



**AGENDA**  
**CITY COUNCIL MEETING**  
**7651 E. Central Park Ave, Bel Aire, KS**  
**November 18, 2025 7:00 PM**



**I. CALL TO ORDER:** Mayor Jim Benage

**II. ROLL CALL**

Greg Davied \_\_\_\_ Tyler Dehn \_\_\_\_ Emily Hamburg \_\_\_\_  
Tom Schmitz \_\_\_\_ John Welch \_\_\_\_

**III. OPENING PRAYER:**

**IV. PLEDGE OF ALLEGIANCE TO THE AMERICAN FLAG**

**V. DETERMINE AGENDA ADDITIONS**

**VI. CONSENT AGENDA**

**A.** **Approval of Minutes of the November 4, 2025 City Council meeting.**

**B.** **Approval of Minutes of the November 10, 2025 City Council special meeting.**

**Action:** Motion to (approve / table / deny) the Consent Agenda as (listed / amended) and authorize the Mayor to sign.

Motion \_\_\_\_ Second \_\_\_\_ Vote \_\_\_\_

**VII. DISCUSSION AND APPROVAL OF APPROPRIATIONS ORDINANCE**

**A.** **Consideration of Appropriations Ordinance No. 25-21 in the amount of \$3,968,829.91.**

**Action:** Motion to (approve / deny / table) Appropriations Ordinance No. 25-21.

Motion \_\_\_\_ Second \_\_\_\_ Vote \_\_\_\_

**VIII. SPECIAL PRESENTATION**

Council Members John Welch and Tom Schmitz will be recognized for their service.

**IX. CITIZEN CONCERNS:** *If you wish to speak, please fill out a "Request to Speak" card at the podium and give it to the City Clerk before the meeting begins. When you are called on by the Mayor, please go to the podium, speak into the microphone, and state your name and address before giving your comments. Please limit your comments to 3 minutes in the interest of time. If more time is needed, you may request an extension from the Mayor.*

**X. REPORTS**

- A. Council Member Reports**
- B. Mayor's Report**
- C. City Attorney Report**
- D. City Manager Report**

**XI. ORDINANCES, RESOLUTIONS AND FINAL ACTIONS**

**A. Consideration of An Ordinance Authorizing The City Of Bel Aire, Kansas, To Issue Taxable Industrial Revenue Bonds (Aspen Sunflower Industrial I, LLC Project), Series 2025, In A Principal Amount Not To Exceed \$18,000,000, For The Purpose Of Providing Funds To Pay The Cost Acquiring Land And Constructing And Equipping Buildings For Use In Industrial, Manufacturing, Warehouse, Distribution, Flex And/Or Office Purposes; Authorizing The Issuer To Enter Into Certain Documents And Actions In Connection With The Issuance Of Said Bonds.**

**Action:** Motion to (adopt / deny / table) An Ordinance Authorizing The City Of Bel Aire, Kansas, To Issue Taxable Industrial Revenue Bonds (Aspen Sunflower Industrial I, LLC Project), Series 2025, In A Principal Amount Not To Exceed \$18,000,000, For The Purpose Of Providing Funds To Pay The Cost Acquiring Land And Constructing And Equipping Buildings For Use In Industrial, Manufacturing, Warehouse, Distribution, Flex And/Or Office Purposes; Authorizing The Issuer To Enter Into Certain Documents And Actions In Connection With The Issuance Of Said Bonds, and authorize all required signatures.

Motion \_\_\_\_\_ Second \_\_\_\_\_ Vote \_\_\_\_\_

**B. Consideration of An Ordinance Authorizing The City Of Bel Aire, Kansas To Issue Its Taxable Industrial Revenue Bonds, Series 2025b (Waltons 53rd Holdings LLC) For The Purpose Of The Acquisition, Construction And Equipping Of A Meat Processing Supply And Equipment Commercial Facility; And Authorizing Other Related Documents And Actions.**

**Action:** Motion to (adopt / deny / table) An Ordinance Authorizing The City Of Bel Aire, Kansas To Issue Its Taxable Industrial Revenue Bonds, Series 2025b (Waltons 53rd Holdings LLC) For The Purpose Of The Acquisition, Construction And Equipping Of A Meat Processing Supply And Equipment Commercial Facility; And Authorizing Other Related Documents And Actions, and authorize all required signatures.

