liability company or other business entity at any given date or time and shall be registered as an officer of said company, firm, corporation or limited liability company or other business entity at least thirty (30) days prior to exercising the privileges of the license on behalf of said

business entity. Any such business entity shall be registered with the State of Missouri, Office of Secretary of State, Jefferson City, Missouri and the St. Louis County Office of Electrical Inspection, at least thirty (30) days prior to the issuance of any permit.

(K) *Suspensions and Revocation of Licenses - Hearing Required:*

(1) The Board of Electrical Examiners shall have the power to suspend or revoke any license issued pursuant to this code for cause. Although such actions may be based upon causes other than those enumerated, the following are declared to be adequate cause for suspension or revocation:

(a) Obtaining a license by fraud or misrepresentation of material fact.

(b) Failure or refusal to comply with the provisions of this code.

(c) Violation of any of the provisions of this code.

(d) Aiding or abetting any unlicensed person, firm, limited liability company, corporation or other business entity in the performance of electrical work, as defined by this code.

(e) Failure to protect the health, safety and welfare of the public by violating the expressed intent of this code.

(f) Obtaining or attempting to obtain any fee, charge or compensation by fraud, deception or misrepresentation to a consumer.

(g) Impersonation of any person holding a license or allowing any person to use his or her license.

(h) Advertising the sale of permits obtained by a licensed electrical contractor.

(i) Use or unlawful possession of any controlled substance as defined in Chapter 195, R.S.Mo., or alcoholic beverage to the extent that such use

impairs a person's ability to perform the work of an electrician.

(j) A conviction for any criminal offense reasonably related to the qualifications, functions or duties of any licensee under this code, or for any offense an essential element of which is fraud provided that the Board also consider the nature of the crime committed, the date of the conviction, and the conduct of the individual since the date of the conviction.

(k) Unauthorized manipulation or tampering with the property or equipment of the serving utility.

(l) Securing a permit for work performed by another person, firm, corporation, company, or business entity.

(2) No license shall be suspended or revoked until the licensee has been afforded an opportunity for a hearing before the Board upon ten (10) days written notice.

(3) Notice shall be served either personally or by Certified Mail to the licensee's address of record and shall state the date, time, and place of hearing and set forth the charges against the licensee. In the event service is not obtained by personal service or certified mail, service may be made by any means reasonably calculated to provide the licensee with actual notice.

(4) A licensee shall have the opportunity to present evidence and/or witnesses before the Board in person or with counsel. A record of the hearing shall be made. As soon as practicable after the conclusion of the hearing, the Board shall adopt a written decision, including findings of fact and conclusions of law, and give written notice of its decision to the licensee holder or his/her attorney of record in accordance with Chapter 536 R.S.Mo.

(5) The duration of suspension of any license suspended pursuant to this section shall be as follows:

(a) First offense shall result in a suspension period of not less than ninety (90) days and shall continue until reinstated by order of the Board pursuant to paragraph six (6) of this section.

(b) Second offense shall result in a suspension period of not less than one hundred and eighty (180) days and shall continue until reinstated by order of the Board pursuant to paragraph (6) of this section.

(c) Subsequent offenses shall result in either suspension of the license for a period of not less than one (1) year or permanent revocation.

(d) Notwithstanding any other provision, any holder of a license issued pursuant to this code who shall be found guilty of aiding or abetting any unlicensed person, firm, LLC, corporation or other business entity; or securing electrical permits for more than one company; or using employees other than their own to perform electrical work shall result in the suspension of said license for not less than one year on the first offense; subsequent offenses of the same nature will be considered by the Board for permanent revocation.

NOTE: If the Board determines the particular violation charged is of such a major or aggravated nature that a license should be permanently revoked, nothing in this subsection shall limit the Board's authority to do so regardless of any prior offenses or suspensions.

(6) A suspended license may be reinstated by order of the Board upon written request of the licensee. Said request must be submitted to the Code Official not more than thirty (30) days prior to or one hundred eighty (180) days after the expiration of the suspension period. Reinstatement requirements will be in the discretion of the Board and will be determined at the time of reapplication.

(7) The Board shall not consider the reinstatement of a permanently revoked license.

(8) Notification of License Suspension or Revocation: The Code Official shall notify in writing all jurisdictions that use or recognize a license issued pursuant to this code of any suspension or revocation. The notification shall be made within ten (10) days of the effective date of the suspension or revocation.

(L) *Unlicensed Work*: The Board of Electrical Examiners shall have the power to assess a fine, not to exceed \$1,000.00, against any person, firm, corporation, limited liability company or other business entity who performs electrical or communications work without possessing a valid license issued under this code. A fine imposed by the Board shall be paid within thirty days. If a fine is not paid within thirty days, the violation for which the fine was imposed may be referred to the County Counselor for prosecution in the St. Louis County Municipal Court, and a person convicted of the violation shall be subject to a fine of up to \$1,000.00 or imprisonment up to one year.

80-25 BUSINESS REQUIREMENTS

(A) A person, firm, corporation, limited liability company or other business entity, or institution, or representative thereof, establishing or operating a business which offers electrical or communications services shall:

(1) Have and maintain an established street addressed place of business with all necessary occupancy permits; and

(2) Have and maintain someone in attendance and on premises at the established place of business to receive calls during regular business hours or provide other effective means of communication. Said business hours being defined as Monday through Friday 8:00 a.m. to 5:00 p.m., excluding legal holidays; and

(3) Visibly display the name, address, telephone number and license categories of the business on any service-type vehicles used by the business or any of its employees in providing electrical or communications services. Letters and numbers shall be a minimum of three inches tall with a minimum width of one-half inch stroke.

Exception: A person, firm, corporation, institution or representative thereof operating under an industrial or maintenance license.

1102.081 Cable Television.

(81-1) *General:* Community Antenna Television installations shall comply with the requirements of the adopted edition of the National Electrical Code, the most recently published edition of the National Electrical Safety Code and the Cable Television Franchise Code.

(81-2) *One- or Two-Family Dwellings:* In addition to the requirements found in Section 81-1, Community Antenna Television installations on or over private property at one- and two-family dwellings shall comply with the following:

Underground Cable Installations

(A) Unless otherwise permitted or prohibited, underground cables approved for direct burial shall be installed at least 12" below finished grade. Lesser depths may be approved where routing cables to avoid other existing buried systems or to avoid devastation to established vegetation.

(B) Where cables are installed in rigid metal conduit, intermediate metal conduit or schedule 40 rigid non-metallic conduit, a burial depth of 6" below finished grade shall be permitted.

(C) Cables intended to be buried shall not be left on grade for more than 30 days under normal conditions. Longer periods shall be granted to accommodate unusual situations or adverse weather conditions.

(D) Underground cables shall be installed at least 5' horizontally from the inside wall of swimming pools and hot tubs installed on grade. A lesser distance shall be permitted where space does not allow 5' provided the cable is installed in rigid metal conduit, intermediate metal conduit or schedule 40 rigid non-metallic conduit.

Overhead Cables

(E) The final span of overhead cable to the customer's premises shall not be less than 8' at its lowest point, unless otherwise permitted or prohibited.

(F) Overhead spans of cable shall be at least 10' measured horizontally from the inside wall of swimming pools and hot tubs.

(81-3) *Other Installations:* Cable Antenna Television installations at other than 1- and 2-family dwellings and network-powered broadband installations shall comply with part Section 81-1.

1102.100 Amendment to National Electrical Code--Chapter 1--
Article 100-Definitions. --Chapter 1 - Article 100 of the 2014 National Electrical Code is hereby amended by the addition of the following provisions. When used in this code and in standards, rules and regulations promulgated under authority of this code, the following words or phrases shall have the meanings ascribed to them in this section unless the context clearly requires otherwise.

Interchangeability: Words stated in the present tense include the future; gender based words are intended as neutral; the singular number includes the plural and the plural the singular.

Terms Defined in Other Codes: Where terms are not defined in this code and are defined in the building, mechanical, or plumbing codes adopted by St. Louis County in Chapters 1115, 1103, and 1108 SLCRO 1974 as amended, such terms shall have the meanings ascribed to them as in those codes.

Article 100. Definitions

(A) GENERAL

Aid or Abet: To help, assist, advance, facilitate or promote the acquisition of an electrical permit for work performed by an unlicensed individual not working as an employee under the direct supervision of a license holder in St. Louis County.

Board of Appeals: The five member panel created in Chapter 1115 SLCRO 1974 as amended which has authority to hear and decide appeals from decisions of the Code Official or the Board of Electrical Examiners pursuant to the provisions of this code.

Building Commission: The five member panel set forth in Article IV, Section 4.330 of the St. Louis County Charter.

Code: These regulations, subsequent amendments thereto, or any emergency rule or regulation which the administrative authority having jurisdiction has lawfully adopted.

Code Official: The Director of Transportation and Public Works or the Director's duly authorized representative who is vested with executive and administrative authority to enforce all laws ordinances and codes regulating construction, alteration, addition, repair, removal, demolition, use, location, occupancy and maintenance of all buildings and structures, electrical, plumbing, drainlaying and mechanical systems pursuant to Chapters 1100, 1115, 1102, 1103, 1104 and 1108 SLCRO 1974, as amended.

Construction Documents: All of the written, graphic and pictorial documents prepared or assembled for describing the design, location and physical characteristics of the elements of the project necessary for obtaining an electrical permit.

Disaster: A disaster shall include but not necessarily be limited to flood, windstorm, tornado, severe storm, earthquake, bomb blast, explosion or similar natural or man-made type event. The Code Official shall make the determination whether an event shall be declared a disaster.

Emergency: An event or occasion that requires immediate action in order to preserve or restore the public peace, health, safety or welfare.

Employee: A person who has been hired by a business entity licensed under this code, to perform work regulated by this code. The licensed business entity shall keep true and accurate payroll and other related records that are required by law for a period of at least three years after such record was made.

A person is an "employee" if the person:

- Performs services for wages or salary for a business entity that submits IRS forms W-2, W-4 and I-9 for that person.
- May be disciplined or discharged by the business entity.

- Is directed by the business entity on what work to do, when to do it and in what sequence the work will occur.
- Performs services that are incorporated into the business entity's operation and significantly affect the success of the business.
- Is required to undergo company-provided training.
- Uses the business entity's tools, equipment, materials and work facilities.

All determinations with respect to whether a person is an "employee" or "full time employee" will be decided by the Code Official.

Full time employee: An employee of a business entity licensed under this code who performs tasks solely for this business entity during normal hours of operation of the business entity.

Existing Work: Any electrical system regulated by this code which was legally installed prior to the effective date of this code, or for which a permit to install has been issued.

Grandfathering: Approval of the continued use of an existing system or part of an electrical system that complies with the code requirements under which the system or part was installed including the requirements for licensure and permits contained within this code.

Registered Design Professional: An architect or engineer, registered or licensed to practice professional architecture or engineering pursuant to the professional registration laws of the state of Missouri.

Structure: That which is built or constructed or a portion thereof.

Workmanlike Manner: An electrical installation which complies with the published American National Standard "Good workmanship in Electrical Construction".

1102.105 Technical amendments to the requirements of the 2014 National Electrical Code. The following sections of the 2014

National Electrical Code, adopted by St. Louis County, are amended as herein identified and shall be part of the Electrical Code of St. Louis County or deleted therefrom as indicated.

Article 210.8 Ground-Fault Circuit-Interrupter Protection for Personnel. Ground-fault circuit-interrupter protection for personnel shall be provided as required in 210.8(A) through (C). The ground-fault circuit-interrupter shall be installed in a readily accessible location.

Informational Note: See 215.9 for ground-fault circuit-interrupter protection for personnel on feeders.

- (A) **Dwelling Units.** All 125 volt, single phase, 15- and 20-ampere receptacles installed in the locations specified in 210.8(A) (1) through (10) shall have ground-fault circuit-interrupter protection for personnel.
- (1) Bathrooms.
 - (2) Garages, and also accessory buildings that have a floor located at or below grade level not intended as habitable rooms and limited to storage areas, work areas, and areas of similar use.
 - (3) Outdoors.
Exception to (3): Receptacles that are not readily accessible and are supplied by a branch circuit dedicated to electric snow-melting, deicing, or pipeline and vessel heating equipment shall be permitted to be installed in accordance with 426.28 or 427.22, as applicable.
 - (4) Crawl spaces- at or below grade level.
 - (5) Unfinished basements- for the purpose of this section, unfinished basements are defined as portions or areas of the basement not intended to be habitable rooms and limited to storage areas, work areas, and the like.
Exception No. 1 to (2) and (5): A single receptacle or a duplex receptacle for two appliances located within dedicated space for each appliance that, in normal use, is not easily moved from one place to another and that is cord-and plug-connected in accordance with 400.7(A) (6), (A) (7) or (A) (8).

Exception No.2 to (5): A receptacle supplying only a permanently installed fire alarm or burglar alarm system shall not be required to have ground-fault circuit-interrupter protection.

Informational Note: See 760.41(B) and 760.121(B) for power supply requirements for fire alarm systems.

Receptacles installed under the exception No. 2 to 210.8(A)(5) shall not be considered as meeting the requirements of 210.52(G).

- (6) Kitchens-where the receptacles are installed to serve the counter top surfaces.
- (7) Sinks-where receptacles are installed within 1.8m (6 ft) of the outside edge of the sink.
- (8) Boathouses.
- (9) Bathtubs or shower stalls-where receptacles are installed within 1.8m (6 ft) of the outside edge of the bathtub or shower stall.
- (10) Laundry areas with a sink.

210.12 Arc-Fault Circuit-Interrupter Protection. Arc-fault circuit-interrupter protection shall be provided as required in 210.12(A), (B) and (C). The arc-fault circuit-interrupter shall be installed in a readily accessible location.

(A) Dwelling Units. All 120 volt, single phase, 15- and 20-ampere branch circuits supplying outlets or devices installed in bedrooms shall be protected by any of the means described in 210.12(A)(1) through (6):

(1) A listed combination-type arc-fault circuit-interrupter, installed to provide protection of the entire branch circuit.

(2) A listed branch/feeder-type arc-fault circuit-interrupter installed at the origin of the branch circuit in combination with a listed outlet branch circuit type arc-fault circuit-interrupter installed at the first outlet box on the branch circuit. The first outlet box in the branch circuit shall be marked to indicate that it is the first outlet of the circuit.

(3) A listed supplemental arc protection circuit breaker installed at the origin of the branch circuit in combination with a listed outlet branch circuit type arc-fault circuit-interrupter installed at the first outlet box on the branch circuit where all of the following conditions are met:

- a. The branch circuit wiring shall be continuous from the branch circuit overcurrent device to the outlet branch circuit arc-fault circuit-interrupter.

b. The maximum length of the branch circuit wiring from the branch circuit overcurrent device to the first outlet shall not exceed 15.2 m (50 ft) for a 14 AWG conductor or 21.3 m (70 ft) for a 12 AWG conductor.

c. The first outlet box in the branch circuit shall be marked to indicate that it is the first outlet of the circuit.

(4) A listed outlet branch circuit type arc-fault circuit-interrupter installed at the first outlet on the branch circuit in combination with a listed branch circuit overcurrent protective device where all of the following conditions are met:

a. The branch circuit wiring shall be continuous from the branch circuit overcurrent device to the outlet branch circuit arc-fault circuit-interrupter.

b. The maximum length of the branch circuit wiring from the branch circuit overcurrent device to the first outlet shall not exceed 15.2 m (50 ft) for a 14 AWG conductor or 21.3 m (70 ft) for a 12 AWG conductor.

c. The first outlet box in the branch circuit shall be marked to indicate that it is the first outlet of the circuit.

d. The combination of the branch circuit overcurrent device and outlet branch circuit arc-fault circuit-interrupter shall be identified as meeting the requirements for a system combination-type arc-fault circuit-interrupter and shall be listed as such.

(5) If RMC, IMC, EMT, type MC, or steel-armored type AC cables meeting the requirements of 250.118, metal wireways, metal auxiliary gutters, and metal outlet and junction boxes are installed for the portion of the branch circuit between the branch circuit overcurrent device and the first outlet, it shall be permitted to install a listed outlet branch circuit type AFCI at the first outlet to provide protection for the remaining portion of the branch circuit.

(6) Where a listed metal or non-metallic conduit or tubing or type MC cable is encased in not less than 50mm (2 in.) of concrete for the portion of the branch circuit between

the branch circuit overcurrent device and the first outlet, it shall be permitted to install a listed outlet branch circuit type AFCI at the first outlet to provide protection for the remaining portion of the branch circuit.

Exception: Where an individual branch circuit to a fire alarm system installed in accordance with 760.41(B) or 760.121(B) is installed in RMC, IMC, EMT, or steel sheathed cable, type AC or type MC, meeting the requirements of 250.118, with metal outlet and junction boxes, AFCI protection shall be permitted to be omitted.

Informational Note No.1: For information on combination-type and branch-feeder-type arc-fault circuit-interrupters, see UL 1699-2011, *Standard for Arc-Fault Circuit-Interrupters*. For information on outlet branch circuit type arc-fault circuit-interrupters, see *UL Subject 1699A, Outline of Investigation for Outlet Branch Circuit Arc-Fault Circuit-Interrupters*. For information on system combination AFCIs, see *UL Subject 1699C, Outline of Investigation for System Combination Arc-Fault Circuit - Interrupters*.

Informational Note No. 2: See 29.6.3(5) of *NFPA 72-2013 National Fire Alarm and Signaling Code*, for information related to secondary power-supply requirements for smoke alarms in dwelling units.

Informational Note No. 3: See 760.41(B) and 760.121(B) for power-supply requirements for fire alarm systems.

210.12(B) Branch Circuit Extensions or Modifications-Dwelling Units. In any of the areas specified in 210.12(A), where branch circuit wiring is modified, replaced or extended, the branch circuit shall be protected by one of the following:

(1) A listed combination-type AFCI located at the origin of the branch circuit.

(2) A listed outlet branch circuit type AFCI located at the first receptacle outlet of the existing branch circuit.

Exception: AFCI protection shall not be required where the extension of the existing conductors is not more than 9.5m (30 ft) and does not include any additional outlets or devices.

210.12(C) Dormitory Units. All 120-volt, sing-phase, 15- and 20-ampere branch circuits supplying outlets installed in

dormitory unit bedrooms, living rooms, hallways, closets, and similar rooms shall be protected by a listed arc-fault circuit interrupter meeting the requirements of 210.12(A) (1) through (6) as appropriate.

406.12 Tamper Resistant Receptacles. Tamper resistant receptacles shall be installed as specified in 406.12(A) and (B).

(A) Guest Rooms and Guest Suites of Hotels and Motels. All nonlocking-type 125 volt, 15- and 20- ampere receptacles located in guest rooms and guest suites of hotels and motels shall be listed tamper-resistant receptacles.

(B) Child Care Facilities. In all child care facilities, all nonlocking-type 125 volt 15- and 20- ampere receptacles shall be listed tamper resistant receptacles.

Exception to (A) and (B): Receptacles in the following locations shall not be required to be tamper resistant:

- (1) Receptacles that are more than 1.7m (5 ½ ft) above the floor.
- (2) Receptacles that are part of a luminaire or appliance.
- (3) A single receptacle or a duplex receptacle for two appliances located within dedicated space for each appliance that, in normal use, is not easily moved from one place to another and that is cord and plug-connected in accordance with 400.7(A) (6), (A) (7), or (A) (8).
- (4) Nongrounding receptacles used for replacements as permitted in 406.4(D) (2) (a).

1102.110 Electrical Permit and Other Fees. --The fees for electrical and communications permits and inspections pursuant to this code shall be charged at the rate specified in Chapter 1100, SLCRO 1974 as amended.

1102.200 License Fees and Administration. --The fee for issuing or renewing a license issued by St. Louis County pursuant to this code shall be as follows:

Electrical Contractor's License: \$125.00 annually

Electrical Maintenance License: \$50.00 annually

Electrical Industrial License: \$75.00 annually

Electrical Communication Contractor's License: \$50.00
annually

Elevator Electrical Controls Contractor's License: \$125.00
annually

(A) Licenses expire December 31 each year. Annual license fees are due by December 31. An invoice will not be sent but a notice will be mailed to the last known address of the licensee, no later than November 15.

(B) Annual license fees not received by December 31 are considered delinquent and the license inactive. A notice is not required and permits shall not be issued to a delinquent or inactive license.

(C) Annual license fees received after December 31 are subject to late fees as follows:

(1) A penalty of \$100 per month for each month past the license expiration date the renewal fee is submitted, up to six months.

(D) A license that has been inactive for three consecutive years shall not be re-activated until the license holder provides proof of successful completion of a recognized National Electrical Code class on the most recent code.

(E) A license that has been inactive for more than seven consecutive years shall require the license holder to reapply for a license and said applicant shall be considered a new applicant by the Board, unless upon review, the Board determines that the license holder has been otherwise actively engaged in the electrical or communications trade.

(F) A license that has been de-activated will be re-activated within 30 days of compliance with all requirements.

(G) Maintenance fees: By written notification, a license holder may direct St. Louis County to de-activate the license until further notice. The application and license will be kept on file indefinitely without charge. Bond and insurance are not required during this period of requested de-activation and there are no fees to pay. However, if during the period of de-activation the license holder is not actively engaged in the electrical or communications industry, they will be required to re-apply for a license and may, at the discretion of the Board, be considered a new applicant. The applicant

will be required to provide proof of employment activity in the electrical or communications industry.

(H) Temporary License - A firm, corporation or company that has been operating as a licensed electrical or communications contractor in St. Louis County for at least five consecutive years may make written request for a temporary license upon the death of the license holder, to complete work for which permits have been issued, but in no event longer than 12 months from the death of the license holder. A principal of the firm, corporation or company shall include in the request a copy of the death certificate and the scope and amount of work remaining on each permitted job. The request shall also contain the number of electricians or communications installers employed full-time by the company and show the hierarchy within the company to establish some quantifiable level of acceptable supervision on each permitted job. If, after the request is reviewed, the Board of Electrical Examiners determines that the company is capable of successfully completing work under the permits already granted and of fulfilling the obligations and requirements to the customer, the public and St. Louis County, the Board will request a recommendation from the Code Official or the Code Official's designee. If the Code Official or the Code Official's designee and the Board concur, a temporary license will be issued to allow permitted work to continue until completion. This provision shall not prevent the Code Official from immediately revoking a temporary license and all permits, causing all work to cease, if the Code Official determines it is in the best interest of the safety, health and welfare of the public.

(I) A license holder who wishes to re-activate or move a license from one company to another must notify the Electrical Licensing Office of the Highways and Traffic and Public Works Department in writing, stating the company name in which the license will be held. The license holder will be provided with the necessary information within 30 days. All open permits issued to the license holder must be closed by approved final inspections, or each permit may be transferred to the new company for a \$50.00 'change of contractor' fee.

(J) An electrical contractor with an active electrical contractor's license issued by the State of Missouri

or any State with which The State of Missouri has a reciprocal electrical contractor agreement with will be required to open an account with St. Louis County in order to obtain permits. The annual fee for maintaining the account shall be 125.00 due on December 31st. All sections of this code not pertaining to licensure application, licensure qualifications or license fees shall apply to a holder of a Missouri issued State license.

1102.210 Application Fee. --The fee for applying for a license issued pursuant to this code shall be \$20.00.

SECTION 2. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such shall not affect the validity of the remaining portions of this ordinance. The St. Louis County Council hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

SECTION 3. Nothing in this ordinance or in the code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 2 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

SECTION 4. The Administrative Director is hereby ordered and directed to cause this ordinance to be published and kept available for public viewing.

SECTION 5. This ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect on the 1st day of the month following ninety (90) calendar days from and after the date of its adoption by the St. Louis County Council and approval by the County Executive.

MECHANICAL CODE

This is an unofficial user-friendly copy of the St. Louis County Ordinance 27,619 for the adoption of the 2015 International Mechanical Code, with modifications. This approved ordinance was signed by the County Executive on December 5, 2019.

TITLE XI SLCRO 1974 AS AMENDED PUBLIC WORKS AND BUILDING REGULATIONS

CHAPTER 1108

MECHANICAL CODE

1108.010 Short Title. --This Chapter shall be known and may be cited as the "Mechanical Code" of St. Louis County, Missouri.

1108.020 Mechanical Code Adopted. --Certain documents, three copies of which are filed in the Office of the Administrative Director of the County Council and in the Office of the Director of Transportation and Public Works, said copies being marked and designated as the International Mechanical Code, 2015 Edition, as published by the International Code Council, Inc., including Appendix A are hereby adopted as the Mechanical Code of St. Louis County, Missouri for the regulation of mechanical equipment as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said code are hereby referred to, adopted and made a part hereof, as if fully set out herein with the additions, deletions and changes as prescribed in this Chapter.

1108.030 General Administrative Definitions. --Throughout the International Mechanical Code, 2015 Edition, wherever the terms "Name of Jurisdiction" or "Local Jurisdiction" appear it shall be deemed to mean "St. Louis County, Missouri." Likewise, wherever the term "Department of Mechanical Inspection" or "Mechanical Inspection Department" appears it shall be deemed to mean "St. Louis County Department of Transportation and Public Works", whenever the terms "Code Official" or "Building Official" appear it shall mean the Director of St. Louis County Department of Transportation and Public Works or the Director's duly authorized representative and wherever the terms "code", "this code" or "Mechanical Code" appears it shall mean the International Mechanical Code, 2015 Edition with the additions, deletions and changes prescribed in this Chapter.

1108.040 References to Other St. Louis County Adopted Codes. --

Throughout the International Mechanical Code 2015 Edition, wherever a reference appears to the "International Plumbing Code" or "plumbing code" it shall mean "The Plumbing Code" as adopted by Chapter 1103, SLCRO 1974 as amended with the additions, deletions and changes prescribed by that chapter. Wherever a reference appears to the "International Electrical Code" or "electrical code" it shall mean "The Electrical Code" as adopted in Chapter 1102, SLCRO 1974 as amended with the additions, deletions and changes prescribed by that chapter. Wherever a reference appears to the "International Building Code" or "building code" it shall mean "The Building Code" as adopted in Chapter 1115, SLCRO 1974 as amended with the additions, deletions and changes prescribed by that chapter.

1108.050 Contracting with Municipalities and Fire Protection Districts for Code Enforcement Services.

1. The Code Official, with the approval of the County Executive, is hereby authorized to execute on behalf of St. Louis County contracts with municipalities and fire protection districts within St. Louis County, to provide appropriate enforcement of this code and further to collect fees for applicable permits and inspections issued or made pursuant to such contracts. Contracts shall be approved by the Code Official and the County Executive, and shall be approved as to legal form by the County Counselor. No contract shall be entered into until the municipality or fire protection district desiring to contract with St. Louis County for the enforcement of this code shall first have duly adopted appropriate legislation authorizing said contract (a certified copy to be attached to and made a part of the contract) and duly adopted code identical in substance to this code.

2. The Code Official is authorized to execute on behalf of St. Louis County contracts with fire protection districts in St. Louis County to provide code enforcement services with respect to building construction and application of commercial and multi-family fire codes adopted by the fire protection districts, including administration, application processing, plan review, permit issuance, and inspections and for County to either charge the fire protection districts fees or collect fees for applicable permits and inspections issued or made pursuant to such contracts as set out in Chapter 1100 SLCRO, as amended, to cover the costs of providing such code enforcement services. When the contract is for only certain of the services described

in this section, the Code Official is authorized to pro-rate the fees set out in Chapter 1100 to cover the costs of performing the service or services. The contract may further provide for the fire protection district, at its option, to refer for prosecution in St. Louis County Municipal Court, violations of such fire protection district's codes as are enforced within the fire protection district by the County; for the County to retain the proceeds of fines and costs assessed in such prosecutions; and for such other terms and conditions as are approved by the County Counselor.

3. The Code Official on behalf of St. Louis County is authorized to execute contracts with municipalities in St. Louis County to provide temporary code enforcement services with respect to building construction and application of the mechanical codes adopted by the County or municipality, including administration, application processing, plan review, permit issuance, and inspections and for County to either charge the municipality fees or collect fees for applicable permits and inspections issued or made pursuant to such contracts as set out in Chapter 1100 SLCRO, as amended, to cover the costs of providing such temporary code enforcement services. When the contract is for only certain of the services described in this section, the Code Official is authorized to pro-rate the fees set out in Chapter 1100 to cover the costs of performing the service or services. The term of the temporary contract shall not exceed twelve (12) months except that the contract may be extended by the code official when: a) the services are related to a specific project or projects that are still in progress, or b) the municipality commits in writing to transitioning to a long term contract with the County as set out in Section 1108.050(1).

1108.100 Amendments to International Mechanical Code Chapter 1--Administration. --Chapter 1 of the 2015 International Mechanical Code is amended by the following provisions. Each section, subsection or clause of the code that numerically corresponds to one of the following numbered provisions is hereby deleted where so noted, or amended to read as set forth below. Each provision set out below without a corresponding section, subsection or clause number in the code is hereby enacted and added thereto.

101.1 *Title:* These regulations shall be known as the Mechanical Code of St. Louis County, Missouri hereinafter referred to as "this code."

101.2 *Scope.* This code shall regulate the design, installation, maintenance, *alteration* and inspection of mechanical systems that are permanently installed and utilized to provide control of environmental conditions and related processes within buildings. This code shall also regulate those mechanical systems, system components, *equipment* and appliances specifically addressed herein. The installation of fuel gas distribution piping and *equipment*, fuel gas-fired appliances and fuel gas-fired *appliance* venting systems shall be regulated by the *International Fuel Gas Code*.

Exception: For requirements other than those specified in Chapter 1 of this code, detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories high with separate means of egress and their accessory structures shall comply with the *International Residential Code*.

101.5 *Committee of Mechanical Code Review.* There is hereby created and established a Committee of Mechanical Code Review. The committee shall consist of the Code Official and five (5) members appointed by the County Executive. The Code Official shall act as executive secretary and shall keep full and complete minutes of the acts and proceedings of said committee. The appointed members shall be residents of St. Louis County and have the following qualifications: an architect registered in the State of Missouri; a mechanical engineer registered in the State of Missouri; a mechanical contractor engaged in HVAC contracting; an industrial mechanical contractor and a member of the fire service. Three (3) members shall be appointed for terms of three (3) years and two (2) members shall be appointed for an initial term of two (2) years after which all terms shall be for three (3) years, or until their successors shall be qualified and appointed by the County Executive. At no time shall there be two (2) members of the committee who work for or are members of the same company, entity or international union organization or affiliate, thereof. The Committee shall meet at least annually in order to consider any proposed changes to this code, and make recommendations to the Building Commission. The committee members shall elect one of their members to serve as chairman and one to serve as vice chairman.

101.5.1 *Compensation.* The members of the Mechanical Code Review Committee with the exception of the Code Official shall be compensated in accordance with Chapter 201, SICRO 1974 as amended.

101.6 *Application of References.* Unless otherwise specifically provided for in this code, all references to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this code.

**SECTION 101A
LICENSING OF PERSONS OR ENTITIES PERFORMING WORK
UNDER THIS SECTION**

101A.1 *License Required.* Except as otherwise provided in this Section 101A, hereinafter referred to as "this Section", no individual or business entity shall engage in or perform HVAC Residential Service-Installer Work, HVAC Servicer-Installer Work, Process Piping System Work, HVAC Duct System Work, or Fire Suppression System Work, unless licensed under this Section to perform such work. In addition, no person shall hold herself/himself out as being available to perform any work that requires a license under this Section unless she/he shall be licensed as aforesaid, and no partnership, corporation or other legal entity, or person conducting business under a fictitious name shall hold out such entity as being available to perform any work that requires a license under this Section in any advertising medium or publication unless a principal or employee of such entity shall be licensed as aforesaid. No person having obtained any license under this Section shall allow his/her name or license to be used by another person either for the purpose of obtaining permits, doing business or performing work that requires a license under this Section.

101A.1.1 *Definitions.*

1. The Board is the Board of Examiners for Mechanical Licensing of St. Louis County, Missouri.
2. A Contractor is an individual or Entity who is licensed under this Section to perform work on any or all of the following: Process Piping Systems, HVAC Duct Systems, Fire Suppression Systems, HVAC Piping Systems or HVAC systems.

A) A Mechanical Contractor is an individual or Entity licensed to perform work under this Section who employs at least one Pipefitter Journeyman.

B) A Sheet Metal Contractor is an individual or Entity licensed to perform work under this Section who employs at least one Sheet Metal Journeyman.

C) A Sprinkler Fitter Contractor is an individual or Entity licensed to perform work under this Section who employs at least one Sprinkler fitter Journeyman.

D) An HVAC Servicer-Installer Contractor is an individual or Entity licensed to perform work under this Section who employs at least one HVAC Servicer-Installer Journeyman.

A Contractor licensed under this Section who performs work under any of the foregoing categories may take out permits for and perform work that falls under one of the other categories provided such Contractor uses a Journeyman (or an Apprentice under the required supervision and inspection of such Journeyman) who is licensed to perform the specific work involved pursuant to the applicable provisions of this Section.

3. An Entity is any company, corporation, partnership, joint venture or other business establishment, which performs work that requires a license under this Section.

4. A Journeyman is anyone who is licensed under this Section to perform work under one of the following categories. For the Journeyman referred to in Section 101A.3.3, Sections 1.(A), 1.(B) and 1.(C) as well as Section 101A.3.5 this definition will include an individual who has provided an application with accompanying proof as specified in 101A.3.2, but the training and/or experience may have occurred outside of St. Louis County.

(A) A Pipefitter Journeyman is anyone who has been licensed under subsection 101A.3.2 below to perform Process Piping System Work.

(B) A Sheet Metal Journeyman is anyone who has been licensed under subsection 101A.3.2 below to perform HVAC Duct System Work.

(C) A Sprinkler Fitter Journeyman is anyone who has been licensed under subsection 101A.3.2 below to perform Fire Suppression System Work.

(D) An HVAC Servicer-Installer Journeyman is anyone who has been licensed under subsection 101A.3.2 below to perform HVAC Servicer-Installer Work.

(E) An HVAC Residential Servicer-Installer Journeyman is anyone who has been licensed under subsection 101A.3.2 below to perform HVAC Residential Servicer-Installer Work.

5. An Apprentice is anyone who has been licensed under subsection 101A.3.1 below to perform work that requires a license under this Section under the supervision and inspection of a Journeyman in the employ of a Contractor in one of the following categories:

(A) A Pipefitter Apprentice is anyone who has been licensed under subsection 101A.3.1 below to perform Process Piping System Work under the supervision and inspection of a Pipefitter Journeyman.

(B) A Sheet Metal Apprentice is anyone who has been licensed under subsection 101A.3.1 below to perform HVAC Duct System Work under the supervision and inspection of a Sheet Metal Journeyman.

(C) A Sprinkler Fitter Apprentice is anyone who has been licensed under subsection 101A.3.1 below to perform Fire Suppression System Work under the supervision and inspection of a Sprinkler fitter Journeyman.

(D) An HVAC Servicer-Installer Apprentice is anyone who has been licensed under subsection 101A.3.1 below to perform HVAC Servicer-Installer Work under the supervision and inspection of an HVAC Servicer-Installer Journeyman, Pipefitter Journeyman or Sheet Metal Journeyman; or who has been formerly licensed as a Service Apprentice under this code.

6. A Fire Suppression System is all or any part of a system, which utilizes water, gasses or chemicals for the control, or suppression of fires.

Fire Suppression System Work is all work related to the installation, alteration, reconstruction, repair, replacement and other servicing of fire suppression systems.

7. An HVAC Duct System is all or any part of the duct system for a heating, ventilation, or air conditioning system regardless of the materials used and includes ducts, duct fittings, risers, stacks, dampers, casings, recess boxes, radiator enclosures, exhausts, ventilators, frames, grilles, louvers, registers, cabinets, plenums, air filters, fans, motors and accessory air handling equipment and appliances.

HVAC Duct System Work is all work related to the installation, alteration, reconstruction, repair, replacement and other servicing of an HVAC Duct System as well as HVAC Servicer-Installer work as defined herein.

8. An HVAC Piping System is all or any part of the piping system for a heating, ventilation, or air conditioning system and includes pipes, valves, pipe fittings, pumps, and distribution lines and accessory equipment, including boilers and compressor assemblies.

HVAC Piping System Work is all work related to the installation, alteration, reconstruction, repair, replacement and other servicing of HVAC Piping Systems as well as HVAC Servicer-Installer work as defined herein.

9. An HVAC System is a heating, ventilation, or air conditioning system or any part thereof, including an HVAC Piping System and/or HVAC Duct System, specifically addressed and regulated in this code.

Note: If an HVAC System consists of multiple individual units or split systems, each such individual unit or split system shall be considered a separate system for purposes of this Section.

10. A Process Piping System is all or any part of a piping system (excluding Fire Suppression Systems), which falls within one of the following categories:

- (A) A medical gas system
- (B) An HVAC Piping System

- (C) A pneumatic system
- (D) A pressurized or vacuum piping system
- (E) A fuel gas system
- (F) An oxygen system
- (G) A gasoline system not for public sale

Process Piping System Work is all work related to the installation, alteration, reconstruction, repair, replacement and other servicing of Process Piping systems as well as HVAC Servicer-Installer work as defined herein.

NOTE: A St. Louis County licensed installer shall install fuel gas systems. A licensed installer is defined as a licensed HVAC Servicer Installer, a licensed Sheetmetal worker, or licensed Pipefitter working for a contractor licensed under this Code. The licensed installer shall install fuel gas systems, including Liquid Petroleum Gas, from the tank regulator to and throughout the building under the limitations of Section 101A.1.1 paragraphs 11 and 13. A licensed installer or a St. Louis County licensed plumber shall install fuel gas systems, including Liquid Petroleum Gas, from the tank regulator to and throughout dwellings regulated by the Residential Code of St. Louis County.

11. HVAC Servicer-Installer Work is all work related to:

The installation, alteration, reconstruction, repair, replacement and servicing of HVAC Systems

- (1) that provide no more than 25 tons of air conditioning or no more than 1,000,000 (One Million) BTU's of heating and
- (2) do not contain chillers, fire-tube type boilers, or boilers that operate at a pressure of more than 15 psi of steam;

Note: In those cases where an HVAC System is composed of individual units or split systems that are no more than 25 tons of air conditioning or 1 M BTU's of heat which are connected by a common fuel line, that is more than 2 inches in diameter, or which is under more than 2 psi pressure, the fuel line shall be

installed by a licensed Journeyman Pipefitter and/or licensed Apprentice Pipefitter under the supervision and inspection of a licensed Journeyman Pipefitter. The individual units may be installed by licensed HVAC Servicer-Installers.

Exceptions:

1. HVAC Servicer-Installer Work does not include replacement of an HVAC System that provides 25 tons or less of air conditioning or 1 M BTU's or less of heating with a system that is over 25 tons of air conditioning or 1 M BTU's of heating, or contains chillers, fire-tube type boilers or heating boilers that operate at a pressure of more than 15 psi of steam. This work must be performed by applicable Pipefitter and Sheet Metal Journeyman and Apprentices under the supervision and inspection of appropriately licensed Journeymen.
2. HVAC Servicer-Installer Work does not include the total replacement or reconstruction of an HVAC System that provides more than 25 tons of air conditioning or 1 M BTU's of heating, or contains chillers, fire-tube type boilers or boilers that operate at a pressure of more than 15 psi of steam. This work must be performed by applicable Pipefitter and Sheet Metal Journeyman and Apprentices under the supervision and inspection of appropriately licensed Journeymen.
3. HVAC Servicer-Installer Work does not include replacement of gas fuel lines that are more than 2 inches in diameter, or which are under pressure of more than 2 psi. These lines must be replaced by a licensed Journeyman Pipefitter and/or licensed Apprentice Pipefitter under the supervision and inspection of a licensed Journeyman Pipefitter.
12. HVAC System Service Work is the reconstruction, repair or replacement of any part of an existing HVAC System, which does not alter the capacity, or capability of the original system.
13. HVAC Residential Service Installer Work is work related to single family residences, duplexes, and condominiums and apartments that do not exceed 3 stories in the front with a walk-out basement in the back, and containing no more than 14 dwelling units including townhouses, garden apartments and

multiple family dwelling units, (but excluding boarding houses and dormitories), and where heating and cooling units do not exceed six tons of cooling capacity or 150,000 BTU's of heating capacity.

101A.1.2 Board of Examiners for Mechanical Licensing.

1. There is hereby created and established a Board of Examiners for Mechanical Licensing. The Board shall consist of the Code Official and four (4) members appointed by the County Executive, within the categories and with the qualifications set forth in paragraph 2 of this subsection below.

2. The appointed members of the Board shall be residents of St. Louis County. The respective appointed members shall be comprised as follows and shall have the following qualifications:

(A) one (1) registered professional engineer with at least a bachelor's degree in mechanical engineering actively engaged in the design of mechanical systems;

(B) one (1) representative from owners actively engaged in the purchase of mechanical systems or services for the design, construction, installation or repair of mechanical systems;

(C) one (1) licensed contractor who employs at least one Journeyman;

(D) one (1) licensed Journeyman, as defined herein.

Four (4) members shall be appointed as follows two (2) for a term of three (3) years, one (1) member shall be appointed for an initial term of two (2) years and one (1) member shall be appointed for an initial term of one (1) year after which all terms shall be for three (3) years or until their successors shall be qualified and appointed by the County Executive. At no time shall there be two members of the Board who work for or are members of the same company, Entity or international union organization or an affiliate thereof. With respect to the Contractor and Journeyman representatives, if the Contractor representative employs primarily pipefitting or sprinkler fitter employees, then the Journeyman representative shall be a Sheet Metal Journeyman or HVAC Servicer-Installer Journeyman. If the

Contractor representative employs primarily Sheet Metal or HVAC System Servicer-Installer Journeymen, then the Journeyman representative shall be either a Pipefitter Journeyman or a Sprinkler Fitter Journeyman. The Board shall elect one of their members to serve as chairman and one to serve as vice chairman.

3. The Code Official shall be the fifth voting board member, shall act as Secretary, shall keep full and complete minutes of all acts and proceedings of said Board, and shall provide all applicants for a license under this Section with proper application forms. The Secretary shall maintain and secure all examinations, examination documents and materials as directed by the Board, review all applications for licenses to determine their completeness within fifteen (15) days of their filing, keep a file of the name and address of every person or firm licensed by the Board and the name and address of every person or firm whose application for a license has been denied, give all applicants approved for examination a written notice of the date and place of examination and an informational letter on examination procedures with an outline of suggested study for the examination applied for, and return all incomplete applications to applicants within fifteen (15) days of determination of incompleteness, specifying the respects in which the application is incomplete. The Secretary shall file with the County Clerk a copy of all rules and regulations adopted by the Board and make such rules and regulations available to all license holders and current applicants.

4. The Board shall meet at least once every month and more often if the Board deems it necessary for the performance of its duties. Except for the Code Official, Board members shall receive compensation as provided in Chapter 201, SLCRO 1974 as amended. A majority of the members of the Board shall constitute a quorum.

5. The Board shall, pursuant to the regulations and standards herein set forth, determine the qualification of and provide for the examining and licensing of applicants who meet the qualifications and successfully pass the appropriate examination, if required, under this Section.

6. The Board shall select an independent testing firm to design and administer any examinations provided for under this Section.

7. At every Board meeting, the Board shall consider and take action to grant or reject all open and properly completed license applications that have been filed at least fifteen (15) days prior to the Board meeting. For any application that is rejected, the Code Official shall notify the applicant in writing of the reasons for rejection, within five (5) days after the Board's action. Notice of the date, time and place of each Board meeting, together with an agenda of the meeting, shall be made publicly available at least seven (7) days prior to the Board meeting.

8. The Board shall have the power to suspend and revoke any license issued pursuant to this Section for cause as set forth in subsection 101A.4.1 below. The Chairman or acting Chairman, with the approval of the Board, shall have power to administer oaths, subpoena witnesses and compel the production of books, papers and tangible things and the inspection of premises pertinent to any investigation or hearing authorized by this Section.

9. The Board shall have the authority, after providing reasonable opportunity for public participation and comment, to adopt reasonable rules and regulations to interpret and implement the provisions of this Section with respect to licensing, continuing education, and any other matters within the general authority of the Board. A copy of any rules or regulations proposed for adoption by the Board shall be made available for public inspection at least forty-five (45) days prior to the Board meeting at which the adoption is to be considered and notice of such availability shall be included in the notice for at least two Board meetings before the Board may take action on the proposed rule or regulations. During any Board meeting at which a rule or regulation is considered for adoption, the Board shall allow reasonable opportunity for public comment. Such rules and regulations shall become effective upon the majority vote of the Board, and shall be on file in the office of the Code Official and the office of the County Clerk, and shall be open to public inspection and copying. Notification of all changes in the Ordinance or in the Rules or Regulations promulgated by the License Board shall be posted on the St. Louis County website.

10. The Board shall consider and approve any apprentice training program provided that any such apprentice training program requires a minimum of 7,500 hours of combined on-the-job

and classroom training, if it provides an equivalent training program to those certified by the Bureau of Apprenticeship and Training of the U.S. Department of Labor "BAT" (now known as the Office of Apprenticeship Training, Employer and Labor Services ("ATELS")) or to those approved, accredited or certified, as applicable, by any of the other organizations listed in subsection 101A.3.1.1 below. In addition, the Board shall consider and approve any educational or training program or class covering any work that requires a license under this Section, if such program or class is equivalent to one that is offered by a school or organization that is approved, accredited or certified, as applicable, by one of the organizations listed in subsection 101A.3.1 below.

11. **Unlicensed Work:** The Board of Examiners for Mechanical Licensing shall have the power to assess a fine, not to exceed \$1,000.00, against any person, firm, corporation, limited liability company or other business entity who performs mechanical work without possessing a valid license issued under this code, after a hearing is convened by the Board. A fine imposed by the Board shall be paid within thirty (30) days. Failure to pay an assessed fine shall result in referral to the St. Louis County Counselor's Office for further legal action.

101A.2 *License Exemptions.*

101A.2.1 The following work shall not require a license under this Section:

1. Work performed on an owner's own facility by personnel directly in the employment of the owner of the facility, or a business affiliate of such owner. For purposes of this exemption, a "business affiliate" shall mean any parent, subsidiary or sister corporation of the owner and any other corporation, partnership, limited liability company or joint venture in which the owner or its parent, subsidiary or sister company has an ownership interest.
2. Installation, repair and replacement of portable heating, cooling and refrigeration equipment. Portable equipment is not permanently installed into or onto a structure or premises, it is not directly wired or piped, it is not connected to duct work, and it does not require the venting of combustion products.

3. Installation, repair and replacement of domestic stoves, ranges, dryers and other domestic appliances.
4. Installation, repair and replacement of fireplaces and fireplace lighters.
5. Work for a public utility regulated by the Missouri Public Service Commission.
6. Installation, testing or repair of backflow devices, if the person performing such work is licensed pursuant to the Plumbing Code of St. Louis County, Chapter 1103 SLCRO 1974 as amended, to perform such work.
7. Work related to an addition or repair, replacement, modification or reconstruction of an existing mechanical system or component thereof, on the premises of a detached single-family dwelling, including accessory structures, performed by the owner or a member of the owner's immediate family residing with the owner under the following conditions:
 - (A) The dwelling shall be designed and used solely for living purposes.
 - (B) The dwelling shall be occupied by or vacant and intended for immediate occupancy by the owner and the owner's family and no other persons.
 - (C) A permit shall be obtained for work not exempted by Section 101A.2.1.11 below and the permittee shall personally perform all required work. Prior to issuance of a permit under this Section, the Code Official may require an affidavit or other reasonable proof that the request for permit complies with the foregoing provisions and that the applicant has the necessary knowledge and ability to perform the proposed work. This Section does not authorize a waiver or modification of any provision of this code relating to the materials, design, installation, or practice of mechanical work or the preparation and approval of construction documents or fees for permits or inspections.
8. System installation, start-up, warranty service or warranty repair work that is performed by a technician trained and

certified by the manufacturer of that system to perform such work.

9. Work historically and traditionally performed by boiler makers, except for repair and alteration of boilers, steam generators and pressure vessels with respect to which the provisions of Section 101A.3.3.1 below shall apply.

10. Installation, repair and replacement of elevators, escalators, dumbwaiters, moving walks, hoists, automotive lifts, conveyors, freight lifts, and manlifts.

11. Work which does not require a permit under the provisions of Section 106 of this code, including, but not limited to, ordinary repairs for the purpose of maintenance and service items such as the repair or replacement of any minor part of a piece of equipment that does not alter the approval of the equipment, the replacement of piping within heating or cooling equipment, replacement of leaking or defective valves, fittings or connections of system components, changing of belts, parts, filters and lubrication of equipment, testing and balancing of equipment and similar service work.

12. The reconstruction, repair or replacement of mechanical equipment and/or any part of a mechanical system when performed on a facility by personnel in the direct employment of the lessee of the facility, or in the direct employment of a property manager, provided that such property manager has filed with the Department of Public Works evidence of an agreement with the owner or lessee to provide property management services for the facility or to provide regular service work on the mechanical equipment and systems of the facility.

13. Receiving, unloading, moving, storing, hoisting, setting, aligning and leveling of machinery and related equipment.

14. Fabrication and installation of process ducts and process sheet metal blow pipe systems.

15. Any refrigeration work involving less than 7 1/2 tons of refrigeration including but not limited to such work on reach-in coolers, walk-in coolers, water coolers, beverage and beer dispensing machines and related equipment, beverage coolers, soda carbonated systems, reach-in freezers and walk-in freezers. In those cases where any refrigeration system is composed of

several individual but connected units or split systems, each such individual unit or split system shall be considered a separate unit or system for purposes of this exemption.

16. Work that does not fall within the definitions of Fire Suppression System Work, HVAC Duct System Work, HVAC Piping System Work, Process Piping System Work or HVAC Servicer-Installer Work as set forth herein.

101A.3 *Qualifications for Application, Examination, License.* An individual or Entity applying for a license shall be licensed as follows:

101A.3.1 *Apprenticeship License.* Applicants shall be issued an apprenticeship license promptly upon submission to the Board of a complete application together with

1. Proof of enrollment in:

(A) an applicable apprenticeship program certified by the Bureau of Apprenticeship and Training of the United States Department of Labor (BAT/ATELS); or

(B) a Board approved, equivalent apprenticeship program that includes classroom/laboratory training by Ranken Technical College, Vatterott Educational Center, Jefferson College or Southwestern Illinois College or by any school or organization approved, accredited or certified, as applicable, by:

(1) the Higher Learning Commission, a Commission of the North Central Association of Colleges and Schools;

(2) the Accrediting Commission of Career Schools and Colleges of Technology; or

(3) the National Center for Construction Education and Research; or

(C) an applicable, integrated 7,500-hour combined classroom and field training apprenticeship program that is conducted by any school or organization approved, accredited or certified, as applicable, by:

(1) the Higher Learning Commission, a Commission of the North Central Association of Colleges and Schools; or

(2) the Accrediting Commission of Career Schools and Colleges of Technology; or

(3) the National Center for Construction Education and Research;

Note: As used in this Section an HVAC Servicer-Installer Apprenticeship Program includes but is not limited to any program certified by BAT/ATELS as a Mechanical Servicer-Installer Apprenticeship Program.