Motion \_\_\_\_\_ Second \_\_\_\_\_ Vote \_\_\_\_\_

**C. Consideration of a 2026 Funding Agreement By And Between City Of Bel Aire, Kansas And Bel Aire Area Chamber Of Commerce, Inc.**

**Action:** Motion to (accept / deny / table) the 2026 Funding Agreement By And Between City Of Bel Aire, Kansas And Bel Aire Area Chamber Of Commerce, Inc, and authorize the Mayor to sign.

Motion \_\_\_\_\_ Second \_\_\_\_\_ Vote \_\_\_\_\_

**D. Consideration of A Resolution Rescinding Council's Prior Motion on August 19, 2025, Approving A Contract with SEH for Engineering Services Related to Construction on Sunflower Commerce Park Phase 2.**

**Action:** Motion to (Approve / Deny / Table) a Resolution Rescinding Council's Prior Motion on August 19, 2025, Approving a Contract with SEH for Engineering Services related to construction on Sunflower Commerce Park Phase 2, and authorize the Mayor to sign.

Motion \_\_\_\_\_ Second \_\_\_\_\_ Vote \_\_\_\_\_

**E. Consideration of a Contract with SEH for Engineering Services related to construction on Sunflower Commerce Park Phase 2.**

**Action:** Motion to (accept / deny / table) the contract with SEH for Engineering Services related to construction on Sunflower Commerce Park Phase 2 in an amount not to exceed \$245,500.00, and authorize the Mayor to sign.

Motion \_\_\_\_\_ Second \_\_\_\_\_ Vote \_\_\_\_\_

**F. Consideration of Work Order 25-11 to the Master Services Agreement with PEC dated February 08, 2024 for updating the written description for the City of Bel Aire city limits to be utilized in the boundary resolution, at a cost not to exceed \$15,000.00.**

**Action:** Motion to (approve / deny / table) Work Order 25-11 to the Master Services Agreement with PEC dated February 08, 2024 for updating the written description for the City of Bel Aire city limits to be utilized in the boundary resolution, at a cost not to exceed \$15,000.00 and authorize the Mayor to sign.

Motion \_\_\_\_\_ Second \_\_\_\_\_ Vote \_\_\_\_\_

**G. Consideration of An Ordinance Appointing the Bel Aire Planning Commission as the Bel Aire Airport Zoning Commission in Accordance with K.S.A. 3-705(2).**

**Action:** Motion to (Adopt / Deny / Table) Ordinance Appointing the Planning Commission as the Airport Zoning Commission (As Presented / As Amended) and authorize the Mayor to sign.

Motion \_\_\_\_\_ Second \_\_\_\_\_ Vote \_\_\_\_\_

## **XII. EXECUTIVE SESSION**

- A. Action:** Motion to recess into executive session to discuss with legal counsel and receive legal advice related to pending litigation. The discussion will be pursuant to K.S.A. 75-4319 (b)(2) for legal consultation with Neil Gosch, which would be deemed privileged in the attorney-client relationship. Invite Neil Gosch, Katherine Chlumsky, City Manager, City Attorney and City Engineer. The meeting will be for a period of (\_\_\_\_\_) minutes, and the open meeting will resume in City Council Chambers at (\_\_\_\_\_) p.m.

Motion \_\_\_\_\_ Second \_\_\_\_\_ Vote \_\_\_\_\_

## **XIII. DISCUSSION AND FUTURE ISSUES**

- A. Budget Amendment Overview - Barry Smith, Director of Finance**

## **XIV. ADJOURNMENT**

**Action:** Motion to adjourn.

Motion \_\_\_\_\_ Second \_\_\_\_\_ Vote \_\_\_\_\_

*Additional Attachments:*

- A. Managers Report - November 18, 2025**

### **Notice**

*It is possible that sometime between 6:30 and 7:00 PM immediately prior to this meeting, during breaks, and directly after the meeting, a majority of the Governing Body may be present in the Council Chambers or the lobby of City Hall. No one is excluded from these areas during these times. Video of this meeting can be streamed at [www.belaireks.gov](http://www.belaireks.gov) and on YouTube.*

*Please make sure all cell phones and other electronics are turned off and put away.*





**MINUTES**  
**CITY COUNCIL MEETING**  
**7651 E. Central Park Ave, Bel Aire, KS**  
**November 04, 2025 7:00 PM**



**I. CALL TO ORDER:** Mayor Jim Benage called the meeting to order at 7:00 p.m.

**II. ROLL CALL**

Councilmembers Greg Davied, Tyler Dehn, Emily Hamburg, Tom Schmitz, and John Welch were present. No one was absent.

Also present were City Manager Ted Henry, City Attorney Maria Schrock, City Engineer Anne Stephens, and City Clerk Melissa Krehbiel.

**III. OPENING PRAYER:** Mark Posson provided the opening prayer.

**IV. PLEDGE OF ALLEGIANCE TO THE AMERICAN FLAG**

Mayor Benage led the pledge of allegiance.

**V. PROCLAMATION**

**A. Veteran's Day - November 11, 2025**

Mayor Benage read the proclamation aloud.

**VI. DETERMINE AGENDA ADDITIONS:** There were no additions.

**VII. CONSENT AGENDA**

**A. Approval of Minutes of the October 21, 2025 City Council meeting.**

**MOTION:** Councilmember Davied moved to approve the Consent Agenda as listed and authorize the Mayor to sign. Councilmember Schmitz seconded the motion. ***Motion carried 5-0.***

**VIII. DISCUSSION AND APPROVAL OF APPROPRIATIONS ORDINANCE**

**A. Consideration of Appropriations Ordinance No. 25-20 in the amount of \$383,513.93.**

**MOTION:** Councilmember Dehn moved to approve Appropriations Ordinance No. 25-20. Councilmember Hamburg seconded the motion. ***Motion carried 5-0.***

## **IX. CITY REQUESTED APPEARANCES**

### **A. Jesse Miller - Sedgwick County Fire District No. 1 Steering Committee**

Jesse Miller gave a report on a recent Resolution adopted by Sedgwick County and he took questions from the Council. The Resolution will incorporate many small cities and townships into the Fire District, which were previously served by mutual aid agreements.

## **X. CITIZEN CONCERNS**

David Austin, 6944 Odessa Ct, spoke to the Council. Mr. Austin served on the Council and as mayor of Bel Aire. In the past, he has campaigned for Mr. Benage and other Council members. Mr. Austin spoke about his concerns regarding divisiveness in the current Bel Aire election and about comments made in a newspaper editorial regarding former mayor Gary O'Neal. He stated that Mr. O'Neal is not a bigot; Mr. O'Neal wished to draw attention to perceptions and transparency. Mr. Austin commented on Mr. O'Neal's many years of service to Bel Aire through various community organizations and projects. Mr. Austin urged the Council and community to rise above divisive politics and return to the spirit of respect, service, and unity captured in the City's motto.

Gary O'Neal, 4967 N Hillcrest, spoke to the Council. He referred to comments he made during Citizen's Concerns at the October 21<sup>st</sup> City Council meeting and he referred to a newspaper editorial. Mr. O'Neal stated that he is incensed and appalled to be called a bigot. Mr. O'Neal stated that unless he receives an apology from the mayor and a written apology in the Bel Aire Breeze, he will contact his attorneys for a potential slander lawsuit. He asked the mayor to confirm if he had reimbursed the Republican party for a flyer. Mr. O'Neal stated he wished the mayor would learn to spell his name correctly.