OR

2. Presentation by the applicant or any Entity or organization of a written, individual training program providing a total of 7,500 combined hours of educational training or classes and field work or on-the-job training obtained as follows:

(A) at least 540 classroom hours of educational training or classes covering work that requires a license under this Section (and/or certain exempt work as allowed by the Note to this subsection below) that is conducted by any combination of schools or other organizations approved, accredited, or certified as applicable by:

(1) the Higher Learning Commission, a commission of the North Central Association of colleges and Schools; or

(2) the Accrediting Commission of Career Schools and Colleges of Technology;

(3) the National Center for Construction Education and Research; or (iv) the Board pursuant to subsection 101A 1.2.10 above; and

(B) the balance of the required hours needed to equal 7,500 through field work and/or on-the-job training under the supervision and inspection of a Journeyman licensed under this Section to perform the work involved.

Note: Within the total 540 classroom hours presented as part of any individualized training program pursuant to subsection 101A.3.1.2 above, the individual program must contain a minimum of 480 hours technical instruction in the installation, alteration, reconstruction, repair, replacement and/or servicing of HVAC Systems, HVAC Duct Systems, HVAC Piping Systems, Fire Suppression Systems and/or Process Piping Systems, as applicable based on the Apprentice license sought by the applicant, and within these 480 hours:

- (1) no more than 75 hours may be introductory level courses and
- (2) with respect to individuals seeking a Pipefitter, Sheet Metal or Sprinkler fitter license, no more than 75 hours may relate to technical training on work that is exempt from licensure under subsections 101A.2.1.2 through 101A.2.1.13 and 101A.2.1.15 through 101A.2.1.18 above. All technical training on work that is exempt from licensure under subsections 101A.2.1.1 and 101A.2.1.14 above shall be counted, without limitation, to the full extent required by subsection 101A.3.2.1 below. Individuals seeking an HVAC Servicer-Installer license shall have no limitation on the number of course hours that relate to work that is exempt from licensure under any or all of subsection 101A.2.1 above, and
- (3) \$10.00 registration fee,

The Secretary shall present the complete application to the Board for action in accordance with the provisions of subsection 101A.1.2.7 above. However, if the applicant is (or is to be) employed by a contractor who has held a Contractor's License in St. Louis County for three years or more, then the applicant shall be issued an Apprenticeship License immediately and will not be required to wait until the next meeting of the St. Louis County Board of Examiners for Mechanical Licensing. If for whatever reason the License cannot be issued immediately, then the Applicant will receive a letter which will serve as his License until the actual License is issued.

Upon determination by the Board that the applicant has satisfied the requirements of this subsection, the Secretary shall issue an apprenticeship license to the applicant with "Pipefitting

Apprentice, Sheet Metal Apprentice, Sprinkler Fitter Apprentice, or HVAC Servicer-Installer Apprentice" plainly marked on it (which determination shall be based on the nature of the program or class in which the applicant has enrolled or has completed), and the apprentice's name and date of issue.

An individual may hold an Apprentice License for no more than seven (7) years. Upon an individual's application for an Apprentice License, the Board shall consider the individual's application and may grant the application, whereupon the individual will receive an Apprentice License which shall be valid for the first two (2) years of his apprenticeship. Following the first two (2) years of his apprenticeship, the apprentice may apply to the Board for an extension of his Apprentice License which, if granted, shall make the license valid for an additional three (3) years. In order to receive the extension, the apprentice or his sponsoring organization must provide verification that the apprentice is still active in the Apprentice Program. Following the first five (5) years of his apprenticeship, the apprentice may apply to the Board for an extension which, if granted, shall make the license valid for an additional two (2) years, which shall be the final two (2) years of his apprenticeship. In order to receive the extension, the apprentice or his sponsoring organization must provide verification that the apprentice is still active in the Apprentice Program. Notwithstanding any provisions of this Section, any Apprentice License may be extended by the Board for a term beyond the seven (7) years allowed by this Section when good cause is shown or in cases involving hardship or extenuating circumstances.

Apprentices are authorized to perform work described in this Section under the supervision and inspection of a licensed Journeyman in the employ of a Mechanical Contractor, Sheet Metal Contractor, Sprinkler Fitter Contractor, or HVAC Servicer-Installer Contractor. During the first two years of his Licensed Apprenticeship, an Apprentice shall work under the close and direct supervision of a licensed Journeyman. In the event that an Apprentice is not being closely and directly supervised by a Journeyman, then it shall be the responsibility of the Journeyman and the Contractor, upon request by the Board, to provide documentation and reasoning as to why the Apprentice was not working under the close and direct supervision of a Journeyman. Following the first two years of the apprenticeship,

the Journeyman is not required to directly and closely supervise the Apprentice, but the Journeyman shall be available to be contacted at all times that the Apprentice is performing work and shall supervise the Apprentice's work as appropriate. It shall be the responsibility of the Contractor to ensure that the Apprentice receives appropriate supervision at all times. Regardless of the experience of the Apprentice, the ratio of Apprentice to Journeyman shall be one Apprentice assigned to one Journeyman.

101A.3.2 *Journeyman License.* Applicants shall be issued a Journeyman license promptly upon submission of a complete application and a \$45.00 registration fee to the Board together with:

1. Proof of:

(A) A total of 7,500 hours of training and/or experience obtained through:

(1) the successful completion of a pipefitting, sheet metal, sprinkler fitter, or HVAC Servicer-Installer apprenticeship program conducted by any school or organization approved, accredited or certified, as applicable, as required by subsection 101A.3.1.1 above; or

(2) completion of at least 540 (Five Hundred Forty) hours of education or training classes, plus field work and/or on-the-job training under the supervision and inspection of a Journeyman licensed under this Section to perform the work involved, pursuant to an individual training program as allowed by subsection 101A.31.2 above; or

(B) 7,500 hours of:

(1) HVAC Residential Servicer-Installer Work for an HVAC Residential Servicer-Installer Journeyman License, or

(2) HVAC Servicer-Installer Work, which may include all work on HVAC Systems that are exempt from

licensure under Subsection 101A.2.1 above for an HVAC Servicer-Installer Journeyman license, or

(3) Process Piping System Work for a Pipefitter Journeyman license, or

(4) HVAC Duct System Work for a Sheet Metal Journeyman license, or

(5) Fire Suppression System Work for a Sprinkler fitter Journeyman license during the preceding twelve (12) years.

Notes:

(A) In determining whether an applicant has acquired sufficient experience to qualify for a Pipefitter, Sheet Metal, Sprinkler Fitter or HVAC Servicer-Installer Journeyman's license, the Board shall include all of the applicant's experience, as applicable based on the type of Journeyman license sought by the applicant, obtained while installing, constructing, altering, repairing, replacing or servicing Process Piping Systems, HVAC Duct Systems, fire Suppression Systems, HVAC Piping Systems or HVAC Systems (as applicable), except for work that is exempt from licensure under subsections 101A.2.1.2 through 101A.2.1.11 and 101A.2.1.13 through 101A.2.1.16 above. All work that is exempt from licensure under subsection 101A.2.1.1 and 101A.2.1.12 above shall be counted without limitation, provided the work is of a similar nature and technical requirements as work that requires a license under this Section. All experience will be considered by the Board regardless of where the work was performed, in St. Louis County or elsewhere. For HVAC Residential Servicer-Installer applicants, all Residential HVAC System Work will be considered regardless of whether or not the work was performed under the supervision of a licensed contractor or by a sole proprietor of a company that maintained a Registered Financial Responsibility Certificate or exempt from licensure under Subsections 101A.2.1.1 and 101A.2.1.12.

(B) For the purposes of determining whether an applicant for a Journeyman license has completed 540 or more hours of educational or training classes pursuant to an individual

training program as described in subsection 101A.3.1.2 above, each applicant shall submit for each class successfully completed by the applicant, pursuant to the grading system used by the school or organization conducting the class, the total number of hours indicated by the school or organization as applying to the work for which the applicant seeks a license (a syllabus, or a transcript or grade sheet or a letter from any Dean or equivalent administrator at the school or organization will satisfy this requirement).

2. The Secretary shall present the complete application to the Board for action in accordance with the provisions of subsection 101A.1.2.7 above.

Upon determination by the Board that the applicant has satisfied the above requirements and falls within one of the exceptions set forth in Section 101A.3.4, the Secretary shall issue the Journeyman license. Upon determination by the Board that the applicant has satisfied the above requirements and does not fall within one of the exceptions set forth in Section 101A.3.4, the Secretary shall give the applicant a written notice of the date and place of the examination. The cost of the examination(s) shall be paid by the applicant. The applicant will have one year to successfully pass the examination. Within that one year, the applicant may take the examination as many times as he/she desires. Failure to pass the examination within one year will require the applicant to re-apply for the desired license. If the applicant passes the examination, a Journeyman license shall be issued.

3. The Journeyman license shall be valid for three (3) years from the date of issue. The Secretary of the Board shall send a notice of renewal to the last known address of each licensed Journeyman and a thirty (30) day grace period after the expiration shall be given in which renewal shall be given without re-qualification or re-examination. Failure of the Secretary to provide the renewal notice shall not excuse the licensee from filing for the renewal license prior to the expiration of the grace period.

All licensed Journeymen seeking renewal shall furnish proof of twelve (12) Professional Education Units (24 hours) received within the last three (3) years on the then current Mechanical Code or accepted practices in the performance of work covered by

the then current Mechanical Code or equivalent proof of maintaining and improving Journeyman work skills as determined and approved by the Board. Said proof shall be provided at the time of renewal. There may be a carryover of four (4) Professional Education Units (8 hours) in excess of the required hours to the next license cycle.

4. There shall be no limitation as to the type or number of Journeymen licenses that can be obtained by an individual.

5. Any person who possesses a valid Journeyman license under this Section for a minimum of one year shall be allowed to test for another Journeyman's license under this Section.

Exception: An HVAC Service-Installer Journeyman or an HVAC Residential Service-Installer Journeyman shall not take the Sprinkler Fitter Journeyman's license test unless the applicant has received the necessary sprinkler training and/or experience per Section 101A.3.2.1.

Upon submission to the Board of a completed application by a person licensed under this Section as a Journeyman (which application shall not require any proof of the applicant's experience or training except the applicant must provide proof of possessing a Journeyman's license for a minimum of one year) and a \$45.00 registration fee, such person shall be permitted to take the examination for an additional Journeyman's license and, upon passage of such examination, shall promptly be issued a Journeyman's license in the trade covered by the examination so passed.

101A.3.2.A *Manufacturer and Manufacturer's Representative Restricted License.* A restricted license shall be issued under this Section to any manufacturer or manufacturer's representative and their employees engaged in the supply of equipment and appliances covered by this Section and/or in the supply of parts and/or the performance of service work, repairs, maintenance, start-up, testing or tuning of such equipment and appliances. Such license shall be issued by the Board upon submission by the applicant of evidence that the applicant is a manufacturer of, or has a representative relationship with one or more manufacturers of, equipment and/or appliances covered by this Section and payment of a \$45.00 license fee. Upon such submission, the Secretary shall issue a license in the name of

the applicant, identifying the equipment and/or appliance manufacturers with respect to which the license is issued. Such license shall authorize the licensee and its employees to supply parts and perform service work, repairs, maintenance, start-up, testing and/or tuning of any equipment and/or appliances which are supplied by the manufacturers listed on the license. There shall be no restriction on the number of such licenses that are issued to any one person or entity. Each such license shall be valid for as long as the licensee remains a manufacturer or a manufacturer's representative of the equipment and/or appliance manufacturers listed in the license. Notwithstanding the foregoing, however, no license shall be required for any manufacturer, manufacturer's representative or their employees to perform work covered by subsection 101A.2.1.10 above or to perform emergency repair work on any equipment or appliance supplied or represented by the manufacturer or manufacturer's representative.

101A.3.3 Mechanical Contractor, Sheet Metal Contractor, Sprinkler Fitter Contractor; HVAC Service-Installer Contractor.

1. Any entity, which has in its employ one or more individuals having any of the following qualifications, may submit an application for a Contractor's License:

- (A) a minimum of three (3) years verifiable training and/or experience directing and supervising at least one (1) Journeyman; or
- (B) a degree in civil or mechanical engineering from an accredited college and a minimum of one (1) year verifiable training or experience directing and supervising at least one (1) Journeyman; or
- (C) a license for at least three (3) years under the Plumbing Code of St. Louis County as a Master Plumber or Master Pipefitter and a minimum of one (1) year verifiable training or experience directing and supervising at least one (1) Journeyman; or
- (D) an individual having a minimum of three (3) years verifiable experience who performed or who was the owner, operator or supervisor of a company, that performed residential HVAC Servicer-Installer work exempted from

licensing by previous ordinances, may submit an application for a HVAC Servicer-Installer Contractor's License.

2. The application shall be accompanied by proof of the qualifications of the individual or individuals with the foregoing training or experience and proof of the Journeyman's license, proof of bond and insurance as specified in subsection 101A.3.3.2 and \$100.00 registration fee.

3. The Secretary will present the complete Contractor's application to the Board for action in accordance with the provisions of subsection 101A.1.2.7 above. Upon determination that the applicant has satisfied the requirements of this subsection, a license shall be issued.

4. The Contractor's License shall be valid for three (3) years from the date of issue. The Secretary of the Board shall send a notice of renewal to the last-known address of the Contractor, and a thirty (30) day grace period after the expiration shall be given in which renewal shall be given without re-qualification. Failure of the Secretary to provide renewal notice shall not excuse the licensee from filing for the renewal license prior to the expiration of the grace period.

5. The contractor shall provide the Department of Public Works with current proof of bond and insurance in order to maintain the license. The Secretary shall inform the Board of any Contractor who has failed to provide such proof of bond and insurance.

6. The Contractor shall notify the Department of Public Works within ten (10) days if it no longer employs a supervisor who possesses the qualifications set forth herein.

7. There shall be no limitation as to the type or number of Contractor's licenses that an individual or entity can obtain, so long as the applicant satisfied the requirements for each license.

101A.3.3.1 *Holder of Certificate of Authority from A.S.M.E. or National Board of Boiler and Pressure Vessel Inspectors.* Any entity which holds an appropriate A.S.M.E. Certificate of Authority with extension to field work or an "R" Certificate of Authority issued by the National Board of Boiler and Pressure Vessel Inspectors shall be authorized to engage in the repair

and alteration of boilers, steam generators and pressure vessels which are covered by this code. Any such entity holding such Certificate of Authority shall be authorized to perform the aforesaid work and shall be issued a license hereunder as a Contractor, provided that such entity shall pay a registration fee of \$45.00, file with the Secretary of the Board a copy of its Certificate or Certificates of Authority and proof of bond and insurance as specified in subsection

101A.3.3.2 Upon receipt of such Certificate or Certificates of Authority and proof of bond and insurance, the entity shall be Contractor's license.

101A.3.3.3 *Bond and Insurance Required.* Notwithstanding any provisions of Section 101B to the contrary, no permit shall be issued for installing, constructing, replacing, altering or repairing any HVAC System, Process Piping System, HVAC Duct System, Fire Suppression System, or any other work requiring a license under this Section, until the permit applicant shall have on file in the Department of Public Works, a current approved Surety Bond & Certificate of Insurance as specified in Section 101B. Permit applicants who have paid the license or registration fees specified in this Section shall not be required to pay the registration fee specified in Section 101B.

101A.3.4 *Examination and Re-Examination.*

1. All individuals desiring to be licensed as a Journeyman under this Section must successfully pass an examination in order to qualify as same.

Exception:

(A) Every person who is licensed under the Plumbing Code of St. Louis County as a Journeyman Pipefitter or Journeyman Sprinkler fitter shall not be required to pass an examination to be licensed as a Pipefitter Journeyman or Sprinkler fitter Journeyman under this Section. However, any individual may use this exemption only once. After the Mechanical License has been obtained, the individual must obtain required PEU's and any other obligations of the Mechanical License in order to avoid re-applying and testing.

101A.3.5 *Temporary Licenses.* A temporary license shall be issued to journeymen for up to six (6) months upon submittal to the Secretary of the Board of the name and location of the project and the name of the licensed Mechanical Contractor, Sheet Metal Contractor, Sprinkler Fitter Contractor, or HVAC Servicer-Installer Contractor for such project, provided the Board first finds that issuance of said temporary license will not compromise the public safety of St. Louis County residents. The temporary license may be renewed upon application and proof of employment by a licensed contractor.

101A.4 *Suspension or Revocation of License.*

1. The Board of Examiners shall have the power to suspend or revoke any license issued pursuant to this Section on any of the following grounds:

- (A) Said license was obtained by fraud or misrepresentation.
- (B) Violation of any of the provisions of this code.
- (C) The licensee employed an unlicensed individual or business entity to perform work for which a license is required under this Section.
- (D) The licensee permitted Apprentices to work without the supervision and inspection of a Journeyman required by this Section or falsified the documentation of any Apprentice's training and experience.
- (E) Procurement of permits for individuals who are not in the licensee's employ.
- (F) Failure to protect the health, safety and welfare of the public by violating the expressed intent of this code through irresponsibility, incompetence, neglect or wrongful intent.
- (G) Performance of work requiring a license under this Section without the required license.
- (H) Failure to provide the information required of an Apprentice and/or sponsor as described in 101A.3.1 above.

2. No license shall be suspended or revoked until the licensee has been afforded an opportunity for a hearing before the Board after notice of at least fifteen (15) days.

3. Notice shall be served either personally or by Certified Mail to the licensee's address of record and shall state the date, time and place of hearing and set forth the charges against the licensee. In the event service cannot be made by certified mail, personal service shall be accomplished in such manner as is reasonably calculated to achieve actual service upon the licensee.

4. A licensee shall have the opportunity to present evidence and/or witnesses before the Board in person or by counsel. A record of the hearing shall be made. The Board shall issue a decision in writing denying or compelling suspension or revocation within thirty (30) days of the conclusion of the hearing. The suspension period shall not commence until at least 30 days after the mailing or delivery of the written decision, unless the licensee requests an earlier commencement date and there are no outstanding permits.

5. The duration of suspension of any license suspended pursuant to this section shall be as follows:

(A) First Offense shall result in a warning or a suspension period of not more than ninety (90) days and shall continue until reinstated by order of the Board pursuant to paragraph 6 of this subsection.

(B) Second Offense shall result in a suspension period of not more than one hundred and eighty (180) days and shall continue until reinstated by order of the Board pursuant to paragraph 6 of this subsection.

(C) Subsequent Offenses shall result in revocation of the license, certificate or registration for a period of not less than one (1) year.

Note: If the Board determines the particular violation charged is of such a major or aggravated nature that a license should be revoked, nothing in this subsection shall limit the Board's authority to do so regardless of whether there be any prior offenses or suspensions.

6. A suspended license shall be reinstated by order of the Board upon written request of the holder provided that said request is submitted to the Code Official not more than 30 days prior to or 180 days after the expiration of the suspension period and provided that the suspended license holder has complied with all requirements of the suspension.

7. A revoked license may be reinstated by order of the Board only upon application and examination, if required, and in the same manner as provided for new applicants.

SECTION 101B

REGISTERED FINANCIAL RESPONSIBILITY

101B.1 *When Registration Required.* Any company, corporation, partnership, joint venture, individual, or other business entity that performs work which requires a permit under this code, including those licensed and exempted from licensing as specified in Section 101A.2.1, shall register proof of financial responsibility with the Code Official prior to issuance of a permit.

101B.2 *Registration not Required.* Registered financial responsibility shall not be required for the following work:

- (A) Work exempted from licensure by Section 101A.2.1.7 above.
- (B) Work exempted from licensure by Section 101A.2.1.1 above.
- (C) Work exempted from licensure by Section 101A.2.1.12 above.
- (D) Work exempted from licensure by Sections 101A.2.1.8 and 101A.3.2.A above.

101B.3 *Registration.* Proof of financial responsibility shall be demonstrated by filing and maintaining in the Department of Public Works an approved surety bond in the amount of \$10,000.00 and a Certificate of Insurance for combined \$500,000.00 minimum limits liability insurance for bodily injury and property damage. Owners or operators of amusement devices shall carry a minimum of \$1,000,000.00 per occurrence general liability

insurance as specified in Section 2201.6. The bonds and insurance required herein shall be approved by the County Counselor and shall be given for the faithful observance of this Code and all orders, rules and regulations adopted hereunder for the protection of the public health and safety and shall indemnify St. Louis County, Missouri or any other governmental agency, or any person, firm or corporation for any damage or injury sustained through the negligence or malfeasance of such applicant, their servants, agents or employees in performing work or for any damages or injury sustained due to such applicant's failure to perform work in a careful and workmanlike manner, in conformity with this Code and the orders, rules and regulations adopted hereunder or for the use of St. Louis County, Missouri due to non- payment of fees thirty (30) days from the due date, or for the use of any person, firm or corporation with whom said applicant contracts to do work to indemnify any such person, firm or corporation for damages sustained due to failure of applicant to do work so contracted.

101B.4 Issuance, Expiration and Renewal of Registration.

1. Registration of Licensed Entities: The Registration of a licensed entity shall run concurrently with the issuance, expiration and renewal of the license. The bond and insurance shall be maintained in place without interruption during the full period of the license.
2. The registration of unlicensed entities that hold a Financial Responsibility Registration Certificate must be renewed every three (3) years. The fee for such renewal shall be \$75.00 and the Registration will remain effective for the three year period so long as the entity maintains the bond and insurance in place without interruption and the Registration is not suspended or revoked as identified in Section 101B.5.
3. The Registration of unlicensed entities that do not hold a Financial Responsibility Registration Certificate on the effective date of this Ordinance shall be issued for a three (3) year period. The fee for such registration and subsequent renewals (if any) shall be \$75.00 and the Registration will remain effective for the three year period so long as the entity maintains the bond and insurance without interruption, and the Registration is not suspended or revoked as identified in Section 101B.5.

101B.5 *Suspension or Revocation of Registration.*

1. The Board of Examiners shall have the power to suspend or revoke the Registration of any entity pursuant to this Section on any of the following grounds:

- (A) Said Registration was obtained by fraud or misrepresentation.
- (B) Violation of any of the provisions of this code including working without required permits.
- (C) Procurement of permits for individuals who are not in the Registrant's employ or entities that are not registered.
- (D) Failure to protect the health, safety and welfare of the public by violating the expressed intent of this Code through irresponsibility, incompetence, neglect or wrongful intent.
- (E) Performance of work requiring a license under this Code without the required license.

2. No Registration shall be suspended or revoked until the licensee has been afforded an opportunity for a hearing before the Board after notice of at least fifteen (15) days.

3. Notice shall be served either personally or by certified mail, to the registrant's address of record and shall state the date, time and place of hearing and set forth the charges against the registrant. If notice cannot be served by certified mail, notice shall be served by such other manner as is reasonably calculated to achieve personal service upon the registrant.

4. A registrant shall have the opportunity to present evidence and/or witnesses before the Board in person or by counsel. A record of the hearing shall be made. The Board shall issue a decision in writing denying or compelling suspension or revocation within thirty (30) days of the conclusion of the hearing. The suspension period shall not commence until at least 30 days after the mailing or delivery of the written decision, unless the registrant requests an earlier commencement date and there are no outstanding permits.

5. The duration of suspension of any Registration suspended pursuant to this section shall be as follows:

(A) A first Offense shall result in a warning or a suspension period of not more than ninety (90) days and shall continue until reinstated by order of the Board pursuant to paragraph 6 of this subsection.

(B) A second Offense shall result in a suspension period of not more than one hundred and eighty (180) days and shall continue until reinstated by order of the Board pursuant to paragraph 6 of this subsection.

(C) Subsequent Offenses shall result in revocation of the Certificate of Registration for a period of not less than one (1) year.

Note: If the Board determines the particular violation charged is of such major or aggravated nature that a Registration should be revoked, nothing in this subsection shall limit the Board's authority to do so regardless of whether there be any prior offenses or suspensions.

6. A suspended Registration shall be reinstated by order of the Board upon written request of the holder provided that said request is submitted to the Code Official not more than 30 days prior to or 180 days after the expiration of the suspension period and provided that the suspended Registration holder has complied with all requirements of the suspension.

7. A revoked Registration may be reinstated by order of the Board only.

8. The holder shall surrender the Registered Financial Responsibility Certificate to the Code Official during the period of any suspension or revocation of the Registration.

9. Decisions of the Board are subject to judicial review pursuant to Chapter 536 R.S. Mo.

103.1 Code Official. The Code Official shall be the Director of Transportation and Public Works of St. Louis County, Missouri or the Director's duly authorized representative who is vested with executive and administrative authority to enforce all laws, ordinances and codes regulating construction, alteration,

addition, repair, removal, demolition, use, location, occupancy and maintenance of all buildings and structures, electrical, plumbing, drain laying and mechanical systems pursuant to Chapters 1102, 1103, 1108, 1115, 1116 and 1117, SLCRO 1974 as amended. Said Director shall be appointed and qualified pursuant to St. Louis County Charter.

103.2 *Appointment.* - Deleted.

104.1.1 *Rule-making authority.* The Code Official shall have authority, as necessary in the interest of public health, safety and general welfare, to adopt and promulgate rules and regulations to interpret and implement the provisions of this code, to secure the intent thereof and to designate requirements applicable because of local climatic or other conditions. Such rules, copies of which shall be retained in the office of the Code Official, shall not have the effect of waiving structural or fire performance requirements specifically provided for in this code or of violating accepted engineering practices involving public safety.

104.5 *Authority to Enter.* Upon presentation of proper credentials, the Code Official shall have the authority to enter at reasonable times any building, structure or premises to perform any duty imposed upon him by this code, subject to constitutional restrictions on unreasonable searches and seizures. If entry is refused or not obtained, the Code Official is authorized to pursue recourse as provided by law and the person who failed to provide entry will be subject to the penalties provided in this code.

104.5.1 *Interference with Code Official.* No person shall hinder, obstruct, resist, fail to provide entry at reasonable times or otherwise interfere with the Code Official in the performance of his official duties.

104.8 *Code Interpretations.* When the Code Official deems it appropriate, or at the request of the Building Commission, the Code Official shall be permitted to issue formal interpretations of the provisions of this code. A written record of all such code interpretations shall be maintained and subject to review and appeal in accordance with Section 109.

105.1.1 *Records of Modifications.* The application for modification and the final decision of the Code Official shall

be in writing and shall be officially recorded with the application for the permit in the permanent records of the Department of Public Works. A copy of the application and the final decision shall be distributed to the Mechanical Code Review Committee and the Building Commission.

106.1.1 *Authorization to Proceed.* The Code Official shall be permitted to authorize the commencement of construction prior to issuance of a building or mechanical permit when it can be shown that (a) the project is in compliance with the applicable regulations of St. Louis County for that portion of the work to be performed, and (b) the applicant agrees to proceed at his own risk. All necessary inspections shall be performed as required by this code.

106.1.2 *Annual permit records.*-Deleted

106.3.1 *Construction Documents.* The application for permit shall be accompanied by four or more complete sets of construction documents prepared in accordance with Section 111 of this code. The Code Official is permitted to waive the requirements for filing construction documents when the scope of the work is of a minor nature. When the quality of the materials is essential for conformity to this code, specific information shall be given to establish such quality, and this code shall not be cited, or the term "Legal" or its equivalent used as a substitute for specific information.

106.3.3 *Time Limitation of Application.* An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been diligently pursued or a permit has been issued. However, the Code Official may grant one or more extensions of time for additional periods not exceeding ninety (90) days each. A permit application extension fee in the amount specified in Chapter 1100 shall be paid for each additional extension period of 90 days beyond the initial 180 days allowed after the date of filing. An additional inspection fee may be charged for an inspection to verify that work has not been started prior to granting the extension. The extension shall be requested in writing and justifiable cause demonstrated. The Code Official shall notify those delinquent applicants in writing and give them fourteen (14) days notice prior to abandonment of the application and destruction of the plans.

106.3.4 *Transfers Prohibited.* The transfer of an application for mechanical permits from one location to another shall be prohibited. When relocation is necessary, the original application shall be canceled and a new application submitted.

106.4 *Permit Issuance.* The Code Official shall examine or cause to be examined all applications for permits and amendments thereto within a reasonable time after filing. If the application or the construction documents do not conform to the requirements of all pertinent laws, the Code Official shall notify the applicant in writing of all such deficiencies. If the Code Official is satisfied that the proposed work conforms to the requirements of this code and all laws and Ordinances applicable thereto, the Code Official shall issue a permit therefor as soon as practicable.

106.4.1.1 *Compliance with construction documents.* Work shall be installed in accordance with the approved construction documents. Any changes made during construction that are not in compliance with the approved construction documents shall be resubmitted for approval as an amended set of construction documents.

106.4.3 *Expiration.* Every permit issued shall become invalid unless the work commences within 180 days after permit issuance or if the work on the site authorized by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The Code Official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. Each extension shall be requested in writing and justifiable cause demonstrated.

106.4.4 *Extensions.* Mechanical Permits may be extended at any time up to thirty days prior to the expiration date of the specific permit.

106.4.9 *Separate Permits.* Permit applicants shall be permitted to submit separate applications for building, mechanical, electrical, or plumbing permits. As a condition of approval the owner or owner's agent shall agree to assume full responsibility for the coordination of all applicable code requirements relating to these permits.

106.4.10 *Additional Approval Requirements.* Prior to issuing any permit, approvals shall be obtained from the following

departments when applicable: The St. Louis County Department of Public Health and the Metropolitan St. Louis Sewer District. Missouri Department of Transportation approval must be submitted when property developed fronts on right-of-way controlled by the State of Missouri.

106.4.11 *Addendums to Permits.* Once a permit is issued all addendums submitted as an amendment to the approved construction documents shall be charged an additional review fee as specified in Chapter 1100, SLCRO 1974 as amended and in accordance with this code.

106.4.12 *Integrated Permits.* The Code Official shall be permitted to issue integrated building, plumbing, electrical and/or mechanical permits on a single permit application.

106.4.12.1 *Applicant Responsibility.* The integrated permit applicant shall be responsible for the return to the Department of Public Works copies of the plumbing, electrical and/or mechanical permit form with the name, signature and license number of the appropriate sub-contractor. Any change in the identity of the named sub-contractor after issuance of the permit shall result in the assessment of a transfer fee in the amount specified in Chapter 1100, SLCRO 1974 as amended.

106.4.13 *Approval of Part.* The Code Official is authorized to issue a permit for a portion of the mechanical work to be performed for a particular project, provided that adequate information and detailed statements have been filed complying with all of the pertinent requirements of this code. The holder of such permit for a portion of the mechanical work shall proceed, at the holder's own risk, with the building operation and without assurance that a permit for the entire mechanical project will be granted.

106.4.14 *Existing Violations.* If the Code Official determines that an applicant for a permit governed by this code has failed to pay any permit fees or related charges, the Code Official shall not issue such permit until the applicant pays such fees and related charges. If the Code Official determines that an applicant has failed to correct violations of this code, the Code Official shall not issue permits related to this code to such applicant except to correct such violations.

106.4.15 *Federal, State or other public entities.* The Code Official may withhold issuance of a permit for any facility or site if any Federal, State or other public entity determines that such facility or site is in violation of any code or regulation of such entity

106.4.16 *Emergency and Disaster Work.* In the event of emergency, as defined in this code, work may begin by securing permission from the Code Official upon condition that written application be filed with the Code Official the next working day. The application shall describe in detail the nature of such work and shall state the location thereof. In the event of a disaster, as defined in this code, no work shall begin on a mechanical system unless the Code Official issues the appropriate permit.

106.5 *Fees.* The fees for plan examinations, filing fee, permits and inspection pursuant to this code shall be charged at the rate specified in Chapter 1100, SLCRO 1974 as amended, and shall be paid to the Treasurer of St. Louis County.

106.5.1 *Fees for Amending Permits.* After a permit has been issued and an amendment or supplemental revision is applied for, the fee or service charge shall be as follows:

(A) All amendments, which involve additional work not originally applied for to complete the project, shall be charged the appropriate fee for the additional work calculated in the normal manner plus the partial permit fee. The minimum fee shall be as established in Chapter 1100, SLCRO 1974 as amended.

(B) All amendments or supplements not involving additional work shall be charged a minimum fee or service charge even though the scope of the work may be reduced. See Chapter 1100, SLCRO 1974 as amended for the amount of the service charge.

106.5.2 *Partial Permit Fee.* The fee for a partial permit as described in this code shall be charged in addition to the permit fee as normally computed for that part of the work involved. See Chapter 1100, SLCRO 1974 as amended for amount of fees.

106.5.3 *Permit Extension Fee.* Permits that are extended in accordance with this code are charged an extension fee at the rate prescribed in Chapter 1100, SLCRO 1974 as amended.

106.5.4 *Board of Appeals Filing Fee.* All appeals filed for review by the Board of Appeals under the procedures described in this code are to be accompanied by a filing fee as prescribed in Chapter 1100, SLCRO 1974 as amended.

106.5.5 *Subcontractor Transfer Fee.* A transfer fee shall be charged whenever a subcontractor is replaced by another subcontractor. The amount of the transfer fee shall be at the rate prescribed in Chapter 1100, SLCRO 1974 as amended.

106.5.6 *Extra Inspection Fee.* An extra inspection fee shall apply for each preliminary inspection required and for each re-inspection that the Code Official must perform due to noncompliance with the approved development or site plans, construction documents or the applicable requirements of this code or work not ready or accessible for inspection when requested. The amount of such extra inspection fee shall be as prescribed in Chapter 1100, SLCRO 1974 as amended.

(A) *Work Not Commenced, Suspended or Abandoned:* An extra inspection fee may be charged for each inspection made to determine the status of a project when work is not commenced, or is suspended or abandoned, for more than six months.

106.5.7 *Refunds.* In the case of revocation of a permit no refund shall be permitted. Any excess fee for the incomplete work on abandoned or discontinued projects shall be returned to the permit holder upon written request received not later than twelve (12) months after the date the permit was issued. All plan examination and permit processing fees and all penalties that have been imposed upon the permit holder under the requirements of this code shall be deducted from the refund or paid by the permit holder prior to any refund being issued.

106.5.8 *Disaster Damage Repair Permit Fees.* The Code Official may reduce or waive mechanical permit fees for repairs related to a disaster as defined in this code if the permit is issued within 90 days after the end of a disaster, as determined by the Code Official, and authorizes the work indicated therein to be completed within one year of the date of issuance. The Code

Official may extend the 90 day period if the Code Official determines that just cause exists.

107.1 *General.* Work for which a permit is required shall be subject to inspection by the Code Official and such work shall remain accessible and exposed for inspection purposes until approved. Neither the Code Official nor the County or any other jurisdiction shall be liable for any expenses entailed in the removal or replacement of any material required to allow full inspection. All work shall be installed in accordance with the approved construction documents. Any changes made during construction that are not in compliance with the approved construction documents shall be resubmitted for approval as an amended set of construction documents. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction. Inspections presuming to give authority to violate or cancel the provisions of this code or of other ordinances of the jurisdiction shall not be valid.

107.2.2 *Inspection requests.* It shall be the duty of the holder of the permit or their duly authorized agent to notify the Code Official when work is ready for inspection. It shall be the duty of the permit holder to provide access to and means for inspections of such work that are required by this code. Failure of the permit holder to request and obtain required inspections shall constitute a violation of this code.

107.7 *Periodic Inspections.* Periodic inspections shall be made by the Code Official of all equipment and devices listed in Table 107.7 at the frequency specified in Table 107.7, or at such other times as the Code Official shall deem appropriate. Fees for inspections shall be paid by the owner of such equipment or devices in accordance with Chapter 1100, SLCRO 1974 as amended.

Table 107.7
Periodic Mechanical Inspection Frequencies

Item	Frequency	Remarks
Air filtration systems required to	Annually	Engineered systems specifically approved

maintain indoor air quality		to allow reduced outdoor air quantities
Amusement Devices, Kiddie Rides and concessions		
Permanent Location	Twice during season	
Not Permanent	Whenever relocated	
Auto Lifts	Annually	
Boilers	Annually	R-2 and R-3 residential heating boilers are exempted
Conveyors, Power Operated	Annually	
Crematories	Annually	
Dumbwaiters Power Operated over 100 lb. capacity	Annually	
Elevators - Freight and Passenger, Man lifts, Moving Stairways and Chairlifts	Not less than annually, up to three times per year, at the discretion of the Code Official	An elevator mechanic is required to perform tests witnessed by a qualified County Inspector during a Comprehensive Annual Elevator Inspection that meets both County and State obligations.

Emergency Generator	Annually	
Hoists	Annually	
Incinerators	Annually	Class IA and domestic are exempted
Kitchen Exhaust Systems	Semi-Annually	Domestic systems within individual dwelling units are exempted.
Miscellaneous Equipment	Annually	
Moving Walks	Annually	
Paint Spray Booth Exhaust Systems	Annually	
Pressure Vessels with Manhole	Annually	
Unfired Pressure Vessels (Air Compressors)	Annually	
Water Heaters and/or Storage Tanks of 120 Gallons or More	Annually	

107.8 *Additional Inspections.* In addition to the required inspections specified above, the Code Official may make other inspections, which in his judgment are reasonably necessary to enforce this code. The Code Official shall have the authority to inspect any construction work to verify compliance with this code and to properly enforce the rules promulgated pursuant to this code. Fees for additional inspections shall be as specified in Chapter 1100, SLCRO 1974 as amended.

107.9 *Extra Inspections.* In addition to the inspections otherwise required the Code Official is authorized to perform extra inspections or re-inspections which in his judgment are reasonably necessary due to non-compliance with Mechanical Code requirements, or work not ready or accessible for inspection when requested. Fees for extra inspections shall be as specified in Chapter 1100, SLCRO 1974 as amended.

107.10 *Special or Qualified Inspectors.* Whenever a special or qualified inspection has been made by an insurance company or special inspector, the owner or user of equipment shall pay a certification fee as prescribed in Chapter 1100, SLCRO 1974 as amended, in lieu of the prescribed fees set forth in this code. A copy of the special or qualified inspection report dated not more than 90 days prior to the scheduled certificate month shall be transmitted to the Code Official not less than 60 days before the first day of the scheduled certificate month. Upon receipt of payment of the proper fees, the Code Official shall issue a certificate evidencing that said equipment has been inspected in accordance with the provisions of this code.

107.10.1 *Special Inspectors.* Insurance inspectors or special inspectors of mechanical equipment, such as air conditioning and cooling towers, boilers, unfired pressure vessels, hot water heaters, elevators and escalators, shall apply for a Certificate of Competency issued by the Department of Transportation and Public Works. Upon receipt of the proper application, a photostatic copy of their National Board Certificate, and a fee as prescribed in Chapter 1100, SLCRO 1974 as amended, the applicant shall be issued a Certificate of Competency, valid for one year from date of issue, and renewable annually prior to the anniversary date. If the holder of the Certificate of Competency should change his employment, a new certificate shall be issued without charge upon receipt of a request by letter, stating the change of employment, and his proper certificate. The inspection certificate shall be current for the year in which inspections are made.

107.11 *Duty to Request Final Inspection.* Upon completion of the work described in the permit application, the permit holder shall request and obtain a final inspection before any occupancy of the structure except as provided in Section 111 of the Building Code, Chapter 1115 SLCRO 1974 as amended. Failure of the permit holder to request and obtain a final inspection before occupancy will constitute a violation of this code.

108.2 *Notices of Violation.* When the Code Official determines that a violation of this code exists, the Code Official shall notify the violator as soon as practicable. The notification shall be in writing and shall be hand-delivered to the violator or his legally authorized representative or mailed to his last known address via certified mail, or served in such manner as is reasonably calculated to achieve personal service upon the violator. Any person having been notified that a violation exists by means other than a stop work order and who fails to promptly abate the violation after notification shall be subject to the penalties enumerated in this code. If a permit has been issued, the permit holder shall be notified of any violations of the approved construction documents or permit and the notice shall set forth the discrepancies.

108.4 *Violations and Penalties.* A person, firm or corporation is in violation of this code if they:

1. Fail to comply with any of the requirements thereof; or
2. Erect, construct, alter, occupy, or repair a structure in violation of the approved construction documents, a directive of the Code Official or a permit or certificate issued under the provisions of this code; or
3. Start any work requiring a permit without first obtaining such permit; or
4. Continue any work in or about a structure after having been served a stop work order, except for such work which that person, firm or corporation has been directed to perform to remove a violation or unsafe condition; or
5. Maintain any structure or premises in which a violation exists; or
6. Fail to request a required inspection after a permit is issued.

A violation of this code may be punishable by a fine of not more than \$1,000 or by imprisonment not exceeding 90 days or by both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

108.4.1 *No-permit and no-inspection request penalties.* In addition to the penalties set out above, the following procedure shall be followed where the Code Official determines that work has been started prior to the acquisition of a permit required by this code or when the permit holder failed perform due diligence as per Code Official's Policy in attempting to schedule the required inspection:

1. The Code Official shall issue a stop work order when work requiring a permit was started prior to the acquisition of that permit. The Code Official shall issue a Notice of Violation when a required inspection was not requested.

2. The Code Official shall notify the violator of the penalty amount to be assessed against the violator. A no-permit penalty shall not exceed the greater of \$500 or 1 percent of the cost of construction of the work involved up to a maximum of \$1,000. A no-inspection request penalty shall not exceed \$500.

In making the assessment, the Code Official shall consider whether the violator has previously violated this code and whether the occupation or experience of the violator indicates that the violator knew or should have known that a permit or inspection was required. In no case will a penalty be assessed against a property owner unless the property owner actually performed the work involved.

If 180 days has transpired since the last inspection on record or if the permit has automatically expired, a permit extension fee shall be added to a no-inspection request penalty amount.

3. The stop work order for failure to obtain a permit or the violation for failure to request an inspection shall remain in full force and effect until such time as the penalty amount is paid and the violator has complied with all other regulations pertaining to the issuance of the required permit, or requested the required inspection.

At the violator's option, the violator may place the assessed penalty amount in escrow (by certified check or cash only) with the Department of Transportation and Public Works and the violator's right to an appeal is preserved.

4. No-permit and no-inspection request penalties are appealable to the Board of Appeals in the same manner as other decisions of the Code Official. The Code Official may revise the assessment upon notice to both the Board of Appeals and the alleged violator at any time prior to the hearing. At any time prior to the hearing, the violator may accept and pay the assessed penalty amount and the hearing will be canceled.

At the hearing before the Board of Appeals, said board shall afford both the Code Official and the alleged violator an opportunity to present any evidence or make any statements they wish to have considered.

Following the hearing, the Board of Appeals shall determine whether a permit or inspection was required:

4.1. If the Board of Appeals determines that a permit or inspection was required, an appropriate penalty amount shall be assessed, taking into account the same considerations as noted in 108.4.1. The stop work order for failure to obtain a permit or the violation for failure to request an inspection shall remain in full force and effect until such time as the penalty amount is paid and the violator has complied with all other regulations pertaining to the issuance of the required permits, or requesting the required inspection.

4.2. If the Board of Appeals determines that a permit or inspection was not required, the Code Official shall immediately cancel the stop work order for failure to obtain a permit or abate the no-inspection request violation. Any associated penalty assessment amount held in escrow shall be released.

108.4.2 *No-Certificate Penalty*. In addition to the penalties set out under 108.4.1, the following procedure shall be followed where the Code Official determines that no certificate has been issued for equipment requiring periodic inspection as noted in Section 107.7, a re-inspection failure, or for failure to pay a Mechanical Invoice for a periodic inspection.

1. The owner of equipment shall submit to the Code Official in writing, within 30 days of re-inspection failure, the reason the equipment is in a failed status and a plan to remedy the failure. No penalty will be assessed if the plan is approved by the Code Official. If the failure is not

remedied in accordance with the approved plan a penalty will be assessed.

The Code Official shall notify the violator of his decision regarding the appropriate penalty amount to be assessed against the violator, which shall not exceed \$250.00. If equipment continues to remain in a failed status after 30 days from the official notification of penalty, the equipment will be deemed unsafe for use and shall be removed from service.

108.5 *Stop Work Orders.* Upon notice from the Code Official that mechanical work is being done contrary to the provisions of this code or in a dangerous or unsafe manner, such work shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the Code Official shall not be required to give a written notice prior to stopping the work.

108.5.1 *Unlawful Continuance.* Any person who fails to obtain permits when required, fails to request a required inspection, or continues any work in or about the structure or premises after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as specified in this code.

108.7.4 *Temporary Safeguards.* When, in the opinion of the Code Official, there is imminent danger due to an unsafe condition, the Code Official shall cause the necessary work to be done to render such structure temporarily safe, whether or not the legal procedure herein described has been instituted.

108.8 *Closing Streets.* When necessary for the public safety, the Code Official shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, public ways and places adjacent to unsafe structures, and prohibit the same from being used.

108.9 *Emergency Repairs.* For the purposes of this section, the Code Official shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

108.10 *Costs of Emergency Repairs.* Costs incurred in the performance of emergency work shall be paid from the treasury of the jurisdiction on approval of the Code Official. The legal counsel of the jurisdiction shall institute appropriate action against the owner of the premises where the unsafe structure is or was located.

108.11 *Unsafe Equipment.* Equipment deemed unsafe by the Code Official shall not be operated after the date stated in the notice unless the required repairs or changes have been made and the equipment has been approved, or unless an extension of time has been secured from the Code Official in writing.

108.11.1 *Authority to Seal Equipment.* In the case of an emergency, the Code Official shall have the authority to seal out of service immediately any unsafe device or equipment regulated by this code.

108.11.2 *Unlawful to Remove Seal.* Any device or equipment sealed out of service by the Code Official shall be plainly marked with a sign or tag indicating the reason for such sealing. The sign or tag shall not be tampered with, defaced or removed except by the Code Official.

109.1 *Application for Appeal.* Any person aggrieved by any decision, ruling or order of the Code Official or the Board of Examiners may appeal to the Board of Appeals pursuant to the procedures set out in Chapter 1115, SLCRO, 1974 as amended. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted there under have been incorrectly interpreted, the provisions of this code do not fully apply, or an equivalent form of construction is to be used.

109.1.1 *Limitation of Authority.*-Deleted

109.2 *Membership of Board.* The Board of Appeals shall consist of the five members of the St. Louis County Building Commission as set forth in the St. Louis County Charter.

109.2.1 *Qualifications.*-Deleted

109.2.2 *Alternate Members.*-Deleted

109.2.3 *Chairman, Vice Chairman and Secretary.* The Board shall select one of its members to serve as chairman, one to serve as vice-chairman, and the Code Official shall designate a representative of the Department to serve as Secretary to the Board, who shall keep a detailed record of all proceedings on file in the Department.

109.2.5 *Secretary.*-Deleted

109.3 *Notice of Hearing on Appeal.* The Board shall meet and shall give notice of all appeals in accordance with the procedures set forth in Chapter 1115, SLCRO 1974 as amended.

109.4.1 *Procedure.* Hearings shall be conducted in accordance with the procedures set forth in Chapter 1115, SLCRO 1974 as amended.

109.5 *Postponed Hearing.* When a quorum is not present to hear an appeal, the hearing shall be postponed in accordance with the procedures set forth in Chapter 1115 SLCRO 1974 as amended.

109.6 *Board Decision.* The Board shall render a decision in accordance with the procedures set forth in Chapter 1115, SLCRO 1974 as amended.

109.6.1 *Notification of Decision.* The Secretary of the Board shall notify the appellant of the decision of the Board in writing in a timely manner.

109.7 *Judicial Review.* Decisions of the Board of Appeals are subject to judicial review pursuant to Chapter 536 R.S.Mo.

SECTION 111

PROFESSIONAL ARCHITECTURAL AND ENGINEERING SERVICES

111.1 *General.* The construction documents for new construction, alteration, repairs, expansion, addition or modification of mechanical systems shall be prepared by a registered design professional. All construction documents shall be prepared by the appropriate registered design professional consistent with the professional registration laws of the State of Missouri. The construction documents shall include the name and address of the registered design professional and shall be signed, sealed and dated by the registered design professional in accordance with this code.

Exceptions:

1. Construction documents for mechanical systems in single-family dwellings that are designed by and signed by the owner of the proposed building. Such buildings shall be built for the exclusive occupancy by the owner for a period of at least one year. The Code Official may request that a registered design professional participate in the design and/or preparation of construction documents when the owner prepared documents are not comprehensive and complete or when engineering expertise is necessary to verify compliance with this code.
2. Miscellaneous structures related to buildings of the R-3 and R-4 Use Groups, such as room additions, carports, garages, sheds and other similar structures.
3. Work of a minor nature approved by the Code Official.
4. Construction documents for pre-engineered wet and dry chemical fire suppression systems.
5. Construction documents for the installation of aboveground or in-ground hydraulic auto lifts that bear the label of an approved agency.
6. Construction documents for the relocation of less than 5 automatic sprinkler heads.
7. Relocation of ceiling supply and return air diffusers without a change of occupancy.
8. Replacement of commercial rooftop units, if unit has similar design capacities and no additional structural load is applied to the roof.
9. Walk-in cooler or freezer units.

111.2 *Application of Seals.* All construction documents submitted with an application for a permit shall bear an original embossed or wet ink seal, the date and original signature of the registered design professional for each discipline on the front sheet of each discipline within each set of construction documents or on the cover sheet of each set of construction documents.

In addition, all other sheets of the construction documents other than specifications or calculations shall bear the original embossed, wet ink, or mechanically reproduced seals of the registered design professional. Any addenda or modifications submitted for changes to the construction documents shall also bear an original seal and signature of the registered design professional. Such changes shall be clearly indicated.

1108.200 Amendment to International Mechanical Code - Chapter 2 Definitions. --Chapter 2 of the 2015 International Mechanical Code is amended by the following provisions. Each section, subsection or clause of the code that numerically corresponds to one of the following numbered provisions is hereby deleted where so noted or amended to read as set forth below. Each provision set out below without a corresponding section, subsection or clause number in the code is hereby enacted and added thereto.

SECTION 202.0 GENERAL DEFINITIONS

Additional Inspection: An inspection which is not otherwise required by this code, but which in the judgment of the Code Official is reasonably necessary to enforce this code.

Board of Appeals: The St. Louis County Building Commission created in the St. Louis County Charter.

Building Commission: The St. Louis County Building Commission created in the St. Louis County Charter.

Code Official: The Director of Transportation and Public Works of St. Louis County or the Director's duly authorized representative.

Department: The St. Louis County Department of Transportation and Public Works.

Disaster: A disaster shall include but not necessarily be limited to flood, windstorm, tornado, severe storm, earthquake, bomb blast, explosion or similar natural or man-made type event. The Code Official shall make the determination whether an event shall be declared a disaster.

Emergency: An event or occasion that requires immediate action in order to preserve or restore the public peace, health, safety or welfare.

Extra Inspection: An inspection, which is required as a result of unusual or complicated construction and/or is defined as an inspection, which is made as a result of non-compliance, not ready, or lockout.

Owner: Any person, agent, firm or corporation having a legal or equitable interest in the property.

Public Health Department: The St. Louis County Department of Public Health.

Transportation: The St. Louis County Department of Transportation and Public Works.

1108.300 Amendment to International Mechanical Code - Chapter 3 General Regulations. --Chapter 3 of the 2015 International Mechanical Code is amended by the following provisions. Each section, subsection or clause of the code that numerically corresponds to one of the following numbered provisions is hereby deleted where so noted or amended to read as set forth below. Each provision set out below without a corresponding section, subsection or clause number in the code is hereby enacted and added thereto.

301.3 *Identification.*.-Delete

301.4 *Plastic pipe, fittings and components.*.-Delete

301.5 *Third-party testing and certification.*.-Delete

305.3 *Structural Attachment.* Hangers and anchors shall be attached to the building construction in a manner approved by a registered design professional.