Lyle Ackerman, 4920 N Hillcrest, stated that he has lived in Bel Aire for 56 years; he served Bel Aire in elected positions for over 10 years, as a councilmember and as mayor. Mr. Ackerman stated he is a Catholic and a member of the Church of the Resurrection. Mr. Ackerman has been friends with Mr. O'Neal for over 20 years. Mr. O'Neal was a supporter of Mr. Ackerman and David Landoll, another Catholic, in their run for City Council. Mr. Ackerman stated that Gary O'Neal is not a bigot.

Mayor Benage responded to the statements made during Citizen's Concerns. He said that at no time did he call Mr. O'Neal a bigot; Mayor Benage said the statements were bigoted and were a surprise to many Catholics in the community. Mayor Benage apologized for misspelling Mr. O'Neal's name.

## **XI. REPORTS**

### **A. Council Member Reports**

Councilmember Hamburg reported on the most recent meeting of the Chisholm Creek Utility Authority (CCUA). She noted that the Lion's annual dinner will be held this Saturday at Gospel Assembly Church. She complimented the community's Halloween decorations and hospitality.

Councilmember Dehn reported on the KDOT discovery meeting on October 24<sup>th</sup> and the final KDOT local consult held on October 28<sup>th</sup>.

Councilmember Welch commented on the local election; there was a low turn-out. He encouraged people to vote.

Councilmember Davied encouraged candidates to take down election signs as soon as possible. He thanked everyone who ran. He commented on the wide diversity of political beliefs within the Catholic church. He hopes that the runner- up will continue to be involved in Bel Aire.

Councilmember Schmitz reported on the latest CCUA meeting. He noted that the new sand volleyball court at the Rec Center looks good; he thanked the City team that was involved in moving the volleyball court from Eagle Lake Park to the Rec Center.

## **B. Mayor's Report**

Mayor Benage reported on the latest CCUA meeting, the KDOT discovery meeting on October 24<sup>th</sup>, and a meeting of the Greater Wichita Partnership.

He noted that KDOT will hold a public meeting in January regarding the plan for K-254. Mayor Benage noted the delay of SNAP benefits due to the current federal government shutdown; yesterday he contacted local clergy about increasing food support. He encouraged everyone to donate through their church, synagogue, or mosque.

## **C. City Attorney Report**

City Attorney Maria Schrock reported on an annual ethics conference. She reported that the Airport Zoning Ordinance will be considered by the Planning Commission at their November meeting, and she reviewed statutory requirements for approval of the Ordinance.

## **D. City Manager Report**

City Manager Ted Henry reported on upcoming intersection repairs at 53<sup>rd</sup> and Rock, tomorrow's Chamber of Commerce meeting, progress on the new public works facility, and an upcoming meeting with KDOT regarding the 53<sup>rd</sup> Street sidewalk, the new waterline installation at the Rec Center. He noted that Sedgwick County has completed their mill and overlay of certain roads.

# **XII. ORDINANCES, RESOLUTIONS AND FINAL ACTIONS**

## **A. Consideration of accepting a Consent to Annex from GF Industrial, LLC incorporating approximately 140 acres on the southwest corner of K-254 and Greenwich Road into the Boundaries of the City of Bel Aire, Kansas.**

Steve Lebeda, Vice President for Construction Services with Occidental Management, spoke on behalf of the applicant and took questions from the Council.

**MOTION:** Councilmember Dehn moved to accept the Consent to Annex from GF Industrial, LLC and authorize the Mayor to sign. Councilmember Davied seconded the motion.

Roll Call Vote:

Greg Davied - Aye

Tyler Dehn - Aye

Emily Hamburg - Aye

Tom Schmitz - Aye

John Welch – Aye

***Motion carried 5-0.***

**B. Consideration of An Ordinance Including And Incorporating A Certain Tract Of Land Within The Boundaries Of The City Of Bel Aire, Kansas (approximately 140 acres on the southwest corner of K-254 and Greenwich Road including the portion of Greenwich Road into the Boundaries of the City of Bel Aire, Kansas).**

**MOTION:** Councilmember Dehn moved to adopt An Ordinance Including And Incorporating A Certain Tract Of Land Within The Boundaries Of The City Of Bel Aire, Kansas. Councilmember Davied seconded the motion. ***Motion carried 5-0.***

**C. Consideration of Change Order No 5 Paving and Drainage Improvements to Parkwood & 40th and Alternate #2 – Aurora Park Ditch Improvements to serve Bel Aire, in an amount not to exceed \$97,406.70.**

Ken Lee spoke on behalf of Garver Engineering and took questions from the Council regarding Change Orders Nos 5,6, and 7.

**MOTION:** Councilmember Welch moved to table Items C, D, and E until we have a better understanding of the true costs and at such time we call a special meeting to address this. Councilmember Davied seconded the motion.

Discussion followed.

**MOTION:** Councilmember Welch amended his motion to table Item C. Councilmember Davied seconded the motion. ***Motion carried 5-0.***

**D. Consideration of Change Order No 6 Paving and Drainage Improvements to Parkwood & 40th and Alternate #2 – Aurora Park Ditch Improvements to serve Bel Aire, in an amount not to exceed \$13,135.00.**

**MOTION:** Councilmember Welch moved to table Item D. Motion died for lack of second. Discussion followed.

**MOTION:** Councilmember Dehn moved to accept Change Order No 6 Paving and Drainage Improvements to Parkwood & 40th and Alternate #2 – Aurora Park Ditch Improvements to serve Bel Aire , in an amount not to exceed \$13,135.00 and of the amount, \$13,135.00 is being paid by the City of Bel Aire for deferred maintenance on the Storm Sewer ditches and authorize the Mayor to sign. Councilmember Schmitz seconded the motion. ***Motion carried 4-1*** with Councilmember Welch voting against the motion.

- E. Consideration of Change Order No 7 Paving and Drainage Improvements to Parkwood & 40th and Alternate #2 – Aurora Park Ditch Improvements to serve Bel Aire, in an amount not to exceed \$11,615.00.**

**MOTION:** Councilmember Davied moved to table Change Order No 7. Councilmember Hamburg seconded the motion. *Motion carried 4-1* with Councilmember Welch voting against the motion.

**XIII. EXECUTIVE SESSION:** None.

**XIV. DISCUSSION AND FUTURE ISSUES**

Councilmembers discussed the appropriate time to hold a special meeting to discuss the tabled items from this agenda. City Manager Ted Henry said that appropriate public notice would be given when the date of the special meeting is known. No action was taken by the Council.

**XV. ADJOURNMENT**

**MOTION:** Councilmember Dehn moved to adjourn. Councilmember Schmitz seconded the motion. *Motion carried 5-0.*



# MINUTES CITY COUNCIL SPECIAL MEETING

7651 E. Central Park Ave, Bel Aire, KS

November 10, 2025 7:00 PM



**I. CALL TO ORDER:** Mayor Jim Benage called the meeting to order at 7:00 p.m.

## **II. ROLL CALL**

Councilmembers Greg Davied, Tom Schmitz and John Welch were present. Tyler Dehn participated via video conference. Emily Hamburg was absent.

Also present were City Manager Ted Henry, City Attorney Maria Schrock, City Engineer Anne Stephens, and Ken Lee with Garver Engineering.

## **III. READING BY CITY ATTORNEY**

**A. Request for Special Meeting dated 11-07-2025:** The written request for special meeting was read, and are attached to these minutes as Exhibit A.