307.2.1 *Condensate Disposal.* Condensate from all cooling coils and evaporators shall be conveyed from the drain pan outlet to an approved place of disposal. Condensate shall not discharge into a street, alley or other area so as to cause a nuisance. Condensate from roof mounted equipment shall be discharged as follows:

1. Condensate shall be piped directly to the roof surface and shall be discharged a minimum of 15 feet away from the fresh air inlet to the unit, any operable window or any other fresh air intake to the building.

2. Condensate shall be piped to a section of roof that slopes to the roof drain, gutter or scupper and does not pool. At no time shall the open condensate drainage across the roof come within 15 feet of any operable window or any fresh air intake to the building.

3. Condensate may be piped directly to a roof drain or roof gutter.

4. Condensate piping shall maintain a minimum horizontal slope in the direction of discharge of not less than one-eighth inch per foot.

307.2.3.1 Deleted

307.2.4.1 Ductless mini-split system traps. Ductless mini-split equipment that produces condensate and is equipped with a pump, shall be provided with an inline check valve located in the drain line, or a trap.

312.1.1 *Design Conditions*. Calculations for sizing HVAC equipment shall use the following minimum design parameters for St. Louis County:

	Outdoor temperature	Indoor temperature
WINTER	DB 2 F	DB 72 F
SUMMER	DB 95 F	DB 75 F
	WB 76 F	

312.1.2 *Air Conditioning Design Conditions*. Where air conditioning is provided in the following occupancies, it shall be designed in accordance with the specified design conditions listed in Section 312.1.1.

1. private dwellings, single or multiple, and hotel rooms
2. offices and conference rooms

3. customer areas in food and beverage service

4. customer areas in retail stores and specialty shops

1108.400 Amendment to International Mechanical Code - Chapter 4 Ventilation. --Chapter 4 of the 2015 International Mechanical Code is amended by the following provisions. Each section, subsection or clause of the code that numerically corresponds to one of the following numbered provisions is hereby deleted where so noted or amended to read as set forth below. Each provision set out below without a corresponding section, subsection or clause number in the code is hereby enacted and added thereto.

401.2 Ventilation Required. Every occupied space shall be ventilated by mechanical means in accordance with Section 403 except where ventilation by natural means in accordance with Section 402 is otherwise allowed by Sections 401.2.1 through 401.2.5. Operable windows are not prohibited where ventilation by mechanical means is required, but cannot be used to satisfy the ventilation requirements.

Exception: Ambulatory care facilities and Group I-2 occupancies shall be ventilated by mechanical means in accordance with Section 407.

401.2.1 General Requirements for Group R Occupancies.

1. Rooms or spaces containing water closets, showers, hot tubs or spas shall be equipped with a means of mechanical exhaust which discharges to the outside.

2. Kitchens shall be equipped with a means of mechanical exhaust directly over or adjacent to a range or cook top. The mechanical exhaust system may be of the recirculating type or may exhaust directly to the outside. Recirculating systems shall be equipped with the appropriate filtration for grease removal and odor control, and must be capable of operating in a moist environment. Either type of system shall be a listed exhaust system. With either type, the mechanical exhaust systems shall be allowed to run on an intermittent basis. Provisions for makeup air shall be in accordance with Section 505.2.

3. Enclosed common core areas of all multi-family dwellings shall be provided with continuous mechanical ventilation. Any areas within the common core that require exhaust shall be provided with continuous mechanical exhaust. The mechanical ventilation must offset the mechanical exhaust requirements.

4. Where either natural or mechanical ventilation is allowed, the required ventilation shall be provided entirely by one or the other method.

401.2.2 *Occupancy Group R1.* The required ventilation for all Occupancy Group R1 buildings shall be provided with continuous mechanical ventilation and continuous mechanical exhaust. Mechanical ventilation and exhaust systems shall conform to the ventilation and exhaust requirements of this code.

Exception: Occupancy Group R1 buildings where each guest room unit has at least one door opening directly to an exterior exit access which leads directly to the exit, may have the required ventilation provided by natural ventilation with operable windows, or by mechanical ventilation. Each guest room's toilet/bath/shower/spa areas shall be provided with mechanical exhaust. The operation of the exhaust system may be on an intermittent basis. Natural ventilation in accordance with Section 402 is not permissible in a dwelling unit where the air infiltration rate is less than 5 air changes per hour when tested with a blower door at a pressure of 0.2-inch water column (50 Pa) in accordance with Section R402.4.1.2 of the International Energy Conservation Code.

401.2.3 *Occupancy Group R2.* The required ventilation for all Occupancy Group R2 buildings may be provided by natural ventilation with operable windows or by means of mechanical ventilation. Each toilet, bath, shower, spa, or similar area shall be provided with mechanical exhaust. The operation of the exhaust system may be on an intermittent basis. Natural ventilation in accordance with Section 402 is not permissible in a dwelling unit where the air infiltration rate is less than 5 air changes per hour when tested with a blower door at a pressure of 0.2-inch water column (50 Pa) in accordance with

Section R402.4.1.2 of the International Energy Conservation Code.

401.2.4 *Occupancy Group R3.* The required ventilation for all Occupancy Group R3 buildings may be provided by natural ventilation with operable windows or by means of mechanical ventilation. Each toilet, bath, shower, spa, or similar area shall be provided with mechanical exhaust. The operation of the exhaust system may be on an intermittent basis. Natural ventilation in accordance with Section 402 is not permissible in a dwelling unit where the air infiltration rate is less than 5 air changes per hour when tested with a blower door at a pressure of 0.2-inch water column (50 Pa) in accordance with Section R402.4.1.2 of the International Energy Conservation Code.

401.2.5 *Occupancy Group R4.* The required ventilation for all Occupancy Group R4 buildings may be provided by natural ventilation with operable windows, or by means of mechanical ventilation. Each toilet, bath, shower, spa, or similar area shall be provided with mechanical exhaust. The operation of the exhaust system may be on an intermittent basis. Natural ventilation in accordance with Section 402 is not permissible in a dwelling unit where the air infiltration rate is less than 5 air changes per hour when tested with a blower door at a pressure of 0.2-inch water column (50 Pa) in accordance with Section R402.4.1.2 of the International Energy Conservation Code.

401.8 *Moisture sources.* Rooms containing bathtubs, showers, spas and similar bathing fixtures or other sources of excessive moisture shall be mechanically ventilated in accordance with Section 403.

1108.500 Amendment to International Mechanical Code - Chapter 5 Exhaust Systems. --Chapter 5 of the 2015 International Mechanical Code is amended by the following provisions. Each section, subsection or clause of the code that numerically corresponds to one of the following numbered provisions is hereby deleted where so noted or amended to read as set forth below. Each provision set out below without a corresponding

section, subsection or clause number in the code is hereby enacted and added thereto.

502.1.1 *Exhaust Location.* The inlet to an exhaust system shall be located in the area of heaviest concentration of contaminants. It shall be the responsibility of the registered design professional to determine the location, number, and manner that exhaust is collected.

504.8.7 *Multiple Dryers.* Multiple domestic dryers shall not be connected to a single exhaust system unless designed by a registered design professional.

504.10 *Common Exhaust Systems for Clothes Dryers Located in Multistory Structures.* Where a common multistory duct system is designed and installed to convey exhaust from multiple clothes dryers, the construction of the system shall be in accordance with all of the following:

1. The shaft in which the duct is installed shall be constructed and fire-resistance rated as required by the International Building Code.
2. Dampers shall be prohibited in the exhaust duct. Penetrations of the shaft and ductwork shall be protected in accordance with Section 607.5.5, Exception 2.
3. Rigid metal ductwork shall be installed within the shaft to convey the exhaust. The ductwork shall be constructed of sheet steel having a minimum thickness of 0.0187 inch (0.4712 mm) (No. 26 gage) and in accordance with SMACNA Duct Construction Standards.
4. An approved means for cleanout shall be provided at each offset in ductwork installed in shafts.
5. The exhaust fan motor design shall be in accordance with Section 503.2.
6. The exhaust fan motor shall be located outside of the airstream.
7. The exhaust fan shall run continuously.

8. Exhaust fan operation shall be monitored in an approved location and shall initiate an audible or visual signal when the fan is not in operation.

9. Makeup air shall be provided for the exhaust system.

10. A cleanout opening shall be located at the base of the shaft to provide access to the duct to allow for cleaning and inspection. The finished opening shall be not less than 12 inches by 12 inches (305 mm by 305 mm).

11. Screens shall not be installed at the termination.

12. The common multistory duct system shall serve only clothes dryers and shall be independent of other exhaust systems.

505.2 *Makeup Air Required.* Exhaust hood systems capable of exhausting in excess of 600 cfm shall be provided with makeup air at a rate approximately equal to the exhaust air rate. Such makeup air systems shall be equipped with a means of closure and shall be automatically controlled to start and operate simultaneously with the exhaust system.

505.3 *Common exhaust systems for domestic kitchens located in multistory structures.* Where a common multistory duct system is designed and installed to convey exhaust from multiple domestic kitchen exhaust systems, the construction of the system shall be in accordance with all of the following:

1. The shaft in which the duct is installed shall be constructed and fire-resistance rated as required by the International Building Code.

2. Dampers shall be prohibited in the exhaust duct, except as specified in Section 505.1. Penetrations of the shaft and ductwork shall be protected in accordance with Section 607.5.5, Exception 2.

3. Rigid metal ductwork shall be installed within the shaft to convey the exhaust. The ductwork shall be constructed of sheet steel having a minimum thickness of 0.0187 inch (0.4712 mm) (No. 26 gage) and in accordance with SMACNA Duct Construction Standards.

4. The ductwork within the shaft shall be designed and installed without offsets.

5. The exhaust fan motor design shall be in accordance with Section 503.2.

6. The exhaust fan motor shall be located outside of the airstream.

7. The exhaust fan shall run continuously, and shall be connected to a standby power source.

8. Exhaust fan operation shall be monitored in an approved location and shall initiate an audible or visual signal when the fan is not in operation.

9. Where the exhaust rate for an individual kitchen exceeds 600 cfm (0.29 m³/s) makeup air shall be provided in accordance with Section 505.2.

10. A cleanout opening shall be located at the base of the shaft to provide access to the duct to allow for cleanout and inspection. The finished openings shall be not less than 12 inches by 12 inches (305 mm by 305 mm).

11. Screens shall not be installed at the termination.

12. The common multistory duct system shall serve only kitchen exhaust and shall be independent of other exhaust systems.

506.1 *General.* Commercial kitchen hood ventilation ducts and exhaust equipment shall comply with the requirements of this section. Commercial kitchen grease ducts shall be designed for the type of cooking appliance and hood served. All kitchen exhaust equipment shall be installed in accordance with NFPA 96 listed in Chapter 15.

506.2 *Corrosion protection.* Ducts exposed to the outside atmosphere or subject to a corrosive environment shall be protected against corrosion in a manner compatible with the material of duct construction to protect against premature failure.

507.3.7.2 *Cleaning Schedule.* The owner or occupant shall maintain a cleaning schedule on the premises for each commercial kitchen exhaust system. The schedule shall be available to the

inspector and shall indicate methods of cleaning and time intervals between cleanings.

506.3.8.1 *Personnel Entry*. Where ductwork is 22 inches by 20 inches or greater, not less than one approved or listed opening having dimensions not less than 22 inches by 20 inches (559 mm by 508 mm) shall be provided in the horizontal sections, and in the top of vertical risers. Where such entry is provided, the duct and its supports shall be capable of supporting the additional load, and the cleanouts specified in Section 506.3.8 are not required.

507.1 *General*. Commercial kitchen exhaust hoods shall comply with the requirements of this section. Hoods shall be Type I or Type II and shall be designed to capture and confine cooking vapors and residues. A Type I or Type II hood shall be installed at or above all commercial cooking appliances in accordance with Sections 507.2 and 507.3. Where any cooking appliance under a single hood requires a Type I hood, a Type I hood shall be installed. Where a Type II hood is required, a Type I or Type II hood shall be installed. Where a Type I hood is installed, the installation of the entire system, including the hoods, ducts, exhaust equipment and makeup air system shall comply with the requirements of Sections 506, 507, 508, and 509. All kitchen exhaust hoods and cooking equipment shall be installed in accordance with NFPA 96 listed in Chapter 15.

Exceptions:

1. Factory-built commercial exhaust hoods which are listed and labeled in accordance with UL 710, and installed in accordance with Section 304.1 shall not be required to comply with Sections 507.1.5, 507.2.3, 507.2.5, 507.2.8, 507.3.1, 507.3.3, 507.4, and 507.5
2. Factory-built commercial cooking recirculating systems which are tested in accordance with UL 710B, and installed in accordance with Section 304.1 shall not be required to comply with Sections 507.1.5, 507.2.3, 507.2.5, 507.2.8, 507.3.1, 507.3.3, 507.4, and 507.5. Spaces in which such systems are located shall be considered to be kitchens and shall be ventilated in accordance with Table 403.3.1.1. For the purpose of determining the floor area required to be ventilated, each individual appliance shall be considered as occupying not less than 100 square feet (9.3 m²).

3. Where cooking appliances are equipped with integral down-draft exhaust systems and such appliances and exhaust systems are listed and labeled for the application with NFPA 96, a hood shall not be required at or above them.

507.2 Type I hoods. Type I hoods shall be installed where cooking appliances produce grease or smoke as a result of the cooking process. Type I hoods shall be installed over medium-duty, heavy-duty, and extra-heavy-duty cooking appliances.

Exceptions:

1. A Type I hood shall not be required for an electric cooking appliance where an approved testing agency provides documentation that the appliance effluent contains 5 mg/m³ or less of grease when tested at an exhaust flow rate of 500 cfm (0.236 m³/s) in accordance with UL 710B.

2. The installation of a domestic cooking appliances in a commercial building such as a residential range, that is capable of producing grease or smoke, primarily intended for warming and the code official believes the frequency of use to be minimal must comply with Section 505 and be protected by a listed automatic range top fire suppression system or comply with Section 509. This exception does not apply to Use Group or Occupancy Types A, E, and I for their primary cooking operations.

507.3 *Type II Hoods.* Type II hoods shall be installed above dishwashers and appliances that produce heat or moisture and do not produce grease or smoke as a result of the cooking process, except where the heat and moisture loads from such appliances are incorporated into the HVAC system design or into the design of a separate removal system. Type II hoods shall be installed above all appliances that produce products of combustion and do not produce grease or smoke as a result of the cooking process. Spaces containing cooking appliances that do not require Type II hoods shall be provided with exhaust at a rate of 0.70 cfm per square foot (0.00033 m³/s). For the purpose of determining the floor area required to be exhausted, each individual appliance that is not required to be installed under a Type II hood shall be considered as occupying not less than 100 square feet (9.3

m²). Such additional square footage shall be provided with exhaust at a rate of 0.70 cfm per square foot (0.00356 m³/(s x m²)).

Exceptions:

1. Under-counter-type commercial dishwashing machines.

507.4.1 *Canopy Size and Location.* The inside lower edge of canopy-type Type I and II commercial cooking hoods shall overhang or extend a horizontal distance of not less than 6 inches (152 mm) beyond the edge of the top horizontal surface of the appliance on all open sides. Hoods over enclosed cooking appliances and dishwashers shall overhang horizontally a minimum of 6 inches on all sides which have openable doors. The vertical distance between the front lower lip of the hood and the cooking surface shall not exceed 4 feet (1219 mm).

Exception: The hood shall be permitted to be flush with the outer edge of the cooking surface where the hood is closed to the appliance side by a noncombustible wall or panel.

508.1.3 *Separate Makeup Air Unit.* A separate makeup air unit shall be provided when the volumetric rate of exhaust exceeds 1000 cfm or when the air balance within the kitchen area cannot be achieved by using existing equipment.

Exception: Makeup air that is part of the air conditioning system and dedicated to the kitchen area.

508.2 *Compensating Hoods.* Manufacturers of compensating hoods shall provide a label indicating minimum exhaust flow and/or maximum makeup airflow that provides capture and containment of the exhaust effluent.

Exception: Compensating hoods with *makeup air* supplied only from the front face discharge and side face discharge openings shall not be required to be labeled with the maximum makeup airflow.

509.1 *Where Required.* Commercial cooking appliances required by Section 507.2.1 to have a Type I hood shall be provided with an approved automatic fire suppression system complying with the International Building Code, the International Fire Code, and Sections 509.2 through 509.2.6.

509.1.1 Existing commercial food heat processing appliances that produce grease laden vapors or smoke, such as occurs with griddles, fryers, broilers, open and conveyor type ovens, ranges and wok ranges shall be provided with an approved automatic fire suppression system complying with the International Building Code, the International Fire Code, and Sections 509.2 through 509.2.6.

(F) 509.2 *Commercial Cooking Systems.* The automatic fire-extinguishing system for commercial cooking systems shall be of a type recognized for protection of commercial cooking equipment and exhaust systems of the type and arrangement protected. Preengineered automatic dry- and wet-chemical extinguishing systems shall be tested in accordance with UL 300 and listed and labeled for the intended application. Other types of automatic fire-extinguishing systems shall be listed and labeled for specific use as protection for commercial cooking operations. The system shall be installed in accordance with this code, its listing and the manufacturer's installation instructions. Automatic fire-extinguishing systems of the following types shall be installed in accordance with the referenced standard indicated, as follows:

1. Carbon dioxide extinguishing systems, NFPA 12.
2. Automatic sprinkler systems, NFPA 13.
3. Foam-water sprinkler system or foam-water spray systems, NFPA 16.
4. Dry-chemical extinguishing systems, NFPA 17.
5. Wet-chemical extinguishing systems, NFPA 17A.

Exception: Factory-built commercial cooking recirculating systems that are tested in accordance with UL710B, and listed, labeled and installed in accordance with Section 304.1 of the International Mechanical Code.

(F) 509.2.1 *Manual System Operation.* A manual actuation device shall be located at or near a means of egress from the cooking area a minimum of 10 feet (3048 mm) and a maximum of 20 feet (6096 mm) from the kitchen exhaust system. The manual actuation device shall be installed not more than 48 inches (1200 mm) nor less than 42 inches (1067 mm) above the floor and shall clearly

identify the hazard protected. The manual actuation shall require a maximum force of 40 pounds (178 N) and a maximum movement of 14 inches (356 mm) to actuate the fire suppression system.

Exception: Automatic sprinkler systems shall not be required to be equipped with manual actuation means.

(F) 509.2.2 *System Interconnection.* The actuation of the fire extinguishing system shall automatically shut down the fuel or electrical power supply to the cooking equipment. The fuel and electrical supply reset shall be manual.

509.2.2.1 *System Interlock.* Dedicated makeup air units shall be electrically interlocked with the automatic fire suppression system and shall shut down upon activation of the automatic fire suppression system. The exhaust fan(s) shall remain in operation during fire conditions unless the listing of the hood requires the fan(s) to shut down.

(F) 509.2.3 *Carbon Dioxide Systems.* When carbon dioxide systems are used, there shall be a nozzle at the top of the ventilating duct. Additional nozzles that are symmetrically arranged to give uniform distribution shall be installed within vertical ducts exceeding 20 feet (6096 mm) and horizontal ducts exceeding 50 feet (15 240 mm). Dampers shall be installed at either the top or the bottom of the duct and shall be arranged to operate automatically upon activation of the fire-extinguishing system. Where the damper is installed at the top of the duct, the top nozzle shall be immediately below the damper. Automatic carbon dioxide fire-extinguishing systems shall be sufficiently sized to protect against all hazards venting through a common duct simultaneously.

(F) 509.2.3.1 *Ventilation System.* Commercial-type cooking equipment protected by an automatic carbon dioxide-extinguishing system shall be arranged to shut off the ventilation system upon activation.

(F) 509.2.4 *Special Provisions for Automatic Sprinkler Systems.* Automatic sprinkler systems protecting commercial-type cooking equipment shall be supplied from a separate, readily accessible, indicating-type control valve that is identified.

(F) 509.2.4.1 *Listed Sprinklers*. Sprinklers used for the protection of fryers shall be tested in accordance with UL 199E, listed for that application and installed in accordance with their listing.

509.2.5 *Nozzles*. Access shall be provided to all nozzles or sprinklers in the automatic fire suppression system for the purposes of inspection and maintenance.

509.2.6 *System Test and Inspection*. The automatic fire suppression system shall be acceptance-tested in accordance with the fire prevention code and installation standard listed in Section 509.2, and with the manufacturer's instructions.

510.1 *General*. This section shall govern the design and construction of duct systems for hazardous exhaust and shall determine where such systems are required. Hazardous exhaust systems are systems designed to capture and control hazardous emissions generated from product handling or processes, and convey those emissions to the outdoors. Hazardous emissions include flammable vapors, gases, fumes, mists or dusts, and volatile or airborne materials posing a health hazard, such as toxic or corrosive materials. For the purposes of this section, the health-hazard rating of materials shall be as specified in NFPA 704. Laboratory ventilation systems and hoods shall be designed and installed in accordance with NFPA 45 Chapter 8.

514.3 *Access*. A means of access shall be provided to the heat exchanger and other components of the system as required for service, maintenance, repair or replacement. Access shall be provided in accordance with Section 306.

1108.600 Amendment to International Mechanical Code - Chapter 6 Duct Systems. --Chapter 6 of the 2015 International Mechanical Code is amended by the following provisions. Each section, subsection or clause of the code that numerically corresponds to one of the following numbered provisions is hereby deleted where so noted or amended to read as set forth below. Each provision set out below without a corresponding section, subsection or clause number in the code is hereby enacted and added thereto.

601.2 *Air Movement in egress elements*. Corridors shall not serve as supply, return, exhaust, relief or ventilation air ducts.

Exception:

1. Use of a corridor as a source of makeup air for exhaust systems in rooms that open directly onto such corridors, including toilet rooms, bath rooms, dressing rooms, locker rooms, smoking lounges and janitors closets, shall be permitted provided that each such corridor is directly supplied with outdoor air at a rate greater than the rate of makeup air taken from the corridor. A dwelling unit or guest room with an enclosed bathroom that opens directly into the dwelling unit is not considered to open directly to the corridor. Outside air for ventilation for these types of spaces must be ducted directly into the dwelling unit or guest room and may not be transferred from the corridor. The outside air must be introduced in such a manner that the outside air is allowed to traverse the entire distance of the living space before being exhausted into the bathroom. Corridors may be used as supply plenums in all types of occupancies only if the direction of airflow is from the corridor to the space for transfer of makeup air to spaces that open directly onto the corridor. This shall be permitted for rated and nonfire rated corridors, and sprinklered and unsprinklered buildings up to a maximum of 200 cfm per space.
 - A. For 100 cfm or less the air may be transferred by natural leakage at the door, or by undercutting of the door to allow the air to be transferred. Undercutting of doors shall comply with NFPA 80 Fire Doors and Fire Windows as required by the building code.
 - B. For an amount greater than 100 cfm but less than 201 cfm the air shall be transferred by means of grilles and associated ducts, or by utilizing a door louver. If the corridor is rated, either for fire or smoke, the transfer shall be accomplished with grilles, associated ducts and dampers in the ducts in compliance with the building code.
2. Where located within a dwelling unit, the use of corridors for conveying return air shall not be prohibited.
3. Where located within tenant spaces of 1,000 square feet (93 m²) or less in area, use of corridors for conveying return air is permitted.

4. Incidental air movement from pressurized rooms within health care facilities, provided that the corridor is not the primary source of supply or return to the room.

601.5 *Return air openings.* Return air openings for heating, ventilation and air-conditioning systems shall comply with all of the following:

1. Openings shall not be located less than 10 feet (3048 mm) measured in any direction from an open combustion chamber or draft hood of another appliance located in the same room or space.
2. Return air shall not be taken from a hazardous or insanitary location or a refrigeration room as defined in this code.
3. The amount of return air taken from any room or space shall be not greater than the flow rate of supply air delivered to such room or space.
4. Return and transfer openings shall be sized in accordance with the appliance or equipment manufacturer's installation instructions, ACCA Manual D or the design of the registered design professional.
5. Return air taken from one dwelling unit shall not be discharged into another dwelling unit.
6. Taking return air from a crawl space shall not be accomplished through a direct connection to the return side of a forced air furnace. Transfer openings in the crawl space enclosure shall not be prohibited.
7. Return air shall not be taken from a closet, bathroom, toilet room, kitchen, garage, boiler room, furnace room, or unconditioned attic.

Exceptions:

1. Taking return air from a kitchen is not prohibited where such return air openings serve the kitchen and are located not less than 10 feet (3048 mm) from the cooking appliance.
2. Dedicated forced air systems serving only the garage shall not be prohibited from obtaining return air from garage.

8. Separate return air is required from each floor in multi-story dwelling units regulated by this code. Open stairways shall not be used as a means to convey return air.

602.2 *Construction*. Plenum enclosure construction materials that are exposed to the airflow shall comply with the requirements of Section 703.5 of the International Building Code or such materials shall have a flame spread index of not more than 25 and a smoke-developed index of not more than 50 when tested in accordance with ASTM E 84 or 723.

The use of gypsum boards to form plenums shall be limited to systems where the air temperatures do not exceed 125° F (52°C) and the building and mechanical system design conditions are such that the gypsum board surface temperature will be maintained above the airstream dew-point temperature. Air plenums formed by gypsum boards shall not be incorporate in air-handling systems utilizing evaporative coolers.

Exception: Interstitial space between adjacent combustible studs or joists, allowed by the building code, complying with Section 602.3.

602.2.1 *Materials within plenums*. Except as required by Sections 602.2.1.1 through 602.2.1.7, materials within plenums shall be noncombustible or shall be listed and labeled as having a flame spread index of not more than 25 and a smoke-developed index of not more than 50 when tested in accordance with ASTM 84 or UL 723.

Exceptions:

1. Rigid and flexible ducts and connectors shall conform to Section 603.
2. Duct coverings, linings, tape and connectors shall conform to Sections 603 and 604.
3. This section shall not apply to materials exposed within plenums in one-and two-family dwellings.
4. This section shall not apply to smoke detectors.

5. Combustible materials fully enclosed within one of the following:

5.1. Continuous noncombustible raceways or enclosures.

5.2. Approved gypsum board assemblies.

5.3. Materials listed and labeled for the specific protection application within a plenum.

6. Materials in Group H, Division 5 fabrication area and the areas above and below the fabrication area that share a common air recirculation path with the fabrication area.

603.10.1 *Structural Attachment*. Hangers and anchors shall be attached to the building construction in a manner approved by the Registered Design Professional.

603.16 *Weather Protection*. All ducts including linings, coverings and vibration isolation connectors installed on the exterior of the building shall be protected against the elements. Where galvanizing is used as the method of weather protection, the galvanizing shall be applied to a minimum level of G90 in accordance with ASTM A653.

604.8 *Lining Installation*. Linings shall be interrupted at the area of operation of a fire damper and at a minimum of 6 inches (152mm) upstream of and 6 inches (152mm) downstream of electric-resistance and fuel burning heaters in a duct system. Exposed duct liner edges that face opposite the direction of air flow shall be constructed in accordance with the appropriate SMACNA standard referenced in Chapter 15.

604.9 *Thermal Continuity*.- Delete

607.2 *Installation*. Fire dampers, smoke dampers, combination fire/smoke dampers and ceiling dampers located within air distribution and smoke control systems shall be installed in accordance with the requirements of this section, and the manufacturer's installation instructions and listing. Ductwork shall be connected to damper sleeves or assemblies in such a way that collapse of the ductwork will not dislodge the damper or impair its proper operation.

1108.900 Amendment to International Mechanical Code - Chapter 9 Specific Appliances, Fireplaces and Solid Fuel-Burning Equipment. --Chapter 9 of the 2015 International Mechanical Code is amended by the following provisions. Each section, subsection or clause of the code that numerically corresponds to one of the following numbered provisions is hereby deleted where so noted or amended to read as set forth below. Each provision set out below without a corresponding section, subsection or clause number in the code is hereby enacted and added thereto.

918.3 *Dampers.* Volume dampers shall not be placed in the return air inlet to a furnace in a manner that will reduce the required air to the furnace.

Exception: This provision shall not apply to engineered non-residential applications.

1108.1000 Amendment to International Mechanical Code - Chapter 10 Boilers, Water Heaters and Pressure Vessels. --Chapter 10 of the 2015 International Mechanical Code is amended by the following provisions. Each section, subsection or clause of the code that numerically corresponds to one of the following numbered provisions is hereby deleted where so noted or amended to read as set forth below. Each provision set out below without a corresponding section, subsection or clause number in the code is hereby enacted and added thereto.

1001.1 *Scope.* This chapter shall govern the installation, alteration and repair of boilers, water heaters and pressure vessels.

Exceptions:

1. Vessels with a nominal water containing capacity of one hundred twenty gallons or less for containing potable water under pressure, including those containing air, the compression of which serves only as a cushion.
2. Portable unfired pressure vessels and Interstate Commerce Commission containers.
3. Containers for bulk oxygen and medical gas.

4. Unfired pressure vessels that does not exceed fifteen cubic feet (122.2 gallons) in volume and two hundred fifty psig when not located in a place of public assembly.
5. Unfired pressure vessels that do not exceed five cubic feet (37.4 gallons) volume and two hundred fifty psig when located in a place of public assembly.
6. Unfired pressure vessels that do not exceed one and one-half cubic feet (11.7 gallons) in volume or an inside diameter of six inches with no limitation on pressure.
7. Pressure vessels used in refrigeration systems that are regulated by Chapter 11 of this code.
8. Pressure tanks used in conjunction with coaxial cables, telephone cables, power cables and other similar humidity control systems.
9. Any boiler or pressure vessel subject to inspection by federal or state inspectors.
10. Pressure vessels installed on the right-of-way of railroads and used directly in the operation of trains.
11. Pressure vessels designed for and operating at a working pressure not exceeding fifteen psig.
12. Any boiler constructed, reconstructed or maintained as a personal hobby or for other recreation purposes.
13. Vessels containing water and operating as water softeners, water filters, dealkalizers, demineralizers and cold water storage tanks when:
 - 13.1 The temperature of the water in the vessel does not exceed one hundred twenty degrees Fahrenheit.
 - 13.2 Heat is not applied to the water prior to entering the vessel or to the vessel itself.
 - 13.3 The pressure of the water in the vessel does not exceed one hundred fifty psig.

13.4 The vessel does not contain any hazardous, toxic or explosive material.

14. Potable water heaters where none of the following limitations are exceeded which are governed by the St. Louis County Plumbing Code:

14.1 Heat input of one hundred ninety nine thousand nine hundred ninety nine (199,999) British thermal units per hour (BTU/hr) (57.1kw).

14.2 Water temperature of two hundred ten degrees Fahrenheit (210 F).

14.3 Nominal water capacity of one hundred nineteen gallons (119 gallons) and which are provided with one or more safety relief valves.

14.4 An operating pressure of 150 psig.

15. Tankless Water heaters serving potable water distribution systems

1003.1 *General*. All pressure vessels, unless otherwise approved, shall be constructed and certified in accordance with ASME Boiler and Pressure Vessel Code or similar approved standard, and shall be installed in accordance with the manufacturer's installation instructions and nationally recognized standards. Direct fired pressure vessels shall meet the requirements of Section 1004.

1003.3 *Welding*. Welding on pressure vessels shall be performed by an R-Stamp-holder in accordance with the National Board Inspection Code, Part 3 or in accordance with an approved standard.

1004.1 *Standards*. Boilers and water heaters shall be designed, constructed, and certified in accordance with the ASME Boiler and Pressure Vessel Code, Sections I or IV as applicable. Controls and safety devices for Boilers with fuel input ratings of 12,500,000 Btu/hr (3,662,500W) or less shall meet the requirements of ASME CSD-1. Controls and safety devices for

boilers with inputs greater than 12,500,000 Btu/hr (3,662,500 w) shall meet the requirements of NFPA 85. Packaged Oil-fired boilers shall be listed and labeled in accordance with UL 726. Packaged Electric boilers shall be listed and labeled in accordance with UL 834. Solid-fuel boilers shall be listed and labeled in accordance with UL 2523.

Exceptions. The following shall be exempt from the ASME Code construction requirements of 1004.1:

1. Water heaters where none of the following limitations are exceeded:

1.1 Heat input of less than two hundred thousand (200,000) British thermal units per hour (BTU/hr) (57.1kw).

1.2 Water temperature of two hundred ten degrees Fahrenheit (210 F).

1.3 Nominal water capacity of less than one hundred twenty gallons (120 gallons) and which are provided with one or more safety relief valves.

2. Coil-type hot water boilers used only for steam vapor cleaning when none of the following limitations are exceeded:

2.1 One inch diameter tubing or three-fourths inch nominal pipe size with no steam drums or headers attached.

2.2 Nominal water containing capacity does not exceed six gallons.

2.3 Water temperature does not exceed three hundred fifty degrees Fahrenheit.

2.4 Steam is not generated within the coil.

2.5 One or more safety relief valves must be installed and adequate controls provided.

1006.5 *Installation.* Safety or relief valves shall be installed directly into the safety or relief valve opening on the boiler or pressure vessel. Valves shall not be located on either side of a safety or relief valve connection. The relief valve shall discharge by gravity.

Exception: Shutoff valves on either side of a safety or relief valve connection appropriate for the unfired system type and allowed by ASME Boiler and Pressure Vessel Code.

SECTION 1012 CONDENSATE RETURN

1012.1 Condensate when discharging into a sanitary sewer system shall not be in excess of 140F and shall discharge into an open floor drain, a special drain connection or an approved receptor. If the floor drain or drain connection to the sewer is above the level of the return piping so that it cannot flow by gravity, an automatic sump pump shall be installed to pump the condensate from the sump to the sewer drain.

1108.1100 *Amendment to International Mechanical Code - Chapter 11 Refrigeration.* --Chapter 11 of the 2015 International Mechanical Code is amended by the following provisions. Each section, subsection or clause of the code that numerically corresponds to one of the following numbered provisions is hereby deleted where so noted or amended to read as set forth below. Each provision set out below without a corresponding section, subsection or clause number in the code is hereby enacted and added thereto.

1105.3 *Refrigerant Detector.* Machinery rooms shall contain a refrigerant detector with an audible and visual alarm. The detector, or a sampling tube that draws air into the detector, shall be located in an area where refrigerant from a leak will concentrate. The alarm shall be actuated at a value not greater than the corresponding TLV-TWA values shown in Table 1103.1 OEL column for the refrigerant classification. Detectors and alarms shall be placed in approved locations. The detector shall transmit a signal to an approved location.

Exception: Detectors shall not be required for ammonia systems where the machinery room complies with Section 1106.3.

1107.2 *Piping Location.* Refrigerant piping that crosses an open space that affords passageway in any building shall be not less

than 7 feet 3 inches (2210 mm) above the floor unless the piping is located against the ceiling of such space. Refrigerant piping shall not be placed in any elevator, dumbwaiter or other shaft containing a moving object or in any shaft that has openings to living quarters. Refrigerant piping shall not be installed in an exit enclosure.

1108.1200 Amendment to International Mechanical Code - Chapter 12 Hydronic Piping. --Chapter 12 of the 2015 International Mechanical Code is amended by the following provisions. Each section, subsection or clause of the code that numerically corresponds to one of the following numbered provisions is hereby deleted where so noted or amended to read as set forth below. Each provision set out below without a corresponding section, subsection or clause number in the code is hereby enacted and added thereto.

1201.1 Scope. The provisions of this chapter shall govern the construction, installation, alteration, and repair of hydronic piping systems. This chapter shall apply to hydronic piping systems that are part of heating, ventilation, and air-conditioning systems. Such piping systems shall include, but are not limited to, steam, hot water, chilled water, steam condensate and ground source heat pump loop systems. Potable cold and hot water distribution systems shall be installed in accordance with the plumbing code.

1202.2 Used Materials. Reused pipe, fittings, valves or other materials shall be clean and free of foreign materials and shall be approved by the registered design professional for reuse.

1202.5 Pipe Fittings. Hydronic pipe fittings shall be rated for the temperatures and pressures of the systems in which they are installed and shall be constructed of materials compatible with the piping materials and fluids in the system and shall conform to the respective pipe standards or to the standards listed in Table 1202.5.

1202.7 Flexible Connectors, Expansion and Vibration Compensators. Flexible connectors, expansion, and vibration control devices and fittings shall be rated for the temperatures and pressures of the systems in which they are installed and

shall be constructed of materials compatible with the piping materials and fluids in the system.

1205.1.5 *Equipment and Appliances.* Shutoff valves shall be installed on connections to mechanical equipment and appliances. This requirement does not apply to components of a hydronic system such as air separators, metering devices and similar equipment.

1205.1.6 *Expansion Tanks.* -Deleted

1206.1 *General.* Piping, valves, fittings, and connections shall be installed in accordance with this code.

1206.10 *Pipe Support.* Pipe shall be supported in accordance with Section 305 or as determined by the registered design professional.

1208.1 *General.* Hydronic piping systems other than ground-source heat pump loop systems shall be tested hydrostatically at one and one-half times the maximum system design pressure. The duration of each test shall not be less than one hour. Ground-source heat pump loop systems shall be tested in accordance with section 1210.10.

1210.3 *Material rating.* Pipe and tubing shall be rated for the operating temperature and pressure of the ground-source heat pump loop system. Fitting shall be suitable for the pressure applications and recommended by the manufacturer for installation with the pipe and tubing installed. All underground piping and tubing shall be High-Density Polyethylene (HDPE). All above ground piping and tubing shall be either High-Density Polyethylene (HDPE) or Schedule 80 Polyvinyl Chloride (PVC).

1210.4 *Piping and tubing materials standards.* Ground-source heat pump ground-loop pipe and tubing shall conform to the following standards:

HDPE: ASTM D2737; ASTM D3035; ASTM F714; AWWA C901; CSA B137.1; CSA C448; NSF 358-1

PVC Schedule 80: ASTM D1785; ASTM D2241

Table 1210.4. Ground-Source Loop Pipe. -Deleted

1210.5 *Fittings*. Ground-source heat pump fittings shall be approved for installation with the piping materials to be installed and shall conform to the following standards:

HDPE: ASTM D2683; ASTM D3261; ASTM F1055; CSA B137.1; CSA C448; NSF 358-1

PVC Schedule 80: ASTM D2464; ASTM D2466; ASTM D2467; CSA B137.2; CSA B137.3

Table 1210.5. Ground-Source Loop Pipe Fittings. -Delete

1210.6.1.1 *Plastic to metal connections*. Soldering on the metal portion of the system shall be performed not less than 18 inches (457mm) from a plastic-to-metal adapter in the same water line.

1210.6.2 *Preparation of pipe ends*. Pipe shall be cut square, be reamed, and be free of burrs and obstructions. PVC pipe shall be chamfered. Pipe ends shall have full bore openings and shall not be undercut.

1210.6.4 *CPVC plastic pipe*. -Deleted

1210.6.5 *Cross-linked polyethylene (PEX) plastic tubing*. -Deleted

1210.6.5.1 *Compression-type fittings*. -Deleted

1210.6.5.2 *Plastic-to-metal connections*. -Deleted

1210.6.6 *Polyethylene plastic pipe and tubing for ground-source heat pump loop systems*. Joints between polyethylene plastic pipe and tubing or fittings for ground-source heat pump loop systems shall be heat fusion joints complying with Section 1210.6.6.1 or electrofusion joints complying with Section 1210.6.6.2.

1210.6.6.3 *Stub-type insert fittings*. -Deleted

1210.6.7 *Polypropylene (PP) Plastic.*- Deleted

1210.6.7.1. *Heat-fusion joints.* -Deleted

1210.6.7.2. *Mechanical and compression sleeve joints.*-Deleted

1210.6.8. *Raised temperature polyethylene (PE-RT) plastic tubing.*-Deleted

1210.6.8.1. *Compression-type fittings.*-Deleted

1210.6.8.2. *PE-RT-to metal connections.*-Deleted

1210.6.9. *PVC plastic pipe.* Joints between PVC plastic pipe and fittings shall be solvent-cemented or threaded joints complying with Section 1230.3.

1210.7.6 *Expansion tanks.* Deleted

1210.8 *Installation.* Piping, valves, fittings, and connections shall be installed in accordance with the conditions of approval. Vertically drilled loops shall be fully grouted with a bentonite based grout.

1210.10 *Tests.* Before connection header trenches are back-filled, the assembled loop system shall be pressure tested with water or air in accordance with one of the following methods:

1. 100 psi (689 kPa) for 15 minutes.
2. One and one-half (1.5) times the normal operating pressure for 24 hours.

There shall be no leaks during the test. Flow and pressure loss testing shall be performed and the actual flow rates and pressure drops shall be compared to the calculated design values. If actual flow rate or pressure drop values differ from the calculated design values by more than 10 percent, the cause shall be identified and corrective action taken.

1210.11 *Embedded piping.*-Deleted

1210.12 *Sizing of Ground-source heat pump loop.* The sizing of the ground-source heat pump loop shall be done per the manufacturer's installation instructions but at a minimum, the following criteria shall be met:

A load calculation on the building served by the ground-source heat pump loop shall be completed and the data entered into a ground loop analysis program. The maximum returning ground loop temperature shall not exceed 90° F (32°C) and the minimum returning ground loop temperature shall not be less than 35° F (2°C).

1108.1300 Amendment to International Mechanical Code - Chapter 13 Fuel Oil Piping and Storage. --Chapter 13 of the 2015 International Mechanical Code is amended by the following provisions. Each section, subsection or clause of the code that numerically corresponds to one of the following numbered provisions is hereby deleted where so noted or amended to read as set forth below. Each provision set out below without a corresponding section, subsection or clause number in the code is hereby enacted and added thereto.

CHAPTER 13

FLAMMABLE AND COMBUSTIBLE LIQUID AND FUEL OIL PIPING AND STORAGE

1301.1 *Scope.* This chapter shall govern the design, installation, construction and repair of flammable and combustible liquid and fuel-oil storage and piping systems. The storage of fuel oil and flammable and combustible liquids shall be in accordance with the International Fire Code.

1301.3 *Fuel Type.* An appliance shall be designed for use with the type of fuel to which it will be connected. Such appliance shall not be converted from the fuel specified on the rating plate for use with a different fuel without securing reapproval from the appliance manufacturer and the registered design professional.

1301.4 *Flammable and Combustible Liquid Tanks, Piping and Valves.* The tank, piping and valves for appliances burning oil shall be installed in accordance with the requirements of this chapter and NFPA 31. When an oil burner is served by a tank, any part of which is above the level of the burner inlet connection

and where the fuel supply line is taken from the top of the tank, an approved antisiphon valve or other siphon-breaking device shall be installed in lieu of the shutoff valve. Flammable and combustible liquid tanks, piping and valves shall be in accordance with the International Fire Code.

1302.3 *Pipe Standards.* Flammable and combustible liquids and fuel oil piping shall comply with one of the standards listed in Table 1302.3.

Table 1302.3

FLAMMABLE AND COMBUSTIBLE LIQUID and FUEL OIL PIPING

MATERIAL	STANDARD (see Chapter 15)
Copper or copper-allow pipe	ASTM B 42; ASTM B 43; ASTM B 302
Copper or copper-allow tubing (Type K, L, or M)	ASTM B 75; ASTM B 88; ASTM B 280
Labeled pipe	(See Section 1302.4)
Nonmettalic pipe	ASTM D 2996
Steel pipe	ASTM A 53L ASTM A 106
Steel tubing	ASTM A 254; ASTM A 539

1302.5 *Fittings and Valves.* Fittings and valves shall be listed by the manufacturer as suitable for the piping systems, and shall be compatible with, or shall be of the same material as, the pipe or tubing.

1302.7 *Pumps.* Pumps that are not part of an appliance shall be of a positive-displacement type. The pump shall automatically shut off the supply when not in operation. Fuel oil pumps shall be listed and labeled in accordance with UL 343. Flammable and combustible liquid pumps shall be listed and labeled by an approved agency.

1303.1 *Approval.* Joints and connections shall be approved and of a type approved for the liquid in the piping systems. All threaded joints and connections shall be made tight with suitable lubricant or pipe compound. Unions requiring gaskets or packings, right or left couplings, and sweat fittings employing solder having a melting point of less than 1,000 E F (538 E C) shall not be used in oil lines. Cast-iron fittings shall not be used. Joints and connections shall be tight for the pressure required by test.

1305.2 *Protection of Pipe, Equipment and Appliances.* All fuel oil pipe, tanks, equipment and appliances shall be protected from physical damage.

1305.2.1 *Flood Hazard.* All fuel oil pipe, tanks, equipment and appliances located in flood hazard areas shall be located above the elevation required by Section 1612 of the International Building Code for utilities and attendant equipment or shall be capable of resisting hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding up to such elevation. Underground tanks shall be installed in accordance with Section 1309.

1305.6 *Fill Piping.* A fill pipe shall terminate outside of a building at a point at least 5 feet (1524 mm) from any building opening at the same or lower level. A fill pipe shall terminate in a manner designed to minimize spilling when the filling hose is disconnected. Fill opening shall be equipped with a tight metal cover designed to discourage tampering.

1305.7 *Vent Piping.* Liquid fuel vent pipes shall terminate outside of buildings at a point not less than 2 feet (610 mm) higher measured vertically or 10 feet measured horizontally from any building opening. Outer ends of vent pipes shall terminate in a weatherproof vent cap or fitting or be provided with a weatherproof hood. All vent caps shall have a minimum free open area equal to the cross-sectional area of the vent pipe and shall not employ screens finer than No. 4 mesh. Vent pipes shall terminate a minimum of 24 inches above the ground to avoid being obstructed with snow or ice. Vent pipes from tanks containing heaters shall be extended to a location where oil vapors discharging from the vent will be readily diffused. If the static head with a vent pipe filled with oil exceeds 10 pounds per square inch (psi) (69 kPa), the tank shall be designed for the maximum static head that will be imposed.

Liquid fuel vent pipes shall not be cross connected with fill pipes, lines from burners or overflow lines from auxiliary tanks.

1307.2 *Appliance Shutoff.* A shutoff valve shall be installed at the connection to each appliance. The shutoff valve shall be in the same room and within 6 feet of the appliance served. Access shall be provided to the shutoff valve.

1308.1 *Testing Required.* Fuel oil piping shall be tested in accordance with NFPA 31. Flammable and combustible liquid piping shall be tested in accordance with the International Fire Code.

SECTION 1309 UNDERGROUND STORAGE TANK INSTALLATION

1309.1 *General.* Flammable and combustible liquid and fuel oil storage tanks shall be installed in accordance with the International Fire Code.

1309.2 *Anchoring Required.* All underground tanks shall be anchored to resist the effects of buoyancy because of a rise in the water table, flooding or accumulation of water from fire suppression operations. Uplift protection shall be provided in accordance with NFPA 30.

SECTION 1310 FUEL-DISPENSING SYSTEMS

1310.1 *General.* All fuel-dispensing systems shall be installed in accordance with the International Fire Code.

1108.1500 Amendments to International Mechanical Code - Chapter 15 Referenced Standards. --Chapter 15 of the 2015 International Mechanical Code is amended by the following provisions. Each reference standard of the code that corresponds to one of the following numbered standards is hereby deleted where so noted or amended to read as set forth below. Each provision set out below without a corresponding standard in the code is hereby enacted and added thereto. Standards appearing in the published edition of this code which are not set forth below remain a part of this code.

ASHRAE

American Society of Heating, Refrigerating and Air
Conditioning Engineers, Inc.

1791 Tullie Circle, NE; Atlanta, GA 30329-2305

Standard Reference Number	Title	Referenced in Code Section Number
ASHRAE Handbook - 2014	HVAC Systems & Equipment	1009.2

ASME

American Society of Mechanical Engineers
345 East 47th Street, New York, NY 10017

Standard Reference Number	Title	Referenced in Code Section Number
BPVC- 2007 w/2010 and 2011 addenda	Boiler & Pressure Vessel Code-07 edition	1003.1, 1004.1 1006.5, 1011.1

ASTM

ASTM International
100 Barr Harbor Dr.
West Conshohocken, PA 19428

Standard Reference Number	Title	Referenced in Code Section Number
A653/A653M- 13	Standard Specification for Steel Sheet, Zinc- Coated (Galvanized) or Zinc-Iron	603.16

	Alloy-Coated (Galvannealed) by the Hot-Dip Process	
F853-05	Standard Practice for Maintenance Procedures for Amusement Rides and Devices	2201.5.1

CAGI Compressed Air & Gas Institute
1300 Sumner Ave
Cleveland, OH 44115-2851

Standard Reference Number	Title	Referenced in Code Section Number
B19.1-2011	Safety standard for air compressor systems	2216.1

**GOVERNMENT
OF ST LOUIS
COUNTY
MISSOURI** 41 S. Central Ave
Clayton, MO 63105

Standard Reference Number	Title	Referenced in Code Section Number
Building Code	Chapter 1115 SLCRO 1974, as amended	107.11, 109.1, 109.3, 109.4.1, 109.5, 109.6, 201.3, 202, 301.15, 301.16, 301.17, 301.18, 302.1, 302.2, 304.8, 304.11, 308.4.2.2, 308.4.2.4, 401.4, 401.5, 406.1, 501.3.1, 501.10.2, 502.10, 502.10.1, 504.2, 504.10, 505.3,

		506.3.3, 506.3.10, 506.3.12.2, 506.4.1, 509.1, 509.1.1, 510.6, 510.6.2, 510.6.3, 510.7, 510.7.1.1, 510.7.2, 510.7.3, 510.8, 511.1.5, 513.1, 513.2, 513.3, 513.4.3, 513.5, 513.5.2, 513.5.2.1, 513.5.3, 513.5.3.2, 513.6.2, 513.10.5, 513.11.1, 513.12, 513.12.2, 513.20, 601.3, 602.2, 602.2.1.5.1, 602.2.1.5.2, 602.2.1.6.1, 602.2.1.6.2, 602.3, 602.4, 603.1, 603.10, 603.13, 603.18.2, 604.5.4, 607.1.1, 607.1.2, 607.3.2.1, 607.5.1, 607.5.2, 607.5.3, 607.5.4, 607.5.4.1, 607.5.5, 607.5.5.1, 607.5.6, 607.6, 607.6.1, 607.6.2, 607.6.2.1, 607.6.3, 701.2, 701.4.1, 701.4.2, 801.3, 801.16.1, 801.18.4, 801.18.4.1, 902.1, 908.3, 908.4, 910.3, 924.1, 925.1, 926.1, 927.2, 928.1, 1105.1, 1206.4, 1210.8.2, 1305.2.1, 1402.4, 1402.4.1, 1601.1, 1901.1, 2001.1, 2217.4.1, 2217.5
Electrical Code	Chapter 1102 SLCRO 1974, as amended	201.3, 301.7, 306.3.1, 306.4.1, 513.11, 513.12.1, 602.2.1.1, 2100.40, 2218.1
Existing Building Code	Chapter 1117 SLCRO 1974, as amended	101.2
Plumbing Code	Chapter 1103 SLCRO 1974, as amended	101A.2.1, 101A.3.4, 201.3, 301.8, 512.2, 908.5, 1001.1, 1002.1, 1002.2, 1002.3, 1005.2, 1006.6, 1008.2, 1009.3, 1101.4, 1201.1, 1206.2, 1206.3, 1401.2, 2100.40

Residential Code	Chapter 1116 SLCRO 1974, as amended	101.2, 1601.1
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International Code Council, Inc.

ICC 500 New Jersey Avenue N.W., 6th floor

Washington, D.C. 20001

Standard Reference Number	Title	Referenced in Code Section Number
IFC-15	International Fire Code	201.3, 310.1, 311.1, 502.4, 502.5, 502.7.2, 502.8.1, 502.9.5, 502.9.5.2, 502.9.5.3, 502.9.8.2, 502.9.8.3, 502.9.8.5, 502.9.8.6, 502.10, 502.10.3, 502.16.2, 509.1, 509.1.1, 510.2.1, 510.2.2, 510.4, 511.1.1 513.12.3, 513.15, 513.16, 513.17, 513.18, 513.19, 513.20.2, 513.20.3, 606.2.1, 908.7, 1101.9, 1105.3, 1105.9, 1106.5, 1106.6, 1301.1, 1301.2, 1301.4, 1308.1, 1309.1, 1310.1, 2217.6
IFGC-15	International Fuel Gas Code	101.2, 201.3, 301.3, 701.1, 801.1, 901.1, 906.1, 1101.5, 2100.020, 2100.040

**State of
Missouri**

State of Missouri, Department of Health and Senior
Services

Jefferson City , MO

Standard Reference Number	Title	Referenced in Code Section Number
Chapter 20- Hospitals	Missouri Rules of the Dept. of Health and Senior Services Division 30 Division of Regulations and Licensure Chapter 20 Hospitals	1701.2

NFPA

National Fire Protection Association

Batterymarch Park, Quincy, MA 02269

Standard Reference Number	Title	Referenced in Code Section Number
10-13	STANDARD FOR PORTABLE FIRE EXTINGUISHERS	2217.6
12-11	STANDARD ON CARBON DIOXIDE EXTINGUISHING SYSTEMS	509.2
13-13	STANDARD FOR THE INSTALLATION OF	509.2

	SPRINKLER SYSTEMS	
16-11	STANDARD FOR THE INSTALLATION OF FOAM-WATER SPRINKLER AND FOAM-WATER SPRAY SYSTEMS	509.2
17-13	STANDARD FOR DRY CHEMICAL EXTINGUISHING SYSTEMS	509.2
17A-13	STANDARD FOR WET CHEMICAL EXTINGUISHING SYSTEMS	509.2
30-15	Flammable and Combustible Liquids Code	1309.2
31-11	Installation of Oil-burning Equipment	801.2.1, 801.18.1, 801.18.2, 920.2, 922.1, 1301.4, 1308.1
45-11	Fire Protection for Laboratories using Chemicals	510.1
54-15	National Fuel Gas Code	Chapter 21-301.3 (IFGC)
80-13	STANDARD FOR FIRE DOORS AND OTHER OPENING PROTECTIVES	601.2

85-11	Boiler and Combustion Systems Hazards Code	1004.1
96-14	Ventilation Control and Fire Protection of Commercial Cooking Operations	506.1, 507.1
99-15	Standard for Health Care Facilities	1701.2
701-2010	Standard Methods of Fire Tests for Flame Propagation of textiles and films	2217.2

SMACNA

Sheet Metal & Air Conditioning Contractors National Assoc., Inc.

4021 Lafayette Center Road, Chantilly, VA 22021

Standard Reference Number	Title	Referenced in Code Section Number
ANSI/SMACNA 006-2006	HVAC Duct Construction Standards-Metal and Flexible	504.8, 603.2, 603.4, 603.9, 604.8,

UL

Underwriters Laboratories, Inc.

333 Pfingsten Road, Northbrook, IL 60062-2096

Standard Reference Number	Title	Referenced in Code Section Number
197-10	Commercial Electric Cooking Appliances	507.1
199E-04	FIRE TESTING OF SPRINKLERS AND WATER SPRAY NOZZLES FOR PROTECTION OF DEEP FAT FRYERS	509.2.4.1
300-05	Standard for Fire Testing of Fire Extinguishing Systems for Protection of Commercial Cooking Equipment	509.2, 2213.1
710B-11	Recirculating Systems	507.1, 509.2

1108.1600 Amendments to International Mechanical Code - Chapter 16 Residential Mechanical Systems. -The 2015 International Mechanical Code is hereby amended by enacting and adding thereto Chapter 16, Residential Mechanical Systems to read as follows:

1601.1 *General.* Mechanical Systems for detached one and two family dwellings and townhouses, as defined by the St. Louis County Building Code, shall be designed and installed in accordance with the applicable provisions of the St. Louis

County Residential Code, Title XI, Chapter 1116, SLCRO 1974, as amended and referenced standards listed therein.

1108.1700 Amendment to International Mechanical Code - Chapter 17 Medical Gas Systems. -The 2015 International Mechanical Code is hereby amended by enacting and adding thereto Chapter 17, Medical Gas Systems to read as follows:

1701.1 *Scope.* The provisions of this chapter shall govern the design, construction, installation, and repair of medical gas piping systems. This chapter shall apply to all medical gas piping systems including, but not limited to Oxygen, Surgical Air, Nitrous Oxide, Nitrogen, Carbon Dioxide, and Clinical Suction.

1701.2 *Requirements.* The medical gas systems, components, appurtenances and piping shall conform to the requirements of NFPA 99 and the "Missouri Rules of the Department of Health and Senior Services Division 30-Division of Regulations and Licensure Chapter 20 - Hospitals".

1108.1900 Amendments to International Mechanical Code - Chapter 19 Mechanical Fire Protection Systems. -The 2015 International Mechanical Code is hereby amended by enacting and adding thereto Chapter 19, Mechanical Fire Protection Systems to read as follows:

1901.1 *General.* Mechanical Fire Protection Systems including automatic fire suppression systems, automatic fire sprinkler systems, standpipe systems, and smoke control systems shall be designed and installed in accordance with the applicable provisions of the St. Louis County Building Code, Title XI, Chapter 1115, SLCRO 1974, as amended and referenced standards listed therein.

1108.2000 Amendments to International Mechanical Code - Chapter 20 Elevators and Conveying Systems. --The 2015 International Mechanical Code is hereby amended by enacting and adding thereto Chapter 20, Elevators and Conveying Systems to read as follows:

2001.1 *General.* Elevators, escalators, dumbwaiters, moving walks, hoists, automotive lifts, conveyors, freight lifts, and manlifts shall be designed and installed in accordance with the applicable provisions of the St. Louis County Building Code,

Title XI, Chapter 1115, SLCRO 1974, as amended and referenced standards listed therein.

1108.2100 Amendment to International Mechanical Code - Chapter 21 Fuel Gas Code. --The 2015 International Mechanical Code is hereby amended by enacting and adding thereto Chapter 21, Fuel Gas Code which shall read as follows:

2100.020 *Fuel Gas Code Adopted.* The International Fuel Gas Code 2015 edition is hereby adopted as the Fuel Gas Code of St. Louis County.

2100.40 *References to Other St. Louis County Adopted Codes.* Throughout the International Fuel Gas Code 2015 Edition, wherever a reference appears to the "International Plumbing Code" or "plumbing code" it shall mean "The Plumbing Code" as adopted by St. Louis County ordinance with the additions, deletions and changes prescribed by that ordinance. Wherever a reference appears to the "International Electrical Code" or "electrical code" it shall mean "The Electrical Code" as adopted by St. Louis County ordinance with the additions, deletions and changes prescribed by that ordinance.

2100.100 *Amendments to International Fuel Gas Code 2015 Edition.* The 2015 International Fuel Gas Code is amended by the following provisions. Each section, subsection or clause of the International Fuel Gas Code that numerically corresponds to one of the following numbered provisions is hereby deleted where so noted, or amended to read as set forth below. Each provision set out below without a corresponding section, subsection or clause number in the International Fuel Gas Code is hereby enacted and added thereto.

102(IFGC) *Applicability.* -Deleted.

103(IFGC) *Department of Inspection.* -Deleted.

104(IFGC) *Duties and Powers of Code Official.* -Deleted.

105(IFGC) *Approval.* -Deleted.

106(IFGC) *Permits.* -Deleted.

107(IFGC) *Inspections and Testing.* -Deleted.

108(IFGC) *Violations.* -Deleted.

109(IFGC) *Means of Appeal.*-Deleted.

110(IFGC) *Temporary Equipment, Systems and Uses.*-Deleted.

301.3(IFGC) *Listed and Labeled.* Appliances regulated by this code shall be listed and labeled for the application in which they are used unless otherwise approved in accordance with Section 105. The approval of unlisted appliances in accordance with Section 105 shall be based upon approved engineering evaluation and the NFPA 54.

403.10.5(IFGC) *Joints Between Different Piping Materials.* Joints between different piping materials shall be made with approved adapter fittings. Joints between different metallic piping materials at the point of delivery, and at other locations where necessary, shall be made with approved dielectric fittings to isolate electrically above-ground piping from underground piping or to isolate electrically different metallic piping materials joined underground. Dielectric fittings shall not be required in joints located within the interior of the building.

404.21 (IFGC) *Piping into Masonry Fireboxes.* Above ground gas piping serving an appliance installed in a masonry firebox shall be installed as required by this Chapter. Piping shall enter the firebox through the firebox wall a minimum of 3 inches above the firebox floor. A high temperature seal is required on the inside of the firebox and a weatherproof seal is required on the outside if exposed to weather. Fuel-gas piping serving decorative gas-fired appliances shall be allowed to be installed through an existing ash dump.

409.5.4 (IFGC) *Gas Barbeque Shutoff Valve.* Shutoff valves for gas barbeques installed outdoors shall not be required to be within 6 feet of the appliance. Such valves shall not be prohibited from being installed indoors provided they are readily accessible, permanently identified and serve no other equipment.

411.1(IFGC) *Connecting Appliances.* Except as required by Section 411.1.1, appliances shall be connected to the piping system by one of the following:

1. Rigid metallic pipe and fittings.

2. Corrugated stainless steel tubing (CSST) where installed in accordance with the manufacturer's instructions.

3. Semirigid metallic tubing and metallic fittings. Lengths shall not exceed 6 feet (1829 mm) and shall be located entirely in the same room as the *appliance*. Semirigid metallic tubing shall not enter a motor-operated *appliance* through an unprotected knockout opening.

4. *Listed* and *labeled* *appliance* connectors in compliance with ANSI Z21.24 and installed in accordance with the manufacturer's installation instructions and located entirely in the same room as the *appliance*.

5. *Listed* and *labeled* quick-disconnect devices used in conjunction with *listed* and *labeled* *appliance* connectors.

6. *Listed* and *labeled* convenience outlets used in conjunction with *listed* and *labeled* *appliance* connectors.

7. *Listed* and *labeled* outdoor *appliance* connectors in compliance with ANSI Z21.75/CSA 6.27 and installed in accordance with the manufacturer's installation instructions.

8. *Listed* outdoor gas hose connectors in compliance with ANSI Z21.54 used to connect portable outdoor appliances. The gas hose connection shall be made only in the outdoor area where the appliance is used, and shall be to the gas piping supply at an appliance shutoff valve, a listed quick-disconnect device or listed gas convenience outlet.

9. A union shall be installed between the appliance and the appliance shutoff valve.

501.16(IFGC). *Outdoor Design Temperature*. The outdoor winter design temperature for St. Louis County shall be 2F.

504.2.9 (IFGC) *Chimney and vent locations*. Tables 504.2(1), 504.2(2), 504.2(3), 504.2(4), and 504.2(5) shall be used for chimneys and vents not exposed to the outdoors below the roof line. A Type B vent or listed chimney lining system passing through an unused masonry chimney flue shall not be considered to be exposed to the outdoors. Where vents extend outdoors above the roof more than 5 feet (1524 mm) higher than required

by Figure 503.6.4, and where vents terminate in accordance with Section 503.6.4, Item 2, the outdoor portion of the vent shall be enclosed as required by this section for vents not considered to be exposed to the outdoors or such venting system shall be engineered. A Type B vent shall not be considered to be exposed to the outdoors where it passes through an unventilated enclosure or chase insulated to a value of not less than R8.

Table 504.2(3) in combination with Table 504.2(6) shall be used for clay-tile-lined exterior masonry chimneys, provided that all of the following are met:

1. Vent connector is a Type B double wall.
2. Vent connector length is limited to 1 ½ feet for each inch (18 mm per mm) of vent diameter.
3. The appliance is draft hood equipped.
4. The input rating is less than the maximum capacity given by Table 504.2(3).
5. For a water heater, the outdoor design temperature is not less than 2°F (-17°C)

603.2 (IFGC) *Shutoff Valves*. Shutoff valves required by Section 409.5 and serving gas-fired log lighters shall be located outside of the fireplace firebox, adjacent to within 6 feet and in the same room as the fireplace.

614.8.7 (IFGC) *Multiple Dryers*. Multiple domestic dryers shall not be connected to a single exhaust system.

Exception: Multiple domestic clothes dryers may be connected to a single exhaust system designed by a registered design professional.

614.10 (IFGC) *Common Exhaust Systems for Clothes Dryers Located in Multistory Structures*. Where a common multistory duct system is designed and installed to convey exhaust from multiple clothes dryers, the construction of such system shall be in accordance with all of the following:

1. The shaft in which the duct is installed shall be constructed and fire-resistant rated as required by the *International Building Code*.

2. Dampers shall be prohibited in the exhaust duct. Penetrations of the shaft and ductwork shall be protected in accordance with Section 607.5.5, Exception 2, of the *International Mechanical Code*.
 3. Rigid metal ductwork shall be installed within the shaft to convey the exhaust. The ductwork shall be constructed of sheet steel having a minimum thickness of 0.0187 inch (0.471 mm) (No. 26 gage) and in accordance with *SMACNA Duct Construction Standards*.
 4. An approved means for cleanout shall be provided at each offset in ductwork installed in shafts.
 5. The exhaust fan motor design shall be in accordance with Section 503.2 of the *International Mechanical Code*.
 6. The exhaust fan motor shall be located outside of the airstream.
 7. The exhaust fan shall run continuously.
 8. The exhaust fan operation shall be monitored in an *approved* location and shall initiate an audible or visual signal when the fan is not in operation.
 9. Makeup air shall be provided for the exhaust system.
 10. A cleanout opening shall be located at the base of the shaft to provide access to the duct to allow for cleaning and inspection. The finished opening shall be not less than 12 inches by 12 inches (305 mm by 305 mm).
 11. Screens shall not be installed at the termination.
- 618.3 (IFGC) *Dampers*. Volume dampers shall not be placed in the return air inlet to a furnace in a manner that will reduce the required air to the furnace.

Exception: This provision shall not apply to engineered non-residential applications.

629.1 (IFGC) *General*. Ceramic kilns with a maximum interior volume of 20 cubic feet (0.566 m³) and used for hobby and non-commercial purposes shall be installed in accordance with the

manufacturer's installation instructions and the provisions of this code. Kilns shall comply with Section 301.3

IFGC Chapter 8 Referenced Standards

International Code Council, Inc.

ICC 500 New Jersey Avenue N.W., 6th floor

Washington, D.C. 20001

Standard Reference Number	Title	Referenced in Code Section Number
IMC-15	International Mechanical Code	101.2.5, 201.3, 301.1.1, 301.13, 304.11, 501.1, 614.2, 614.10, 618.5, 621.1, 624.1, 631.2, 632.1, 703.1.2

1108.2200 Amendments to International Mechanical Code - Chapter 22 Amusement Devices. -The 2015 International Mechanical Code is hereby amended by enacting and adding thereto Chapter 22, Amusement Devices to read as follows:

CHAPTER 22 AMUSEMENT DEVICES
SECTION 2201 GENERAL

2201.1 Scope: The provisions of this chapter shall govern the installation, repair, alteration, maintenance, operation, and inspection of every amusement ride or device and any accessories connected or attached to such rides or devices.

Exceptions:

1. Non-powered playground equipment
2. Inflatable device setup for private residential event.

2201.2 Requirements Not Covered. Any requirement necessary for the strength or stability of an amusement ride or device or for the protection of the health or safety of the occupants or general public, which is not specifically covered by this chapter shall be determined by the Code Official.

2201.3 Identification. Every amusement ride or device shall be identified by a descriptive name, manufacturer and identification number. There shall be permanently attached to every ride or device, in a readily visible location, the name of the manufacturer, name of the ride or device, the year of manufacture, and the unique identification number. The Code Official may request additional information and reports of tests and analysis, as necessary.

2201.4 *Permit-Required.* No person shall install, erect, set up or operate any amusement ride or device unless the required permit therefore has been issued. Application for such permit shall be made not less than fourteen (14) days prior to date of installation or operation. Special circumstances will be reviewed by the Code Official.

2201.4.1 *Permit Status.* A St. Louis County issued permit shall be construed to be a license to proceed with installation and erection. The operation after inspection and approval shall not be construed as authority to set aside, neglect, cancel or violate any provisions of this code nor shall issuance of such permit prevent the Code Official thereafter from requiring correction of errors or provision of additional needed safeguards. No amusement ride shall operate without a current Missouri state operating permit.

Exception: Inflatable bounce houses do not require a state permit.

2201.4.2 *Application.* The permit application procedure for permanent amusement rides or devices shall be as required by Section 106 of the mechanical code.

2201.4.3 The application for a Temporary amusement ride or device permit shall be accompanied by the following:

1. A copy of the site plan identifying the location of each amusement ride or device and the required separation distances showing buildings and overhead electrical wiring.
2. Copy of the general liability insurance certificate required by Section 2201.6.
3. A copy of the current certificate of compliance required by Section 2204.2.

2201.5 *Inspections*. No person shall operate or permit the operation of an amusement ride or device unless it is certified for operation pursuant to a currently valid inspection and approval as provided by this chapter and other applicable provisions of this code.

2201.5.1 Owners and operators shall comply with ASTM F-24 Standard Practice for Maintenance Procedures for Amusement Rides and Devices.

2201.6 *Insurance*. All owners or operators of amusement devices shall carry general liability insurance through a carrier licensed and operating in the State of Missouri. The minimum amount of such coverage shall be: \$1,000,000.00 per occurrence to include Bodily Injury and Property Damage. No permits shall be issued until proof of such insurance coverage is provided to the St. Louis County Department of Public Works in the form of an insurance certificate.

2201.6.1 *Insurance Certificates*. The limits of liability specified in Section 2201.6 are minimum requirements and shall be carried by the amusement operator or owner covering all operations in St. Louis County, Missouri and said County shall be named as an additional insured. Insurance certificates shall be filed with the Code Official.

2201.7 *Fees*. Permit and inspection fees shall be as specified in Chapter 1100, SLCRO 1974 as amended.

SECTION 2202 DEFINITIONS

2202.1 *Definitions*. For the purposes of this chapter, words and phrases listed below shall have the meanings indicated.

Amusement Rides or Devices: Any device or combination of devices, which carries passengers or expects persons to walk or crawl along, around or over a fixed or restricted course for the purpose of amusement.

Inflatable devices/rides - Structures made of flexible outer membrane or fabric that is filled with air to give shape and strength to the structure while individuals climb, jump or slide within the structure.

Mechanical device/ride - Any device that is propelled by actuation of either motors, hydraulics or by manual operation.

Major attraction device/ride - Any permanent device that has a passenger height requirement of 42 inches or greater.

Owner: Any person, agent, firm or corporation having a legal or equitable interest in the equipment.

Private residential event: Inflatable devices(s) setup on a parcel serving a single family dwelling, two family dwelling, or a townhouse for the exclusive use of the occupants of the dwelling(s) and their invited guests. This does not include inflatable devices setup for block/subdivision parties.

Restraining Device: A safety belt, harness, chain, bar or other physical support, retention, or restraint to the passenger of a ride or device.

Special Amusement Buildings: Any temporary or permanent building or portion thereof that is occupied for amusement and entertainment and the means of egress path is not readily apparent due to visual or audio distractions or is not readily available because of the nature of the attraction or mode of conveyance though the building or structure.

SECTION 2203 OPERATORS

2203.1 *Operators*. An amusement ride or device shall be operated by a ride operator certified by the owner or his designated agent. A ride or device operator shall have knowledge of the use and function of all normal operating controls, signal systems and safety devices applicable to the ride or device and of the proper use, function, capacity and speed of the particular ride or device which is operating. When the ride or device is shut down, provision shall be made to prevent operations by the public. No person other than a certified ride operator shall be permitted to handle the controls of a ride or device during normal operation except where such ride or device is designed to be controlled by the passenger.

2203.2 All devices shall have the proper number of ride operators in accordance with the manufacturer's requirements.

SECTION 2204 NON-DESTRUCTIVE TESTING

2204.1 *Non-Destructive Testing (NDT)*. A non-destructive test as required by the manufacturer of amusement ride or device shall be performed on an annual basis, or at the frequency specified by the manufacturer. This examination shall be performed in accordance with the manufacturer's written inspection procedure by a certified testing agency. NDT is not required on inflatable bounce houses.

2204.2 *Certificate of Compliance*. A current certificate of compliance must be submitted annually by the owner certifying that each amusement device has been tested in accordance with the manufacturers' written test procedures.

SECTION 2205 MODIFIED OR REBUILT EQUIPMENT

2205.1 *Modified and Rebuilt Rides and Devices*. An amusement ride or device which has been rebuilt or modified other than repaired and restored to its original condition shall be re-identified by a new name and identification number and shall be re-certified as a completely new piece of equipment.

SECTION 2206 ASSEMBLY AND DISASSEMBLY

2206.1 *Assembly and Disassembly*. Assembly and disassembly of amusement rides or devices shall be by competent personnel trained and experienced in assembly and erection of such equipment.

2206.2 *Supervision*. The assembly and disassembly of an amusement ride or device shall be done by or under the immediate supervision of a person experienced in the proper performance of such work in respect to the device or structure.

2206.3 *Assembly*. Parts shall be properly aligned, and shall not be bent, distorted, cut or otherwise modified to force a fit. Parts requiring lubrication shall be lubricated in course of assembly and as required by the manufacturer. Fastening and locking devices, such as bolts, cap screws, cotter pins and lock washers shall be installed where required for dependable operation. Nuts shall be drawn tight, cotter pins shall be spread and lock nuts firmly set. Welding shall be done by welders certified in accordance with the requirements of the American Welding Society (AWS).

2206.4 *Replacement of Parts.* Parts which are excessively worn or which have been materially damaged shall be replaced or repaired.

2206.5 *Tools and Equipment.* Persons engaged in the assembly or disassembly of amusement rides or devices or temporary structures shall use tools of proper size and design to enable the work to be done safely.

2206.6 *Supports Required.* A portable amusement ride or device shall be placed on stable supports to prevent shifting, tipping, swaying or erratic motion. Use of shim blocks shall be kept to a minimum. Adequate means of drainage shall be provided to prevent water from collecting and softening supporting areas. The area surrounding the amusement ride or device shall be clear and kept free from trash and tripping hazards.

2206.7 *Permanent Foundations.* A non-portable amusement ride or device permanently erected shall be set on properly designed and constructed foundations or footings and secured to these footings in a manner to prevent shifting, tipping, swaying or erratic motion.

Exception: The provisions pertinent to erratic motion or sway does not apply to an amusement ride or device designed to permit flotation characteristics or flexibility.

2206.8 *Leveling and Alignment.* Corner posts, central columns or support structures of an amusement ride or device designed to operate on a vertical axis shall be plumbed and secured so that the path of the sweeps or platforms shall be level and operate on a true horizontal plane at right angles to the axis of the pivot. An amusement ride or device whose carriers are designed to operate on a horizontal axis shall be leveled so that the carriers all orbit in a true vertical plane.

2206.8.1 The base of an amusement ride or device employing a combination of orbiting planes or a ride whose carriers operate normally in a plane other than true horizontal or vertical shall be leveled, plumbed and secured so that they will not tip or shift and will be stable under the most adverse operating conditions, except for an amusement ride or device designed to permit flotation characteristics or flexibility or designed to operate properly regardless of whether the base is plumb or level.

SECTION 2207 SAFEGUARDS

2207.1 *Guarding of Machinery.* Machinery used in or with an amusement ride or device shall be enclosed, barricaded or otherwise effectively guarded against contact. Guards removed for maintenance purposes shall be replaced before normal operation is resumed. All amusement rides or devices containing or having a mounting or mountings that would catch, wind up or entangle long hair shall have adequate guards.

2207.2 *Public Protection.* An amusement ride or device shall not be used or operated while any person is to be endangered by it. Areas in which persons may be so endangered shall be fenced, barricaded or otherwise guarded against public intrusion.

2207.3 *Signage.* Signage describing any limitations of usage or the safety of riders or operators shall be placed in a prominent location at the entry to the ride where the patrons cannot obstruct it. The signage shall include number of riders, minimum or maximum rider height, weight, age or any other restrictions imposed by the ride manufacturer.

SECTION 2208 DESIGN LOAD AND SPEED

2208.1 *Design Load and Speed Shall Not be Exceeded.* An amusement ride or device shall not be overcrowded or loaded in excess of its safe carrying capacity, nor shall it be operated at an unsafe speed or at any speed beyond that recommended by the manufacturer. See Section 2201.3.

SECTION 2209 INSPECTIONS

2209.1 *Daily Inspection.* Prior to carrying passengers, the owner/operator shall conduct or cause to be conducted a daily documented and signed pre-opening inspection, based on the manufacturer provided instructions, to ensure the proper operation of the ride or device. The inspection program shall include, but not be limited to the following:

1. Inspection of all passenger-carrying devices, including restraint devices and latches.
2. Visual inspection of entrances, exits, stairways, and ramps.

3. Functional test of all communication equipment necessary for the operation of the ride.
4. Inspection or test of all automatic and manual safety devices.
5. Inspection or test of the brakes, including service brakes, emergency brakes, parking brakes, and backstops.
6. Visual, inspection of all fencing, guarding, and barricades.
7. Visual inspection of the ride structure.
8. The ride or device shall be operated for a minimum of one complete operating cycle.
9. Hydraulic systems shall be checked for leaks, damaged pipes and worn or deteriorated hoses. Only manufacturer approved hydraulic fluid shall be used.
10. A record of each inspection shall be maintained and shall be readily available to the Code Official at the time of inspection.

2209.2 *Unscheduled Cessation*. An amusement ride or device, or the specifically affected element, shall be appropriately inspected and operated, without passengers, to determine that it is functioning properly following an unscheduled cessation of operation caused by:

1. Malfunction or significant adjustment, or
2. Mechanical, electrical, or operational modification, or
3. Environmental conditions that affected the operation, or any combination of the three.
4. A record of each inspection shall be maintained and shall be readily available to the Code Official at the time of inspection.

2209.3 *Documentation*. Device setup, maintenance and inspection manuals from the manufacture, along with an operator training record signed by the trainer and trainee, shall be presented to the Code Official at the time of inspection.

SECTION 2210 WEATHER HAZARDS

2210.1 *Wind and Storm Hazards.* An amusement ride or device shall not be operated above wind limits established by the manufacturer or when storm warnings have been posted by the weather service, except as may be necessary to release or discharge passengers.

SECTION 2211 LIGHTING

2211.1 *Lighting.* Amusement rides or devices, temporary structures, access thereto and exits there from shall, while in operation or occupied, be provided with illumination by natural or artificial means sufficient to guard against personal injuries.

SECTION 2212 ACCESS AND EGRESS

2212.1 *Access and Egress.* Safe and adequate means of access to and egress from amusement rides, devices and temporary structures shall be provided. Such means of access and egress shall have:

1. Protection provided from hazards or falling by the use of rails, enclosures, barriers or similar means.
2. All passageways shall be kept free from debris, obstructions, projections and other hazards. All surfaces shall be maintained to prevent slipping and tripping.
3. Width of passageways shall not be less than the width of exit doors or stairs to which they lead. Headroom clearance shall not be less than 6' 8".
4. Stairways or ramps and the necessary connecting landings or platforms shall be provided whenever the entrance to or exit from such amusement device, ride, or temporary structure is above or below grade or floor level.

2212.2 *Design.* Stairways, landings and ramps shall provide the following:

1. Stairways, landings and ramps shall be designed, constructed and maintained to sustain safely a live load of at least 100 pounds per square foot.

2. Stairways, landing and ramps leading to or from an amusement ride or device intended for the public shall not be less than 36 inches wide for single lane passage. Landings shall have at least dimensions equal to the ramp width. Stair treads shall not be less than 11 inches (measured from riser to riser) and the rise shall not be greater than 7 inches (measured from tread to tread). Between any two connected levels, the treads shall be of uniform depth and the risers shall be of uniform height. The slope of ramps shall not exceed one-foot rise in 12 feet of run.

3. Guard rails shall be a minimum of 42 inches in height, non-climbable with no opening greater than 4 inches.

4. Handrails for stairs shall be a minimum of 34 inches in height and a maximum of 38 inches. The intermediate rail shall be 30 inches in height. These measurements are from nose of tread.

SECTION 2213 BOOTHS

2213.1 *General*. Temporary booths utilized for cooking food shall be located such that at least ten (10) feet of clearance exists on two sides for the use of fire equipment or other emergency vehicles, and shall not be located within ten (10) feet of amusement rides or devices. Each booth used for cooking shall be provided with at least one 2A10BC fire extinguisher. When cooking produces grease the cooking appliance shall be under a Type 1 hood with a UL300 fire suppression system with a current service inspection tag and a Type K fire extinguisher shall also be provided.

Exception: Type I hoods are not required for cooking equipment in tents.

SECTION 2214 SIGNAL SYSTEMS

2214.1 *Signal Systems*. Signal systems for the starting and stopping of amusement rides or devices shall be provided where the operator of the device does not have a clear view of the point at which passengers are loaded or unloaded. Any code of signals adopted shall be printed and kept posted at both operator's and signalman's stations. All persons who may use these signals shall be carefully instructed in their use. Signals for the movement or operation of an amusement device

shall not be given until all passengers, operators, and other persons who may be endangered are in a position of safety.

SECTION 2215 DESIGN AND CONSTRUCTION

2215.1 *Allowable Loads.* Amusement rides or devices subject to the provisions of this code shall be so designed and constructed that the maximum allowable loads will not stress any part beyond allowable limits.

2215.2 *Anchors.* Amusement rides or devices shall be anchored, guyed, stayed or otherwise supported to provide proper stability and to restrict any adverse change in stability.

2215.3 *Brakes.* If tubs or other components of an amusement ride or device may collide upon failure of normal controls, emergency brakes sufficient to prevent such collisions shall be provided. On rides or devices which make use of inclined tracks, automatic anti-rollback devices shall be installed to prevent backward movement of the tubs in case of failure of the propelling mechanism.

2215.4 *Speed Limiting Devices.* An amusement ride or device capable of exceeding its maximum safe operating speed shall be provided with a speed-limiting device.

2215.5 *Passenger Protections.* The interior and exterior parts of all passenger-carrying amusement rides or devices with which a passenger may come in contact shall be smooth and rounded, free from sharp, rough or splintered edges and corners, with no protruding studs, bolts, screws or other projections that could cause injury. Interior parts upon which or against which a passenger may be forcibly thrown by the action of the ride shall be adequately padded.

2215.5.1 *Guards.* Devices that are self-powered and that are operated by passengers shall have the driving mechanism so guarded and the guards so locked in place as to prevent passengers from gaining access to the mechanism.

2215.5.2 *Restraining Devices.* Restraining devices, such as belts, bars, foot rests and other equipment as may be necessary for safe entrance and exit and for support while the device is in operation shall be provided. Such equipment and the fastenings shall be of sufficient strength to retain the

passengers. The fastenings shall be of a type, which cannot be inadvertently released.

2215.6 *Fences*. All amusement devices shall be enclosed with a fence with entrance and exit gates. Fences shall be a minimum of 42 inches high with no opening or space over 4 inches, non-climbable, and shall be self-supporting. The exit gate shall swing away from the device.

SECTION 2216 ANCILLARY EQUIPMENT

2216.1 *Air Compressors*. Air compressors, air compressor tanks and equipment used in connection therewith, shall be constructed, equipped and maintained in accordance with ANSI/CAGI B19.1 listed in Chapter 15. The equipment shall be inspected and tested at least once a year. A record of each inspection shall be kept by the owner and/or manager on the premises where the equipment is located and shall be made available on request by the Code Official. Compressor relief valves shall be piped so as to direct the relieved air away from passengers and operators.

2216.2 *Engine Driven Power Sources*. Internal combustion power sources shall be of adequate type, design and capacity to handle the design load.

2216.2.1 *Fuel Supply*. Fuel tanks shall be of adequate capacity to permit uninterrupted operation during normal operating hours. Where it is impossible to provide tanks of proper capacity for a complete day, the ride or device shall be shut down and unloaded or evacuated during the refueling procedure. Under no circumstances shall the fuel supply be replenished while the engines are running.

2216.2.2 *Ventilation*. An enclosed area in which an internal combustion engine is operated shall be ventilated. Exhaust fumes from the engine shall be discharged outside the area.

2216.2.3 *Location*. Internal combustion power sources shall be located in a manner permitting proper maintenance and shall be protected either by guards, fencing or enclosure.

2216.3 *Mechanical Power Transmission*. All power transmission parts shall be shielded, enclosed or barricaded to protect the public.

SECTION 2217 FIRE PROTECTION

2217.1 *Accessibility.* Provisions shall be made for fire and emergency vehicle access to all portions of any site on which amusement devices or rides, as defined herein, are located whether permanent or temporary installations.

2217.2 *Fire Resistance of Fabrics.* Fabrics constituting part of an amusement ride or device or enclosure therefore shall be flame resistant and shall be capable of passing a flame resistant field test in accordance with Chapter 6 of NFPA 701 listed in Chapter 15.

2217.3 *Flammable Waste.* Flammable waste such as oily rags and other flammable materials shall be placed in covered metal containers. Such containers shall not be kept at or near site.

2217.4 *Flammable Liquids and Gases.* Gasoline and other volatile liquids and flammable gases shall be stored in cool and ventilated places. Smoking and the carrying of lighted cigars, cigarettes or pipes is prohibited in any area where such liquids or gases are stored or are transferred from one container to another.

2217.4.1 *Storage.* Storage and use of flammable liquids and gases shall comply with the requirements of the building code as listed in Chapter 15.

2217.5 *Special Amusement Buildings.* Temporary amusement buildings shall be equipped with an automatic fire detection system and an automatic sprinkler system throughout. Actuation of any fire detection device shall immediately sound an alarm at a constantly attended location at the building. Permanent amusement building shall comply with the building code.

2217.6 *Fire Extinguishers.* Each ride shall have at least one serviceable and tagged type ABC fire extinguisher provided by the ride operator and shall be sized in accordance with NFPA 10 and the requirements of the IFC. Extinguishers shall be within an easy reach of operator.

SECTION 2218 ELECTRICAL INSTALLATIONS

2218.1 *Electrical Installation.* Electrical permits shall be required for permanent installations including wiring, equipment

and appliances. All electrical installations shall be in accordance with the St. Louis County Electrical Code. All electrical disconnects, connection boxes, connectors, raceways and wiring shall be UL listed. The Code Official shall be permitted to require additional safety measures such as extra grounding, ground fault interrupters, etc. if in his opinion conditions at the site or the type or condition of equipment justify such additional protection. The Code Official may issue supplemental rules and regulations to further interpret the electrical requirements as provided for in paragraph 104.1.1 of this code.

2218.2 *Junction Boxes and Components.* All junction boxes and electrical components for operation of amusement rides or devices shall be segregated from passageways by fencing. All fencing shall be constructed such that it prohibits unauthorized entry, and shall be maintained for the duration of the event.

SECTION 2219 INFLATABLE DEVICES

2219.1 *Stakes.* Inflatable devices shall be staked in accordance with the manufacturer's and Consumer Product Safety Commission requirements, whichever is more restrictive. Stakes shall be a minimum of 30 inches in length, 7/8 in diameter and driven a minimum of 24 inches into the ground. Sandbags shall not be used outdoors unless specifically approved by the manufacturer. Sandbags shall have documentation of their weight or a scale shall be provided to verify the weight.

2219.2 *Tethers.* All tethers shall be in good condition, of the proper length and size with no knots and shall not be frayed. Connections at each end shall be made in accordance with the manufacturer's directions. The connection points at the inflatable shall be in good condition and not modified.

2219.3 *Repairs.* The inflatable shall be clean and in good condition. All repairs shall be approved by the manufacturer.

2219.4 *Blower and Fans.* Inflation devices shall be of proper CFM required by the manufacturer, UL listed and in good condition. All air supply tubes shall be utilized unless manufacturer states a different requirement.

2219.5 *Electrical Connection.* Extension cords shall be a minimum of 12 gauge wire size, listed for rough service and not over 100

feet in length. If building power is utilized to power the blower only one extension cord may be plugged into a branch circuit. GFIC protection is required.

SECTION 2. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, unenforceable or otherwise unlawful; such decision shall not affect the validity of the remaining portions of this ordinance. The St. Louis County Council hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional, unenforceable or otherwise unlawful.

SECTION 3. Nothing in this ordinance or in the Codes hereby adopted shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 2 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

SECTION 4. This ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect on the 1st day of the month following ninety (90) calendar days from and after the date of its enactment.

BILL 10927

ORDINANCE

AN ORDINANCE AMENDING THE KIRKWOOD CODE OF ORDINANCES, CHAPTER 2. "ADMINISTRATION", ARTICLE V. "FISCAL MANAGEMENT", DIVISION 1. "GENERALLY", SECTION 2-313. "APPROPRIATIONS", SUBSECTION (C)(1)(A).

WHEREAS, the City of Kirkwood has balanced its budget and had the level of control at the department budget level, and

WHEREAS, the Finance Department recommends amending the Code of Ordinances, Chapter 2, Section 2-313 "Appropriations", Subsection (c)(1)(a) to add the Chief Administrative Officer may authorize transfers to department appropriations within the General Fund from the contingency account provided that the total within the General Fund do not exceed the appropriated budget.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KIRKWOOD, MISSOURI, AS FOLLOWS:

SECTION 1. The Kirkwood Code of Ordinances, Chapter 2. "Administration", Article V. "Fiscal Management", Division 1. "Generally", Section 2-313. "Appropriations", Subsection (c)(1)(a) is hereby amended as follows:

Section 2-313 Appropriations.

(c) Transfer of appropriations:

(1) Administrative transfer.

- a. The Chief Administrative Officer may authorize transfers of any unencumbered appropriation balance from one account to another within the same department, provided the departmental appropriations in total within the department do not exceed the appropriated budget **with the exception of the General Fund contingency account. The Chief Administrative Officer may authorize transfers to department appropriations within the General Fund from the contingency account provided that the total within the General Fund do not exceed the appropriated budget.** In addition, no such administrative transfer shall be made between funds of the City.

SECTION 2. This Ordinance shall be in full force and effect after its passage and approval, as provided by law.

PASSED AND APPROVED THIS DAY OF

Mayor, City of Kirkwood

ATTEST:

City Clerk
1st Reading:
2nd Reading:

Legislation Request

Ordinance

Place On The Agenda Of: 4/7/2022

Step #1:

Strategic Plan Select... Goal # & Title

Background To Issue:

Current Code of Ordinances, Chapter 2, Section 2-313 "Appropriations," Subsection (c)(1)(a) restricted transfers to other General Fund departments from the contingency account.

Recommendations and Action Requested:

Finance Department recommends amending the Code of Ordinances, Chapter 2, Section 2-313 "Appropriations", Subsection (c)(1)(a) to add the Chief Administrative Officer may authorize transfers to department appropriations within the General Fund from the contingency account provided that the total within the General Fund do not exceed the appropriated budget.

Alternatives Available:

Does this project have a public information component? ☐ Yes ☒ No

Cost: \$0.00 Account #: 0 Project #: 0 Budgeted: YES

If YES, Budgeted Amount: If NO, or if insufficient funding (Complete Step #3).

Department Head Comments:

BY: Sandra Stephens Date: 3/30/2022 Authenticated: stephesf

You can attach up to 3 files along with this request.

 File Attachment

 File Attachment

 File Attachment

Step #2: If request involves approval of bids, contracts, proposals, purchases, etc. **(Must have Purchasing Director's approval).**

Select...

Purchasing Director's Comments:

BY: Select...

Date:

Authenticated:

You can attach up to 3 files along with this request.

 File Attachment

 File Attachment

 File Attachment

Step #3: If budgetary approval is required (**Must have Finance Department's approval**).

Select...

From Account # or Fund Name:

To Account # or Fund Name:

Finance Director's Comments:

I recommend the amendment to the code of ordinances.

BY: Sandra Stephens

Date: 3/30/2022

Authenticated: stephesf

Step #4: All Requests Require Chief Administrative Officer Approval for Placement on Meeting Agenda.

☒ Approve ☐ Disapprove

Chief Administrative Officer's Comments:

BY:



Date: 3-30-22

BILL NO. 10928

ORDINANCE NO.

AN ORDINANCE AUTHORIZING THE CITY OF KIRKWOOD, MISSOURI, TO ENTER INTO A LEASE PURCHASE TRANSACTION, THE PROCEEDS OF WHICH WILL BE USED TO PAY THE COSTS OF ACQUIRING, CONSTRUCTING, INSTALLING AND EQUIPPING CERTAIN IMPROVEMENTS TO THE CITY'S ELECTRIC SYSTEM AND ACQUIRING, INSTALLING AND EQUIPPING VARIOUS PUBLIC SAFETY VEHICLES AND EQUIPMENT; APPROPRIATING BASIC RENT PAYMENTS FOR THE ORIGINAL TERM; AND AUTHORIZING THE EXECUTION OF CERTAIN DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.

WHEREAS, the City of Kirkwood, Missouri (the "City") desires to (a) acquire, construct, install and equip certain improvements to the City's electric system and (b) acquire, install and equip certain public safety vehicles and equipment (collectively, the "Project"); and

WHEREAS, in connection with the acquisition and installation of a portion of the Project, the City owns or will own certain equipment and personal property consisting of circuit upgrades for the City's electric distribution system, LED street lighting and switchgears and transformers located at the Sugar Creek Substation in the City (collectively, the "Leased Property"); and

WHEREAS, in order to facilitate the Project and to pay a portion of the costs thereof, it is necessary and desirable for the City to take the following actions:

1. Enter into a Base Lease (the "Base Lease") with the City, as lessor, and U.S. Bank Trust Company, National Association (the "Trustee"), as lessee, pursuant to which the City will lease the Leased Property to the Trustee on the terms and conditions set forth therein, the form of which is attached hereto as **Exhibit A**;
2. Enter into an annually-renewable Lease Purchase Agreement (the "Lease") with the Trustee, pursuant to which the City, as lessee, will lease the Leased Property from the Trustee, as lessor, on a year-to-year basis with an option to purchase the Trustee's interest in the Leased Property, the form of which is attached hereto as **Exhibit B**;
3. Enter into a Tax Compliance Agreement (the "Tax Compliance Agreement") with the Trustee, pursuant to which the City makes certain covenants related to the exclusion of the interest portions of basic rent under the Lease from gross income for purposes of federal income taxation, the form of which is attached hereto as **Exhibit C**;
4. Approve a Declaration of Trust (the "Declaration of Trust") by the Trustee, pursuant to which the Series 2022 Certificates will be executed and delivered, the form of which is attached hereto as **Exhibit D**;
5. Enter into a Placement Agreement (the "Placement Agreement") among the City, the Trustee, the Placement Agent and the original purchaser of the Series 2022 Certificates (the "Purchaser"), the form of which is attached hereto as **Exhibit E**.

The Base Lease, the Lease, the Tax Compliance Agreement and the Placement Agreement are referred to together herein as the "City Documents."

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KIRKWOOD, MISSOURI, AS FOLLOWS:

Section 1. Approval of Delivery of the Series 2022 Certificates. The City hereby approves the delivery of the Series 2022 Certificates in the original principal amount of \$[**PRINCIPAL AMT**]. The Series 2022 Certificates shall be delivered and secured pursuant to the herein-approved Declaration of Trust. The sale of the Series 2022 Certificates to the Purchaser at the purchase price set forth in the Placement Agreement is hereby ratified and confirmed. Delivery of the Series 2022 Certificates shall be made to the Purchaser as soon as practicable after the adoption of this Ordinance, upon payment therefore in accordance with the terms of the Placement Agreement. The Series 2022 Certificates shall be in such denominations, shall be in such forms, shall be subject to prepayment prior to the stated payment dates thereof, shall have such other terms and provisions, and shall be executed and delivered in such manner subject to such provisions, covenants and agreements as are set forth in the Declaration of Trust.

Section 2. Authorization and Approval of City Documents and Declaration of Trust.

(a) The City Documents and the Declaration of Trust are hereby approved in substantially the forms submitted to and reviewed by the City Council on the date hereof, with such changes therein as are approved by the Mayor. The Mayor's execution of the City Documents will be conclusive evidence of such approval.

(b) The obligation of the City to pay Basic Rent Payments (as defined in the Lease) under the Lease is subject to annual appropriation and will constitute a current expense of the City and will not in any way be construed to be an indebtedness or liability of the City in contravention of any applicable constitutional, statutory or charter limitation or requirement concerning the creation of indebtedness or liability by the City, nor will anything contained in the Lease constitute a pledge of the general tax revenues, funds or moneys of the City, and all provisions of the Lease will be construed so as to give effect to such intent.

(c) The Mayor is hereby authorized and directed to execute and deliver the City Documents and to approve changes to the Declaration of Trust on behalf of and as the act and deed of the City. The City Clerk is hereby authorized to affix the City's seal to the City Documents and attest said seal.

Section 3. Appropriation of Basic Rent. The City Council hereby irrevocably budgets and appropriates moneys for Fiscal Year 2022 in an amount sufficient to make the Basic Rent Payments (as defined in the Lease) due under the Lease during the Original Term of the Lease coextensive with Fiscal Year 2022.

Section 4. Further Authority. The City will, and the officials and agents of the City are hereby authorized and directed to, take such actions, expend such funds 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 City Documents and the other documents authorized or approved hereby and the Project.

Section 5. Severability. If any term, condition, or provision of this Ordinance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective and each and every remaining provision hereof shall be valid and shall be enforced to the fullest extent permitted by law, it being the intent of the City Council that it would have enacted this Ordinance without the invalid or unenforceable provisions. In the event of a subsequent change in

applicable law so that the provision which had been held invalid is no longer invalid, said provision shall thereupon return to full force and effect without further action by the City and shall thereafter be binding.

Section 6. Governing Law. This Ordinance shall be governed exclusively by and construed in accordance with the applicable laws of the State of Missouri.

Section 7. Effective Date. This Ordinance shall take effect and be in full force from and after its passage and approval by the City Council.

PASSED and APPROVED this 21st day of April, 2022.

CITY OF KIRKWOOD, MISSOURI

[SEAL]

Mayor, City of Kirkwood

Attest:

City Clerk

First Reading: April 7, 2022
Second Reading: April 21, 2022

EXHIBIT A

BASE LEASE

[On file in the office of the City Clerk]

EXHIBIT B

LEASE PURCHASE AGREEMENT

[On file in the office of the City Clerk]

EXHIBIT C

TAX COMPLIANCE AGREEMENT

[On file in the office of the City Clerk]

EXHIBIT D

DECLARATION OF TRUST

[On file in the office of the City Clerk]

EXHIBIT E

PLACEMENT AGREEMENT

[On file in the office of the City Clerk]

Legislation Request

Ordinance

Place On The Agenda Of: 4/7/2022

Step #1:

Strategic Plan Select...

Goal # & Title

Background To Issue:

The City of Kirkwood desires to authorize the delivery of Certificate of Participation, Series 2022.

Recommendations and Action Requested:

Approve an Ordinance entering into a lease purchase transaction, the proceeds of which will be used to pay the costs of acquiring, constructing, installing and equipping certain improvements to the City's Electric System and acquiring, installing and equipping various public safety vehicles and equipment and authorizing the execution of certain documents and actions in connection therewith.

Alternatives Available:

Does this project have a public information component? ☐ Yes ☒ No

Cost: \$0.00

Account #: 00000

Project #:

Budgeted: YES

If YES, Budgeted Amount: \$0.00

If NO, or if insufficient funding (Complete Step #3).


Department Head Comments:


BY: Sandra Stephens


Date: 4/4/2022

Authenticated: stephesf

You can attach up to 3 files along with this request.

 File Attachment

 File Attachment

 File Attachment

Step #2: If request involves approval of bids, contracts, proposals, purchases, etc. **(Must have Purchasing Director's approval).**

Select...

Purchasing Director's Comments:

BY: Select...

Date:

Authenticated:

You can attach up to 3 files along with this request.

 File Attachment

 File Attachment

 File Attachment

Step #3: If budgetary approval is required (**Must have Finance Department's approval**).

Select...

From Account # or Fund Name:

To Account # or Fund Name:

Finance Director's Comments:

BY: Select...

Date:

Authenticated:

Step #4: All Requests Require Chief Administrative Officer Approval for Placement on Meeting Agenda.



Approve



Disapprove

Chief Administrative Officer's Comments:

BY:



Date:

4/4/22

SUBSTITUTE BILL 10928

ORDINANCE

AN ORDINANCE AUTHORIZING THE CITY OF KIRKWOOD, MISSOURI, TO ENTER INTO A LEASE PURCHASE TRANSACTION, THE PROCEEDS OF WHICH WILL BE USED TO PAY THE COSTS OF ACQUIRING, CONSTRUCTING, INSTALLING AND EQUIPPING CERTAIN IMPROVEMENTS TO THE CITY'S ELECTRIC SYSTEM AND ACQUIRING, INSTALLING AND EQUIPPING VARIOUS PUBLIC SAFETY VEHICLES AND EQUIPMENT; APPROPRIATING BASIC RENT PAYMENTS FOR THE ORIGINAL TERM; AND AUTHORIZING THE EXECUTION OF CERTAIN DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.

WHEREAS, the City of Kirkwood, Missouri (the "City") desires to (a) acquire, construct, install and equip certain improvements to the City's electric system and (b) acquire, install and equip certain public safety vehicles and equipment (collectively, the "Project"); and

WHEREAS, in connection with the acquisition and installation of a portion of the Project, the City owns or will own certain equipment and personal property consisting of circuit upgrades for the City's electric distribution system, LED street lighting and switchgears and transformers located at the Sugar Creek Substation in the City (collectively, the "Leased Property"); and

WHEREAS, in order to facilitate the Project and to pay a portion of the costs thereof, it is necessary and desirable for the City to take the following actions:

1. Enter into a Base Lease (the "Base Lease") with the City, as lessor, and U.S. Bank Trust Company, National Association (the "Trustee"), as lessee, pursuant to which the City will lease the Leased Property to the Trustee on the terms and conditions set forth therein, the form of which is attached hereto as **Exhibit A**;

2. Enter into an annually-renewable Lease Purchase Agreement (the "Lease") with the Trustee, pursuant to which the City, as lessee, will lease the Leased Property from the Trustee, as lessor, on a year-to-year basis with an option to purchase the Trustee's interest in the Leased Property, the form of which is attached hereto as **Exhibit B**;

3. Enter into a Tax Compliance Agreement (the "Tax Compliance Agreement") with the Trustee, pursuant to which the City makes certain covenants related to the exclusion of the interest portions of basic rent under the Lease from gross income for purposes of federal income taxation, the form of which is attached hereto as **Exhibit C**;

4. Approve a Declaration of Trust (the "Declaration of Trust") by the Trustee, pursuant to which the Series 2022 Certificates will be executed and delivered, the form of which is attached hereto as **Exhibit D**;

5. Enter into a Placement Agreement (the "Placement Agreement") among the City, the Trustee, the Placement Agent and the original purchaser of the Series 2022 Certificates (the "Purchaser"), the form of which is attached hereto as **Exhibit E**.

The Base Lease, the Lease, the Tax Compliance Agreement and the Placement Agreement are referred to together herein as the "City Documents."