## **IV. ORDINANCES, RESOLUTIONS AND FINAL ACTIONS**

**A. Consideration of Change Order No 5 Paving and Drainage Improvements to Parkwood & 40th and Alternate #2 – Aurora Park Ditch Improvements to serve Bel Aire, in an amount not to exceed \$82,656.70.**

**MOTION:** Councilmember Schmitz moved to accept Change Order No 5 Paving and Drainage Improvements to Parkwood & 40th and Alternate #2 – Aurora Park Ditch Improvements to serve Bel Aire , in an amount not to exceed \$82,656.70 and of the amount, \$82,656.70 is being paid by the City of Bel Aire for deferred maintenance on the Storm Sewer ditches and authorize the Mayor to sign. Councilmember Welch seconded the motion. *Motion carried 4-0.*

**B. Consideration of Change Order No 7 Paving and Drainage Improvements to Parkwood & 40th and Alternate #2 – Aurora Park Ditch Improvements to serve Bel Aire, in an amount not to exceed \$11,615.00.**

**MOTION:** Councilmember Davied move to accept Change Order No 7 Paving and Drainage Improvements to Parkwood & 40th and Alternate #2 – Aurora Park Ditch Improvements to serve Bel Aire , in an amount not to exceed \$11,615.00 and of the amount, \$11,615.00 is being paid by the City of Bel Aire for deferred maintenance on the Storm Sewer ditches and authorize the Mayor to sign. Councilmember Welch seconded the motion. *Motion carried 4-0.*

**V. ADJOURNMENT**

**MOTION:** Councilmember Welch moved to adjourn. Councilmember Schmitz seconded the motion. ***Motion carried 4-0.***

Approved by the City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

\_\_\_\_\_  
Jim Benage, Mayor

ATTEST:

\_\_\_\_\_  
Melissa Krehbiel, City Clerk



## REQUEST FOR A SPECIAL CITY COUNCIL MEETING



November 7, 2025

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THE HONORABLE JIM BENAGE,  
MAYOR OF THE CITY OF BEL AIRE:

We, the undersigned council members of the City of Bel Aire, Kansas, hereby respectfully request you to call a special meeting of the Bel Aire City Council to be held at the Bel Aire City Hall, 7651 E. Central Park Avenue, Bel Aire, Kansas, on Monday, November 10, 2025 at 7:00 p.m., for the purpose of:

- A. Consideration of Change Order No. 5 authorizing Aurora Park Ditch Improvements at \$82,656.70 for the Project Named "Paving and Drainage Improvements to Parkwood & 40<sup>th</sup> Street" with Kansas Paving.
- B. Consideration of Change Order No. 7 authorizing extending cleanout of an existing drainage easement at \$11,615.00 for the Project Named "Paving and Drainage Improvements to Parkwood & 40<sup>th</sup> Street" with Kansas Paving.

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\_\_\_\_\_  
Greg Davied  
\_\_\_\_\_  
Tyler Dehn  
\_\_\_\_\_  
Emily Hamburg  
\_\_\_\_\_  
Tom Schmitz  
\_\_\_\_\_  
John Welch

Pursuant to a Request for a Special Council Meeting dated November 7, 2025, and signed by at least three (3) members of the Council, I hereby call a Special Meeting of the Governing Body of Bel Aire, Kansas, pursuant to Bel Aire City Code 2.1.5, to be held at the time, place, and purpose as specified in the above request.

  
\_\_\_\_\_  
Jim Benage, Mayor

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# AGENDA SPECIAL CITY COUNCIL MEETING

7651 E. Central Park Ave, Bel Aire, KS  
November 10, 2025 at 7:00 PM



**I. CALL TO ORDER:** Mayor Jim Benage

**II. ROLL CALL**

Greg Davied      \_\_\_\_\_      Tyler Dehn      \_\_\_\_\_      Emily Hamburg      \_\_\_\_\_  
Tom Schmitz      \_\_\_\_\_      John Welch      \_\_\_\_\_

**III. READING BY CITY ATTORNEY:** The written request for special meeting is read, and entered at length in the minutes.