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KIRKWOOD, MISSOURI, AS FOLLOWS:

Section 1. Approval of Delivery of the Series 2022 Certificates. The City hereby approves the delivery of the Series 2022 Certificates in the original principal amount of \$17,290,000. The Series 2022 Certificates shall be delivered and secured pursuant to the herein-approved Declaration of Trust. The sale of the Series 2022 Certificates to the Purchaser at the purchase price set forth in the Placement Agreement is hereby ratified and confirmed. Delivery of the Series 2022 Certificates shall be made to the Purchaser as soon as practicable after the adoption of this Ordinance, upon payment therefore in accordance with the terms of the Placement Agreement. The Series 2022 Certificates shall be in such denominations, shall be in such forms, shall be subject to prepayment prior to the stated payment dates thereof, shall have such other terms and provisions, and shall be executed and delivered in such manner subject to such provisions, covenants and agreements as are set forth in the Declaration of Trust.

Section 2. Authorization and Approval of City Documents and Declaration of Trust.

(a) The City Documents and the Declaration of Trust are hereby approved in substantially the forms submitted to and reviewed by the City Council on the date hereof, with such changes therein as are approved by the Mayor. The Mayor's execution of the City Documents will be conclusive evidence of such approval.

(b) The obligation of the City to pay Basic Rent Payments (as defined in the Lease) under the Lease is subject to annual appropriation and will constitute a current expense of the City and will not in any way be construed to be an indebtedness or liability of the City in contravention of any applicable constitutional, statutory or charter limitation or requirement concerning the creation of indebtedness or liability by the City, nor will anything contained in the Lease constitute a pledge of the general tax revenues, funds or moneys of the City, and all provisions of the Lease will be construed so as to give effect to such intent.

(c) The Mayor is hereby authorized and directed to execute and deliver the City Documents and to approve changes to the Declaration of Trust on behalf of and as the act and deed of the City. The City Clerk is hereby authorized to affix the City's seal to the City Documents and attest said seal.

Section 3. Appropriation of Basic Rent. The City Council hereby irrevocably budgets and appropriates moneys for Fiscal Year 2022 in an amount sufficient to make the Basic Rent Payments (as defined in the Lease) due under the Lease during the Original Term of the Lease coextensive with Fiscal Year 2022.

Section 4. Further Authority. The City will, and the officials and agents of the City are hereby authorized and directed to, take such actions, expend such funds 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 City Documents and the other documents authorized or approved hereby and the Project.

Section 5. Severability. If any term, condition, or provision of this Ordinance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective and each and every remaining provision hereof shall be valid and shall be enforced to the fullest extent permitted by law, it being the intent of the City Council that it would have enacted this Ordinance without the invalid or unenforceable provisions. In the event of a subsequent change in

applicable law so that the provision which had been held invalid is no longer invalid, said provision shall thereupon return to full force and effect without further action by the City and shall thereafter be binding.

Section 6. Governing Law. This Ordinance shall be governed exclusively by and construed in accordance with the applicable laws of the State of Missouri.

Section 7. Effective Date. This Ordinance shall take effect and be in full force from and after its passage and approval by the City Council.

PASSED and APPROVED this 21st day of April, 2022.

CITY OF KIRKWOOD, MISSOURI

[SEAL]

Mayor

Attest:

City Clerk

First Reading: April 7, 2022
Second Reading: April 21, 2022

EXHIBIT A

BASE LEASE

[On file in the office of the City Clerk]

EXHIBIT B

LEASE PURCHASE AGREEMENT

[On file in the office of the City Clerk]

EXHIBIT C

TAX COMPLIANCE AGREEMENT

[On file in the office of the City Clerk]

EXHIBIT D

DECLARATION OF TRUST

[On file in the office of the City Clerk]

EXHIBIT E

PLACEMENT AGREEMENT

[On file in the office of the City Clerk]

GILMORE & BELL, P.C.
DRAFT – APRIL 12, 2022
FOR DISCUSSION PURPOSES ONLY

DECLARATION OF TRUST

by

**U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION,
as Trustee**

Dated as of April 1, 2022

**\$17,290,000
Certificates of Participation
(City of Kirkwood, Missouri, Lessee)
Series 2022**

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

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Exhibit C – Payment Schedule for Series 2022 Certificates

DECLARATION OF TRUST

THIS DECLARATION OF TRUST (the “Declaration of Trust”), dated as of April 1, 2022, is made by **U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION**, a national banking association organized and existing under the laws of the United States of America, as settlor and trustee (the “Trustee”).

RECITALS:

1. The City of Kirkwood, Missouri (the “City”), and the Trustee have entered into a Base Lease dated as of April 1, 2022 (the “Base Lease”), pursuant to which the City has leased to the Trustee the personal property described on **Schedule 1** (the “Leased Property”).

2. Concurrently herewith the Trustee and the City have entered into a Lease Purchase Agreement dated as of April 1, 2022 (as the same may be amended or supplemented in accordance with its terms from time to time, the “Lease”), pursuant to which the Trustee will lease the Leased Property back to the City and will grant the City an option to purchase the Trustee’s interest in the Leased Property.

3. Certificates of Participation substantially in the form of **Exhibit A** (the “Series 2022 Certificates”), each such Certificate evidencing a proportionate interest of the registered owner thereof in rights under the Lease, will be executed and delivered hereunder, and the proceeds from the sale of the Series 2022 Certificates will be used to provide the funds to (a) pay a portion of the costs to (i) acquire, construct, install and equip certain improvements to the City’s electric system and (ii) acquire, install and equip certain public safety vehicles and equipment (collectively, the “Project,” as more fully described on **Schedule 2** attached hereto); and (b) pay certain costs in connection with the execution and delivery of the Series 2022 Certificates.

4. The Trustee is obligated to pay the costs of the Project only from funds available from the sale of the Series 2022 Certificates.

5. The Trustee is making this Declaration of Trust to set forth the terms of the Series 2022 Certificates and Additional Certificates as hereinafter defined and authorized (the Series 2022 Certificates and the Additional Certificates being hereinafter referenced collectively as the “Certificates”), the security therefor and other provisions respecting the Certificates.

DECLARATION CLAUSES

NOW, THEREFORE, to secure the payment of the Principal Portions of Basic Rent Payments, premium, if any, and Interest Portions of Basic Rent Payments represented by the Certificates, and to secure the performance and observance of all covenants and conditions therein and herein contained and to declare the terms and conditions upon, and subject to which, the Certificates are intended to be sold, held, secured and enforced, and in consideration of the premises set forth herein and of the purchase and acceptance of the Certificates by the Owners thereof, the Trustee has executed and delivered this Declaration of Trust and declares that it will hold all of the assets, property and interests received by it under the terms of this Declaration of Trust, the Base Lease and the Lease and all agreements and instruments contemplated hereby or thereby (except the Rebate Fund and any compensation, indemnification or other amounts that are due directly to the Trustee hereunder or thereunder) (collectively, the “Trust Estate”), as trustee, upon the terms and trusts herein set forth for the equal and proportionate benefit, security and protection of all present and

future Owners of the Certificates, without privilege, priority or distinction as to the lien or otherwise of any of the Certificates over any of the other Certificates;

PROVIDED, HOWEVER, that, if the Principal Portions of Basic Rent Payments, premium, if any, and Interest Portions of Basic Rent Payments represented by the Certificates due or to become due with respect to the Certificates are paid or provision has been made therefor in accordance with **Article X**, at the times and in the manner mentioned in the Certificates according to the true intent and meaning thereof, and provision has also been made for paying all sums payable under the Lease by the City in accordance with **Article X**, then this Declaration of Trust and the rights hereby granted will cease, determine and be void except as provided in **Article X**;

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

ARTICLE I

DEFINITIONS

Section 1.01. Definitions. In addition to words and terms defined in the Lease and elsewhere in this Declaration of Trust, the following words and terms used in this Declaration of Trust will have the following meanings, unless some other meaning is plainly intended:

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

“Approved Investors” means (a) the Purchaser, (b) any related or affiliated party(s) of the Purchaser (as defined under federal securities laws), (c) an “accredited investor” under Rule 501(a) of Regulation D promulgated under the Securities Act of 1933, or (d) a “qualified institutional buyer” under Rule 144A promulgated under the Securities Act of 1933.

“Authorized Representative” means the Mayor, the Chief Administrative Officer, the Director of Finance, the City Clerk or any other person designated as an Authorized Representative by the City Council to act on behalf of the City, such designation being approved by the City Council of the City by a resolution or ordinance that is filed with the Trustee.

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

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

“Cede & Co.” means Cede & Co., as nominee name of The Depository Trust Company, New York, New York, and any successor nominee of the Securities Depository with respect to the Certificates.

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

“Certificates” means the Series 2022 Certificates and any Additional Certificates.

“Directive” means an instrument in writing executed in one or more counterparts by the Owners of Certificates, as determined from the records of the Registrar kept pursuant to **Section 3.06**, or their lawful attorneys-in-fact, representing not less than a majority of the aggregate unpaid Principal Portion represented by the then-Outstanding Certificates.

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

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

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

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

“Investment Securities” means and includes any securities, if and to the extent the same are permitted by law (as determined by the City).

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

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

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

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

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

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

“Placement Agreement” means the placement agreement pursuant to which the Purchaser agrees to purchase the Certificates.

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

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

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

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

“Purchaser” means BMO Harris, N.A., Chicago, Illinois, the original purchaser of the Series 2022 Certificates.

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

“Record Date” means the fifteenth day of the month (whether or not a Business Day) of the calendar month next preceding the applicable Basic Rent Payment Date.

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

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

“Series 2022 Certificates” means the \$17,290,000 aggregate principal amount of Certificates of Participation (City of Kirkwood, Missouri, Lessee), Series 2022, evidencing a proportionate interest in Basic Rent Payments to be made by the City pursuant to the Lease, executed and delivered pursuant to this Declaration of Trust.

“State” means the State of Missouri.

“Tax Compliance Agreement” means (a) with respect to the Series 2022 Certificates, the Tax Compliance Agreement dated as of April 1, 2022, entered into by the City and the Trustee, as amended and supplemented from time to time in accordance with its terms, and (b) with respect to any Additional Certificates, the tax compliance agreement entered into by the City and the Trustee in connection with the execution and delivery of each series of Additional Certificates, as from time to time amended.

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

“Trustee” means U.S. Bank Trust Company, National Association, and its successor or successors and their respective assigns.

Section 1.02. General Rules of Construction.

(a) Words of the masculine gender will be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context will otherwise indicate, words importing the singular number will include the plural and vice versa, and words importing person will include individuals, corporations, limited liability companies, partnerships, joint ventures, associations, joint-stock companies, trusts, unincorporated organizations and governments and any agency or political subdivision thereof.

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

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

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

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

Section 1.03. Severability.

(a) If any provision of this Declaration of Trust is held or deemed to be invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution, statute, charter or rule of public policy, or for any other reason, such circumstances will not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever.

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

Section 1.04. Date of Declaration of Trust. The dating of this Declaration of Trust as of April 1, 2022, is intended as and for the convenient identification of this Declaration of Trust only and is not intended to indicate that this Declaration of Trust was executed and delivered on said date, this Declaration of Trust being executed and delivered and becoming effective simultaneously with the initial execution and delivery of the Certificates.

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

ARTICLE II

COVENANT AS TO BASE LEASE AND LEASE

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

ARTICLE III

THE CERTIFICATES

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

Section 3.02. General Provisions Concerning the Certificates.

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

(b) The Certificates will be fully-registered certificates transferable to subsequent owners only on the books kept by the Registrar pursuant to **Section 3.06**. Each Certificate will be in denominations of \$100,000 and integral multiples of \$5,000 in excess thereof.

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

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

(e) The Interest Portion of the Basic Rent represented by each Certificate will be payable from the date thereof or the most recent date to which said Interest Portion has been paid. The Interest Portion of the Basic Rent represented by the Series 2022 Certificates will be paid on each April 1 and October 1, commencing on October 1, 2022.

(f) Payment of the Interest Portion of the Basic Rent represented by any Certificates will be made to the person appearing on the registration books of the Registrar as the Owner thereof on the Record Date, such Interest Portion to be paid to such Owner by (a) check or draft drawn on the Trustee and mailed to such Owner’s address as it appears on the registration books of the Registrar on the Record Date or (b) electronic transfer to such Owner upon written notice given to the Trustee by such Owner not less than 15 days prior to the Record Date for such Interest Portion, containing the electronic transfer instructions including the bank, ABA routing number and account name and number to which such Owner wishes to have such transfer directed, and an acknowledgement that an electronic fee may be payable.

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

(h) The Principal Portion of the Basic Rent and prepayment premium, if any, represented by the Certificates will be payable (whether at maturity or upon prepayment or acceleration) by check, electronic transfer or draft to the Owners of such Certificates upon presentation and surrender of such Certificates at the principal corporate trust office of the Trustee located in St. Paul, Minnesota, or such other office designated by the Trustee.

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

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

Section 3.04. Transfer of Certificates. The Certificates and beneficial interests therein may only be purchased by or transferred to Approved Investors. Subject to the limitations of the preceding sentence, any Certificate may be transferred upon the books required to be kept pursuant to the provisions of **Section 3.06**, by the person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of such Certificate for cancellation, accompanied by delivery of a duly executed written instrument of transfer in a form approved by the Trustee. The Trustee or the Securities Depository may also require the payment by the Owner requesting such transfer of any tax or other governmental charge required to be paid with respect to such transfer. If any Owner fails to provide a correct taxpayer identification number to the Trustee, the Trustee may impose a charge against such Owner sufficient to pay any governmental charge required to be paid as a result of such failure. In compliance with Section 3406 of the Internal Revenue Code of 1986, as amended, such amount may be deducted by the Trustee from amounts otherwise payable to such Owner hereunder or under the Certificates.

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

Section 3.06. Registration Books.

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

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

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

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

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

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

Section 3.08. Series 2022 Certificates.

(a) There will be initially prepared, executed and delivered under this Declaration of Trust a series of Certificates in the aggregate principal amount of \$17,290,000, which series of Certificates will be designated "Certificates of Participation (City of Kirkwood, Missouri, Lessee), Series 2022." The Series 2022 Certificates will be dated the date of initial delivery thereof, and will be payable on the dates, in the principal amounts (subject to prepayment as described in **Section 5.02**), and with the Interest Portions accruing at the rates set forth on **Exhibit C**.

(b) Prior to or simultaneously with the execution of and delivery of the Series 2022 Certificates by the Trustee, the following documents will be filed with the Trustee:

(1) A copy, certified by the City Clerk, of the ordinance adopted by the City Council and approved by the Mayor of the City authorizing the execution of the Base Lease and the Lease and approving the execution and delivery of the Series 2022 Certificates to or upon the order of the Purchaser.

(2) Original executed counterparts of this Declaration of Trust, the Base Lease, the Lease, the Placement Agreement and the Tax Compliance Agreement.

(3) An Opinion of Special Tax Counsel as to the validity of the Series 2022 Certificates and the exemption from federal income taxation of the Interest Portion of Basic Rent Payments represented by the Series 2022 Certificates.

(4) A certificate of an Authorized Representative that the City is in compliance with the insurance requirements of **Article VII** of the Lease.

(5) An Opinion of Counsel stating that the Series 2022 Certificates are exempt from registration under the Securities Act of 1933, as amended, and this Declaration of Trust is exempt from qualification under the Trust Indenture Act of 1939, as amended.

(6) Such other certificates, statements, receipts, opinions and documents required by this Declaration of Trust or the Lease (the satisfaction of such requirements to be conclusively evidenced by the delivery of the Opinion of Special Tax Counsel referred to in subparagraph (3) of this Section).

(c) When the documents specified above have been filed with the Trustee, and when the Series 2022 Certificates have been executed as required by this Declaration of Trust, the Trustee will deliver the Series 2022 Certificates to or upon the order of the Purchaser or will hold the Series 2022 Certificates as FAST Agent for the benefit of the Beneficial Owners, but only upon payment of the purchase price of the Series 2022 Certificates, as specified in the Placement Agreement. The Proceeds of the sale of the Series 2022 Certificates, including accrued interest and premium, if any, paid to the Trustee will be deposited and applied as provided in **Article VI**.

Section 3.09. Additional Certificates.

(a) Upon the execution and delivery of a Supplemental Lease that provides for an increase in the amount of Basic Rent payable under the Lease and so long as no Event of Default or Event of Nonappropriation exists, Additional Certificates evidencing the right of the Owners thereof to receive the Principal Portion and the Interest Portion of such additional Basic Rent may be executed and delivered under and equally and ratably secured by this Declaration of Trust on a parity with the Series 2022 Certificates and any other Additional Certificates, at any time and from time to time, upon compliance with the conditions provided in this Section, for the purposes set forth in **Section 4.08** of the Lease.

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

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

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

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

(c) Such Additional Certificates will have the same designation as the Series 2022 Certificates, except for an identifying series letter or date. The Principal Portion and the Interest Portion of Basic Rent represented by such Additional Certificates will be payable on the dates, in the amounts and (with respect to such Interest Portion) at the rates as may be provided by the Supplemental Declaration of Trust authorizing such Additional Certificates. **Exhibit C** will be amended by such Supplemental Declaration of Trust to reflect separately the Principal Portion of Basic Rent allocable to each series of Certificates. Such Additional Certificates will be on a parity with and will be entitled to the same benefit and security of this Declaration of Trust as the Series 2022 Certificates and any other Additional Certificates.

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

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

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

(3) An original executed counterpart of the Supplemental Lease.

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

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

(6) Such other certificates, statements, receipts, opinions and documents required by this Declaration of Trust or the Lease (the satisfaction of such requirements to be conclusively evidenced by the delivery of the Opinion of Special Tax Counsel referred to in subparagraph (3) of this Section).

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

Section 3.10. Book-Entry-Only System.

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

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

(c) If the Securities Depository determines to discontinue providing its services with respect to the Certificates and the City cannot obtain a qualified successor Securities Depository, or if Participants holding a majority position in the Outstanding Certificates determine not to use the book-entry system of the Securities Depository, the Trustee will execute and deliver one or more certificates (the "Replacement Certificates") to the Participants in principal amounts and maturities corresponding to the identifiable Beneficial Owners' interests in the Certificates, with such adjustments as the Trustee may find necessary or appropriate as to accrued interest and previous calls for prepayment. In such event, all references to the Securities Depository herein will relate to the period of time when at least one Certificate is registered in the name of the Securities Depository or its nominee. Upon the delivery of Replacement Certificates, all references herein to obligations imposed upon or to be performed by the Securities Depository will be deemed to be imposed upon and performed by the Trustee, to the extent applicable, with respect to such Replacement Certificates. The Trustee may rely on information from the Securities Depository and its Participants as to the names and addresses of and principal amounts held by the Beneficial Owners of the Certificates. The cost of printing Replacement Certificates will be paid by the City.

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

Section 3.12. Cancellation and Destruction of Certificates upon Payment.

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

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

ARTICLE IV

PARTICULAR COVENANTS AND PROVISIONS

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

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

ARTICLE V

PREPAYMENT

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

Section 5.02. Prepayment Provisions with Respect to the Series 2022 Certificates.

(a) *Optional Prepayment.* The Series 2022 Certificates that evidence Principal Portions of Basic Rent payable to Certificate Owners are subject to optional prepayment prior to maturity at the option of the City on April 1, 2031 and thereafter in whole or in part at any time at a Prepayment Price equal to 100% of the Principal Portion of Basic Rent represented by the Series 2022 Certificates being prepaid, plus the Interest Portion of Basic Rent accrued to the Prepayment Date, from amounts paid by the City upon the exercise of its option to purchase the Trustee's interest in the Leased Property or partially prepay Basic Rent Payments pursuant to the terms of the Lease.

(b) *Extraordinary Optional Prepayment.* The Series 2022 Certificates are subject to optional prepayment prior to their respective stated maturities, at any time, as a whole, but not in part, at a Prepayment Price equal to 100% of the Principal Portion of Basic Rent represented thereby plus the Interest Portion of Basic Rent accrued to the Prepayment Date, in the event of substantial damage to or destruction or condemnation (other than by the City or any entity controlled by or otherwise affiliated with the City) of, or loss of title to, substantially all of the Leased Property, or as a result of changes in the constitution of the State or legislative or administrative action by the State or the United States, the Base Lease or the Lease becomes unenforceable, and the City purchases the Trustee's interest in the Leased Property pursuant to **Section 10.01(c)** of the Lease.

Section 5.03. Selection of Certificates for Prepayment; Notice to Trustee. If less than all of the Outstanding Certificates are called for optional prepayment, Certificates will be prepaid in such order of stated payment dates as is determined by the City. Within a stated payment date the Trustee will select the Certificates or any given portion thereof to be prepaid by lot or such other equitable manner as the Trustee determines in principal amounts of \$100,000 and integral multiples of \$5,000 in excess thereof. In case of any optional prepayment, at the election of the City, the City will, at least 45 days prior to the Prepayment Date (unless a shorter notice will be satisfactory to the Trustee), give written notice to the Trustee directing the Trustee to call Certificates for prepayment and give notice of prepayment and specifying the Prepayment Date, the series, the principal amount and maturities of Certificates to be called for prepayment, the applicable prepayment price and the provision or provisions of this Declaration of Trust pursuant to which such Certificates are to be called for prepayment.

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

Section 5.05. Notice of Prepayment.

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

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

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

Section 5.06. Effect of Prepayment.

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

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

ARTICLE VI

DELIVERY OF CERTIFICATES; FUNDS; APPLICATION OF PROCEEDS

Section 6.01. Establishment of Funds.

(a) There are hereby established the following Funds:

- (1) Project Fund.
- (2) Lease Revenue Fund.
- (3) Rebate Fund.

(b) All Funds established pursuant to paragraph (a) above (except for the Rebate Fund) will be held by the Trustee in trust for the benefit of the Certificate Owners. The money in all of the Funds will be deposited or applied as hereinafter provided.

Section 6.02. Application of Proceeds of Series 2022 Certificates. The net Proceeds of the Series 2022 Certificates (equaling the sum of \$17,290,000.00) will be deposited in the Project Fund and used to pay for Project Costs, including Costs of Delivery.

Section 6.03. Application of Lease Revenues.

(a) Lease Revenues will be deposited, as received pursuant to the Lease, as follows:

- (1) Basic Rent will be deposited to the Lease Revenue Fund.
- (2) Optional prepayments of the Principal Portion of Basic Rent (in amounts equal to the applicable Prepayment Price) will be deposited to the Lease Revenue Fund.
- (3) Payments of Supplemental Rent pursuant to **Section 4.02** of the Lease will be applied as provided therein.

(b) Undesignated payments of Rent that are insufficient to discharge the full amount then due will be applied first to the Interest Portion of Basic Rent, next to the Principal Portion of Basic Rent and finally to Supplemental Rent.

Section 6.04. Disbursements from the Project Fund.

(a) Moneys in the Project Fund will be used to pay for Project Costs, including Costs of Delivery. Payment will be made from moneys in the Project Fund upon receipt by the Trustee of a requisition certificate therefor signed by (1) an Authorized Representative, and (2) except for requisitions for Costs of Delivery, architect or engineering fees or with respect to the portion of the Project related to the acquisition, installation and equipping of public safety vehicles and equipment, the Construction Manager (which will not be an employee of the City), which requisition certificate will contain the statements, representations and certificates set forth in the form thereof attached hereto as **Exhibit B** and will be otherwise substantially in such form.

(b) In making disbursements for Project Costs, the Trustee will be entitled to conclusively rely upon each written requisition certificate executed by the Authorized Representative and, if required, by the Construction Manager, without inquiry or investigation. It is understood that the Trustee will *not* make any inspections of the Project, make any provision to obtain completion bonds, mechanic's or materialmen's lien releases or otherwise supervise any phase of the acquisition, construction, installation and equipping of the Project. The approval of each requisition certificate by the Authorized Representative will constitute unto the Trustee an irrevocable determination that all conditions precedent to the payment of the specified amounts from the Project Fund have been completed. The Trustee will make disbursements to pay Project Costs for which any such request is made within five Business Days of the receipt of a properly executed certificate with all necessary supporting information. The Trustee shall be fully protected in making the disbursements contained in the disbursement requests provided to it and shall have no duty or obligation to

confirm that such requested disbursements constitute Project Costs or whether or not the signature of the Construction Manager is required.

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

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

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

Section 6.06. Application of Moneys in the Rebate Fund. Moneys will be deposited in and disbursed from the Rebate Fund in accordance with written instructions from the City to the Trustee, prepared in accordance with the provisions of the Tax Compliance Agreement.

Section 6.07. Reserved.

Section 6.08. Repayment to the City. After payment in full of all Basic Rent Payments and all Supplemental Rent due through the maximum Lease Term represented by all Outstanding Certificates or the earlier purchase of the Trustee's interest in the Leased Property pursuant to **Section 10.01** of the Lease, all amounts remaining in the Funds will be paid to the City.

Section 6.09. Payments Due on Days other than Business Days. In any case where the date of maturity of Principal Portions of Basic Rent Payments, premium, if any, or Interest Portions of Basic Rent Payments represented by the Certificates or the date fixed for prepayment of any Certificates is not a Business Day, then payment of Principal Portions of Basic Rent Payments, premium, if any, or Interest Portions of Basic Rent Payments represented by the Certificates need not be made on such date but may be made on the next succeeding Business Day with the same force and effect as if made on the date of maturity or the date fixed for prepayment, and no interest will accrue for the period after such date.

Section 6.10. Nonpresentment of Certificates. If any Certificate is not presented for payment when the Principal Portion of Basic Rent represented thereby becomes due, either at maturity or otherwise, or at the date fixed for prepayment thereof, if funds sufficient to pay such Certificate have been made available to the Trustee, all liability of the Trustee and the City to the Owner thereof for the payment of such Certificate will forthwith cease, determine and be completely discharged. Thereupon it will be the duty of the Trustee to hold such fund or funds, without liability for interest thereon, for the benefit of the Owner of such Certificate, who will thereafter be restricted exclusively to such fund or funds for any claim of whatever nature under this Declaration of Trust or on, or with respect to, said Certificate. If any Certificate is not presented for payment within one year following the date when such Certificate becomes due, whether by maturity or otherwise, the Trustee will repay, without liability for interest thereon, to the City the funds theretofore held by the Trustee for payment of such Certificate. Such Certificate will, subject to the defense of any applicable statute of limitation, thereafter be an unsecured obligation of the City, and the Owner thereof may look only to the City for payment, and then only to the extent of the amount so

repaid, and the City will not be liable for any interest thereon and will not be regarded as a trustee of such money.

Section 6.11. Separate Accounting of Funds Allocable to each Series of Certificates. The Trustee will maintain separate accounts for funds and securities attributable to each series of Certificates in the Funds held by the Trustee hereunder so that the calculations for each series of Certificates can be made separately for such series. Any transfer of funds or securities or earnings thereon from one fund or account to another will be made to the appropriate account or subaccount of the same series of Certificates to which such funds or securities are attributed. If, at any time, a payment is made to any such fund that is less than the amount due and payable to such fund, the amount payable will be credited *pro rata* to each such separate account within such fund, based on the amount owed to each such account.

ARTICLE VII

DEPOSITARIES OF MONEYS, SECURITY FOR DEPOSITS AND INVESTMENT OF FUNDS

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

Section 7.02. Investment of Moneys.

(a) Moneys held in the Funds will, subject to the requirements of the Tax Compliance Agreement and as hereinafter provided, be invested and reinvested by the Trustee, pursuant to written direction of the City, signed by an Authorized Representative, in Investment Securities that mature or are subject to redemption by the owner prior to the date such funds will be needed. In the absence of such instructions, the Trustee is directed to invest moneys in accordance with the standing instruction provided to it on the date of original delivery of the Series 2022 Certificates. The Trustee may conclusively rely upon the written investment direction of the City as to the suitability and legality of the directed investment, including that the directed investment constitutes an Investment Security, and shall have no obligation to determine if the direct investment complies with the requirements of the Tax Compliance Agreement. The Trustee is specifically authorized to implement its automated cash investment system to assure that cash on hand is invested and to charge its normal cash management fees and cash sweep account fees, which may be deducted from income earned on investments, provided that any such fees will not exceed the interest income on the investment.

(b) The Trustee will sell and reduce to cash a sufficient amount of such Investment Securities held by the Trustee in any Fund hereunder whenever the cash balance in such Fund is insufficient for the purpose of such Fund. Any such Investment Securities will be held by or under the control of the Trustee and will be deemed at all times a part of the Fund in which such moneys are originally held, and the interest accruing thereon and any profit realized from such Investment Securities will be credited to such Fund, and any loss resulting from such Investment Securities will be charged to such Fund. The Trustee may elect, but shall not be obligated, to credit any Fund hereunder with moneys representing income or principal payments due on, or sales proceeds due in respect of, Investment Securities in such Fund, or to credit to Investment Securities intended to be purchased with such moneys, in each case before actually receiving the requisite moneys from the payment source, or to otherwise advance funds for account transactions. The

City acknowledges that the legal obligation to pay the purchase price of any Investment Securities arises immediately at the time of the purchase. Notwithstanding anything else in this Declaration of Trust, (1) any such crediting of funds or assets shall be provisional in nature, and the Trustee is authorized to reverse any such transactions or advances of funds if it does not receive good funds with respect thereto, and (2) nothing in this Declaration of Trust shall constitute a waiver of any of the Trustee's rights as a securities intermediary under Uniform Commercial Code §9-206.

(c) For purposes of determining the amount in any Fund, the value of any investments will be computed at the market value thereof (excluding accrued interest), the purchase price thereof (excluding accrued interest) or principal amount, whichever is lower. The City acknowledges that the Trustee shall only be required to report the value of any assets on statements, books, and records according to the price provided by pricing services and sources relied upon by the Trustee and shall have no duty or obligation to refer to alternative sources.

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

(e) The City acknowledges that regulations of the Office of the Comptroller of the Currency of the U.S. Department of the Treasury grant the City the right to receive brokerage confirmations of security transactions as they occur. To the extent permitted by law, the City specifically waives such notification and acknowledges that the City will receive periodic transaction in statements, which will detail all investment transactions.

ARTICLE VIII

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

Section 8.01. Amendments Permitted.

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

addresses listed on the registration books kept by the Trustee pursuant to **Section 3.06**. Any failure to give such notice, or any defect therein, will not, however, in any way impair or affect the validity of any such amendment.

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

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

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

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

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

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

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

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

(c) The Trustee may, but shall not be obligated to, enter into any such supplemental Declaration of Trust, Lease or Base Lease that affects the Trustee's own rights, duties or immunities under this Declaration of Trust, the Lease, the Base Lease or otherwise.

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

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

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

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

ARTICLE IX

DEFAULT PROVISIONS AND REMEDIES OF TRUSTEE AND OWNERS OF CERTIFICATES

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

(a) Default in the due and punctual payment of any Interest Portion of Basic Rent represented by a Certificate; or

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

(c) Any Event of Lease Default.

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

Section 9.03. Other Remedies.

(a) Upon the occurrence of an Event of Lease Default or Event of Nonappropriation, the Trustee may exercise any remedies available under the Lease and, to the extent consistent therewith, may sell, lease or manage any portion of the Leased Property or Trustee's interest in the Leased Property, and apply the net proceeds thereof in accordance with **Section 9.05** and, whether or not it has done so, may pursue any other remedy available to it under the Lease or at law or in equity.

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

(c) No delay or omission to exercise any right or power accruing upon any default will impair any such right or power or will be construed to be a waiver of any such default or acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed expedient.

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

Section 9.04. Rights of Certificate Owners.

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

(b) Any other provision herein to the contrary notwithstanding, the Owners of not less than a majority in aggregate principal amount of Certificates then Outstanding will have the right, at any time, by a Directive, to direct the time, method and place of conducting all proceedings to be taken in connection with the enforcement of this Declaration of Trust, or for the appointment of a receiver or any other proceedings hereunder; provided that (1) such Directive will not be otherwise than in accordance with the provisions of law and of this Declaration of Trust, and (2) the Trustee has been indemnified as provided in

Sections 9.07 and 11.01(m) and will have the right to decline to follow any such direction if the Trustee in good faith determines that the proceeding so directed would involve it in personal liability.

Section 9.05. Application of Moneys.

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

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

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

SECOND - To the payment to the persons entitled thereto of the unpaid Principal Portions of Basic Rent represented by any Certificates that have become due (other than Principal Portions of Basic Rent represented by Certificates with respect to the payment of which moneys are held pursuant to the provisions of this Declaration of Trust) in the order of such due dates, with interest from the respective dates upon which they become due and, if the amount available will not be sufficient to pay in full the Principal Portions of Basic Rent represented by Certificates due on any particular date, together with such interest, then to the payment ratably, according to the amount of principal due on such date, to the persons entitled thereto without any discrimination or privilege except as to any difference in the respective rates of interest specified respecting the Certificates.

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

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

the moneys will be applied in accordance with the provisions of subparagraph (1) of this Section.

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

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

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

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

Section 9.08. Termination of Proceedings. If the Trustee has proceeded to enforce any right or remedy under the Base Lease, the Lease or this Declaration of Trust by the appointment of a receiver, by entry or otherwise and such proceedings have been discontinued or abandoned for any reason or have been

determined adversely, then and in every such case, the City, the Owners and the Trustee will be restored to their former respective positions and rights thereunder and hereunder and all rights remedies and powers of the Trustee will continue as if no such proceeding had been taken.

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

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

ARTICLE X

DEFEASANCE

Section 10.01. Discharge of Declaration of Trust.

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

Certificates as herein set forth; provided, however, that all provisions hereof relating to the compensation or indemnification of the Trustee will survive the satisfaction and discharge of this Declaration of Trust. The Trustee shall be fully protected in relying upon opinions and certificates delivered pursuant to this subsection, and shall accept such opinions and certificates as conclusive evidence of the facts and conclusions stated therein.

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

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

ARTICLE XI

THE TRUSTEE

Section 11.01. Duties, Immunities and Liabilities of Trustee.

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

in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of his own affairs.

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

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

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

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

(f) The Trustee will not be required to take notice or be deemed to have notice of any default, or Event of Default, Event of Nonappropriation or other fact or event under this Declaration of Trust other than the City's failure to pay Basic Rent Payments required by **Section 4.01** of the Lease, unless the Trustee is specifically notified in writing of the default or Event of Default, Event of Nonappropriation, fact or event by the City or the Owners of not less than 25% of the unpaid Principal Portion of Basic Rent Payments represented by the Certificates then Outstanding.

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

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

(i) The Trustee may be removed upon 30 days' prior notice at any time by (1) a Directive or (2) so long as no Event of Default or Event of Nonappropriation has occurred or condition exists that with the giving of notice or the passage of time or both would constitute an Event of Default, an instrument in writing delivered to the Trustee and signed by the City. The Trustee will give written notice of any removal pursuant to this subsection (i) to the City. The Trustee will resign at any time the Trustee ceases to be eligible in accordance with subsection (l) of this Section, or becomes incapable of acting, or is adjudged as bankrupt or insolvent, or a receiver of the Trustee or its property is appointed, or any public officer takes control or charge of the property or affairs of the Trustee for the purpose of rehabilitation, conservation or

liquidation, and thereupon a successor Trustee will be appointed by either (1) a Directive, or (2) so long as no Event of Default or Event of Nonappropriation has occurred or condition exists that with the giving of notice or the passage of time or both would constitute an Event of Default, the City.

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

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

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

(m) Notwithstanding anything elsewhere in this Declaration of Trust, the Lease or the Base Lease contained, before taking any action under this Declaration of Trust (except with respect to acceleration of the Certificates and payment of the Certificates upon such acceleration or any payments of

the Certificates when due), the Trustee may require that satisfactory indemnity be furnished to it for the reimbursement of all reasonable fees, costs and expenses (including, without limitation, attorneys' fees and expenses) to which it may be put and to protect it against all liability that it may incur in or by reason of such action, including without limitation liability in connection with environmental contamination, and the cleanup thereof, except liability that is adjudicated to have resulted from its negligence or willful misconduct by reason of any action so taken.

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

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

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

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

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

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

(t) The Trustee will have the right, but will not be required, to demand, in respect of the execution of any Certificate, the withdrawal of any moneys, the release of any property, or any action whatsoever within the purview of this Declaration of Trust, appraisals or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required, as a condition of such action by the Trustee as are deemed desirable for the purpose of establishing the right of the City to any such action.

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

(v) The Trustee shall not be responsible for filing or for the sufficiency or accuracy of any financing statements initially filed to perfect the security interests granted by the City. The Trustee shall file continuation statements with respect to each financing statement relating to the Trust Estate filed by the City at the time of the issuance of the Certificates so long as a copy of each initially filed financing statement is delivered to the Trustee prior to the date the continuation statement is required to be filed. In addition, unless the Trustee shall have been notified in writing by the City that any such initial filing or description of collateral was or has become defective, the Trustee shall be fully protected in (i) relying on such initial filing and descriptions in filing any financing or continuation statements or modifications thereto pursuant to this subsection, and (ii) filing any continuation statements in the same filing offices as the initial filings were made. The City shall be responsible for the reasonable fees and costs, including fees and costs of counsel or other experts, incurred by the Trustee in the preparation and filing of all continuation statements hereunder.

(w) The Trustee agrees to accept and act upon instructions or directions pursuant to this Declaration of Trust or the Lease sent by Electronic Means, provided, however, that the City shall provide to the Trustee an incumbency certificate listing designated persons authorized to provide such instructions ("Authorized Officers"), which incumbency certificate shall be amended whenever a person is to be added or deleted from the listing. "Electronic Means" means a portable document format ("pdf") or other replicating image attached to an e-mail, which may be unsecured, facsimile transmission, secure electronic transmission (containing applicable authorization codes, passwords and/or authentication keys issued by the Trustee) or another method or system specified by the Trustee as available for use in connection with its services hereunder. If the City elects to give the Trustee instructions by Electronic Means and the Trustee in its discretion elects to act upon such instructions, the Trustee's understanding of such instructions shall be deemed controlling. The City agrees that the Trustee cannot determine the identity of the actual sender of instructions by Electronic Means and that the Trustee shall conclusively presume that such instructions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Trustee have been sent by such Authorized Officer. The City shall be responsible for ensuring that only Authorized Officers transmit such instructions to the Trustee, and the City and the Authorized Officers are responsible to safeguard the use and confidentiality of applicable user and authorization codes, passwords and authentication keys provided by the Trustee, if any. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The City agrees to assume all risks arising out of the use of such Electronic Means to submit instructions and directions to the Trustee, including, without limitation, the risk of the Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties.

(x) Except as expressly provided herein or in the Lease, the Trustee shall be under no responsibility to approve or evaluate any expert or other skilled person selected by the City for any of the purposes expressed in this Declaration of Trust or the Lease.

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

Section 11.03. Liability of Trustee; Indemnity.

(a) The Trustee will not be liable in connection with the performance of its duties hereunder, except for its own negligence or willful misconduct.

(b) Before taking any action under this Declaration of Trust (except with respect to acceleration of the Certificates and payment of the Certificates upon such acceleration or any payments of the Certificates when due), the Trustee may require that satisfactory indemnity be furnished to it for the reimbursement of all reasonable fees, costs and expenses to which it may be put and to protect it against all liability, except liability that is adjudicated to have resulted from its negligence or willful misconduct by reason of any action so taken.

Section 11.04. Right of Trustee to Rely on Documents.

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

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

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

ARTICLE XII

MISCELLANEOUS

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

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

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

- (a) To the Owners of the Certificates if the same will be duly mailed by first class mail, postage prepaid, addressed to each of the Owners of Certificates at the time Outstanding at their addresses as shown by the register maintained pursuant to **Section 3.06**.
- (b) If to the City: City of Kirkwood, Missouri
139 South Kirkwood Road
Kirkwood, Missouri 63122
Attn: Chief Administrative Officer
- (c) If to the Trustee: U.S. Bank Trust Company, National Association
One U.S. Bank Plaza
Mail Code SL-MO-T3CT
St. Louis, Missouri 63101
Attn: Global Corporate Trust

The Trustee or the City may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications will be sent to it. All notices, approvals, consents, requests and any communications to the Trustee hereunder or under the Lease must be in writing, in English and in the form of a document that is signed manually or by way of an electronic signature (including electronic images of handwritten signatures and digital signatures provided by DocuSign, Orbit, Adobe Sign or any other electronic signature provider acceptable to the Trustee). Electronic signatures believed by the Trustee to comply with the ESIGN ACT of 2000 or other applicable law shall be deemed original signatures for all purposes. If the City chooses to use electronic signatures to sign documents delivered to the Trustee, the City agrees to assume all risks arising out of its use of electronic signatures including, without limitation, the risk of the Trustee acting on an unauthorized document and the risk of interception or misuse by third parties. Notwithstanding the foregoing, the Trustee may in any instance and in its sole discretion require that an original document bearing a manual signature be delivered to the Trustee in lieu of, or in addition to, any document signed via electronic signature.

Section 12.04. Declaration of Trust Binding Upon Trustee and Successors. This Declaration of Trust will inure to the benefit of and will be binding upon the Trustee and its successors and assigns, subject to the limitations contained herein.

Section 12.05. Electronic Transactions. The transaction described herein may be conducted and related documents may be sent, received or stored by Electronic Means in accordance with **Section 11.01(w)**. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents will be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

[Remainder of Page Intentionally Left Blank.]

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

**U.S. BANK TRUST COMPANY,
NATIONAL ASSOCIATION,
as Trustee**

By: _____
Name: Laura Stabley
Title: Vice President

[Declaration of Trust]

SCHEDULE 1

DESCRIPTION OF THE LEASED PROPERTY

The Leased Property consists of the acquisition and installation of the following equipment to the extent the costs are paid from proceeds of the Series 2022 Certificates, together with any and all replacement parts, additions, repairs, modifications, attachments and accessories thereto, any and all substitutions, replacements or exchanges therefor, and any and all insurance and/or proceeds thereof:

- Circuit upgrades for electric distribution system.
- LED street lighting.
- Switchgears and transformers located at the Sugar Creek Substation.

This Schedule shall be deemed to be supplemented by the descriptions of the foregoing equipment included in the Requisition Certificates for Project Costs periodically submitted to the Trustee pursuant to the Declaration of Trust, which descriptions shall be deemed to be incorporated herein.

The Leased Property includes only personal property and does not include any interest in the underlying real property. Pursuant to Section 13.03 of the Lease, the Leased Property will not be deemed to be affixed to or a part of the real estate on or under which it may be situated, notwithstanding that the Leased Property or any part thereof may be or hereafter become in any manner physically affixed to, buried in or otherwise attached to such real estate or any building or structure thereon.

SCHEDULE 2

DESCRIPTION OF THE PROJECT

The Project consists of (a) the acquisition, construction, installation and equipping of certain improvements to the City's electric system and (b) the acquisition, installation and equipping of certain public safety vehicles and equipment.

EXHIBIT A

FORM OF CERTIFICATE OF PARTICIPATION

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

NUMBER _____

\$

**CERTIFICATE OF PARTICIPATION
(CITY OF KIRKWOOD, MISSOURI, LESSEE)
SERIES 2022**

**Evidencing a Proportionate Interest
in Basic Rent Payments to be Made by the
CITY OF KIRKWOOD, MISSOURI
Pursuant to an Annually Renewable Lease Purchase Agreement**

<u>Interest Rate</u>	<u>Certificate Payment Date</u>	<u>Certificate Date</u>	<u>CUSIP</u>
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April 1, 20

April 28, 2022

Registered Owner: CEDE & CO.

Principal Sum: _____ **DOLLARS**

THIS IS TO CERTIFY that the registered owner identified above of this Certificate of Participation (the “Certificate”) is the owner of the proportionate interest hereinafter stated in that certain Lease Purchase Agreement dated as of April 1, 2022 (the “Lease”), between U.S. Bank Trust Company, National Association, a national banking association organized and existing under the laws of the United States of America (the “Trustee”), and the City of Kirkwood, Missouri, a constitutional charter city with a home rule form of government and political subdivision organized and existing under the laws of the State of Missouri (the “City”), including payments of Basic Rent to be made thereunder (the “Basic Rent Payments”). The City is authorized to enter into the Lease pursuant to the constitution and the statutes of the State of Missouri and an ordinance duly adopted by the City Council and approved by the Mayor of the City. This Certificate is subject to the Declaration of Trust, dated as of April 1, 2022, by the Trustee, as amended or supplemented from time to time (the “Declaration of Trust”), which is on file at the corporate trust office of the Trustee located in St. Paul, Minnesota. *Capitalized terms used herein and not otherwise defined have the meanings assigned to such terms in the Declaration of Trust or the Lease.*

THE REGISTERED OWNER of this Certificate is entitled to receive, subject to the terms of the Lease and the Declaration of Trust, on the payment date specified above (the "Certificate Payment Date"), or if selected for prepayment, on the Prepayment Date, the principal sum specified above, representing a portion of the Basic Rent Payment designated as principal coming due on the Certificate Payment Date, and to receive the Registered Owner's proportionate share of Basic Rent Payments designated as interest on April 1 and October 1, commencing on October 1, 2022, to and including the Certificate Payment Date or the Prepayment Date, whichever is earlier. Said proportionate share of the Basic Rent Payments designated as interest is computed on the principal sum specified above from the certificate date specified above or the most recent date to which such interest has been paid, at the interest rate specified above on the basis of a 360-day year of twelve 30-day months.

SAID AMOUNTS are payable in such coin or currency of the United States of America as at the time of payment is legal tender for the payment of public and private debts. The amounts representing principal and prepayment premium, if any, are payable by check, electronic transfer or draft at the principal corporate trust office of the Trustee located in St. Paul, Minnesota, or such other office designated by the Trustee of the Registrar upon the presentation and surrender of this Certificate; the amounts representing interest are payable to the person in whose name this Certificate is registered in the register maintained by the Trustee at the close of business on the fifteenth day (whether or not a Business Day) of the calendar month next preceding each interest payment date (a "Record Date") by (a) check or draft drawn on the Trustee and mailed to such Owner's address as it appears on the registration books of the Registrar on the Record Date or (b) electronic transfer to such Owner upon written notice given to the Trustee by such Owner not less than 15 days prior to the Record Date for such Interest Portion, containing the electronic transfer instructions including the bank, ABA routing number and account name and number to which such Owner wishes to have such transfer directed, and an acknowledgement that an electronic fee may be payable.

BASIC RENT PAYMENTS are payable solely from Available Revenues that, for any Fiscal Year, including any balances of the City from previous Fiscal Years encumbered to pay Rent under the Lease, are amounts budgeted or appropriated out of the income and revenue of the City for such Fiscal Year plus any unencumbered balances of the City from previous Fiscal Years that are legally available to pay Rent during such Fiscal Year and all moneys and investments, including earnings thereon held by the Trustee (except for the Rebate Fund) pursuant to the Declaration of Trust.

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

This Certificate is one of a duly authorized series of certificates of participation designated "Certificates of Participation (City of Kirkwood, Missouri, Lessee), Series 2022," evidencing a proportionate interest in Basic Rent Payments to be made by the City, pursuant to the Lease (the "Series 2022 Certificates") for the purpose of providing funds to (1) pay a portion of the costs to (a) acquire, construct, install and equip certain improvements to the City's electric system and (b) acquire, install and

equip certain public safety vehicles and equipment (collectively, the "Project"); and (2) pay certain costs in connection with the execution and delivery of the Series 2022 Certificates. This Certificate has been executed by the Trustee pursuant to and is governed by the terms of the Declaration of Trust. Copies of the Lease and the Declaration of Trust are on file at the office of the City Clerk and at the corporate trust office of the Trustee located in St. Paul, Minnesota, and reference to the Lease and the Declaration of Trust and any and all amendments and supplements thereto is made for a description of the pledges and covenants of the City securing the Basic Rent Payments, the nature, extent and manner of enforcement of such pledges and covenants and the rights and the terms and conditions upon which the Series 2022 Certificates are delivered thereunder.

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

If certain conditions are met, the Lease may be amended without the consent of or notice to the Certificate Owners to increase the amount of Basic Rent payable by the City, and additional certificates of participation evidencing interests in such increased Basic Rent may be executed and delivered under the Declaration of Trust. Such certificates of participation would be on a parity with the Series 2022 Certificates.

The Series 2022 Certificates that evidence Principal Portions of Basic Rent payable to Certificate Owners are subject to optional prepayment prior to maturity at the option of the City on April 1, 2031 and thereafter in whole or in part at any time at a Prepayment Price equal to 100% of the Principal Portion of Basic Rent represented by the Series 2022 Certificates being prepaid, plus the Interest Portion of Basic Rent accrued to the Prepayment Date, from amounts paid by the City upon the exercise of its option to purchase the Trustee's interest in the Leased Property or partially prepay Basic Rent Payments pursuant to the terms of the Lease.

The Series 2022 Certificates are subject to optional prepayment prior to their respective stated maturities, at any time, as a whole, but not in part, at a Prepayment Price equal to 100% of the Principal Portion of Basic Rent represented thereby plus the Interest Portion of Basic Rent accrued to the Prepayment Date, in the event of substantial damage to or destruction or condemnation (other than by the City or any entity controlled by or otherwise affiliated with the City) of, or loss of title to, substantially all of the Leased Property, or as a result of changes in the constitution of the State or legislative or administrative action by the State or the United States, the Base Lease or the Lease becomes unenforceable, and the City purchases the Trustee's interest in the Leased Property pursuant to the Lease.

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

THE OWNER HEREOF EXPRESSLY AGREES, BY SUCH OWNER'S ACCEPTANCE HEREOF, THAT THE RIGHT TO TRANSFER, ASSIGN OR NEGOTIATE THIS CERTIFICATE

SHALL BE LIMITED TO TRANSFER, ASSIGNMENT OR NEGOTIATION TO APPROVED INVESTORS, AS DEFINED IN THE DECLARATION OF TRUST. This Certificate will be transferable upon the Certificate register, which will be kept for that purpose at the principal corporate trust office of the Trustee located in St. Paul, Minnesota, or such other office designated by the Trustee, upon surrender and cancellation of this Certificate together with a written instrument of transfer satisfactory to the Trustee duly executed by the registered Owner of his, her or its duly authorized attorney and upon payment of the charges provided in the Declaration of Trust. Upon such transfer a new fully-registered Certificate or Certificates of the same maturity and aggregate principal amount will be delivered to the transferee. The Trustee may treat the registered Owner hereof as the absolute Owner hereof for all purposes, and the Trustee will not be affected by any notice to the contrary.

The Certificates are being delivered by means of a book-entry system with no physical distribution of certificates to be made except as provided in the Declaration of Trust. One Certificate with respect to each Certificate Payment Date, registered in the nominee name of the Securities Depository, is being delivered. The book-entry system will evidence positions held in the Certificates by the Securities Depository's participants, beneficial ownership of the Certificates in authorized denominations being evidenced in the records of such participants. Transfers of ownership will be effected on the records of the Securities Depository and its participants pursuant to rules and procedures established by the Securities Depository and its participants. The Trustee will recognize the Securities Depository nominee, while the Registered Owner of this Certificate, as the Owner of this Certificate for all purposes, including (i) payments of the Principal Portions of Basic Rent and the Interest Portion of Basic Rent, (ii) notices and (iii) voting. Transfers of the Principal Portion and Interest Portion of Basic Rent to participants of the Securities Depository, and transfers of Principal Portion and Interest Portion of Basic Rent to Beneficial Owners of the Certificates by participants of the Securities Depository will be the responsibility of such participants and other nominees of such Beneficial Owners. The Trustee will not be responsible or liable for such transfers of payments or for maintaining, supervising or reviewing the records maintained by the Securities Depository, the Securities Depository nominee, its participants or persons acting through such participants. While the Securities Depository nominee is the Owner of this Certificate, notwithstanding the provision hereinabove contained, payments on this Certificate will be made in accordance with existing arrangements among the City, the Trustee and the Securities Depository.

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

The Certificates may be delivered in the form of fully-registered Certificates in denominations of \$100,000 and integral multiples of \$5,000 in excess thereof, subject to certain limitations and as otherwise provided in the Declaration of Trust. The Certificates, upon surrender thereof at the principal corporate trust office of the Trustee located in St. Paul, Minnesota, or such other office designated by the Trustee with a written request for exchange satisfactory to the Trustee duly executed by the Registered Owner of his, her or its duly authorized attorney in writing, may be exchanged for an equal aggregate principal amount of fully-registered Certificates of any authorized denomination of the same maturity. No service charge will be made for any transfer or exchange of Certificates, but the Trustee may require payment of any tax or governmental charge in connection therewith.

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

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

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

**U.S. BANK TRUST COMPANY,
NATIONAL ASSOCIATION
not in its individual capacity but solely as
Trustee under the Declaration of Trust
dated as of April 1, 2022**

By: _____
Authorized Signatory

ASSIGNMENT

[TRANSFERS LIMITED TO APPROVED INVESTORS]

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

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

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

Dated: _____

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

Medallion Signature Guarantee:

EXHIBIT B

**FORM OF REQUISITION CERTIFICATE
FOR PROJECT COSTS**

Request No. _____

Date: _____

**WRITTEN REQUEST FOR DISBURSEMENT FOR
PROJECT COSTS**

To: U.S. Bank Trust Company, National Association, as Trustee
One U.S. Bank Plaza
Mail Code SL-MO-T3CT
St. Louis, Missouri 63101
Attn: Global Corporate Trust

Ladies and Gentlemen:

Pursuant to **Section 5.02** of the Lease Purchase Agreement (the "Lease") between U.S. Bank Trust Company, National Association (the "Trustee") and the City of Kirkwood, Missouri (the "City"), and **Section 6.04** of the Declaration of Trust (the "Declaration of Trust"), both dated as of April 1, 2022, the City hereby requests payment in accordance with this request and said sections of the Lease and the Declaration of Trust, and the City hereby states and certifies that:

(a) All terms of this request are used with the meanings used in the Lease and the Declaration of Trust.

(b) The names of the persons, firms or corporations, if any, to whom the payments requested hereby are due, the amounts to be paid are as set forth on **Attachment I** hereto.

(c) The amount hereby requested has been paid or is justly due and is hereby requested to be paid to such persons (which may include the City) (whose names and addresses are stated on **Attachment I** hereto) who have performed necessary and appropriate work or furnished necessary and appropriate materials and services in connection with the Project or related to the execution and delivery of the Series 2022 Certificates (as defined in the Declaration of Trust) (a brief description of such work and materials and the several amounts so paid or due being set forth on **Attachment I** hereto).

(d) No part of the several amounts paid or due, as stated in this certificate has been, is being or will be made the basis for the withdrawal of any moneys in any previous, pending or subsequently filed certificate.

(e) The amount remaining in the Project Fund, together with other legally available funds of the City, if any, will, after payment of the amounts requested, be sufficient to pay the cost of completing the Project in accordance with an estimate of cost of work not yet completed, it being understood that no moneys in the Project Fund may be disbursed to pay Project Costs unless after such expenditure the remaining moneys in the Project Fund, together with any other funds available and committed by the City, are sufficient to pay such remaining Project Costs to be paid from the Series 2022 Certificates.

(f) This certificate contains no request for payment on account of any retained percentage that the City is at the date of such certificate entitled to retain.

(g) There has not been filed with or served upon the City any notice of any lien, right to a lien or attachment upon or claim affecting the right of any person, firm or corporation to receive payment of the respective amounts stated in said certificate that has not been released or will not be released simultaneously with the payment of such obligation.

(h) For the purpose of assuring proper direction and credit of payment, invoices, statements, vouchers or bills for the amounts requested, except as to any retainage, related to amounts specified in this certificate are attached hereto.

(i) The consent of the Construction Manager is ____/is not ____ required.

(j) Pursuant to **Section 5.02** of the Lease and **Section 6.04** of the Declaration of Trust, the City hereby states and certifies that (a) each of the City's covenants contained in the Lease or the Base Lease is true, correct and not misleading as though made as of the date hereof, and (b) no event exists that constitutes, or with the giving of notice of the passage of time or both would constitute, an Event of Default.

CITY OF KIRKWOOD, MISSOURI

By: _____
Authorized Representative

The Construction Manager hereby certifies that to the best of its knowledge all statements made above by the City are accurate as of the date hereof.

(Construction Manager)

ATTACHMENT I

SCHEDULE OF PAYMENTS REQUESTED

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

PAYMENT SCHEDULE FOR SERIES 2022 CERTIFICATES*

City of Kirkwood, Missouri
Certificates of Participation (City of Kirkwood, Missouri, Lessee), Series 2022

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service	Bond Balance	Total Bond Value
04/28/2022						17,290,000	17,290,000
10/01/2022			223,582.30	223,582.30		17,290,000	17,290,000
04/01/2023	855,000	2.050%	263,038.00	1,118,038.00	1,341,620.30	16,435,000	16,435,000
10/01/2023			254,274.25	254,274.25		16,435,000	16,435,000
04/01/2024	870,000	2.450%	254,274.25	1,124,274.25	1,378,548.50	15,565,000	15,565,000
10/01/2024			243,616.75	243,616.75		15,565,000	15,565,000
04/01/2025	895,000	2.550%	243,616.75	1,138,616.75	1,382,233.50	14,670,000	14,670,000
10/01/2025			232,205.50	232,205.50		14,670,000	14,670,000
04/01/2026	915,000	2.650%	232,205.50	1,147,205.50	1,379,411.00	13,755,000	13,755,000
10/01/2026			220,081.75	220,081.75		13,755,000	13,755,000
04/01/2027	945,000	2.750%	220,081.75	1,165,081.75	1,385,163.50	12,810,000	12,810,000
10/01/2027			207,088.00	207,088.00		12,810,000	12,810,000
04/01/2028	975,000	2.800%	207,088.00	1,182,088.00	1,389,176.00	11,835,000	11,835,000
10/01/2028			193,438.00	193,438.00		11,835,000	11,835,000
04/01/2029	995,000	2.850%	193,438.00	1,188,438.00	1,381,876.00	10,840,000	10,840,000
10/01/2029			179,259.25	179,259.25		10,840,000	10,840,000
04/01/2030	685,000	2.900%	179,259.25	864,259.25	1,043,518.50	10,155,000	10,155,000
10/01/2030			169,326.75	169,326.75		10,155,000	10,155,000
04/01/2031	705,000	2.950%	169,326.75	874,326.75	1,043,653.50	9,450,000	9,450,000
10/01/2031			158,928.00	158,928.00		9,450,000	9,450,000
04/01/2032	725,000	3.000%	158,928.00	883,928.00	1,042,856.00	8,725,000	8,725,000
10/01/2032			148,053.00	148,053.00		8,725,000	8,725,000
04/01/2033	750,000	3.050%	148,053.00	898,053.00	1,046,106.00	7,975,000	7,975,000
10/01/2033			136,615.50	136,615.50		7,975,000	7,975,000
04/01/2034	770,000	3.150%	136,615.50	906,615.50	1,043,231.00	7,205,000	7,205,000
10/01/2034			124,488.00	124,488.00		7,205,000	7,205,000
04/01/2035	800,000	3.170%	124,488.00	924,488.00	1,048,976.00	6,405,000	6,405,000
10/01/2035			111,808.00	111,808.00		6,405,000	6,405,000
04/01/2036	825,000	3.230%	111,808.00	936,808.00	1,048,616.00	5,580,000	5,580,000
10/01/2036			98,484.25	98,484.25		5,580,000	5,580,000
04/01/2037	850,000	3.250%	98,484.25	948,484.25	1,046,968.50	4,730,000	4,730,000
10/01/2037			84,671.75	84,671.75		4,730,000	4,730,000
04/01/2038	880,000	3.350%	84,671.75	964,671.75	1,049,343.50	3,850,000	3,850,000
10/01/2038			69,931.75	69,931.75		3,850,000	3,850,000
04/01/2039	910,000	3.500%	69,931.75	979,931.75	1,049,863.50	2,940,000	2,940,000
10/01/2039			54,006.75	54,006.75		2,940,000	2,940,000
04/01/2040	945,000	3.650%	54,006.75	999,006.75	1,053,013.50	1,995,000	1,995,000
10/01/2040			36,760.50	36,760.50		1,995,000	1,995,000
04/01/2041	980,000	3.670%	36,760.50	1,016,760.50	1,053,521.00	1,015,000	1,015,000
10/01/2041			18,777.50	18,777.50		1,015,000	1,015,000
04/01/2042	1,015,000	3.700%	18,777.50	1,033,777.50	1,052,555.00		
	17,290,000		5,970,250.80	23,260,250.80	23,260,250.80		

* To provide for the timely payment of Basic Rent, the City will pay to the Trustee for deposit in the Lease Revenue Fund not less than five (5) days before each Basic Rent Payment Date, the amount due on such Basic Rent Payment Date.

GILMORE & BELL, P.C.
DRAFT – MARCH 16, 2022
FOR DISCUSSION PURPOSES ONLY

BASE LEASE

between the

**CITY OF KIRKWOOD, MISSOURI,
as lessor**

and

**U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION,
as lessee and trustee**

Dated as of April 1, 2022

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BASE LEASE

THIS BASE LEASE (the “Base Lease”), dated as of April 1, 2022, by and between the **CITY OF KIRKWOOD, MISSOURI**, a constitutional charter city with a home rule form of government and political subdivision organized and existing under the laws of the State of Missouri (together with its successors, the “City”), as lessor, and **U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION**, a national banking association organized and existing under the laws of the United States of America, acting in its capacity as trustee under the Declaration of Trust (the “Trustee”), hereinafter referred to as lessee:

RECITALS

1. To carry out the essential governmental and proprietary functions of the City, the City deems it necessary and desirable and in the best interest of the City to (a) acquire, construct, install and equip certain improvements to the City’s electric system and (b) acquire, install and equip certain public safety vehicles and equipment (collectively, the “Project”), all as further described on **Schedule 2** attached hereto.

2. In connection with the acquisition and installation of a portion of the Project, the City owns or will own certain personal property described on **Schedule 1** (collectively, the “Leased Property”), and is authorized to lease the Leased Property.

3. The Trustee proposes to lease the Leased Property from the City and to pay rent sufficient to pay the costs of the Project and has offered to lease the Leased Property back to the City pursuant to a Lease Purchase Agreement dated as of the date hereof (as amended or supplemented from time to time, the “Lease”), by and between the Trustee and the City.

4. It is proposed that a portion of the funds required to pay the costs of the Project will be obtained by the sale of one or more series of Certificates (as defined in the Declaration of Trust (defined below)), and the Trustee proposes to enter into a Declaration of Trust dated as of the date hereof (the “Declaration of Trust”), setting forth the terms of the Certificates, the security therefor and other terms with respect to the Certificates.

5. The City desires to lease the Leased Property to the Trustee for the rentals and upon the terms and conditions herein set forth and to lease the Leased Property from the Trustee upon the terms and conditions set forth in the Lease.

THEREFORE, in consideration of the premises and the mutual covenants and agreements herein set forth, the City and the Trustee hereby covenant and agree as follows:

Section 1. Covenants by the City. The City covenants as follows:

(a) The City is a constitutional charter city with a home rule form of government and political subdivision organized and existing under the laws of the State of Missouri.

(b) The lease of the Leased Property by the City to the Trustee, as provided herein, and the lease of the Leased Property by the Trustee to the City, as provided in the Lease, are necessary, desirable and in the public interest, and the City hereby declares its current need for the Leased Property.

(c) The City, pursuant to an ordinance adopted by its City Council and approved by the Mayor, has full power and authority to enter into the transactions contemplated by this Base Lease and the Lease and to carry out its obligations hereunder and thereunder, and has been duly authorized to execute and deliver this Base Lease and the Lease and by proper action has duly authorized the execution and delivery of this Base Lease and the Lease.

(d) To the City's knowledge, neither the execution and delivery of this Base Lease nor the Lease, nor the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the City is now a party.

(e) The City has or will have good and merchantable title to the Leased Property.

(f) The Leased Property is, or will be upon its acquisition by the City, currently exempt from property taxes, assessments or impositions of any kind with respect to the Leased Property.

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

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

Section 2. Lease. The City hereby leases to the Trustee, and the Trustee hereby rents and leases from the City, the Leased Property on the terms and conditions hereinafter set forth.

Section 3. Term. The term of this Base Lease will commence as of the date of the delivery hereof, and will end on April 1, 2067, unless the term is extended or sooner terminated as hereinafter provided, but in no event will the term of this Base Lease end until the Principal Portion and the Interest Portion of the Certificates are no longer Outstanding (as those terms are defined in the Declaration of Trust). Upon the payment in full of the Certificates, all of the Trustee's right, title and interest in the Leased Property under this Base Lease shall revert to the City without the requirement of any action by the City or the Trustee.

Section 4. Rental. As and for rental hereunder and in consideration for the leasing of the Leased Property to the Trustee, the Trustee will take the following actions:

(a) simultaneously with the delivery of this Base Lease, enter into the Lease;

(b) simultaneously with the delivery of this Base Lease, pay to the City the sum of \$10.00 and provide such other consideration as the Trustee and City may agree; and

(c) deposit funds in the amounts and in the funds and accounts established and as set forth in the Declaration of Trust.

Section 5. Assignments and Subleases. It is intended that the Trustee will hold this Base Lease and its rights hereunder for the benefit of Owners of the Certificates (as defined in the Declaration of Trust). The Trustee thereafter may assign this Base Lease and its rights hereunder or lease or sublease the Leased Property without the written consent of the City (a) in connection with any assignment of its rights under the Lease, (b) if the Lease is terminated for any reason, or (c) if an Event of Default as defined in the Lease has occurred.

Section 6. Termination.

(a) This Base Lease will terminate upon the completion of the term set forth in **Section 3**; provided, however, that if the City pays the purchase price or all of the rental payments provided for in **Article IV** of the Lease and exercises its option to purchase the Trustee's interest in the Leased Property pursuant to **Article X** of the Lease, then this Base Lease will be considered assigned to the City and terminated through merger of the leasehold interest hereunder with the fee interest of the City if the City is the owner of the fee interest.

(b) If an Event of Default under the Lease occurs or if the City terminates the Lease pursuant to **Section 3.04** of the Lease, the Trustee will have the right to possession of the Leased Property for the remainder of the term of this Base Lease and will have the right to sublease the Leased Property or sell its interest in the Leased Property and this Base Lease upon whatever terms and conditions it deems prudent.

(c) Notwithstanding anything contained herein to the contrary, the Trustee shall not receive any funds in excess of the amount it is entitled to receive under the Declaration of Trust with respect to the Certificates, including its normal and customary fees and any costs incurred in enforcing this Base Lease, the Lease or the Declaration of Trust. Any funds received by the Trustee in excess of such amount shall be immediately paid to the City.

Section 7. Default. The City will not have the right to exclude the Trustee from the Leased Property or take possession of the Leased Property (other than pursuant to the Lease) or to terminate this Base Lease prior to the expiration of its term upon any default by the Trustee hereunder, except that if, upon the exercise of the option to purchase the Trustee's interest in the Leased Property granted to the City in **Article X** of the Lease and after the payment of the purchase price specified therein and other sums payable under the Lease, the Trustee fails to convey its interest in the Leased Property to the City pursuant to said option, then the City will have the right to terminate this Base Lease, such termination to be effective 30 days after delivery of written notice of such termination to the Trustee. In the event of any default by the Trustee hereunder, however, the City may maintain an action, if permitted in equity, for specific performance.

Section 8. Quiet Enjoyment. At all times during the term of this Base Lease, the Trustee will peaceably and quietly have, hold and enjoy all of the Leased Property, and the City will provide to the Trustee the ability to quietly have, hold and enjoy all of the Leased Property, all of this being subject to the rights of the City under the Lease.

Section 9. No Merger. No union of the interests of the City and the Trustee herein will result in a merger of this Base Lease and the title to the Leased Property or any part thereof, except as and to the extent provided in **Section 6**.

Section 10. Taxes and Assessments. The City covenants and agrees to pay any and all assessments of any kind or character and all taxes levied or assessed upon the Leased Property.

Section 11. Waiver of Liability.

(a) All liabilities under this Base Lease on the part of the Trustee are solely liabilities of the Trustee serving as Trustee under the Declaration of Trust, and, to the extent permitted by law, the City hereby releases each and every director, employee, agent, attorney and officer of the Trustee of and from any personal or individual liability under this Base Lease. No director, employee, agent, attorney or officer of the Trustee will at any time or under any circumstances be individually or personally liable under this Base Lease for anything done or omitted to be done by the Trustee hereunder. The Trustee will not be liable in connection with the performance of its duties hereunder, except for its own negligence or willful misconduct.

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

Section 12. Eminent Domain.

(a) If the whole or any part of the Leased Property is taken by eminent domain proceedings, the interest of the Trustee will be recognized. The condemnation proceeds will be applied as provided in **Article IX** of the Lease. Under Missouri statutes, the City has the power to condemn property for its purposes, and the City acknowledges that if the City condemned the Leased Property, such action could adversely affect the continuation of this Base Lease. The City further acknowledges that condemnation of the Leased Property would adversely affect the Trustee and that without the Trustee's interest in the Leased Property, the Trustee might not lease the Leased Property to the City pursuant to the Lease.

(b) The City and the Trustee have reached agreement on the terms of the acquisition of the Leased Property, at the City's option, and to the use of the Leased Property, all as set forth in the Lease. Any acquisition of the Trustee's interest in the Leased Property or rights to its use by the City (whether pursuant to the exercise of eminent domain powers or otherwise) will be pursuant to and in accordance with the Lease, including payment of Rent Payments and the applicable Purchase Price (as defined and set forth in the Lease). If the City allows the Lease to expire without exercising its option to purchase (whether by failure to exercise its option to extend the Lease for a Renewal Term, failure to exercise its option to purchase at the conclusion of the maximum Lease Term or failure to cure an Event of Default (as those terms are defined in the Lease)), that action will constitute an irrevocable determination by the City that the Leased Property is not required by it for any public purpose for the term of this Base Lease.

(c) The City hereby covenants and agrees, to the extent it may lawfully do so, that if for any reason it exercises the power of eminent domain with respect to the Leased Property, the appraised value of the Leased Property will not be less than the Rent Payments then due plus the then-applicable Purchase Price as defined and set forth in the Lease.

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

Section 13. Leaseback to City. Contemporaneously herewith, the Trustee and the City will execute the Lease whereby the Trustee leases back to the City and the City leases from the Trustee the Leased Property all in accordance therewith. The Lease includes in **Article X** thereof the option of the City, upon payment of the specified purchase price, to purchase the Trustee's interest in the Leased Property.

Section 14. Partial Invalidity. If any one or more of the terms, provisions, covenants or conditions of this Base Lease will to any extent be declared invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, the finding or order or decree of which becomes final, none of the remaining terms, provisions, covenants and conditions of this Base Lease will be affected thereby, and each provision of this Base Lease will be valid and enforceable to the fullest extent permitted by law.

Section 15. Notices. All written notices to be given under this Base Lease will be given by mail to the party entitled thereto as set forth in the Declaration of Trust.

Section 16. Section Headings. All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Base Lease.

Section 17. Amendments, Changes and Modifications. This Base Lease may not be effectively amended, changed, modified, altered or supplemented except with the written consent of the Trustee and the City and as provided in the Declaration of Trust.

Section 18. Applicable Law. This Base Lease will be governed by and construed in accordance with the laws of the State of Missouri.

Section 19. Execution. This Base Lease may be executed in any number of counterparts, each of which will be deemed to be an original but all together will constitute but one and the same Base Lease. It is also agreed that separate counterparts of this Base Lease may be executed by the City and the Trustee, all with the same force and effect as though the same counterpart had been executed by both the City and the Trustee.

Section 20. Successors. This Base Lease will be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Upon removal or resignation of the Trustee, all moneys, estates, properties, rights, powers, trusts, duties and obligations of such Trustee will vest in the successor Trustee as provided in the Declaration of Trust.

Section 21. Complete Agreement. This written agreement is a final expression of the agreement between the parties hereto and such agreement may not be contradicted by evidence of any prior oral agreement or of a contemporaneous oral agreement between the parties hereto. No unwritten oral agreement between the parties exists.

Section 22. Electronic Transactions. The parties agree that the transaction described herein may be conducted and related documents may be sent, received or stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents will be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

Section 23. Anti-Discrimination Against Israel Act. Pursuant to Section 34.600 of the Revised Statutes of Missouri, the Trustee certifies it is not currently engaged in and shall not, for the duration of this Base Lease, engage in a boycott of goods or services from (a) the State of Israel, (b) companies doing business in or with the State of Israel or authorized by, licensed by, or organized under the laws of the State of Israel, or (c) persons or entities doing business in the State of Israel.

[Remainder of Page Intentionally Left Blank.]

IN WITNESS WHEREOF, the City and the Trustee have caused this Base Lease to be executed by their respective officers thereunto duly authorized, all as of the day and year first above written.

CITY OF KIRKWOOD, MISSOURI

(SEAL)

By: _____
Name: Timothy E. Griffin
Title: Mayor

ATTEST:

By: _____
Name: Laurie Asche
Title: City Clerk

[Base Lease]

**U.S. BANK TRUST COMPANY,
NATIONAL ASSOCIATION,
as Trustee**

By: _____
Name: Laura Stabley
Title: Vice President

[Base Lease]

SCHEDULE 1

DESCRIPTION OF THE LEASED PROPERTY

The Leased Property consists of the acquisition and installation of the following equipment to the extent the costs are paid from proceeds of the Series 2022 Certificates, together with any and all replacement parts, additions, repairs, modifications, attachments and accessories thereto, any and all substitutions, replacements or exchanges therefor, and any and all insurance and/or proceeds thereof:

- Circuit upgrades for electric distribution system.
- LED street lighting.
- Switchgears and transformers located at the Sugar Creek Substation.

This Schedule shall be deemed to be supplemented by the descriptions of the foregoing equipment included in the Requisition Certificates for Project Costs periodically submitted to the Trustee pursuant to the Declaration of Trust, which descriptions shall be deemed to be incorporated herein.

The Leased Property includes only personal property and does not include any interest in the underlying real property. Pursuant to Section 13.03 of the Lease, the Leased Property will not be deemed to be affixed to or a part of the real estate on or under which it may be situated, notwithstanding that the Leased Property or any part thereof may be or hereafter become in any manner physically affixed to, buried in or otherwise attached to such real estate or any building or structure thereon.

SCHEDULE 2

DESCRIPTION OF THE PROJECT

The Project consists of (a) the acquisition, construction, installation and equipping of certain improvements to the City's electric system and (b) the acquisition, installation and equipping of certain public safety vehicles and equipment.

GILMORE & BELL, P.C.
DRAFT – APRIL 12, 2022
FOR DISCUSSION PURPOSES ONLY

LEASE PURCHASE AGREEMENT

between

**U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION,
as Lessor and Trustee**

and the

**CITY OF KIRKWOOD, MISSOURI,
as Lessee**

Dated as of April 1, 2022

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LEASE PURCHASE AGREEMENT

THIS LEASE PURCHASE AGREEMENT (the “Lease”), dated as of April 1, 2022, is entered into between **U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION**, a national banking association organized and existing under the laws of the United States of America, as Trustee (the “Trustee”), and the **CITY OF KIRKWOOD, MISSOURI**, a constitutional charter city with a home rule form of government and political subdivision organized and existing under the laws of the State of Missouri (the “City”).

RECITALS

1. The City and the Trustee have entered into a Base Lease dated as of April 1, 2022 (the “Base Lease”), pursuant to which the City has leased to the Trustee the personal property described on **Schedule 1** (the “Leased Property”).

2. Concurrently herewith the Trustee is entering into a Declaration of Trust (as hereinafter defined), pursuant to which the Trustee will execute and deliver one or more series of Certificates (as hereinafter defined), the proceeds of which will be used to (a) pay a portion of the costs to (i) acquire, construct, install and equip certain improvements to the City’s electric system and (ii) acquire, install and equip certain public safety vehicles and equipment (collectively, the “Project”); and (b) pay certain costs in connection with the execution and delivery of the Series 2022 Certificates (as defined in the Declaration of Trust).

3. The Trustee desires to lease the Leased Property back to the City, all subject to the terms and conditions and for the purposes set forth in this Lease.

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

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

ARTICLE I

DEFINITIONS

Section 1.01. Definitions. In addition to the words and terms defined in the Declaration of Trust and elsewhere in this Lease, the following terms as used in this Lease will have the following meanings, unless some other meaning is plainly intended:

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

“Base Lease” means the Base Lease dated as of April 1, 2022, between the City, as lessor, and the Trustee, as lessee, as amended and supplemented from time to time in accordance with its terms.

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

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

“Basic Rent Payment Date” means each April 1 and October 1 during the Lease Term, commencing on October 1, 2022.

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

“City” means the City of Kirkwood, Missouri, a constitutional charter city with a home rule form of government and political subdivision organized and existing under the laws of the State of Missouri, and its successors.

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

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

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

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

“Construction Manager” means the construction manager or any architect, contractor or engineer hired by the City with respect to the Project.

“Costs of Delivery” means all items of expense directly or indirectly payable by or reimbursable to the City and related to the authorization, execution, sale and delivery of the Certificates, including advertising and printing costs, costs of preparation and reproduction of documents, filing fees, initial fees and charges of the Trustee, municipal advisor fees, legal fees of parties to the transaction, fees of any rating agency and all other initial fees and disbursements contemplated by this Lease and the Declaration of Trust.

“Declaration of Trust” means the Declaration of Trust with respect to the Series 2022 Certificates dated as of April 1, 2022, made by the Trustee, as the same may from time to time be amended or supplemented in accordance with its terms.

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

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

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

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

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

“Lease” means this Lease Purchase Agreement dated as of April 1, 2022, between the Trustee, as lessor, and the City, as lessee, as amended and supplemented from time to time in accordance with its terms.

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

“Leased Property” means the personal property described in **Schedule 1**.

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

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

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

“Opinion of Special Tax Counsel” means a written opinion of Special Tax Counsel.

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

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

“Project” means the Project described in the recitals and in **Schedule 2** attached hereto, including any modifications, additions, improvements, replacements or substitutions thereto or therefor.

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

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

“Renewal Term” means each renewal term of this Lease, each having a duration of one year and a term coextensive with the then-current Fiscal Year as provided in **Section 3.02**, except that the last possible Renewal Term will end on April 1, 2042.

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

“Rent Payment” means a payment of Rent.

“S&P” means S&P Global Ratings, a division of S&P Global, Inc., its successors and their assigns, and if that entity no longer performs the functions of a municipal securities rating agency, “S&P” will be deemed to refer to any other nationally recognized securities rating agency designated by the City, with written notice to the Trustee.

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

“State” means the State of Missouri.

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

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

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

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

“Tax Compliance Agreement” means (a) with respect to the Series 2022 Certificates, the Tax Compliance Agreement dated as of April 1, 2022, entered into by the City and the Trustee, as amended and supplemented from time to time in accordance with its terms, and (b) with respect to any Additional Certificates, the tax compliance agreement entered into by the City and the Trustee in connection with the execution and delivery of each series of Additional Certificates, as from time to time amended.

Section 1.02. Rules of Construction.

(a) Words of the masculine gender will be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context will otherwise indicate, the words importing the

singular number will include the plural and vice versa, and words importing person will include firms, associations and corporations, including public bodies, as well as natural persons.

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

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

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

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

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

Section 1.04. Severability.

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

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

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

Section 1.06. Date of Lease. The dating of this Lease as of April 1, 2022 is intended as and for convenient identification of this Lease only and is not intended to indicate that this Lease was executed and delivered on said date; this Lease being executed and delivered and becoming effective simultaneously with the initial execution and delivery of the Series 2022 Certificates.

ARTICLE II

COVENANTS

Section 2.01. Covenants of the City. The City covenants, as of the date of delivery hereof, as follows:

(a) The City is a constitutional charter city with a home rule form of government and political subdivision organized and existing under and by virtue of the constitution and laws of the State with full power and authority to enter into the Base Lease and this Lease and the transactions contemplated thereby and hereby and to perform all of its obligations thereunder and hereunder.

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

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

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

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

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

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

(h) To the City's knowledge, no event or condition that constitutes, or with the giving of notice or the lapse of time or both would constitute, an Event of Default exists.

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

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

ARTICLE III

DEMISING OF THE PROPERTY; LEASE TERM

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

Section 3.02. Lease Term. The Original Term of this Lease will terminate on March 31, 2023, the last day of the current Fiscal Year. The Lease Term may be continued, solely at the option of the City, at the end of the Original Term or any Renewal Term for an additional one year, provided that the final Renewal Term will not extend beyond April 1, 2042. At the end of the Original Term and at the end of each Renewal Term, unless the City has terminated this Lease pursuant to **Sections 3.04 or 10.01** and for no other reason, the City will be deemed to have exercised its option to continue this Lease for the next Renewal Term. The terms and conditions during any Renewal Term will be the same as the terms and conditions during the Original Term, except for any difference in the Rent as provided on **Exhibit A**.

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

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

Section 3.05. Enjoyment of Leased Property.

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

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

Section 3.06. Inspection. The Trustee may at all reasonable times and with reasonable prior notice during business hours enter into and upon the Leased Property for the purpose of inspecting the Project and the Leased Property.

ARTICLE IV

RENT

Section 4.01. Basic Rent.

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

(b) To provide for the timely payment of Basic Rent, the City will pay to the Trustee for deposit in the Lease Revenue Fund not less than five (5) Business Days before each Basic Rent Payment Date, the amount due on such Basic Rent Payment Date.

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

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

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

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

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

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

(a) This Lease is intended to be net, net, net to the Trustee, subject to **Sections 3.04, 4.03** and **4.05**. The obligations of the City to pay the Basic Rent Payments from Available Revenues and to perform and observe the other covenants and agreements contained herein will be absolute and unconditional in all events without abatement, diminution, deduction, setoff or defense, for any reason.

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

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

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

ARTICLE V

ACQUISITION, CONSTRUCTION, INSTALLATION AND EQUIPPING OF THE PROJECT

Section 5.01. Acquisition, Construction, Installation and Equipping.

(a) The City covenants and agrees as follows:

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

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

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

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

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

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

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

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

Section 5.02. Payment for Construction of the Project.

(a) Except as provided in **Section 6.04** of the Declaration of Trust, costs and expenses of every nature incurred in the construction of the Project that qualify as Project Costs will be paid by the Trustee from the Project Fund upon receipt by the Trustee of a completed request of the City signed by an Authorized Representative and the Construction Manager, if required, in the form of such request attached to the Declaration of Trust as **Exhibit B**.

(b) In making disbursements for Project Costs, the Trustee may conclusively rely upon each written requisition certificate executed by the Authorized Representative without inquiry or investigation. It is understood that the Trustee will *not* make any inspections of the Leased Property nor any improvements thereon, make any provision to obtain completion bonds, mechanic's or materialmen's lien releases or otherwise supervise any phase of the construction or installation of the Project. The approval of each requisition certificate by the Authorized Representative will constitute unto the Trustee an irrevocable determination that all conditions precedent to the payment of the specified amounts from the Project Fund have been completed. The Trustee shall be fully protected in making the disbursements contained in the disbursement requests provided to it and shall have no duty or obligation to confirm that such requested disbursements constitute Project Costs or whether or not the signature of the Construction Manager is required.

Section 5.03. Completion Date; Excess Funds. The Completion Date will be evidenced to the Trustee upon receipt by the Trustee of a certificate signed by the Authorized Representative (the "Completion Certificate") stating (a) the date on which the Project was substantially completed, (b) that all other facilities necessary in connection with the Project have been purchased, constructed and installed, (c) that the Project and such other facilities have been purchased, constructed, made and installed in accordance with the plans and specifications therefor (except for latent defects not yet discovered by the City) and in conformance with all applicable zoning, planning, building, environmental and other similar governmental regulations, (d) that, except for Project Costs described in clause (e), all Project Costs have been paid, and (e) the amounts, if any, to be retained in the Project Fund for the payment of Project Costs, if any, not yet due or Project Costs whose liability the City is contesting, and amounts that otherwise should be retained and the reasons they should be retained. The Completion Certificate may state that it is given without prejudice to any rights of the City that then exist or may subsequently come into being against third parties. Any amounts remaining in the Project Fund that are not needed to pay any remaining Project Costs will be transferred by the Trustee without further authorization to the Lease Revenue Fund. The Trustee may conclusively rely upon the Completion Certificate and shall have no duty or obligation to confirm the accuracy of the information provided therein.

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

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

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

ARTICLE VI

IMPOSITIONS

Section 6.01. Impositions. The City will bear, pay and discharge, before the delinquency thereof, as Supplemental Rent, all taxes and assessments, general and special, if any, that may be lawfully taxed, charged, levied, assessed or imposed upon or against or be payable for or in respect of the Leased Property, including any taxes and assessments not of the kind enumerated above to the extent that the same are lawfully made, levied or assessed in lieu of or in addition to taxes or assessments now customarily levied against real or personal property, and further including all water and sewer charges, assessments and other general governmental charges and impositions whatsoever, foreseen or unforeseen, that if not paid when due would impair the security of the Trustee or encumber the Leased Property (all of the foregoing being herein referred to as "Impositions").

Section 6.02. Contest of Impositions. The City may, in its own name or in the Trustee's name, contest the validity or amount of any Imposition that the City is required to bear, pay and discharge pursuant to the terms of this Article by appropriate legal proceedings instituted at least 10 days before the contested Imposition becomes delinquent. The City may permit the Imposition so contested to remain unpaid during the period of such contest and any appeal therefrom provided the City provides the Trustee with either (a) an Opinion of Counsel, that by nonpayment of any such items the interest of the Trustee in the Leased Property will not be endangered or the Leased Property or any part thereof will not be subject to loss or forfeiture or (b) a written certification of the City that by nonpayment of any such items the interest of the Trustee in the Leased Property will not be endangered or the Leased Property or any part thereof will not be subject to loss or forfeiture. If the City is unable to provide either the above-described items, the City shall promptly pay such taxes, assessments or charges or provide the Trustee with full security against any loss that may result from nonpayment in form satisfactory to the Trustee. The Trustee, at the expense of the City, agrees to cooperate with the City in connection with any and all administrative or judicial proceedings related to Impositions. The City will hold the Trustee whole and harmless from any costs and expenses the Trustee may incur with respect to any Imposition.

ARTICLE VII

INSURANCE; INDEMNITY

Section 7.01. Insurance Required.

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

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

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

(3) Comprehensive general accident and public liability insurance (including coverage for all losses whatsoever arising from the ownership, maintenance, operation or use of any automobile, truck or other motor vehicle), under which the City is named as insured and the Trustee as an additional insured, in an amount not less than the limits of liability set by Section 537.610 of the Revised Statutes of Missouri (subject to reasonable loss deductible clauses).

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

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

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

(b) All policies of such insurance, and all renewals thereof, will contain a provision that such insurance may not be cancelled by the issuer thereof without at least 30 days' written notice to the City and the Trustee (except that policies under subparagraphs (a)(4) and (a)(5) may be cancelled after no less than 10 days written notice if cancellation is due to a failure to pay a policy premium).

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

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

(e) No later than 120 days after the end of each Fiscal Year, the City shall provide the Trustee with a written certification that the City is in compliance with all of the insurance requirements set forth in this Lease. Upon receiving a written request of the Trustee, the City will provide the Trustee with copies of such insurance policies or certificates evidencing such insurance.

(f) The Trustee has no duty or obligation to (1) determine the sufficiency of any such self-insurance or any other insurance required to be maintained by the City under the terms of this Lease, (2) determine the adequacy of the qualifications of the independent actuary selected by the City pursuant to the terms of this Section and (3) except as specifically stated herein, monitor the City's compliance with the insurance required under the terms of this Lease.

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

Section 7.03. Release and Indemnification. To the extent permitted by law, the City will indemnify, protect, hold harmless, save and keep the Trustee harmless from and against any and all liability, obligation, loss, claim, tax (other than income taxes or other taxes on or attributable to Rent Payments, if any, that are received by the Trustee in its individual capacity) and damage whatsoever and all expenses in

connection therewith (including, without limitation, attorneys' fees and expenses) that are not caused by the negligence or willful misconduct of the Trustee, its agents, directors, attorneys or employees arising out of or as the result of (a) the entering into of the Base Lease, this Lease or the Declaration of Trust, (b) the acquisition, construction and installation of the Project, (c) injury, actual or claimed, of whatsoever kind or character, to property or persons, occurring or allegedly occurring in, on or about the Leased Property during the Lease Term, and/or (d) the breach of any covenant by the City herein or any material misrepresentation by the City contained herein; provided that (1) the City may conduct the Trustee's defense through counsel designated by the City and approved by the Trustee, which approval shall not be unreasonably withheld, and (2) the Trustee may retain separate counsel, at the expense of the City, if counsel selected by the City fails to actively and competently pursue a defense or if the Trustee believes in good faith that there are defenses available to it that are not available to the City or that are adverse to or in conflict with those available to the City or the Trustee believes in good faith cannot be effectively asserted by common counsel. The indemnification arising under this Section will continue in full force and effect notwithstanding the full payment of all obligations under this Lease or the termination of this Lease or the Base Lease and the Declaration of Trust for any reason.

ARTICLE VIII

COVENANTS OF THE CITY

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

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

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

(c) Notwithstanding anything in paragraph (b) above to the contrary, all of the City's equipment and other personal property installed, attached to or placed by the City in or on the Leased Property which is not a fixture under applicable law or which is not paid for with the proceeds of the sale of the Certificates will remain the sole property of the City in which the Trustee will have no interest, and

may be modified or removed at any time by the City and will not be subject to the lien of the Declaration of Trust. The City shall repair any damage caused by such removal.

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

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

Section 8.04. Financial Statements. Each year during the term of this Lease, the City hereby agrees to (a) deliver to the Purchaser a copy of the annual budget for such Fiscal Year, as approved by City's governing body, within ten (10) days of such approval, but in any case prior to the commencement of each Fiscal Year and (b) not later than 180 days after the end of the City's Fiscal Year, commencing with the Fiscal Year ending March 31, 2022, file on the Electronic Municipal Market Access (EMMA) system for municipal securities disclosures established and maintained by the Municipal Securities Rulemaking Board, or any successor repository designated as such by the Securities and Exchange Commission, the audited financial statements of the City for the prior Fiscal Year prepared in accordance with generally accepted accounting principles generally accepted in the United States of America as determined by the Governmental Accounting Standards Board (GASB); provided that, if audited financial statements are not available by the time the filing is required to be filed pursuant to this Section, the City shall file its unaudited financial statements, and the audited financial statements shall be filed promptly after they become available. Notwithstanding any other provision of this Lease, failure of the City to comply with this Section will not be considered a default or an Event of Default under this Lease. The Trustee may, however, pursuant to the Declaration of Trust (and, at the request of the Owners of Certificates of at least 25% aggregate principal amount of Outstanding Certificates and if indemnified to its satisfaction, will) or any Owners of Certificates may take such actions as may be necessary and appropriate, including seeking specific performance by court order, to cause the City to comply with its obligations under this Section.

ARTICLE IX

CASUALTY AND CONDEMNATION

Section 9.01. Damage, Destruction and Condemnation.

(a) The City will bear the risk of loss with respect to the Leased Property during the Lease Term. If (1) the Leased Property or any portion thereof is destroyed, in whole or in part, or is damaged by fire or other casualty, or (2) title to, or the temporary use of, the Leased Property or any part thereof will be nonexistent or deficient or taken under the exercise or threat of the power of eminent domain by any governmental body or by any person, firm or corporation acting pursuant to governmental authority, the

City will cause the Net Proceeds of any insurance claim, condemnation award or sale under threat of condemnation to be applied to the prompt replacement, repair, restoration, modification or improvement of the Leased Property, unless the City has exercised its option to purchase the Trustee's interest in the Leased Property by making payment of the Purchase Price as provided herein. Any balance of the Net Proceeds remaining after such work has been completed will be paid to the City and will be held and appropriated by the City for the exclusive purpose of paying Rent under this Lease.

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

(c) The City acknowledges the provisions pertaining to eminent domain in **Section 13** of the Base Lease. The Trustee and the City agree that the terms of **Section 12** of the Base Lease are incorporated in and made a part of this Lease to the same extent as if set forth in full at this point. This Section will survive the termination of this Lease for any reason.

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

ARTICLE X

OPTION TO PURCHASE; PARTIAL PREPAYMENT

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

(a) On or after April 1, 2031, upon payment in full of Rent Payments then due hereunder plus a Purchase Price equal to 100% of the remaining Principal Portions of Basic Rent for the maximum Lease Term plus Interest Portions of Basic Rent accrued to the prepayment date.

(b) Upon deposit of moneys or Government Obligations or both with the Trustee in accordance with **Article X** of the Declaration of Trust in the amount necessary to provide for the Basic Rent Payments and the Purchase Price calculated as described in (a) above on the Certificates, to the prepayment date, which will be on or after April 1, 2031.

(c) In the event of substantial damage to or destruction or condemnation (other than condemnation by the City or any entity controlled by or otherwise affiliated with the

City) of, or loss of title to, substantially all of the Project or the Leased Property, or as a result of changes in the constitution of the State or legislative or administrative action by the State or the United States, the Base Lease or this Lease becomes unenforceable, on the date the City specifies as the purchase date in the City's notice to the Trustee of its exercise of the purchase option, upon payment in full of the Rent Payments then due hereunder plus the then remaining Principal Portions of Basic Rent for the maximum Lease Term, plus Interest Portions of Basic Rent accrued to the prepayment date.

Section 10.02. Partial Prepayment.

(a) The City may prepay the Basic Rent Payments in part, upon giving written notice to the Trustee at least 45 days before the prepayment date (unless a shorter notice is satisfactory to the Trustee), on any date occurring on or after April 1, 2031, at the prepayment price equal to 100% of the Principal Portion of Basic Rent being so prepaid plus the Interest Portion of Basic Rent accrued thereon to such prepayment date.

(b) The Principal Portion of Basic Rent prepaid pursuant to this **Section 10.02** will be in denominations of \$100,000 and integral multiples of \$5,000 in excess thereof and will be credited in such order of stated payment dates as is determined by the City. Upon any partial prepayment, the amount of each Interest Portion of Basic Rent coming due thereafter will be reduced by the amount of such Interest Portion attributable to such prepaid Principal Portion determined by applying the annual interest rate corresponding to such prepaid Principal Portion as shown on **Exhibit A**.

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

ARTICLE XI

ASSIGNMENT

Section 11.01. Assignment and Subleasing by the City. Except as hereinafter expressly provided, none of the City's right, title and interest in, to and under the Base Lease, this Lease and in the Leased Property may be assigned or encumbered by the City for any reason; except that the City may

sublease any one or more parts of the Leased Property if the City obtains an Opinion of Special Tax Counsel that such subleasing will not adversely affect the exclusion of the Interest Portion of the Basic Rent Payments from gross income for purposes of federal income taxation. Any such sublease of all or part of the Leased Property will be subject to the Base Lease, this Lease and the rights of the Trustee in, to and under the Base Lease, this Lease and the Leased Property.

ARTICLE XII

EVENTS OF DEFAULT

Section 12.01. Events of Default Defined.

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

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

(2) Failure by the City to make any Supplemental Rent Payment when due and the continuance of such failure for 60 days after written notice specifying such failure and requesting that it be remedied is given to the City by the Trustee;

(3) Failure by the City to observe and perform any covenant, condition or agreement on its part to be observed or performed hereunder, other than as referred to in subparagraph (1) or (2) above, for a period of 60 days after written notice specifying such failure and requesting that it be remedied is given to the City by the Trustee, unless the Trustee will agree in writing to an extension of such time prior to its expiration; provided that, if the failure stated in the notice cannot be corrected within the applicable period, the Trustee will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the City within the applicable period and diligently pursued until the default is corrected;

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

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

(6) The City becomes insolvent or admits in writing its inability to pay its debts as they mature or applies for, consents to, or acquiesces in the appointment of a trustee, receiver or custodian for the City or a substantial part of its property; or in the absence of such application, consent or acquiescence, a trustee, receiver or custodian is appointed for the City or a substantial part of its property and is not discharged within 60 days; or any bankruptcy, reorganization, debt arrangement, moratorium or any proceeding

under bankruptcy or insolvency law, or any dissolution or liquidation proceeding, is instituted by or against the City and, if instituted against the City, is consented to or acquiesced in by the City or is not dismissed within 60 days.

(b) Failure of the City to comply with **Section 8.04** will not be an Event of Default under this Lease.

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

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

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

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

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

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

ARTICLE XIII

MISCELLANEOUS

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

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

Section 13.03. Security Interest.

(a) The Trustee and the City agree that the Leased Property is and will remain personal property. The Leased Property will not be deemed to be affixed to or a part of the real estate on or under which it may be situated, notwithstanding that the Leased Property or any part thereof may be or hereafter become in any manner physically affixed to, buried in or otherwise attached to such real estate or any building or structure thereon. Upon the request of the Trustee, the City will, at the City's expense, furnish a waiver of any interest in the Leased Property from any party having an interest in any such real estate or building.

(b) To secure the payment of all of the City's obligations under this Lease, to the extent permitted by law, the Trustee retains a security interest in that portion of the Leased Property consisting of personal property or fixtures and on all additions, attachments, accessions thereto, substitutions therefore and on any proceeds therefrom. The City will execute all additional documents, including financing statements, affidavits, notices and similar instruments that are necessary or appropriate to establish and maintain such security interest. The City will provide to the Trustee copies of any financing statements it files or causes to be filed in connection with any security interest granted hereunder. The City hereby authorizes the filing of any continuation statements required under the Uniform Commercial Code in connection with any security interest granted hereunder. The Trustee may conclusively rely on the copies of the financing statements provided to it and has no obligation to determine the sufficiency thereof. The City shall be responsible for the reasonable fees and costs, including fees and costs of counsel or other experts, incurred by the Trustee in the preparation and filing of all continuation statements hereunder.

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

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

Section 13.06. Execution. This Lease may be executed in any number of counterparts, each of which will be deemed to be an original but all together will constitute but one and the same Lease. It is also agreed that separate counterparts of this Lease may be executed by the City and the Trustee, all with the same force and effect as though the same counterpart had been executed by both the City and the Trustee.

Section 13.07. Electronic Transactions. The parties agree that the transaction described herein may be conducted and related documents may be sent, received or stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents will be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

Section 13.08. No Merger. Except as provided in **Section 6** of the Base Lease, neither this Lease nor the Base Lease nor any provisions hereof or thereof shall be construed to effect a merger of the title of the City to the Leased Property under the Base Lease and the City's leasehold interest therein under this Lease.

Section 13.09. Waiver of Liability.

(a) All liabilities under this Lease and the Declaration of Trust on the part of the Trustee are solely liabilities of the Trustee serving as Trustee under the Declaration of Trust, and, to the extent permitted by law, the City hereby releases each and every director, employee, agent, attorney and officer of the Trustee of and from any personal or individual liability under this Lease and Declaration of Trust. No director, employee, agent, attorney or officer of the Trustee will at any time or under any circumstances be individually or personally liable under this Lease for anything done or omitted to be done by the Trustee hereunder. The Trustee will not be liable in connection with the performance of its duties hereunder, except for its own negligence or willful misconduct.

(b) All liabilities under this Lease on the part of the City are solely corporate liabilities of the City as a municipal corporation, and, to the extent permitted by law, the Trustee hereby releases each and every member of the City Council and each official, employee or agent of the City of and from any personal or individual liability under this Lease. No member of the City Council nor any official, employee or agent of the City will at any time or under any circumstances be individually or personally liable under this Lease for anything done or omitted to be done by the City hereunder.

Section 13.10. Anti-Discrimination Against Israel Act. Pursuant to Section 34.600 of the Revised Statutes of Missouri, the Trustee certifies it is not currently engaged in and shall not, for the duration of this Lease, engage in a boycott of goods or services from (a) the State of Israel, (b) companies doing business in or with the State of Israel or authorized by, licensed by, or organized under the laws of the State of Israel, or (c) persons or entities doing business in the State of Israel.

[Remainder of Page Intentionally Left Blank.]

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

**U.S. BANK TRUST COMPANY,
NATIONAL ASSOCIATION
as Trustee**

By: _____
Name: Laura Stabley
Title: Vice President

CITY OF KIRKWOOD, MISSOURI

(SEAL)

By: _____
Name: Timothy E. Griffin
Title: Mayor

ATTEST:

By: _____
Name: Laurie Asche
Title: City Clerk

[Lease Purchase Agreement]

SCHEDULE 1

DESCRIPTION OF THE LEASED PROPERTY

The Leased Property consists of the acquisition and installation of the following equipment to the extent the costs are paid from proceeds of the Series 2022 Certificates, together with any and all replacement parts, additions, repairs, modifications, attachments and accessories thereto, any and all substitutions, replacements or exchanges therefor, and any and all insurance and/or proceeds thereof:

- Circuit upgrades for electric distribution system.
- LED street lighting.
- Switchgears and transformers located at the Sugar Creek Substation.

This Schedule shall be deemed to be supplemented by the descriptions of the foregoing equipment included in the Requisition Certificates for Project Costs periodically submitted to the Trustee pursuant to the Declaration of Trust, which descriptions shall be deemed to be incorporated herein.

The Leased Property includes only personal property and does not include any interest in the underlying real property. Pursuant to Section 13.03 of the Lease, the Leased Property will not be deemed to be affixed to or a part of the real estate on or under which it may be situated, notwithstanding that the Leased Property or any part thereof may be or hereafter become in any manner physically affixed to, buried in or otherwise attached to such real estate or any building or structure thereon.

SCHEDULE 2

DESCRIPTION OF THE PROJECT

The Project consists of (a) the acquisition, construction, installation and equipping of certain improvements to the City's electric system and (b) the acquisition, installation and equipping of certain public safety vehicles and equipment.