**IV. NEW BUSINESS**

**A. Consideration of Change Order No. 5 authorizing Aurora Park Ditch Improvements at \$82,656.70 for the Project Named "Paving and Drainage Improvements to Parkwood & 40<sup>th</sup> Street" with Kansas Paving.**

**Action:** Motion to (approve / deny / table) Change Order No. 5 at a cost not to exceed \$82,656.70 for the Project Named "Paving & Drainage Improvements to Parkwood & 40<sup>th</sup> Street" with Kansas Paving and authorize the Mayor to sign.

Motion \_\_\_\_\_ Second \_\_\_\_\_ Vote \_\_\_\_\_

**B. Consideration of Change Order No. 7 authorizing extending cleanout of an existing drainage easement at \$11,615.00 for the Project Named "Paving and Drainage Improvements to Parkwood & 40<sup>th</sup> Street" with Kansas Paving.**

**Action:** Motion to (approve / deny / table) Change Order No. 7 at a cost not to exceed \$11,615.00, for the Project Named "Paving & Drainage Improvements to Parkwood & 40<sup>th</sup> Street" with Kansas Paving and authorize the Mayor to sign.

Motion \_\_\_\_\_ Second \_\_\_\_\_ Vote \_\_\_\_\_

**V. ADJOURNMENT**

**Action:** Motion to adjourn.

Motion \_\_\_\_\_ Second \_\_\_\_\_ Vote \_\_\_\_\_



City of Bel Aire, KS

**AP** Section VII, Item A.  
By Vendor DBA

Payment Dates 10/29/2025 - 11/11/2025

Vendor DBA	Description (Item)	Post Date	Payment Date	Project Account Key	Amount
<b>Vendor DBA: 1705 -</b>					
INTERNATIONAL INSTITUTE O...	MMC MEMBERSHIP:KREHBIEL	10/28/2025	10/31/2025		195.00
<b>Vendor DBA 1705 - INTERNATIONAL INSTITUTE OF MUNICIPAL C Total:</b>					<b>195.00</b>
<b>Vendor DBA: 2935 -</b>					
AMBER PEREZ	RESTITUTION	11/05/2025	11/06/2025		36.44
<b>Vendor DBA 2935 - AMBER PEREZ Total:</b>					<b>36.44</b>
<b>Vendor DBA: 2790 -</b>					
ARC PHYSICAL THERAPY PLUS	PRE-EMPLOYMENT SCREENING	11/04/2025	11/06/2025		35.00
ARC PHYSICAL THERAPY PLUS	PRE-EMPLOYMENT SCREENING	11/04/2025	11/06/2025		35.00
ARC PHYSICAL THERAPY PLUS	PRE-EMPLOYMENT SCREENING	11/04/2025	11/06/2025		35.00
<b>Vendor DBA 2790 - ARC PHYSICAL THERAPY PLUS Total:</b>					<b>105.00</b>
<b>Vendor DBA: 0055 - ARK VALLEY NEWS</b>					
ARK VALLEY NEWS	BREEZE AD	10/28/2025	10/31/2025		500.00
ARK VALLEY NEWS	PUBLICATIONS	10/28/2025	10/31/2025	028-6028	143.36
<b>Vendor DBA 0055 - ARK VALLEY NEWS Total:</b>					<b>643.36</b>
<b>Vendor DBA: 0472 -</b>					
BEALL & MITCHELL, LLC	10/25 JUDGE TERRY BEALL/C...	10/28/2025	10/31/2025		1,237.98