EXHIBIT A

SCHEDULE OF BASIC RENT PAYMENTS*

City of Kirkwood, Missouri
Certificates of Participation (City of Kirkwood, Missouri, Lessee), Series 2022

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service	Bond Balance	Total Bond Value
04/28/2022						17,290,000	17,290,000
10/01/2022			223,582.30	223,582.30		17,290,000	17,290,000
04/01/2023	855,000	2.050%	263,038.00	1,118,038.00	1,341,620.30	16,435,000	16,435,000
10/01/2023			254,274.25	254,274.25		16,435,000	16,435,000
04/01/2024	870,000	2.450%	254,274.25	1,124,274.25	1,378,548.50	15,565,000	15,565,000
10/01/2024			243,616.75	243,616.75		15,565,000	15,565,000
04/01/2025	895,000	2.550%	243,616.75	1,138,616.75	1,382,233.50	14,670,000	14,670,000
10/01/2025			232,205.50	232,205.50		14,670,000	14,670,000
04/01/2026	915,000	2.650%	232,205.50	1,147,205.50	1,379,411.00	13,755,000	13,755,000
10/01/2026			220,081.75	220,081.75		13,755,000	13,755,000
04/01/2027	945,000	2.750%	220,081.75	1,165,081.75	1,385,163.50	12,810,000	12,810,000
10/01/2027			207,088.00	207,088.00		12,810,000	12,810,000
04/01/2028	975,000	2.800%	207,088.00	1,182,088.00	1,389,176.00	11,835,000	11,835,000
10/01/2028			193,438.00	193,438.00		11,835,000	11,835,000
04/01/2029	995,000	2.850%	193,438.00	1,188,438.00	1,381,876.00	10,840,000	10,840,000
10/01/2029			179,259.25	179,259.25		10,840,000	10,840,000
04/01/2030	685,000	2.900%	179,259.25	864,259.25	1,043,518.50	10,155,000	10,155,000
10/01/2030			169,326.75	169,326.75		10,155,000	10,155,000
04/01/2031	705,000	2.950%	169,326.75	874,326.75	1,043,653.50	9,450,000	9,450,000
10/01/2031			158,928.00	158,928.00		9,450,000	9,450,000
04/01/2032	725,000	3.000%	158,928.00	883,928.00	1,042,856.00	8,725,000	8,725,000
10/01/2032			148,053.00	148,053.00		8,725,000	8,725,000
04/01/2033	750,000	3.050%	148,053.00	898,053.00	1,046,106.00	7,975,000	7,975,000
10/01/2033			136,615.50	136,615.50		7,975,000	7,975,000
04/01/2034	770,000	3.150%	136,615.50	906,615.50	1,043,231.00	7,205,000	7,205,000
10/01/2034			124,488.00	124,488.00		7,205,000	7,205,000
04/01/2035	800,000	3.170%	124,488.00	924,488.00	1,048,976.00	6,405,000	6,405,000
10/01/2035			111,808.00	111,808.00		6,405,000	6,405,000
04/01/2036	825,000	3.230%	111,808.00	936,808.00	1,048,616.00	5,580,000	5,580,000
10/01/2036			98,484.25	98,484.25		5,580,000	5,580,000
04/01/2037	850,000	3.250%	98,484.25	948,484.25	1,046,968.50	4,730,000	4,730,000
10/01/2037			84,671.75	84,671.75		4,730,000	4,730,000
04/01/2038	880,000	3.350%	84,671.75	964,671.75	1,049,343.50	3,850,000	3,850,000
10/01/2038			69,931.75	69,931.75		3,850,000	3,850,000
04/01/2039	910,000	3.500%	69,931.75	979,931.75	1,049,863.50	2,940,000	2,940,000
10/01/2039			54,006.75	54,006.75		2,940,000	2,940,000
04/01/2040	945,000	3.650%	54,006.75	999,006.75	1,053,013.50	1,995,000	1,995,000
10/01/2040			36,760.50	36,760.50		1,995,000	1,995,000
04/01/2041	980,000	3.670%	36,760.50	1,016,760.50	1,053,521.00	1,015,000	1,015,000
10/01/2041			18,777.50	18,777.50		1,015,000	1,015,000
04/01/2042	1,015,000	3.700%	18,777.50	1,033,777.50	1,052,555.00		
	17,290,000		5,970,250.80	23,260,250.80	23,260,250.80		

* To provide for the timely payment of Basic Rent, the City will pay to the Trustee for deposit in the Lease Revenue Fund not less than five (5) Business Days before each Basic Rent Payment Date, the amount due on such Basic Rent Payment Date.

GILMORE & BELL, P.C.
DRAFT – APRIL 12, 2022
FOR DISCUSSION PURPOSES ONLY

\$17,290,000
CERTIFICATES OF PARTICIPATION
(CITY OF KIRKWOOD, MISSOURI, LESSEE)
SERIES 2022

Evidencing a Proportionate Interest in the Right to Receive Basic Rent to be Paid by
the City of Kirkwood, Missouri
Pursuant to an Annually Renewable Lease Purchase Agreement

April 21, 2022

PLACEMENT AGREEMENT

City of Kirkwood, Missouri
139 South Kirkwood Road
Kirkwood, Missouri 63122

U.S. Bank Trust Company, National Association, as Trustee
One U.S. Bank Plaza
Mail Code SL-MO-T3CT
St. Louis, Missouri 63101
Attn: Global Corporate Trust

Ladies and Gentlemen:

On the basis of the representations, warranties and covenants and upon the terms and conditions contained in this Placement Agreement, Stern Brothers & Co., as placement agent (the “Placement Agent”), hereby agrees, as the agent of the City of Kirkwood, Missouri (the “City”), to place \$17,290,000 aggregate principal amount of Certificates of Participation (City of Kirkwood, Missouri, Lessee), Series 2022 (the “Series 2022 Certificates”), to be executed and delivered by U.S. Bank Trust Company, National Association, as trustee (the “Trustee”), at the direction of the City pursuant to a Declaration of Trust dated as of April 1, 2022 (the “Declaration of Trust”) executed by the Trustee, with BMO Harris, N.A., Chicago, Illinois (the “Purchaser”). The Series 2022 Certificates will evidence interests in the right of the Owners thereof to a proportionate share of rent payments (the “Basic Rent”) to be made by the City pursuant to an annually renewable Lease Purchase Agreement dated as of April 1, 2022 (the “Lease”) between the Trustee, as lessor, and the City, as lessee. The words and terms described herein shall have the meanings ascribed to them in the Declaration of Trust or the Lease unless some other meaning is plainly indicated.

Proceeds from the sale of the Series 2022 Certificates will be used for the purpose of providing funds (1) to pay a portion of the costs to (a) acquire, construct, install and equip certain improvements to the City’s electric system and (b) acquire, install and equip certain public safety vehicles and equipment (collectively, the “Project”), and (2) to pay the costs of executing and delivering the Series 2022 Certificates. The Series 2022 Certificates shall mature on the dates, in the years and in the amounts, bear interest at the interest rates and have the initial offering price, all as set forth in **Schedule 1** hereto.

This offer is made subject to your acceptance of this Placement Agreement on or before 11:59 p.m. (CDT) on the date hereof. Upon execution and delivery of this Placement Agreement by the City and the Trustee and the Purchaser, this Placement Agreement shall be binding upon each of you and the Purchaser.

The City acknowledges and agrees that (a) the placement and delivery of the Series 2022 Certificates pursuant to this Placement Agreement, including the determination of the price for the Series 2022 Certificates and the compensation of the Placement Agent, is an arm's-length commercial transaction between the City and the Placement Agent, (b) in connection therewith and with the process leading to such transaction the Placement Agent is not and has not been acting as the agent (except to the extent explicitly set forth herein) or fiduciary of the City or any other party, (c) the Placement Agent has not assumed and will not assume an advisory or fiduciary responsibility in favor of the Purchaser or the City with respect to the transaction contemplated hereby or the process leading thereto (irrespective of whether such Placement Agent has advised or is currently advising the City on other matters) and the Placement Agent has no obligation to the Purchaser or the City with respect to the transaction contemplated hereby except the obligations expressly set forth in this Placement Agreement, and (d) the Placement Agent has not provided any legal, accounting, regulatory or tax advice with respect to the transaction contemplated hereby and the related transactions and the Purchaser and the City have each consulted their own legal, accounting, regulatory and tax advisors to the extent they deemed it appropriate. The City has a municipal advisor in this transaction that has legal fiduciary duties to the City.

The term "**Transaction Documents**" when used herein shall mean, individually and collectively, the following: the Series 2022 Certificates; the Lease; the Base Lease; the Declaration of Trust; this Placement Agreement; the Tax Compliance Agreement; and any and all other documents or instruments which evidence or are a part of the transactions referred to herein or contemplated hereby; provided, however, that when the term "Transaction Documents" is used in the context of the authorization, execution, delivery, approval or performance of Transaction Documents by a party thereto, the same shall mean only those Transaction Documents that provide for or contemplate the authorization, execution, delivery, approval or performance by such party.

1. Placement of the Series 2022 Certificates.

(a) The Placement Agent hereby agrees, as the agent of the City, to place the Series 2022 Certificates with Purchaser. The City acknowledges and agrees that the Placement Agent's engagement hereunder is not an agreement by the Placement Agent or any of its affiliates to underwrite or purchase the Series 2022 Certificates or otherwise provide any financing to the City.

(b) Solely from the proceeds of the Series 2022 Certificates, and only if the Series 2022 Certificates are delivered by the Trustee to the Purchaser on the Closing Date, the Placement Agent shall be entitled to a fee equal to \$25,000. The City approves the placement of the Series 2022 Certificates with the Purchaser on the terms referred to herein.

2. Purchase, Sale and Delivery of the Series 2022 Certificates.

(a) Upon the terms and conditions and upon the basis of the covenants contained in the Transaction Documents, and subject to the terms and conditions herein set forth, at the Closing Time (as hereinafter defined), the Purchaser agrees to purchase from the Trustee the Series 2022 Certificates at a purchase price of \$17,290,000.00.

(b) The Purchaser has no present intention to sell, reoffer, or otherwise dispose of the Series 2022 Certificates (or any portion of the Series 2022 Certificates or any interest in the Series 2022 Certificates). The Purchaser agrees to deliver to the City, the Placement Agent and the Trustee on the Closing

Date, the Purchaser's Letter of Representations and Receipt for Certificates in substantially the form attached hereto as **Exhibit A**.

3. **City's Covenants.** By its acceptance hereof the City hereby covenants to, and agrees with, the Placement Agent, the Purchaser and the Trustee as follows:

(a) **Status of the City.** The City is and will be on the Closing Date (as herein defined) a constitutional charter city with a home rule form of government and a political subdivision of the State of Missouri created and existing under the laws of the State of Missouri and has all the necessary power and authority to (i) operate, repair and maintain its governmental facilities, (ii) execute and deliver the Transaction Documents and (iii) carry out and consummate the transactions contemplated by the Transaction Documents.

(b) **Official Action.** By official action of the City prior to the Closing Time the City will have duly authorized all necessary action to be taken for (i) the execution and delivery of the Transaction Documents and any and all such other agreements and documents as may be required to be executed, delivered or received by the City in order to carry out, give effect to and consummate the transactions contemplated hereby and (ii) the carrying out, giving effect to and consummation of the transactions contemplated hereby. The City has duly authorized all necessary action to be taken for the execution and delivery of this Placement Agreement, and has approved the maturity dates, interest rates, principal amounts and prepayment provisions of the Series 2022 Certificates. Executed counterparts of the documents to which the City is a party will be delivered to the Placement Agent by the City at the Closing Time.

(c) **Documents Legal, Valid and Binding.** The Transaction Documents, when executed and delivered by the City, will be the legal, valid and binding obligations of the City enforceable against the City in accordance with their respective terms, except to the extent that enforcement thereof may be limited by any applicable bankruptcy, reorganization, insolvency, moratorium or other law or laws affecting the enforcement of creditors' rights generally or against entities such as the City and further subject to the availability of equitable remedies.

(d) **No Litigation.** There is no action, suit, proceeding, inquiry or investigation at law or in equity or before or by any court, public board or body pending and served or, to the City's knowledge, threatened against or affecting the City (or, to the City's knowledge, any basis therefor) wherein an unfavorable decision, ruling or finding would have a material adverse effect on the transactions contemplated hereby, the City's ability to pay Basic Rent under the Lease, or the validity or enforceability of the Series 2022 Certificates, this Placement Agreement or any agreement or document which is used or contemplated for use in the consummation of the transactions contemplated hereby or the financial condition of the City.

(e) **No Conflict or Breach.** To the City's knowledge, the City is not in breach of or default under: (i) any applicable law or administrative regulation of the State of Missouri or the United States or any judgment or decree, to which it is a party, in any material respect or (ii) any loan agreement, indenture, bond, note, resolution, ordinance, material agreement or other material instrument to which the City is a party, and no event has occurred and is continuing which, with the passage of time or the giving of notice or both, would constitute an event of default under any such instrument; and neither the execution and delivery of any of the Transaction Documents, or the consummation of the transactions contemplated thereby, nor the fulfillment of or compliance with the terms and conditions thereof conflicts with or constitutes a breach of or default by the City under (1) any applicable law, administrative regulation, or any judgment or decree, to which it is a party, or to the City's knowledge (2) under the terms of any loan agreement, indenture, bond, note,

resolution, ordinance, agreement or other instrument to which the City is a party nor, to the City's knowledge, shall any such execution, delivery, adoption, fulfillment or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the property or assets of the City (A) under the terms of any such law, administrative regulation, judgment or decree, or (B) under the terms of any such loan agreement, indenture, bond, note, resolution, ordinance, agreement or other instrument, except as provided by the Transaction Documents.

(f) **City Covenants.** To the City's knowledge, each of the City's representations in the Lease is true and correct as of the date hereof and, at the Closing Time, will be true and correct.

(g) **No Default Under Transaction Documents.** To the City's knowledge, no event has occurred and is continuing which with the lapse in time or the giving of notice, or both, would constitute an Event of Default under the Transaction Documents.

(h) **Use of Proceeds of the Series 2022 Certificates.** The City covenants that the proceeds of the Series 2022 Certificates will be used as provided in the Transaction Documents. The City will not take or omit to take any action which will in any way cause or result in the proceeds from the sale of the Series 2022 Certificates being applied in a manner other than as provided in the Transaction Documents.

(i) **Title to Leased Property.** The City has or will have good and merchantable title to the Leased Property (as defined in the Lease).

4. **Trustee's Representations and Warranties.** By its acceptance hereof, the Trustee hereby represents and warrants to, and agrees with, the Placement Agent, the Purchaser and the City that:

(a) **Status of the Trustee.** The Trustee is a national banking association organized and existing under the laws of the United States of America and is authorized to accept and execute trusts of the character set forth in the Declaration of Trust under the laws of the United States of America.

(b) **Authorization to Enter into Transaction Documents.** The Trustee has lawful power and authority to enter into the Transaction Documents and to carry out its obligations thereunder. By proper action of its Board of Directors, the Trustee has been duly authorized to execute and deliver the Transaction Documents, acting by and through its duly authorized officers, and when executed, each of such Transaction Documents shall constitute a valid and binding agreement enforceable in accordance with its terms.

(c) **No Conflict or Breach.** The execution and delivery of the Transaction Documents and the consummation of the transactions contemplated thereby, and the performance of or compliance with the terms and conditions of the Transaction Documents and other documents relating to the execution and delivery of the Series 2022 Certificates, will not conflict with or result in a breach of any of the terms, conditions or provisions of, or constitute a default under, any agreement or instrument to which the Trustee is a party or by which it or any of its property is bound, or the Trustee's articles of association or bylaws or any order, rule or regulation applicable to the Trustee or any of its property of any court or governmental body, 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 Trustee under the terms of any instrument or agreement to which the Trustee is a party.

(d) **No Litigation.** To the knowledge of the Trustee, there is no litigation or proceeding pending or threatened against the Trustee or any other person affecting the right of the Trustee to execute or deliver the Transaction Documents or to comply with its obligations thereunder. Neither the execution and delivery of such Transaction Documents by the Trustee, nor compliance by the Trustee with its obligations thereunder require the Trustee to obtain the approval of any regulatory body, any parent company, or any other entity, which approval has not been obtained.

5. **Closing.** Payment for the Series 2022 Certificates shall be made by federal wire transfer in immediately available federal funds payable to the order of the Trustee for the account of the City on April 28, 2022, or such other date and at such place and time, as are mutually agreed upon by the City, the Trustee and the Placement Agent. The date of such delivery and payment is herein called the “**Closing Date**,” and the hour and date of such delivery and payment is herein called the “**Closing Time**.” The delivery of the Series 2022 Certificates shall be made in definitive form, bearing CUSIP numbers (provided neither the printing of a wrong number on any Series 2022 Certificate nor the failure to print a number thereon shall constitute cause to refuse delivery of any Series 2022 Certificate) as fully-registered Series 2022 Certificates; provided, however, that the Series 2022 Certificates may be delivered in temporary form. One registered Series 2022 Certificate for each maturity in the principal amount of such maturity shall be deposited with or held by the Trustee pursuant to the FAST procedures of The Depository Trust Company (“**DTC**”) not less than one Business Day prior to the Closing Date. The Series 2022 Certificates shall be available for delivery in New York, New York, at DTC in accordance with DTC’s settlement procedures, or delivered to and held by the Trustee for the benefit of DTC, at Closing Time.

6. **Conditions to Closing.** The Placement Agent’s and the Purchaser’s obligations hereunder shall be subject to the due performance by the City and the Trustee of their respective obligations and agreements to be performed hereunder and under the Transaction Documents at or prior to the Closing Time and to the accuracy of and compliance with the City’s covenants and the Trustee’s representations and warranties contained herein and in the Transaction Documents, as of the date hereof and as of the Closing Time, and are also subject to the following conditions:

(a) At the Closing Time,

(i) The Series 2022 Certificates shall have been duly authorized, executed and delivered in the form heretofore approved by the Placement Agent with only such changes therein as shall be mutually agreed upon by the City, the Placement Agent and the Trustee;

(ii) The proceeds of the sale of the Series 2022 Certificates and other legally available funds of the City shall have been deposited and applied as described in the Declaration of Trust;

(iii) The City shall have duly adopted and there shall be in full force and effect such ordinances as, in the opinion of Special Tax Counsel, shall be necessary in connection with the transactions contemplated hereby; and

(iv) The Transaction Documents shall have been duly authorized, executed and delivered, shall be in full force and effect, and shall not have been amended, modified or supplemented, except as may have been agreed to in writing by the Placement Agent, the City and the Trustee, which approval shall be deemed given by the acceptance of the Base Lease, the Lease and the Declaration of Trust by the Placement Agent at the Closing Time.

(b) At or prior to the Closing Time, unless otherwise agreed to by the Placement Agent in writing, the Placement Agent shall receive the following documents, certificates and opinions (unless otherwise specified) in form and substance satisfactory to the Placement Agent:

(i) **Special Tax Counsel Opinions.** The unconditional approving opinion of Special Tax Counsel, dated the Closing Date, and the Supplemental Opinion of Special Tax Counsel, dated the Closing Date;

(ii) **City Attorney's Opinion.** The opinion of Lewis Rice LLC, counsel to the City, dated as of the Closing Date;

(iii) **City Certificate.** A duly executed and attested certificate of the City, dated as of the Closing Date, signed by authorized representatives of the City, containing, among other things: (1) confirmation that the covenants of the City contained in this Placement Agreement and in the other Transaction Documents are true and correct as of the Closing Date, and (2) confirmation that the ordinance authorizing the execution and delivery of the Series 2022 Certificates has not been modified, amended or repealed and is in full force and effect on the Closing Date;

(iv) **Specimen Certificate.** A specimen of the Series 2022 Certificates;

(iii) **Transaction Documents.** Executed copies of the Transaction Documents;

(ivi) **City Ordinance.** The ordinance of the City Council of the City authorizing and approving the execution and delivery of the Transaction Documents and the execution and delivery of the Series 2022 Certificates;

(vii) **Form 8038-G.** A completed Form 8038-G, which may be executed and filed after the Closing;

(viii) **Trustee's Receipt.** A receipt of the Trustee for the purchase price of the Series 2022 Certificates on behalf of the City;

(ix) **Purchaser's Letter of Representations and Receipt for Certificates.** A duly executed Purchaser's Letter of Representations and Receipt for Certificates, dated as of the Closing Date, signed by authorized representatives of the Purchaser, in substantially the form attached hereto as **Exhibit A**;

(x) **Rating.** A letter from Moody's Investors Service, Inc. (the "**Rating Agency**"), assigning a rating of "Aa2" to the Series 2022 Certificates;

(xi) **Other Closing Materials.** Such additional certificates and other documents as the Placement Agent or Special Tax Counsel may reasonably request to evidence performance or compliance with the provisions hereof and the transactions contemplated hereby and by the Declaration of Trust and the Lease, all such certificates and other documents to be satisfactory in form and substance to the Placement Agent.

The documents to be delivered to the Placement Agent pursuant to this Placement Agreement shall be deemed to be in compliance with the conditions of this Placement Agreement if, but only if, in the reasonable judgment of the Placement Agent, they are satisfactory in form and substance. No condition

hereof shall be deemed to have been waived by the Placement Agent, unless expressed specifically in a writing signed by the Placement Agent.

If any party is unable to satisfy the above conditions (unless waived by the other parties hereto) to the obligations of such party to this Placement Agreement, or if the obligations hereunder of any party are terminated for any reason permitted by this Placement Agreement, this Placement Agreement shall terminate and none of the parties hereto shall be under further obligation hereunder except as provided in **Section 8**.

7. **Representations, Warranties and Covenants to Survive Delivery.** All of the representations, warranties, and covenants contained herein shall remain operative and in full force and effect and shall survive delivery of the Series 2022 Certificates to the Purchaser, regardless of any investigations made by the Purchaser. The agreements in **Section 8** shall survive any termination of this Placement Agreement.

8. **Payment of Expenses.** Whether or not the Series 2022 Certificates are delivered by the Trustee to the Purchaser, the City will pay the following costs of delivery: the fees and expenses of Special Tax Counsel, counsel to the City, the City's Municipal Advisor, Trustee, and any other attorneys or consultants retained by the City, any fees of a rating agency and any fee for CUSIP numbers for the Certificates. If the Series 2022 Certificates are delivered by the Trustee to the Purchaser, the City will pay the Placement Agent's fee set forth in **Section 1**. Except as provided in this Section, no other fees or expenses related to the sale and delivery of the Certificates will be paid by the City.

9. **Notices.** Any notice or other communication to be given to a party under this Placement Agreement may be given by mailing or delivering the same in writing to such parties at the following addresses:

(a) To the City:

City of Kirkwood, Missouri
139 South Kirkwood Road
Kirkwood, Missouri 63122
Attention: Mayor

(b) To the Trustee:

U.S. Bank Trust Company, National Association
One U.S. Bank Plaza
Mail Code: SL-MO-T3CT
St. Louis, Missouri 63101
Attn: Global Corporate Trust

(c) To the Placement Agent:

Stern Brothers & Co.
8000 Maryland Avenue, Suite 800
St. Louis, Missouri 63105
Attention: Joyce Opinsky

(d) To the Purchaser:

BMO Harris, N.A.

_____, _____
Attention: _____

10. **Applicable Law; Nonassignability.** This Placement Agreement shall be governed by the laws of the State of Missouri. This Placement Agreement shall not be assigned by the City, the Placement Agent or the Purchaser.

11. **Execution of Counterparts.** This Placement Agreement may be executed in several counterparts, each of which shall be regarded an original and all of which shall constitute one and the same document.

12. **Successors; City Liability.** This Placement Agreement is made for the benefit of the Trustee, the City and the Placement Agent and the Purchaser (including the successors or assigns) and no other person including any future purchaser of the Series 2022 Certificates shall acquire or have any rights hereunder or by virtue hereof. No member of the City Council nor any official, employee or agent of the City will at any time or under any circumstances be individually or personally liable under this Placement Agreement for anything done or omitted to be done by the City hereunder.

13. **Amendments.** No modification, alteration or amendment to this Placement Agreement shall be binding upon any party until such modification, alteration or amendment is reduced to writing and executed by all parties.

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

15. **Effective Date.** This Placement Agreement shall become effective upon acceptance hereof by the City, the Trustee and the Purchaser.

16. **Anti-Discrimination Against Israel Act.** Pursuant to Section 34.600 of the Revised Statutes of Missouri, the Placement Agent, the Purchaser and the Trustee respectively certify they are not currently engaged in and shall not, for the duration of this Placement Agreement, engage in a boycott of goods or services from (a) the State of Israel, (b) companies doing business in or with the State of Israel or authorized by, licensed by, or organized under the laws of the State of Israel, or (c) persons or entities doing business in the State of Israel.

[Remainder of Page Intentionally Left Blank.]

IN WITNESS WHEREOF, the parties hereby have executed this Placement Agreement, all as of the day and year first above mentioned.

Very truly yours,

STERN BROTHERS & CO.,
as Placement Agent

By: _____
Title: Authorized Officer

BMO HARRIS, N.A.,
as Purchaser

By: _____
Title: Authorized Officer

**ACCEPTED AND AGREED TO AS OF
THE DATE FIRST ABOVE WRITTEN:**

CITY OF KIRKWOOD, MISSOURI

By: _____
Name: Timothy E. Griffin
Title: Mayor

[Placement Agreement]

**U.S. BANK TRUST COMPANY,
NATIONAL ASSOCIATION,**
as Trustee

By: _____
Name: Laura Stabley
Title: Vice President

[Placement Agreement]

EXHIBIT A

PURCHASER'S LETTER OF REPRESENTATIONS AND RECEIPT FOR CERTIFICATES

April 28, 2022

Mayor and City Council
Kirkwood, Missouri

U.S. Bank Trust Company, National Association, as Trustee
St. Louis, Missouri

Stern Brothers & Co.
St. Louis, Missouri

Re: City of Kirkwood, Missouri, \$17,290,000 Certificates of Participation (City of Kirkwood, Missouri, Lessee), Series 2022

Ladies and Gentlemen:

The undersigned (the "**Purchaser**") hereby acknowledges that it is purchasing \$17,290,000 aggregate principal amount of Certificates of Participation (City of Kirkwood, Missouri, Lessee), Series 2022 (the "**Certificates**") delivered pursuant to the Declaration of Trust dated as of April 1, 2022 (the "**Declaration of Trust**"), executed by U.S. Bank Trust Company, National Association, as trustee (the "**Trustee**") on behalf of the City of Kirkwood, Missouri (the "**City**"). *Capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Declaration of Trust and the Lease Purchase Agreement dated as of April 1, 2022 (the "**Lease**"), by and between the Trustee, as lessor, and the City, as lessee.*

This Purchaser Letter is being provided pursuant to a Placement Agreement dated April 21, 2022 by and among the City, the Trustee, Stern Brothers & Co., as placement agent (the "**Placement Agent**") and the undersigned.

The Purchaser acknowledges that the proceeds of the Certificates will be used for the purpose of providing funds (1) to pay a portion of the costs to (a) acquire, construct, install and equip certain improvements to the City's electric system and (b) acquire, install and equip certain public safety vehicles and equipment (collectively, the "**Project**"), and (2) to pay the costs of executing and delivering the Certificates.

The Certificates evidence a proportionate interest in Basic Rent Payments to be made by the City pursuant to the Lease. The Certificates are payable solely from Basic Rent and certain money held by the Trustee under the Declaration of Trust. The City's obligations to pay Basic Rent and other amounts under the Lease are dependent upon annual appropriations by the City Council for such purpose. The City has agreed to pay the total Basic Rent due under the Lease for each Fiscal Year, but only if the City Council annually appropriates sufficient money specifically designated to pay Basic Rent coming due during each succeeding Fiscal Year. The obligation to make Basic Rent payments does not create a general obligation or other indebtedness of the City within the meaning of any constitutional, charter or statutory debt limitation or restriction. The delivery of the Certificates does not obligate the City to levy any form of taxation therefor or to make any appropriation for their payment in any year subsequent to a year in which

the Lease is in effect. Neither the full faith and credit nor the taxing power of the City, the State of Missouri (the “*State*”) nor any political subdivision of the State is pledged to the payment of the Certificates, Basic Rent or Supplemental Rent.

In connection with the sale and delivery of the Certificates to the Purchaser, the Purchaser hereby makes the following representations upon which you may rely:

1. The undersigned acknowledges receipt of \$17,290,000 principal amount of the Certificates, consisting of fully-registered certificates numbered from 1 consecutively upward in denominations of \$100,000 or any integral multiple of \$5,000 in excess thereof, dated the date of delivery (April 28, 2022).

2. The Purchaser has the authority and is duly authorized to purchase the Certificates and to execute this Purchaser Letter and any other instruments and documents required to be executed by the Purchaser in connection with its purchase of the Certificates.

3. The Purchaser is (a) a “qualified institutional buyer” as that term is defined in Rule 144A under the Securities Act of 1933, as amended (the “*Securities Act*”), and/or (b) an “accredited investor” as that term is defined in Regulation D under the Securities Act. The Purchaser (a) is a bank, any entity directly or indirectly controlled by a bank or under common control with a bank, other than a broker, dealer or municipal securities dealer registered under the Securities Exchange Act of 1934, as amended, or a consortium of such entities; and (b) has the present intent to hold the Certificates to maturity or earlier redemption.

4. The Purchaser is not purchasing the Certificates for more than one account. The Certificates are being acquired by the Purchaser solely for investment and not with a view to, or for resale in connection with, any distribution of the Certificates, and the Purchaser intends to hold the Certificates solely for its own account for investment purposes for an indefinite period of time, and does not intend to dispose of all or any part of the Certificates. The Purchaser understands that it may need to bear the risks of this investment for an indefinite period of time, since a sale of the Certificates, or any portion thereof, prior to maturity may not be possible.

5. The Purchaser understands that the Certificates are not, and are not intended to be, registered under the Securities Act and that such registration is not legally required as of the date hereof, and further understands that the Certificates (a) are not being registered or otherwise qualified for sale under the “Blue Sky” laws and regulations of any state, (b) will not be listed in any stock or other securities exchange, and (c) will be delivered in a form that may not be readily marketable.

6. The Purchaser acknowledges that it has not been supplied with an official statement or other offering document and that it has either been supplied with or been given access to information, including a copy of financial statements and other financial information, which it has requested from the City and to which it attaches significance in making investment decisions, and the Purchaser has had the opportunity to ask questions and receive answers from individuals, including its own counsel, concerning the City and the Certificates and the security therefor so that the Purchaser has been able to make a decision to purchase the Certificates. The Purchaser has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of its purchase of the Certificates.

7. The Purchaser acknowledges (a) the obligations of the City under the Placement Agreement, the Base Lease and the Lease and (b) the obligations of the Trustee under the Placement Agreement, the Base Lease, the Lease and the Declaration of Trust. The undersigned further acknowledges

that we have timely received in satisfactory form and manner all proceedings, certificates, opinions, letters and other documents required to be submitted to us prior to or on the date of the delivery of and payment for the Certificates, and that the City and the Trustee have in all respects complied with and satisfied all of their respective obligations to us that are required to be complied with and satisfied on or before such date.

8. The Purchaser has made its own inquiry and analysis with respect to the Certificates and the security therefor, and other material factors affecting the security and payment of the Certificates. The Purchaser is aware that there are certain economic and regulatory variables and risks that could adversely affect the security for the Certificates. The Purchaser has reviewed the documents executed in conjunction with the issuance of Certificates, or summaries thereof, including, without limitation, the Base Lease, the Lease and the Declaration of Trust.

9. The Purchaser acknowledges and agrees that the City takes no responsibility for, and makes no representation to the Purchaser, or any subsequent purchaser, with regard to, a sale, transfer or other disposition of the Certificates in violation of the provisions hereof, or any securities law or income tax law consequences thereof. The Purchaser also acknowledges that, with respect to the City's obligations and liabilities, the Purchaser is solely responsible for compliance with the sales restrictions on the Certificates in connection with any subsequent transfer of the Certificates made by the Purchaser.

10. The Purchaser agrees that it is bound by and will abide by the provisions of the Declaration of Trust relating to transfer of the Certificates. The Purchaser also covenants to comply with all applicable federal and state securities laws, rules and regulations in connection with any resale or transfer of the Certificates by the Purchaser. The Purchaser acknowledges that it is solely responsible for compliance with the transfer restrictions set forth in the Declaration of Trust in connection with any subsequent transfer of the Certificates made by the undersigned. The Purchaser agrees to indemnify and hold the City, the Trustee and the Placement Agent harmless from any and all claims, judgments, attorneys' fees and expenses of whatsoever nature, whether relating to litigation or otherwise, resulting from any attempted or effected sale, offer for sale, pledge, transfer, conveyance, hypothecation, mortgage or disposition of the Certificates in violation of this Purchaser Letter or the Declaration of Trust.

11. The Purchaser acknowledges that in connection with the offering of the Certificates: (a) Stern Brothers & Co., as Placement Agent, has acted at arm's length, is not an agent or financial advisor of, and owes no fiduciary duties to the Purchaser or any other person irrespective of whether the Placement Agent has advised or is advising the Purchaser on other matters, and (b) the Purchaser represents it has had the opportunity to consult with its own legal counsel and to negotiate this Purchaser Letter prior to execution. The Purchaser waives to the fullest extent permitted by law any claims it may have against the Placement Agent arising from an alleged breach of fiduciary duty in connection with the placement of the Certificates.

12. The Purchaser understands that the City and the Placement Agent, and their respective counsel, if any, and Special Tax Counsel will rely upon the accuracy and truthfulness of the representations and warranties contained herein and hereby consents to such reliance.

13. The Purchaser acknowledges that the sale of the Certificates to the Purchaser is made in reliance upon the certifications, representations and warranties herein by the addressees hereto.

14. The interpretation of the provisions hereof shall be governed and construed in accordance with State of Missouri law without regard to principles of conflicts of laws.

15. All representations of the Purchaser contained in this Purchaser Letter shall survive the execution and delivery of the Certificates to the Purchaser as representations of fact existing as of the date of execution and delivery of this Purchaser Letter.

16. The Purchaser and its representatives are not registered municipal advisors and do not provide advice to municipal entities or obligated persons with respect to municipal financial products or the issuance of municipal securities (including regarding the structure, timing, terms and similar matters concerning municipal financial products or municipal securities issuances) or engage in the solicitation of municipal entities or obligated persons for the provision by non-affiliated persons of municipal advisory services and/or investment advisory services. With respect to this Purchaser Letter and any other information, materials or communications provided by the Purchaser: (a) the Purchaser and its representatives are not recommending an action to any municipal entity or obligated person; (b) the Purchaser and its representatives are not acting as an advisor to any municipal entity or obligated person and do not owe a fiduciary duty pursuant to Section 15B of the Securities Exchange Act of 1934, as amended, to any municipal entity or obligated person with respect to this Purchaser Letter, any other information, materials or communications; (c) the Purchaser and its representatives are acting for their own interests; and the City has been informed that the City should discuss this Purchaser Letter and any such other information, materials or communications with any and all internal and external advisors and experts that the City deems appropriate before acting on this Purchaser Letter or any such other information, materials or communications.

17. The Purchaser acknowledges and agrees that the Certificates shall not be issued pursuant to any type of offering document or official statement.

The interpretation of the provisions hereof shall be governed and construed in accordance with Missouri and federal law without regard to principles of conflicts of laws. This letter may be relied upon by the City in executing and delivering the Tax Compliance Agreement and by Gilmore & Bell, P.C., Special Tax Counsel, in rendering its opinion relating to the exclusion of the Interest Portion of Basic Rent Payments represented by the Certificates from gross income for purposes of federal income taxation.

DATED: April 28, 2022.

BMO HARRIS, N.A.

By: _____
Authorized Officer

SCHEDULE 1

\$17,290,000
CERTIFICATES OF PARTICIPATION
(CITY OF KIRKWOOD, MISSOURI, LESSEE)
SERIES 2022

**Evidencing a Proportionate Interest in the Right to Receive Basic Rent to be Paid by
the City of Kirkwood, Missouri
Pursuant to an Annually Renewable Lease Purchase Agreement**

Maturity Date	Amount	Rate	Yield	Price
04/01/2023	855,000	2.050%	2.050%	100.000
04/01/2024	870,000	2.450%	2.450%	100.000
04/01/2025	895,000	2.550%	2.550%	100.000
04/01/2026	915,000	2.650%	2.650%	100.000
04/01/2027	945,000	2.750%	2.750%	100.000
04/01/2028	975,000	2.800%	2.800%	100.000
04/01/2029	995,000	2.850%	2.850%	100.000
04/01/2030	685,000	2.900%	2.900%	100.000
04/01/2031	705,000	2.950%	2.950%	100.000
04/01/2032	725,000	3.000%	3.000%	100.000
04/01/2033	750,000	3.050%	3.050%	100.000
04/01/2034	770,000	3.150%	3.150%	100.000
04/01/2035	800,000	3.170%	3.170%	100.000
04/01/2036	825,000	3.230%	3.230%	100.000
04/01/2037	850,000	3.250%	3.250%	100.000
04/01/2038	880,000	3.350%	3.350%	100.000
04/01/2039	910,000	3.500%	3.500%	100.000
04/01/2040	945,000	3.650%	3.650%	100.000
04/01/2041	980,000	3.670%	3.670%	100.000
04/01/2042	1,015,000	3.700%	3.700%	100.000
<hr/>				
17,290,000				
<hr/>				

TAX COMPLIANCE AGREEMENT

Dated as of April 1, 2022

Between the

CITY OF KIRKWOOD, MISSOURI

And

**U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION,
as Trustee**

\$17,290,000

Certificates of Participation

(City of Kirkwood, Missouri, Lessee)

Series 2022

Evidencing a Proportionate Interest of the Owners Thereof

in Basic Rent Payments to be Made by the

City of Kirkwood, Missouri

Pursuant to an Annually-Renewable Lease Purchase Agreement

TAX COMPLIANCE AGREEMENT

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Exhibit F – Tax-Advantaged Financing Compliance Policy and Procedure

* * *

TAX COMPLIANCE AGREEMENT

THIS TAX COMPLIANCE AGREEMENT (the “Tax Agreement”), dated as of April 1, 2022, between the **CITY OF KIRKWOOD, MISSOURI**, a political subdivision organized and existing under the laws of the State of Missouri (the “City”), and **U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION**, a national banking association duly organized and existing under the laws of the United States of America, as Trustee (the “Trustee”).

RECITALS

1. This Tax Agreement is being executed and delivered in connection with the execution and delivery of \$17,290,000 principal amount of Certificates of Participation (City of Kirkwood, Missouri, Lessee), Series 2022 (the “Certificates”), evidencing a proportionate interest of the Owners thereof in Basic Rent Payments to be made by the City pursuant to an annually-renewable Lease Purchase Agreement dated as of April 1, 2022 (the “Lease”), which Certificates are delivered under a Declaration of Trust dated as of April 1, 2022 (the “Declaration”) made by the Trustee, for the purposes described in this Tax Agreement, the Declaration and the Lease.

2. The Internal Revenue Code of 1986, as amended (the “Code”), and the applicable Regulations and rulings issued by the U.S. Treasury Department (the “Regulations”), impose certain limitations on the uses and investment of the Certificate proceeds and of certain other money relating to the Certificates and set forth the conditions under which the Interest Portion of the Basic Rent paid by the City and distributed to the registered owners of the Certificates will be excluded from gross income for federal income tax purposes.

3. The City and the Trustee are entering into this Tax Agreement in order to set forth certain facts, covenants, representations, and expectations relating to the use of Certificate proceeds and the property financed or refinanced with those proceeds and the investment of the Certificate proceeds and of certain other related money, in order to establish and maintain the exclusion of the Interest Portion of Basic Rent Payments represented by the Certificates from gross income for federal income tax purposes.

4. The City adopted a Tax-Advantaged Financing Compliance Policy and Procedure on June 21, 2012 (the “Tax Compliance Procedure”), a copy of which is attached hereto as **Exhibit F**, for the purpose of setting out general procedures for the City to continuously monitor and comply with the federal income tax requirements set out in the Code and the Regulations.

5. This Tax Agreement is entered into as required by the Tax Compliance Procedure to set out specific tax compliance procedures applicable to the Certificates.

NOW, THEREFORE, in consideration of the foregoing and the representations, covenants and agreements set forth in this Tax Agreement, the City and the Trustee represent, covenant and agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1. Definitions of Words and Terms. Except as otherwise provided in this Tax Agreement or unless the context otherwise requires, capitalized words and terms used in this Tax Agreement have the same meanings as set forth in the Declaration and the Lease, and certain other words and phrases have the meanings assigned in Code §§ 103, 141-150 and the Regulations. In addition, the following words and terms used in this Tax Agreement have the following meanings:

“Adjusted Gross Proceeds” means the Gross Proceeds of the Certificates reduced by amounts (a) in a Bona Fide Debt Service Fund or a reasonably required reserve or replacement fund, (b) that as of the Issue Date are not expected to be Gross Proceeds, but which arise after the end of the applicable spending period and (c) representing grant repayments or sale or Investment proceeds of any purpose Investment.

“Annual Compliance Checklist” means a checklist for the Certificates to measure compliance with the requirements of this Tax Agreement and the Tax Compliance Procedure after the Issue Date, as further described in **Section 4.2** hereof and substantially in the form attached hereto as **Exhibit E**.

“Available Construction Proceeds” means the sale proceeds of the Certificates, increased by (a) Investment earnings on the sale proceeds, (b) earnings on amounts in a reasonably required reserve or replacement fund allocable to the Certificates but not funded from the Certificates and (c) earnings on such earnings, reduced by sale proceeds (1) in any reasonably required reserve fund or (2) used to pay issuance costs of the Certificates. But Available Construction Proceeds do not include Investment earnings on amounts in a reasonably required reserve or replacement fund after the earlier of (A) the second anniversary of the Issue Date or (B) the date the Financed Facilities are substantially completed.

“Bona Fide Debt Service Fund” means a fund, which may include Certificate proceeds, that (a) is used primarily to achieve a proper matching of revenues with Basic Rent Payments within each Certificate Year and (b) is depleted at least once each Certificate Year, except for a reasonable carryover amount not to exceed the greater of (1) the earnings on the fund for the immediately preceding Certificate Year or (2) one-twelfth of the Basic Rent Payments for the immediately preceding Certificate Year.

“Bond Compliance Officer” means the Director of Finance or other person named in the Tax Compliance Procedure.

“Certificate” or **“Certificates”** means any Certificate or Certificates described in the recitals, authenticated and delivered under the Declaration.

“Certificate Year” means each one-year period (or shorter period for the first Certificate Year) ending April 1, or another one-year period selected by the City.

“City” means the City of Kirkwood, Missouri, and its successors and assigns, or any body, agency or instrumentality of the State of Missouri succeeding to or charged with the powers, duties and functions of the City.

“Code” means the Internal Revenue Code of 1986, as amended.

“Computation Date” means each date on which arbitrage rebate for the Certificates is computed. The City may treat any date as a Computation Date, subject to the following limits:

- (a) the first rebate installment payment must be made for a Computation Date not later than 5 years after the Issue Date;
- (b) each subsequent rebate installment payment must be made for a Computation Date not later than five years after the previous Computation Date for which an installment payment was made; and
- (c) the date the last Certificate is discharged is the final Computation Date.

The City selects April 1, 2027 as the first Computation Date but reserves the right to select a different date consistent with the Regulations.

“Declaration” means the Declaration of Trust dated as of April 1, 2022, as originally executed by the Trustee, as amended and supplemented in accordance with the provisions thereof.

“Final Written Allocation” means the final written allocation of expenditures of Certificate proceeds prepared by the Bond Compliance Officer in accordance with the Tax Compliance Procedure and **Section 4.2(b)** hereof, a form of which is set forth on **Exhibit E** hereto.

“Financed Facilities” means the portion of the Project being financed or refinanced with the Certificate proceeds as described on **Exhibit C** hereto.

“Gross Proceeds” means (a) sale proceeds (any amounts actually or constructively received by the City from the sale of the Certificates, including amounts used to pay underwriting discount or fees, but excluding pre-issuance accrued interest), (b) Investment proceeds (any amounts received from investing sale proceeds), (c) any amounts held in a sinking fund for the Certificates, (d) any amounts held in a pledged fund or reserve fund for the Certificates, and (e) any other replacement proceeds. Specifically, Gross Proceeds includes (but is not limited to) amounts held in the following funds:

- (1) Project Fund.
- (2) Lease Revenue Fund.
- (3) Rebate Fund (to the extent funded with sale proceeds or Investment proceeds of the Certificates).

“Guaranteed Investment Contract” means any Investment with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate, including any agreement to supply Investments on two or more future dates (*e.g.*, a forward supply contract).

“Investment” means any security, obligation, annuity contract or other investment-type property that is purchased directly with, or otherwise allocated to, Gross Proceeds. This term does not include a tax-exempt bond, except for “specified private activity bonds” as defined in Code § 57(a)(5)(C), but it does include the investment element of most interest rate caps.

“IRS” means the United States Internal Revenue Service.

“Issue Date” means April 28, 2022.

“Lease” means the Lease Purchase Agreement dated as of April 1, 2022, between the Trustee, as lessor, and the City, as lessee, as amended and supplemented in accordance with the provisions thereof.

“Management Agreement” means a legal agreement defined in Regulations § 1.141-3(b) as a management, service, or incentive payment contract with an entity that provides services involving all or a portion of any function of the Financed Facilities, such as a contract to manage the entire Financed Facilities or a portion of the Financed Facilities. Contracts for services that are solely incidental to the primary governmental function of the Financed Facilities (for example, contracts for janitorial, office equipment repair, billing, or similar services) are not treated as Management Agreements.

“Measurement Period” means, with respect to each item of property financed as part of the Financed Facilities, the period beginning on the later of (a) the Issue Date or (b) the date the property is placed in service, and ending on the earlier of (1) the final maturity date of the Certificates or (2) the expected economic useful life of the property.

“Minor Portion” means the lesser of \$100,000 or 5% of the sale proceeds of the Certificates.

“Net Proceeds” means the sale proceeds of the Certificates (excluding pre-issuance accrued interest), less any proceeds deposited in a reasonably required reserve or replacement fund, plus all Investment earnings on such sale proceeds.

“Non-Qualified Use” means use of Certificate proceeds or the Financed Facilities in a trade or business carried on by any Non-Qualified User. The rules set out in Regulations § 1.141-3 determine whether Certificate proceeds or the Financed Facilities are “used” in a trade or business. Generally, ownership, a lease, or any other use that grants a Non-Qualified User a special legal right or entitlement with respect to the Financed Facilities, will constitute use under Regulations § 1.141-3.

“Non-Qualified User” means any person or entity other than a Qualified User.

“Opinion of Special Tax Counsel” means the written opinion of Special Tax Counsel to the effect that the action or proposed action or the failure to act or proposed failure to act for which the opinion is required will not adversely affect the exclusion of the Interest Portion of Basic Rent Payments from gross income for federal income tax purposes.

“Post-Issuance Tax Requirements” means those requirements related to the use of Certificate proceeds, the use of the Financed Facilities and the investment of Gross Proceeds after the Issue Date.

“Project” means all of the property being acquired, constructed, furnished and equipped by the City using Certificate proceeds, as described on **Exhibit C** hereto.

“Purchaser” means BMO Harris, N.A., Chicago, Illinois, the original purchaser of the Certificates.

“Qualified Use Agreement” means any of the following:

(a) A lease or other short-term use by members of the general public who occupy the Financed Facilities on a short-term basis in the ordinary course of the City’s governmental purposes.

(b) Agreements with Qualified Users or Non-Qualified Users to use all or a portion of the Financed Facilities for a period up to 200 days in length pursuant to an arrangement whereby

(1) the use of the Financed Facilities under the same or similar arrangements is predominantly by natural persons who are not engaged in a trade or business and (2) the compensation for the use is determined based on generally applicable, fair market value rates that are in effect at the time the agreement is entered into or renewed. Any Qualified User or Non-Qualified User using all or any portion of the Financed Facilities under this type of arrangement may have a right of first refusal to renew the agreement at rates generally in effect at the time of the renewal.

(c) Agreements with Qualified Users or Non-Qualified Users to use all or a portion of the Financed Facilities for a period up to 100 days in length pursuant to arrangements whereby (1) the use of the property by the person would be general public use but for the fact that generally applicable and uniformly applied rates are not reasonably available to natural persons not engaged in a trade or business, (2) the compensation for the use under the arrangement is determined based on applicable, fair market value rates that are in effect at the time the agreement is entered into or renewed and (3) the Financed Facilities were not constructed for a principal purpose of providing the property for use by that Qualified User or Non-Qualified User. Any Qualified User or Non-Qualified User using all or any portion of the Financed Facilities under this type of arrangement may have a right of first refusal to renew the agreement at rates generally in effect at the time of the renewal.

(d) Agreements with Qualified Users or Non-Qualified Users to use all or a portion of the Financed Facilities for a period up to 50 days in length pursuant to a negotiated arm's-length arrangement at fair market value so long as the Financed Facilities were not constructed for a principal purpose of providing the property for use by that person.

“Qualified User” means a State, territory, possession of the United States, the District of Columbia, or any political subdivision thereof, or any instrumentality of such entity, but it does not include the United States or any agency or instrumentality of the United States.

“Reasonable Retainage” means Gross Proceeds retained by the City for reasonable business purposes, such as to ensure or promote compliance with a construction contract; provided that such amount may not exceed (a) for purposes of the 18-month spending test, 5% of net sale proceeds of the Certificates on the date 18 months after the Issue Date or (b) for purposes of the 2-year spending test, 5% of the Available Construction Proceeds as of the end of the 2-year spending period.

“Rebate Analyst” means Gilmore & Bell, P.C. or a successor Rebate Analyst selected pursuant to this Tax Agreement.

“Regulations” means all Regulations issued by the U.S. Treasury Department to implement the provisions of Code §§ 103 and 141 through 150 and applicable to the Certificates.

“Special Tax Counsel” means Gilmore & Bell, P.C., or other firm of nationally recognized bond counsel acceptable to the City.

“Tax-Advantaged Bond File” means documents and records for the Certificates maintained by the Bond Compliance Officer pursuant to the Tax Compliance Procedure.

“Tax Agreement” means this Tax Compliance Agreement as it may from time to time be amended and supplemented in accordance with its terms.

“Tax Compliance Procedure” means the City’s Tax-Advantaged Financing Compliance Policy and Procedure dated June 21, 2012, a copy of which is attached hereto as **Exhibit F**.

“Transcript” means the Transcript of Proceedings relating to the authorization and delivery of the Certificates.

“Trustee” means U.S. Bank Trust Company, National Association, and its successor or successors and any other corporation or association which at any time may be substituted in its place at the time serving as Trustee under the Declaration.

“Yield” means yield on the Certificates, computed under Regulations § 1.148-4, and yield on an Investment, computed under Regulations § 1.148-5.

ARTICLE II

GENERAL REPRESENTATIONS AND COVENANTS

Section 2.1. Representations and Covenants of the City. The City represents and covenants as follows:

(a) *Organization and Authority.* The City (1) is a political subdivision organized and existing under the laws of the State of Missouri, (2) has lawful power and authority to enter into, execute and deliver the Base Lease, the Lease and this Tax Agreement and to carry out its obligations under the Base Lease, the Lease and this Tax Agreement and (3) by all necessary action has been duly authorized to execute and deliver the Base Lease, the Lease and this Tax Agreement, acting by and through its duly authorized officials.

(b) *Tax-Exempt Status of Certificates – General Representation and Covenants.* In order to maintain the exclusion of the Interest Portion of the Basic Rent Payments represented by the Certificates from gross income for federal income tax purposes, the City (1) will take whatever action, and refrain from whatever action, necessary to comply with the applicable requirements of the Code, (2) will not use or invest, or permit the use or Investment of, any Certificate proceeds, other money held under the Declaration, or other funds of the City, in a manner that would violate applicable provisions of the Code, and (3) will not use, or permit the use of, any portion of the Financed Facilities in a manner that would cause the Lease to become a “private activity bond” as defined in Code § 141.

(c) *Governmental Obligations – Use of Proceeds.* Throughout the Measurement Period, (1) all of the Financed Facilities are expected to be owned by the City or another Qualified User, (2) no portion of the Financed Facilities is expected to be used in a Non-Qualified Use and (3) the City will not permit any Non-Qualified Use of the Financed Facilities without first obtaining an Opinion of Special Tax Counsel.

(d) *Governmental Obligations – Private Security or Payment.* As of the Issue Date, the City expects that none of the Basic Rent Payments represented by the Certificates will be, directly or indirectly:

(1) secured by (A) any interest in property used or to be used for a Non-Qualified Use or (B) any interest in payments in respect of such property; or

(2) derived from payments (whether or not such payments are made to the City) in respect of property, or borrowed money, used or to be used for a Non-Qualified Use.

For purposes of the foregoing, taxes of general application, including payments in lieu of taxes, are not treated as private payments or as private security. The City will not permit any private security or payment with respect to the Certificates without first obtaining and delivering to the Trustee an Opinion of Special Tax Counsel.

(e) *No Private Loan.* Not more than 5% of the Net Proceeds of the Certificates will be loaned directly or indirectly to any Non-Qualified User.

(f) *Management Agreements.* As of the Issue Date, the City has no Management Agreements with Non-Qualified Users. During the Measurement Period, the City will not enter into any Management Agreement with any Non-Qualified User without first obtaining and delivering to the Trustee an Opinion of Special Tax Counsel.

(g) *Leases.* Except for the Base Lease and the Lease, neither of which gives rise to Non-Qualified Use, as of the Issue Date, the City has not entered into any leases of any portion of the Financed Facilities other than Qualified Use Agreements during the Measurement Period. During the Measurement Period, the City will not enter into or renew any lease or similar agreement or arrangement other than a Qualified Use Agreement without first obtaining an Opinion of Special Tax Counsel.

(h) *Limit on Maturity of Certificates.* A list of the assets included in the Financed Facilities and a computation of the “average reasonably expected economic life” is attached to this Tax Agreement as **Exhibit C** hereto. Based on this computation, the “average maturity” of the Certificates of 10.5222 years, as computed by Special Tax Counsel, does not exceed 120% of the “average reasonably expected economic life” of the Financed Facilities.

(i) *Reimbursement of Expenditures.* Except as permitted under Regulations § 1.150-2(f) (for example, issuance costs, de minimis amounts, and preliminary expenditures), (1) no portion of the Net Proceeds of the Certificates will be used to reimburse an expenditure paid by the City more than 60 days prior to April 21, 2022, (2) no reimbursement allocation will be made for an expenditure made more than three years before the date of the reimbursement allocation, and (3) no reimbursement allocation will be made more than three years following the later of (A) the date of the expenditure or (B) the date the Financed Facilities are placed in service. The City will evidence each allocation of the Certificate proceeds to an expenditure in writing.

(j) *Registered Certificates.* The Declaration requires that all of the Certificates be delivered and held in registered form within the meaning of Code § 149(a).

(k) *Certificates Not Federally Guaranteed.* The City will not take any action or permit any action to be taken which would cause any Certificate to be “federally guaranteed” within the meaning of Code § 149(b).

(l) *IRS Form 8038-G.* Special Tax Counsel will prepare Form 8038-G (Information Return for Tax-Exempt Governmental Obligations) based on the representations and covenants of the City contained in this Tax Agreement or otherwise provided by the City. Special Tax Counsel will sign the return as a paid preparer following completion and will then deliver copies to the City for execution and for the City’s records. The City agrees to timely execute and return to Special Tax Counsel the execution copy of Form 8038-G for filing with the IRS. A copy of the “as-filed” Form 8038-G, along with proof of filing, is attached hereto as **Exhibit B**.

(m) *Hedge Bonds.* At least 85% of the net sale proceeds (the sale proceeds of the Certificates less any sale proceeds invested in a reserve fund) of the Certificates will be used to carry out the governmental purpose of the Certificates within three years after the Issue Date, and not more than 50% of the Certificate proceeds will be invested in Investments having a substantially guaranteed Yield for four years or more.

(n) *Compliance with Future Tax Requirements.* The City understands that the Code and the Regulations may impose new or different restrictions and requirements on the City in the future. The City will comply with such future restrictions that are necessary to maintain the exclusion of the Interest Portion of the Basic Rent Payments from gross income for federal income tax purposes.

(o) *Single Issue; No Other Issues.* The Certificates constitute a single “issue” under Regulations § 1.150-1(c). No other debt obligations of the City are (1) being sold within 15 days of the sale of the Certificates, (2) being sold under the same plan of financing as the Certificates and (3) expected to be paid from substantially the same source of funds as the Certificates (disregarding guarantees from unrelated parties, such as bond insurance).

(p) *Interest Rate Swap.* As of the Issue Date, the City has not entered into an interest rate swap agreement or any other similar arrangement designed to modify its interest rate risk with respect to the Certificates. The City will not enter into any such arrangement in the future without obtaining an Opinion of Special Tax Counsel.

(q) *Guaranteed Investment Contract.* As of the Issue Date, the City does not expect to enter into a Guaranteed Investment Contract for any Gross Proceeds of the Certificates. The City will be responsible for complying **Section 4.4(d)** hereof if it decides to enter into a Guaranteed Investment Contract at a later date.

(r) *Bank Qualified Tax-Exempt Obligation.* The City’s obligation to pay Basic Rent Payments under the Lease has not been designated as a “qualified tax-exempt obligation” for purposes of Section 265(b)(3) of the Code.

Section 2.2. Representations and Covenants of the Trustee. The Trustee represents and covenants to the City as follows:

(a) The Trustee will comply with the provisions of this Tax Agreement that apply to it as Trustee and any written letter or Opinion of Special Tax Counsel, specifically referencing the Certificates and received by the Trustee, that sets forth any action necessary to comply with any statute, regulation or ruling that may apply to it as Trustee and relating to reporting requirements or other requirements necessary to maintain the exclusion of the Interest Portion of the Basic Rent Payments from gross income for federal income tax purposes; provided that any such reporting requirements or actions relate to records that the Trustee has or is required to have or responsibilities of the Trustee contained herein or in the Declaration.

(b) The Trustee, upon receipt of a written request from the City and at the expense of the City, may from time to time cause a firm of attorneys, consultants or independent accountants or an investment banking firm, in each case selected by the City, to provide the Trustee and the City with such information as it may request in order for the City to determine all matters relating to (1) the Yield on the Certificates as it relates to any data or conclusions necessary to verify that the Certificates are not “arbitrage bonds” within the meaning of Code § 148 and (2) compliance with arbitrage rebate requirements of Code § 148(f). The City will pay all reasonable costs and expenses incurred in connection with supplying the foregoing information.

(c) The Trustee, acting on behalf of the City, will retain records related to the investment and expenditure of Gross Proceeds held in funds and accounts maintained by the Trustee and any records provided to the Trustee by the City related to the Post-Issuance Tax Requirements. The Trustee will retain these records until three years following the final maturity of (1) the Certificates or (2) any obligations issued to refund the Certificates; provided, however, if the Trustee is not retained to serve as trustee for any obligations issued to refund the Certificates, then the Trustee may satisfy its record retention duties under this subsection (c) by providing copies of all records in its possession related to the Certificates to the City or the trustee for any such refunding obligations or another party designated by the City.

(d) The Trustee is executing this Tax Agreement to acknowledge its acceptance of its duties as specified in herein and agrees to undertake and perform such duties and only such duties as are specifically and expressly set forth in this Tax Agreement and no implied covenants, obligations or duties shall be read into this Tax Agreement against the Trustee. The Trustee has no obligation to perform any duties of the City under this Tax Agreement and the Trustee is not bound to ascertain or inquire as to the performance or observance of any covenants or conditions on the part of the City under this Tax Agreement. The Trustee may conclusively rely on and shall be fully protected in acting in accordance with any Opinion of Special Tax Counsel and the reports and computations of the Rebate Analyst, and the Trustee shall have no duty or obligation to make any independent investigation, analysis or verification of any opinions, statements, information or computations provided therein. The Trustee makes no representations, warranties, or agreements except as explicitly indicated, and the Trustee is not responsible for any statements herein except for those explicitly indicated.

Section 2.3. Survival of Representations and Covenants. All representations, covenants and certifications of the City and the Trustee contained in this Tax Agreement or in any certificate or other instrument delivered by the City or the Trustee under this Tax Agreement, will survive the execution and delivery of such documents and the approval and delivery of the Certificates, as representations of facts existing as of the date of execution and delivery of the instruments containing such representations. The foregoing covenants of this Section will remain in full force and effect notwithstanding the defeasance of the Certificates.

ARTICLE III

ARBITRAGE CERTIFICATIONS AND COVENANTS

Section 3.1. General. The purpose of this Article is to certify, under Regulations § 1.148-2(b), the City's expectations as to the sources, uses and Investment of Certificate proceeds and other money, in order to support the City's conclusion that the Certificates are not arbitrage bonds. The person executing this Tax Agreement on behalf of the City is an officer of the City responsible for delivering the Lease and authorizing the Trustee to deliver the Certificates.

Section 3.2. Reasonable Expectations. The facts, estimates and expectations set forth in this Article are based upon and in reliance upon the City's understanding of the documents and certificates that comprise the Transcript, and the representations, covenants and certifications of the parties contained therein. To the City's knowledge, the facts and estimates set forth in this Tax Agreement are accurate, and the expectations of the City set forth in this Tax Agreement are reasonable. The City has no knowledge that would cause it to believe that the representations, warranties and certifications described in this Tax Agreement are unreasonable or inaccurate or may not be relied upon.

Section 3.3. Purpose of Financing. The Certificates are being executed and delivered for the purpose of providing funds to pay the costs of (a) the Project and (b) executing and delivering the Certificates.

Section 3.4. Funds. The following funds have been established under the Declaration:

Project Fund.
Lease Revenue Fund.
Rebate Fund.

Section 3.5. Amount and Use of Certificate Proceeds. The total Certificate proceeds to be received by the City from the sale of the Certificates in the amount of \$17,290,000.00 are expected to be deposited in the Project Fund, of which \$158,920.00 will be used for Costs of Delivery and the remainder used for the Project.

Section 3.6. Multipurpose Issue. Pursuant to Regulations § 1.148-9(h), the City is applying the arbitrage rules to separate financing purposes of the issue that have the same initial temporary period as if they constitute a single issue for purposes of applying the arbitrage rules.

Section 3.7. No Advance Refunding. No Certificate proceeds will be used more than 90 days following the Issue Date to pay principal of or interest on any other debt obligation.

Section 3.8. No Current Refunding. No Certificate proceeds will be used to pay principal of or interest on any other debt obligation.

Section 3.9. Project Completion. The City has incurred, or will incur within six months after the Issue Date, a substantial binding obligation to a third party to spend at least 5% of the Net Proceeds of the Certificates on the Financed Facilities. The completion of the Financed Facilities and the allocation of the Net Proceeds of the Certificates to expenditures will proceed with due diligence. At least 85% of the Net Proceeds of the Certificates will be allocated to expenditures on the Financed Facilities within three years after the Issue Date.

Section 3.10. Sinking Funds. The City is required to make periodic payments in amounts sufficient to pay the Basic Rent Payments represented by the Certificates. Such payments will be deposited into the Lease Revenue Fund. Except for the Lease Revenue Fund, no sinking fund or other similar fund that is expected to be used to pay Basic Rent Payments has been established or is expected to be established. The Lease Revenue Fund is used primarily to achieve a proper matching of revenues with Basic Rent Payments within each Certificate Year, and the City expects that the Lease Revenue Fund will qualify as a Bona Fide Debt Service Fund.

Section 3.11. Reserve, Replacement and Pledged Funds.

(a) *No Reserve Fund.* No reserve or replacement fund has been established for the Certificates.

(b) *No Other Replacement or Pledged Funds.* None of the Certificate proceeds will be used as a substitute for other funds that were intended or earmarked to pay costs of the Financed Facilities, and that instead have been or will be used to acquire higher yielding investments. Except for the Lease Revenue

Fund, there are no other funds pledged or committed in a manner that provides a reasonable assurance that such funds would be available for Basic Rent Payments if the City encounters financial difficulty.

Section 3.12. Purpose Investment Yield. The Certificate proceeds will not be used to purchase an Investment for the purpose of carrying out the governmental purpose of the financing.

Section 3.13. Issue Price and Yield on Certificates.

(a) *Issue Price.* Based on the Purchaser's certifications in the Purchaser's Letter of Representations and Receipt for Certificates, the issue price of the Certificates pursuant to Regulations § 1.148-1(f)(2)(i) (relating to the so-called "private placement rule") is the price paid by such Purchaser (\$17,290,000.00).

(b) *Certificate Yield.* Based on the issue price, the Yield on the Certificates is 3.2562%, as computed by Special Tax Counsel and shown on **Exhibit A**. The City has not entered into an interest rate swap agreement with respect to any portion of the proceeds of the Certificates.

Section 3.14. Miscellaneous Arbitrage Matters.

(a) *No Abusive Arbitrage Device.* The Certificates are not and will not be part of a transaction or series of transactions that has the effect of (1) enabling the City to exploit the difference between tax-exempt and taxable interest rates to gain a material financial advantage and (2) overburdening the tax-exempt bond market.

(b) *No Over-Issuance.* The sale proceeds of the Certificates, together with expected Investment earnings thereon and other money contributed by the City, if any, do not exceed the cost of the governmental purpose of the Certificates as described above.

Section 3.15. Conclusion. On the basis of the facts, estimates and circumstances set forth in this Tax Agreement, the City does not expect that the Certificate proceeds will be used in a manner that would cause any Certificate to be an "arbitrage bond" within the meaning of Code § 148 and the Regulations.

ARTICLE IV

POST-ISSUANCE TAX REQUIREMENTS, POLICIES AND PROCEDURES

Section 4.1. General.

(a) *Purpose of Article.* The purpose of this Article is to supplement the Tax Compliance Procedure and to set out specific policies and procedures governing compliance with the federal income tax requirements that apply after the Certificates are delivered. The City recognizes that the Interest Portion of the Basic Rent Payments represented by the Certificates will remain excludable from gross income only if the Post-Issuance Tax Requirements are followed after the Issue Date. The City further acknowledges that written evidence substantiating compliance with the Post-Issuance Tax Requirements must be retained in order to permit the Certificates to be refinanced with tax-exempt obligations and substantiate the position that the Interest Portion of the Basic Rent Payments represented by the Certificates is excluded from gross income in the event of an audit of the Certificates by the IRS.

(b) *Written Policies and Procedures of the City.* The City intends for the Tax Compliance Procedure, as supplemented by this Tax Agreement, to be its primary written policies and procedures for monitoring compliance with the Post-Issuance Tax Requirements for the Certificates and to supplement any other formal policies and procedures related to tax compliance that the City has established. The provisions of this Tax Agreement are intended to be consistent with the Tax Compliance Procedure. In the event of any inconsistency between the Tax Compliance Procedure and this Tax Agreement, the terms of this Tax Agreement will govern.

(c) *Bond Compliance Officer.* The City when necessary to fulfill its Post-Issuance Tax Requirements will, through its Bond Compliance Officer, sign Form 8038-T in connection with the payment of arbitrage rebate or yield reduction payments, participate in any federal income tax audit of the Certificates or related proceedings under a voluntary compliance agreement procedures (VCAP) or undertake a remedial action procedure pursuant to Regulations § 1.141-12. In each case, all costs and expenses incurred by the City shall be treated as a reasonable cost of administering the Certificates and the City shall be entitled to reimbursement and recovery of its costs to the same extent as provided in the Declaration or State law.

Section 4.2. Record Keeping; Use of Certificate Proceeds and Use of Financed Facilities.

(a) *Record Keeping.* The Bond Compliance Officer will maintain the Tax-Advantaged Bond File for the Certificates in accordance with the Tax Compliance Procedure. Unless otherwise specifically instructed in a written Opinion of Special Tax Counsel or to the extent otherwise provided in this Tax Agreement, the Bond Compliance Officer shall retain records related to Post-Issuance Tax Requirements until three years following the final maturity of (1) the Certificates or (2) any obligation issued to refund the Certificates. Any records maintained electronically must comply with Section 4.01 of Revenue Procedure 97-22, which generally provides that an electronic storage system must (A) ensure an accurate and complete transfer of the hardcopy records which indexes, stores, preserves, retrieves and reproduces the electronic records, (B) include reasonable controls to ensure integrity, accuracy and reliability of the electronic storage system and to prevent unauthorized alteration or deterioration of electronic records, (C) exhibit a high degree of legibility and readability both electronically and in hardcopy, (D) provide support for other books and records of the City and (E) not be subject to any agreement that would limit the ability of the IRS to access and use the electronic storage system on the City's premises.

(b) *Accounting and Allocation of Certificate Proceeds to Expenditures.* The Bond Compliance Officer will account for the investment and expenditure of Certificate proceeds in the level of detail required by the Tax Compliance Procedure. The expected allocation of Certificate proceeds to expenditures is set forth on **Exhibit C**; the Bond Compliance Officer will supplement this expected allocation with a Final Written Allocation as required by the Tax Compliance Procedure. A sample form of a Final Written Allocation is attached as **Exhibit E** hereto.

(c) *Annual Compliance Checklist.* Attached as **Exhibit D** hereto is a form of Annual Compliance Checklist for the Certificates. The Bond Compliance Officer will prepare and complete an Annual Compliance Checklist for the Financed Facilities at least annually in accordance with the Tax Compliance Procedure. In the event the Annual Compliance Checklist identifies a deficiency in compliance with the requirements of this Tax Agreement, the Bond Compliance Officer will take the actions identified in an Opinion of Special Tax Counsel or the Tax Compliance Procedure to correct any deficiency.

(d) *Opinions of Special Tax Counsel.* The Bond Compliance Officer is responsible for obtaining and delivering to the City and the Trustee any Opinion of Special Tax Counsel required under the

provisions of this Tax Agreement, including any Opinion of Special Tax Counsel required by this Tax Agreement or the Annual Compliance Checklist.

Section 4.3. Temporary Periods/Yield Restriction. Except as described below, the City will not invest Gross Proceeds at a Yield greater than the Yield on the Certificates:

(a) *Project Fund.* Certificate proceeds deposited in the Project Fund and investment earnings on those proceeds may be invested without Yield restriction for up to three years following the Issue Date. If any unspent proceeds remain therein after three years, those amounts may continue to be invested without Yield restriction so long as the City pays to the IRS all Yield reduction payments in accordance with Regulations § 1.148-5(c). These payments are required whether or not the Certificates are exempt from the arbitrage rebate requirements of Code § 148.

(b) *Lease Revenue Fund.* To the extent that the Lease Revenue Fund qualifies as a Bona Fide Debt Service Fund, money in such fund may be invested without Yield restriction for 13 months after the date of deposit. Earnings on such amounts may be invested without Yield restriction for one year after the date of receipt of such earnings.

(c) *Minor Portion.* In addition to the amounts described above, Gross Proceeds not exceeding the Minor Portion may be invested without Yield restriction.

Section 4.4. Procedures for Establishing Fair Market Value.

(a) *General.* No Investment may be acquired with Gross Proceeds for an amount (including transaction costs) in excess of the fair market value of such Investment, or sold or otherwise disposed of for an amount (including transaction costs) less than the fair market value of the Investment. The fair market value of any Investment is the price a willing buyer would pay to a willing seller to acquire the Investment in a bona fide, arm's-length transaction. Fair market value will be determined in accordance with Regulations § 1.148-5.

(b) *Established Securities Market.* Except for Investments purchased for a Yield-restricted defeasance escrow, if an Investment is purchased or sold in an arm's-length transaction on an established securities market (within the meaning of Code § 1273), the purchase or sale price constitutes the fair market value. Where there is no established securities market for an Investment, market value must be established using one of the paragraphs below. The fair market value of Investments purchased for a Yield-restricted defeasance escrow must be determined in a bona fide solicitation for bids that complies with Regulations § 1.148-5.

(c) *Certificates of Deposit.* The purchase price of a certificate of deposit (a "CD") is treated as its fair market value on the purchase date if (1) the CD has a fixed interest rate, a fixed payment schedule, and a substantial penalty for early withdrawal, (2) the Yield on the CD is not less than the Yield on reasonably comparable direct obligations of the United States, and (3) the Yield is not less than the highest Yield published or posted by the CD issuer to be currently available on reasonably comparable CDs offered to the public.

(d) *Guaranteed Investment Contracts.* The purchase price of a Guaranteed Investment Contract is treated as its fair market value on the purchase date if all of the following requirements are met:

(1) Bona Fide Solicitation for Bids. The City makes a bona fide solicitation for the Guaranteed Investment Contract, using the following procedures:

(A) The bid specifications are in writing and are timely forwarded to potential providers.

(B) The bid specifications include all “material” terms of the bid. A term is material if it may directly or indirectly affect the Yield or the cost of the Guaranteed Investment Contract.

(C) The bid specifications include a statement notifying potential providers that submission of a bid is a representation (i) that the potential provider did not consult with any other potential provider about its bid, (ii) that the bid was determined without regard to any other formal or informal agreement that the potential provider has with the City, the Trustee, or any other person (whether or not in connection with the bond issue), and (iii) that the bid is not being submitted solely as a courtesy to the City or any other person, for purposes of satisfying the requirements of the Regulations.

(D) The terms of the bid specifications are “commercially reasonable.” A term is commercially reasonable if there is a legitimate business purpose for the term other than to increase the purchase price or reduce the Yield of the Guaranteed Investment Contract.

(E) The terms of the solicitation take into account the City’s reasonably expected deposit and draw-down schedule for the amounts to be invested.

(F) All potential providers have an equal opportunity to bid. For example, no potential provider is given the opportunity to review other bids (*i.e.*, a last look) before providing a bid.

(G) At least three “reasonably competitive providers” are solicited for bids. A reasonably competitive provider is a provider that has an established industry reputation as a competitive provider of the type of Investments being purchased.

(2) Bids Received. The bids received must meet all of the following requirements:

(A) At least three bids are received from providers that were solicited as described above and that do not have a “material financial interest” in the issue. For this purpose, (i) a lead underwriter in a negotiated underwriting transaction is deemed to have a material financial interest in the issue until 15 days after the Issue Date of the issue, (ii) any entity acting as a financial advisor with respect to the purchase of the Guaranteed Investment Contract at the time the bid specifications are forwarded to potential providers has a material financial interest in the issue, and (iii) a provider that is a related party to a provider that has a material financial interest in the issue is deemed to have a material financial interest in the issue.

(B) At least one of the three bids received is from a reasonably competitive provider, as defined above.

(C) If an agent or broker is used to conduct the bidding process, the agent or broker did not bid to provide the Guaranteed Investment Contract.

(3) Winning Bid. The winning bid is the highest Yielding bona fide bid (determined net of any broker's fees).

(4) Fees Paid. The obligor on the Guaranteed Investment Contract certifies the administrative costs that it pays (or expects to pay, if any) to third parties in connection with supplying the Guaranteed Investment Contract.

(5) Records. The City and the Trustee (to the extent the Trustee is provided with such records) retain the following records with the Certificate documents until three years after the last outstanding Certificate is redeemed:

(A) A copy of the Guaranteed Investment Contract.

(B) The receipt or other record of the amount actually paid for the Guaranteed Investment Contract, including a record of any administrative costs paid by the City or the Trustee, and the certification as to fees paid, described in paragraph (d)(4) above.

(C) For each bid that is submitted, the name of the person and entity submitting the bid, the time and date of the bid, and the bid results.

(D) The bid solicitation form and, if the terms of Guaranteed Investment Contract deviated from the bid solicitation form or a submitted bid is modified, a brief statement explaining the deviation and stating the purpose for the deviation.

(e) *Other Investments*. If an Investment is not described above, the fair market value may be established through a competitive bidding process, as follows:

(1) at least three bids on the Investment must be received from persons with no financial interest in the Certificates (e.g., as underwriters or brokers); and

(2) the Yield on the Investment must be equal to or greater than the Yield offered under the highest bid.

Section 4.5. Certain Gross Proceeds Exempt from the Rebate Requirement.

(a) *General*. A portion of the Gross Proceeds of the Certificates may be exempt from rebate pursuant to one or more of the following exceptions. The exceptions typically will not apply with respect to all Gross Proceeds of the Certificates and will not otherwise affect the application of the Investment limitations described in **Section 4.3** hereof. Unless specifically noted, the obligation to compute, and if necessary, to pay rebate as set forth in **Section 4.6** hereof applies even if a portion of the gross proceeds of the Certificates is exempt from the rebate requirement. To the extent all or a portion of the Certificates is exempt from Rebate, the Rebate Analyst may account for such fact in connection with its preparation of a rebate report described in **Section 4.6** hereof. The City may defer the final rebate Computation Date and the payment of rebate for the Certificates to the extent permitted by Regulations § 1.148-7(b)(1) and § 1.148-3(e)(2) but only in accordance with specific written instructions provided by the Rebate Analyst.

(b) *Applicable Spending Exceptions.*

(1) The City expects that at least 75% of the Available Construction Proceeds will be used for construction or rehabilitation expenditures for property owned by the City.

(2) The following optional rebate spending exceptions can apply to the Certificates:

(A) 6-month Exception (Code § 148(f)(4)(B) and Regulations § 1.148-7(c)).

(B) 18-month Exception (Regulations § 1.148-7(d)).

(C) 2-year Exception (Code § 148(f)(4)(C) and Regulations § 1.148-7(e)).

(c) *Special Elections Made with Respect to Spending Exception Elections.* No special elections are being made in connection with the application of the spending exceptions.

(d) *Bona Fide Debt Service Fund.* To the extent that the Lease Revenue Fund qualifies as a Bona Fide Debt Service Fund, Investment earnings in the account cannot be taken into account in computing arbitrage rebate (1) with respect to such portion that meets the 6-month, 18-month or 2-year spending exception, or (2) for a given Certificate Year, if the gross earnings on the Lease Revenue Fund for such Certificate Year are less than \$100,000. If the average annual debt service on the Certificates does not exceed \$2,500,000, the \$100,000 earnings test may be treated as satisfied in every Certificate Year.

(e) *Documenting Application of Spending Exception.* At any time prior to the first Computation Date, the City may engage the Rebate Analyst to determine whether one or more spending exceptions has been satisfied, and the extent to which the City must continue to comply with **Section 4.6** hereof.

(f) *General Requirements for Spending Exception.* The following general requirements apply in determining whether a spending exception is met.

(1) Using Adjusted Gross Proceeds or Available Construction Proceeds to pay principal of any Certificates is not taken into account as expenditure for purposes of meeting any of the spending tests.

(2) The six-month spending exception generally is met if all Adjusted Gross Proceeds of the Certificates are spent within six months following the Issue Date. The test may still be satisfied even if up to 5% of the sale proceeds remain at the end of the initial 6-month period, so long as this amount is spent within one year of the Issue Date.

(3) The 18-month spending exception generally is met if all Adjusted Gross Proceeds of the Certificates are spent in accordance with the following schedule:

Time Period After the Issue Date	Minimum Percentage of Adjusted Gross Proceeds Spent
6 months	15%
12 months	60%
18 months (Final)	100%

(4) The 2-year spending exception generally is met if all Available Construction Proceeds are spent in accordance with the following schedule:

Time Period After the Issue Date	Minimum Percentage of Available Construction Proceeds Spent
6 months	10%
12 months	45%
18 months	75%
24 months (Final)	100%

(5) For purposes of applying the 18-month and 2 year spending exceptions only, the failure to satisfy the **final** spending requirement is disregarded if the City uses due diligence to complete the Financed Facilities and the failure does not exceed the lesser of 3% of the aggregate issue price of the Certificates or \$250,000. **No such exception applies for any other spending period.**

(6) For purposes of applying the 18-month and 2 year spending exceptions only, the Certificates meet the applicable spending test even if, at the end of the **final** spending period, proceeds not exceeding a Reasonable Retainage remain unspent, so long as such Reasonable Retainage is spent within 30 months (in the case of the 18-month exception) or 3 years (in the case of the 2 year spending test) after the Issue Date.

Section 4.6. Computation and Payment of Arbitrage Rebate.

(a) *Rebate Fund.* The Trustee will keep the Rebate Fund separate from all other funds and will administer the Rebate Fund under this Tax Agreement. Any Investment earnings derived from the Rebate Fund will be credited to the Rebate Fund, and any Investment loss will be charged to the Rebate Fund.

(b) *Computation of Rebate Amount.* The Trustee will provide the Rebate Analyst investment reports relating to each fund held by the Trustee at such times as reports are provided to the City, and not later than ten days following each Computation Date. The City will provide the Rebate Analyst with copies of investment reports for any funds containing Gross Proceeds that are held by a party other than the Trustee annually as of the end of each Certificate Year and not later than ten days following each Computation Date. Each investment report provided to the Rebate Analyst will contain a record of each Investment, including (1) purchase date, (2) purchase price, (3) information establishing the fair market value on the date such Investment was allocated to the Certificates, (4) any accrued interest paid, (5) face amount, (6) coupon rate, (7) frequency of interest payments, (8) disposition price, (9) any accrued interest received and (10) disposition date. Such records may be supplied in electronic form. The Rebate Analyst will compute rebate

(the "Rebate Amount") following each Computation Date and deliver a written report to the Trustee and the City together with an opinion or certificate of the Rebate Analyst stating that arbitrage rebate was determined in accordance with the Regulations. Each report and opinion will be provided not later than 45 days following the Computation Date to which it relates. In performing its duties, the Rebate Analyst may rely, in its discretion, on the correctness of financial analysis reports prepared by other professionals. If the sum of the amount on deposit in the Rebate Fund and the value of prior rebate payments is less than the Rebate Amount, the City will, within 55 days after such Computation Date, pay to the Trustee the amount of the deficiency for deposit into the Rebate Fund. If the sum of the amount on deposit in the Rebate Fund and the value of prior rebate payments is greater than the Rebate Amount, the Trustee will transfer such surplus in the Rebate Fund to the Lease Revenue Fund. After the final Computation Date or at any other time if the Rebate Analyst has advised the Trustee, any money left in the Rebate Fund will be paid to the City and may be used for any purpose not prohibited by law.

(c) *Rebate Payments.* Within 60 days after each Computation Date, the Trustee must pay (but solely from money in the Rebate Fund or provided by the City) to the United States the Rebate Amount then due, determined in accordance with the Regulations. Each payment must be (1) accompanied by IRS Form 8038-T and such other forms, documents or certificates as may be required by the Regulations and (2) mailed or delivered to the IRS at the address shown below, or to such other location as the IRS may direct:

Internal Revenue Service Center
Ogden, UT 84201

Section 4.7. Successor Rebate Analyst. If the firm acting as the Rebate Analyst resigns or becomes incapable of acting for any reason, or if the City desires that a different firm act as the Rebate Analyst, then the City by an instrument or concurrent instruments in writing delivered to the firm then serving as the Rebate Analyst and any other party to this Tax Agreement, will engage a successor Rebate Analyst. In each case the successor Rebate Analyst must be a firm of nationally recognized bond counsel or a firm of independent certified public accountants and such firm must expressly agree to undertake the responsibilities assigned to the Rebate Analyst hereunder. In the event the firm acting as the Rebate Analyst resigns or becomes incapable of acting for any reason, and the City fails to appoint a qualified successor Rebate Analyst within thirty (30) days following notice of such resignation, then the Trustee will appoint a firm to act as the successor Rebate Analyst.

Section 4.8. Filing Requirements. The Trustee (to the extent the Trustee has documentation in its possession or is required to have such information in its books and records) and the City will file or cause to be filed with the IRS such reports or other documents as are required by the Code in accordance with an Opinion of Special Tax Counsel.

Section 4.9. Survival after Defeasance. Notwithstanding anything in the Declaration to the contrary, the obligation to pay arbitrage rebate to the United States will survive the payment or defeasance of the Certificates.

ARTICLE V

MISCELLANEOUS PROVISIONS

Section 5.1. Term of Tax Agreement. This Tax Agreement will be effective concurrently with the delivery of the Certificates and will continue in force and effect until the earlier of (a) all of the Basic Rent Payments represented by the Certificates have been fully paid and all such Certificates are cancelled

or (b) the termination of the Lease; provided that, the provisions of **Section 4.2** hereof relating to record keeping shall continue in force for the period described therein for records to be retained, and the provisions of **Sections 4.3** and **4.6** relating to yield restriction and rebate payments shall continue in force until all such amounts are paid to the United States.

Section 5.2. Amendments. This Tax Agreement may be amended from time to time by the parties to this Tax Agreement without notice to or the consent of any of the Certificate holders, but only if such amendment is in writing and is accompanied by an Opinion of Special Tax Counsel to the effect that, under then-existing law, assuming compliance with this Tax Agreement as so amended, such amendment will not cause the Interest Portion of the Basic Rent Payments to be included in gross income for federal income tax purposes. No such amendment will become effective until the City and the Trustee receive an Opinion of Special Tax Counsel as outlined herein.

Section 5.3. Opinion of Special Tax Counsel. The City and the Trustee may deviate from the provisions of this Tax Agreement if furnished with an Opinion of Special Tax Counsel addressed to each of them to the effect that the proposed deviation will not adversely affect the exclusion of the Interest Portion of the Basic Rent Payments represented by the Certificates from gross income for federal income tax purposes. The City and the Trustee will comply with any further or different instructions provided in an Opinion of Special Tax Counsel to the effect that the further or different instructions need to be complied with in order to maintain the validity of the Certificates or the exclusion from gross income of the Interest Portion of the Basic Rent Payments; provided that with respect to the Trustee any such instructions are within the scope of the Trustee's responsibilities as set forth in the Declaration.

Section 5.4. Reliance. In delivering this Tax Agreement, the City and the Trustee are making only those certifications, representations and agreements as are specifically attributed to them in this Tax Agreement. The City is not aware of any facts or circumstances which would cause it to question the accuracy of the facts, circumstances, estimates or expectations of any other party providing certifications as part of this Tax Agreement and, to the best of its knowledge, those facts, circumstances, estimates and expectations are reasonable. The parties to this Tax Agreement understand that their certifications will be relied upon by the law firm of Gilmore & Bell, P.C., in rendering its opinion as to the validity of the Certificates and the exclusion from federal gross income of the Interest Portion of the Basic Rent Payments.

Section 5.5. Severability. If any provision in this Tax Agreement or in the Certificates is determined to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions will not be affected or impaired.

Section 5.6. Benefit of Agreement. This Tax Agreement is binding upon the City and the Trustee and their respective successors and assigns, and inures to the benefit of the parties to this Tax Agreement and the owners of the Certificates. Nothing in this Tax Agreement or in the Declaration or the Certificates, express or implied, gives to any person, other than the parties to this Tax Agreement, and their successors and assigns, and the owners of the Certificates, any benefit or any legal or equitable right, remedy or claim under this Tax Agreement.

Section 5.7. Default; Breach and Enforcement. Any misrepresentation of a party contained herein or any breach of a covenant or agreement contained in this Tax Agreement may be pursued by the Owners of the Certificates or the Trustee pursuant to the terms of the Declaration or any other document which references this Tax Agreement and gives remedies for a misrepresentation or breach thereof.

Section 5.8. Execution in Counterparts. This Tax Agreement may be executed in any number of counterparts, each of which so executed will be deemed to be an original, but all such counterparts will together constitute the same instrument.

Section 5.9. Governing Law. This Tax Agreement will be governed by and construed in accordance with the laws of the State of Missouri.

Section 5.10. Electronic Transactions. The parties agree that the transaction described in this Tax Agreement may be conducted, and related documents may be sent, received or stored, by electronic means.

Section 5.11. Anti-Discrimination Against Israel Act. Pursuant to Section 34.600 of the Revised Statutes of Missouri, the Trustee certifies that it is not currently engaged in and shall not, for the duration of this Tax Agreement, engage in a boycott of goods or services from (a) the State of Israel, (b) companies doing business in or with the State of Israel or authorized by, licensed by, or organized under the laws of the State of Israel, or (c) persons or entities doing business in the State of Israel.

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The parties to this Tax Agreement have caused this Tax Compliance Agreement to be duly executed by their duly authorized officers as of the Issue Date.

CITY OF KIRKWOOD, MISSOURI

By: _____
Mayor

**U.S. BANK TRUST COMPANY,
NATIONAL ASSOCIATION, as Trustee**

By: _____
Title: Authorized Officer

EXHIBIT A

DEBT SERVICE SCHEDULE AND PROOF OF CERTIFICATE YIELD

BOND DEBT SERVICE

City of Kirkwood, Missouri
Certificates of Participation (City of Kirkwood, Missouri, Lessee), Series 2022

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service	Bond Balance	Total Bond Value
04/28/2022						17,290,000	17,290,000
10/01/2022			223,582.30	223,582.30		17,290,000	17,290,000
04/01/2023	855,000	2.050%	263,038.00	1,118,038.00	1,341,620.30	16,435,000	16,435,000
10/01/2023			254,274.25	254,274.25		16,435,000	16,435,000
04/01/2024	870,000	2.450%	254,274.25	1,124,274.25	1,378,548.50	15,565,000	15,565,000
10/01/2024			243,616.75	243,616.75		15,565,000	15,565,000
04/01/2025	895,000	2.550%	243,616.75	1,138,616.75	1,382,233.50	14,670,000	14,670,000
10/01/2025			232,205.50	232,205.50		14,670,000	14,670,000
04/01/2026	915,000	2.650%	232,205.50	1,147,205.50	1,379,411.00	13,755,000	13,755,000
10/01/2026			220,081.75	220,081.75		13,755,000	13,755,000
04/01/2027	945,000	2.750%	220,081.75	1,165,081.75	1,385,163.50	12,810,000	12,810,000
10/01/2027			207,088.00	207,088.00		12,810,000	12,810,000
04/01/2028	975,000	2.800%	207,088.00	1,182,088.00	1,389,176.00	11,835,000	11,835,000
10/01/2028			193,438.00	193,438.00		11,835,000	11,835,000
04/01/2029	995,000	2.850%	193,438.00	1,188,438.00	1,381,876.00	10,840,000	10,840,000
10/01/2029			179,259.25	179,259.25		10,840,000	10,840,000
04/01/2030	685,000	2.900%	179,259.25	864,259.25	1,043,518.50	10,155,000	10,155,000
10/01/2030			169,326.75	169,326.75		10,155,000	10,155,000
04/01/2031	705,000	2.950%	169,326.75	874,326.75	1,043,653.50	9,450,000	9,450,000
10/01/2031			158,928.00	158,928.00		9,450,000	9,450,000
04/01/2032	725,000	3.000%	158,928.00	883,928.00	1,042,856.00	8,725,000	8,725,000
10/01/2032			148,053.00	148,053.00		8,725,000	8,725,000
04/01/2033	750,000	3.050%	148,053.00	898,053.00	1,046,106.00	7,975,000	7,975,000
10/01/2033			136,615.50	136,615.50		7,975,000	7,975,000
04/01/2034	770,000	3.150%	136,615.50	906,615.50	1,043,231.00	7,205,000	7,205,000
10/01/2034			124,488.00	124,488.00		7,205,000	7,205,000
04/01/2035	800,000	3.170%	124,488.00	924,488.00	1,048,976.00	6,405,000	6,405,000
10/01/2035			111,808.00	111,808.00		6,405,000	6,405,000
04/01/2036	825,000	3.230%	111,808.00	936,808.00	1,048,616.00	5,580,000	5,580,000
10/01/2036			98,484.25	98,484.25		5,580,000	5,580,000
04/01/2037	850,000	3.250%	98,484.25	948,484.25	1,046,968.50	4,730,000	4,730,000
10/01/2037			84,671.75	84,671.75		4,730,000	4,730,000
04/01/2038	880,000	3.350%	84,671.75	964,671.75	1,049,343.50	3,850,000	3,850,000
10/01/2038			69,931.75	69,931.75		3,850,000	3,850,000
04/01/2039	910,000	3.500%	69,931.75	979,931.75	1,049,863.50	2,940,000	2,940,000
10/01/2039			54,006.75	54,006.75		2,940,000	2,940,000
04/01/2040	945,000	3.650%	54,006.75	999,006.75	1,053,013.50	1,995,000	1,995,000
10/01/2040			36,760.50	36,760.50		1,995,000	1,995,000
04/01/2041	980,000	3.670%	36,760.50	1,016,760.50	1,053,521.00	1,015,000	1,015,000
10/01/2041			18,777.50	18,777.50		1,015,000	1,015,000
04/01/2042	1,015,000	3.700%	18,777.50	1,033,777.50	1,052,555.00		
17,290,000			5,970,250.80	23,260,250.80	23,260,250.80		

PROOF OF ARBITRAGE YIELD

City of Kirkwood, Missouri
Certificates of Participation (City of Kirkwood, Missouri, Lessee), Series 2022

Date	Debt Service	Total	Present Value to 04/28/2022 @ 3.2562404933%
10/01/2022	223,582.30	223,582.30	220,534.03
04/01/2023	1,118,038.00	1,118,038.00	1,085,127.73
10/01/2023	254,274.25	254,274.25	242,835.84
04/01/2024	1,124,274.25	1,124,274.25	1,056,498.24
10/01/2024	243,616.75	243,616.75	225,262.95
04/01/2025	1,138,616.75	1,138,616.75	1,035,967.89
10/01/2025	232,205.50	232,205.50	207,887.00
04/01/2026	1,147,205.50	1,147,205.50	1,010,606.67
10/01/2026	220,081.75	220,081.75	190,770.44
04/01/2027	1,165,081.75	1,165,081.75	993,732.64
10/01/2027	207,088.00	207,088.00	173,801.77
04/01/2028	1,182,088.00	1,182,088.00	976,191.85
10/01/2028	193,438.00	193,438.00	157,185.79
04/01/2029	1,188,438.00	1,188,438.00	950,241.77
10/01/2029	179,259.25	179,259.25	141,034.47
04/01/2030	864,259.25	864,259.25	669,073.51
10/01/2030	169,326.75	169,326.75	128,985.67
04/01/2031	874,326.75	874,326.75	655,353.74
10/01/2031	158,928.00	158,928.00	117,216.44
04/01/2032	883,928.00	883,928.00	641,491.82
10/01/2032	148,053.00	148,053.00	105,724.96
04/01/2033	898,053.00	898,053.00	631,027.68
10/01/2033	136,615.50	136,615.50	94,456.65
04/01/2034	906,615.50	906,615.50	616,796.35
10/01/2034	124,488.00	124,488.00	83,335.92
04/01/2035	924,488.00	924,488.00	608,964.74
10/01/2035	111,808.00	111,808.00	72,468.60
04/01/2036	936,808.00	936,808.00	597,466.66
10/01/2036	98,484.25	98,484.25	61,803.91
04/01/2037	948,484.25	948,484.25	585,686.78
10/01/2037	84,671.75	84,671.75	51,446.99
04/01/2038	964,671.75	964,671.75	576,749.30
10/01/2038	69,931.75	69,931.75	41,140.35
04/01/2039	979,931.75	979,931.75	567,251.38
10/01/2039	54,006.75	54,006.75	30,761.95
04/01/2040	999,006.75	999,006.75	559,912.76
10/01/2040	36,760.50	36,760.50	20,273.07
04/01/2041	1,016,760.50	1,016,760.50	551,750.61
10/01/2041	18,777.50	18,777.50	10,026.47
04/01/2042	1,033,777.50	1,033,777.50	543,154.58
	23,260,250.80	23,260,250.80	17,290,000.00

EXHIBIT B

IRS FORM 8038-G

EXHIBIT C

DESCRIPTION OF PROPERTY COMPRISING THE FINANCED FACILITIES

EXHIBIT D

SAMPLE ANNUAL COMPLIANCE CHECKLIST

Name of tax-exempt obligation ("Certificates")	\$17,290,000 Certificates of Participation (City of financing Financed Assets*:
Issue Date of Certificates:	April 28, 2022
Placed in service date of Financed Assets:	
Name of Bond Compliance Officer:	
Period covered by request ("Annual Period"):	

Item	Question	Response
1 Ownership	Were all the Financed Assets owned by the City during the entire Annual Period? If "Yes," skip to Item 2.	<input type="checkbox"/> Yes <input type="checkbox"/> No
	If answer above was "No," was an Opinion of Special Tax Counsel obtained prior to the transfer?	<input type="checkbox"/> Yes <input type="checkbox"/> No
	If Yes, include a copy of the Opinion in the Tax-Advantaged Bond File.	
	If No, contact Special Tax Counsel and include description of resolution in the Tax-Advantaged Bond File.	
2 Leases & Other Rights to Possession	During the Annual Period, was any part of the Financed Assets leased (other than under the Base Lease and the Lease) at any time pursuant to a lease or similar agreement for more than 50 days? If "No," skip to Item 3.	<input type="checkbox"/> Yes <input type="checkbox"/> No
	If answer above was "Yes," was an Opinion of Special Tax Counsel obtained prior to entering into the lease or other arrangement?	<input type="checkbox"/> Yes <input type="checkbox"/> No
	If Yes, include a copy of the Opinion in the Tax-Advantaged Bond File.	
	If No, contact Special Tax Counsel and include description of resolution in the Tax-Advantaged Bond File.	

* Capitalized words and terms used herein, unless otherwise defined herein or the context requires otherwise, shall have the same meanings ascribed to them in the City's Tax Compliance Procedure.

Item	Question	Response
3 Management or Service Agreements	During the Annual Period, has the management of all or any part of the operations of the Financed Assets been assumed by or transferred to another entity? If "No," skip to Item 4.	<input type="checkbox"/> Yes <input type="checkbox"/> No
	If answer above was "Yes," was an Opinion of Special Tax Counsel obtained prior to entering into the management agreement?	<input type="checkbox"/> Yes <input type="checkbox"/> No
	If Yes, include a copy of the Opinion in the Tax-Advantaged Bond File.	
	If No, contact Special Tax Counsel and include description of resolution in the Tax-Advantaged Bond File.	
4 Other Use	Was any other agreement entered into with an individual or entity that grants special legal rights or privileges to such individual or entity that are not otherwise available to the general public to the Financed Assets? If "No," skip to Item 5.	<input type="checkbox"/> Yes <input type="checkbox"/> No
	If answer above was "Yes," was an Opinion of Special Tax Counsel obtained prior to entering into the agreement?	<input type="checkbox"/> Yes <input type="checkbox"/> No
	If Yes, include a copy of the Opinion in the Tax-Advantaged Bond File.	
	If No, contact Special Tax Counsel and include description of resolution in the Tax-Advantaged Bond File.	
5 Arbitrage & Rebate	Have all rebate and yield reduction calculations mandated in the Tax Agreement been prepared for the current year?	<input type="checkbox"/> Yes <input type="checkbox"/> No
	If "No," contact Special Tax Counsel and incorporate report or include description of resolution in the Tax-Advantaged Bond File.	

Bond Compliance Officer: _____

Date Completed: _____

EXHIBIT E

SAMPLE FINAL WRITTEN ALLOCATION

CITY OF KIRKWOOD, MISSOURI

CERTIFICATES OF PARTICIPATION (CITY OF KIRKWOOD, MISSOURI, LESSEE) SERIES 2022

Final Written Allocation

The undersigned is the Bond Compliance Officer of the City of Kirkwood, Missouri (the “Issuer”) and in that capacity is authorized to execute federal income tax returns required to be filed by the Issuer and to make appropriate elections and designations regarding federal income tax matters on behalf of the Issuer. This allocation of the proceeds of the above-described tax-exempt obligations (the “Certificates”) is necessary for the Issuer to satisfy ongoing reporting and compliance requirements under federal income tax laws.

Purpose. This document, together with the schedules and records referred to below, is intended to memorialize allocations of Certificate proceeds to expenditures for purposes of §§ 141 and 148 of the Internal Revenue Code of 1986, as amended (the “Code”). All allocations are or were previously made no later than 18 months following the date the expenditure was made by the Issuer or, if later, the date the Project was Placed in Service (both as defined below), and no later than 60 days following the 5th anniversary of the Issue Date (as defined below).

Background. The Certificates were delivered on April 28, 2022 (the “Issue Date”), by U.S. Bank Trust Company, National Association, as trustee, pursuant to a Declaration of Trust dated as of April 1, 2022. The Certificates were delivered in order to provide funds (a) to pay the costs to (i) acquire, construct, install and equip certain improvements to the City’s electric system and (ii) acquire, install and equip certain public safety vehicles and equipment (collectively, the “Project”); and (b) pay the costs of executing and delivering the Certificates. Net Certificate proceeds were deposited in the Project Fund.

Sources Used to Fund Project Costs and Allocation of Proceeds to Project Costs. The sources and uses of Certificate proceeds and other legally available money of the Issuer, if any, are shown on **Exhibit A** hereto.

Identification of Financed Assets. The portions of the Project financed from Certificate proceeds (i.e., the “Financed Facilities” referenced in the Federal Tax Certificate) are listed on page 1 of **Exhibit B** hereto.

Identification and Timing of Expenditures for Arbitrage Purposes. For purposes of complying with the arbitrage rules, the Issuer allocates the Certificate proceeds to the various expenditures described in the invoices, requisitions or other substantiation attached as **Exhibit B** hereto. In each case, the cost requisitioned was either paid directly to a third party or reimbursed the Issuer for an amount it had previously paid or incurred. Amounts received from the sale of the Certificates and retained as underwriting discount are allocated to that purpose and spent on the Issue Date.

Placed In Service. The Project was Placed in Service on the date set out on **Exhibit B** hereto. For this purpose, the Financed Facilities are considered to be Placed in Service as of the date on which, based on all the facts and circumstances: (1) the constructing and equipping of the Financed Facilities have

reached a degree of completion that would permit their operation at substantially their designed level and (2) the Financed Facilities are, in fact, in operation at that level.

This allocation has been prepared based on statutes and regulations existing as of this date. The Issuer reserves the right to amend this allocation to the extent permitted by future Treasury Regulations or similar authorities.

CITY OF KIRKWOOD, MISSOURI

By: _____
Name: _____
Title: _____

Dated: _____

Name of Legal Counsel/Law Firm Reviewing Final Written Allocation:

Date of Review: _____

[EXHIBIT A - ALLOCATION OF SOURCES AND USES]

**[EXHIBIT B - IDENTIFICATION OF FINANCED FACILITIES
AND DETAILED LISTING OF EXPENDITURES]**

EXHIBIT F

TAX-ADVANTAGED FINANCING COMPLIANCE POLICY AND PROCEDURE



WHERE COMMUNITY AND SPIRIT MEET

RECORDS DESTRUCTION FORM

DATE	RECORD NAME	BRIEF DESCRIPTION	RETENTION PERIOD	DESTRUCTION DATE
2017	GS028	Monthly schedules	3yrs	1/5/2021
2015	POL008	Prisoner Log. Booking	5yrs	1/29/2021
2018	GS060	HIDTA AGREEMENT	3yrs	4/9/2021
2013-2018	GS11	Petty Cash Receipts Log	Completion Audit	4/9/2021
2011-2016	GS009	Invoices - Payables	3yrs comp audit	4/6/2021
2014-2015	Equitable Sharing Docs	Shared funds - expenses - DAG Forms	5yrs	4/9/2021
2017	GS009	Invoices - Payables - Code	3yrs comp audit	5/5/21
2018 Apr/Feb	GS085	STAFF MEETING NOTES	3yrs	5/6/21
2016	POL008	Body Camera Log 2016	5yrs	5/14/21
2016-2017	GS085	Charts Committee Meetings	3yrs	5/14/21
2017-2018	GS060	HIDTA Subaward Agreement	3yrs	6/1/21
2013-2015	DOJ - Civile	DEA - Equitable Sharing Agreement	5yrs	6/1/21
2018	GS062	APPLICATIONS - July	3yrs	7/5/21
2016-2018	GS080	Federal Firearms License Copy	2yrs	11/4/21
2019	POL002	VACATION WATCH FORMS	1yr	1/13/22
2018	GS028	Monthly Schedules	3yrs	1/13/22
2011	GS040	Grant Record - Morpheus	3yrs	1/18/22
2016	GS083	Incident-Injury reports - 5yrs	5yrs	1/28/22
2016	GS083	CRASH Reports	5yrs	1/28/22
2016	POL008	IOF Reports	5yrs	2/10/22
2016	POL008	Prisoner Log	5yrs	2/10/22
2019	GS028	2018 Schedule	3yrs	3/28/22
2013-2020	POL002	Ministral Alliance Sheet	1yr	3/28/22
2017-2018	GS028	Secondary Employment	3yrs	4/7/22

Submitted by: June C.

Date: 4/7/2022

Approved by: Brian Murphy

Date: 4/7/22

Department Head Name

Approved by: Brian Murphy

Department Head Signature

Approved by: _____ Date: _____

City Clerk