<b>Vendor DBA 0472 - BEALL &amp; MITCHELL, LLC Total:</b>					<b>1,237.98</b>
<b>Vendor DBA: 1928 -</b>					
BEL AIRE LIONS CLUB	TASTE OF ITALY PLACEMENT ...	10/31/2025	10/31/2025		50.00
<b>Vendor DBA 1928 - BEL AIRE LIONS CLUB Total:</b>					<b>50.00</b>
<b>Vendor DBA: 1499 - CHENEY DOOR COMPANY/GRAF, WICHITA AUDIO VIDEO</b>					
CHENEY DOOR COMPANY/GR...	CITY HALL DOOR REPAIR	11/04/2025	11/04/2025		600.00
<b>Vendor DBA 1499 - CHENEY DOOR COMPANY/GRAF, WICHITA AUDIO VIDEO Total:</b>					<b>600.00</b>
<b>Vendor DBA: 0811 -</b>					
COLUMBIA CAPITAL MANAG...	COST OF ISSUANCE	10/28/2025	10/31/2025	028-8802	305.17
COLUMBIA CAPITAL MANAG...	COST OF ISSUANCE	10/28/2025	10/31/2025	028-8802	15,986.00
COLUMBIA CAPITAL MANAG...	COST OF ISSUANCE	10/28/2025	10/31/2025	027-8802	23,059.50
<b>Vendor DBA 0811 - COLUMBIA CAPITAL MANAGEMENT,LL Total:</b>					<b>39,350.67</b>
<b>Vendor DBA: T1110 -</b>					
COMPLETE KEY AND LOCK	LOCKS & KEYS REPAIR & REPL...	10/29/2025	10/31/2025		175.00
<b>Vendor DBA T1110 - COMPLETE KEY AND LOCK Total:</b>					<b>175.00</b>
<b>Vendor DBA: 1518 -</b>					
CREATIVE AWARDS & SCREEN...	ENGRAVED GOLD MEDAL	10/28/2025	10/31/2025		18.25
<b>Vendor DBA 1518 - CREATIVE AWARDS &amp; SCREEN PRINT Total:</b>					<b>18.25</b>
<b>Vendor DBA: 3030 - D. GERBER COMMERCIAL POOL PRODUCTS</b>					
D. GERBER COMMERCIAL POO...	POOL COVER REPLACEMENT	11/06/2025	11/06/2025		9,600.00
<b>Vendor DBA 3030 - D. GERBER COMMERCIAL POOL PRODUCTS Total:</b>					<b>9,600.00</b>
<b>Vendor DBA: 0200 -</b>					
DOCUPLEX,INC.	RETAIL DEVELOPMENT BROCC...	10/28/2025	10/31/2025		315.08
<b>Vendor DBA 0200 - DOCUPLEX,INC. Total:</b>					<b>315.08</b>
<b>Vendor DBA: 2326 -</b>					
ECITY TRANSACTIONS, LLC	ONLINE PAYMENT SERVICE	11/06/2025	11/06/2025		90.00
ECITY TRANSACTIONS, LLC	ONLINE PAYMENT SERVICE	11/06/2025	11/06/2025		90.00
ECITY TRANSACTIONS, LLC	ONLINE PAYMENT SERVICE	11/06/2025	11/06/2025		90.00
ECITY TRANSACTIONS, LLC	ONLINE PAYMENT SERVICE	11/06/2025	11/06/2025		90.00
ECITY TRANSACTIONS, LLC	ONLINE PAYMENT SERVICE	11/06/2025	11/06/2025		90.00
<b>Vendor DBA 2326 - ECITY TRANSACTIONS, LLC Total:</b>					<b>450.00</b>

## AP ORDINANCE

Payment Date

Section VII, Item A.

5

Vendor DBA	Description (Item)	Post Date	Payment Date	Project Account Key	Amount
<b>Vendor DBA: 2805 -</b>					
ELLIE WILKINS	YOUTH SPORTS OFFICIAL	11/06/2025	11/06/2025		84.00
<b>Vendor DBA 2805 - ELLIE WILKINS Total:</b>					<b>84.00</b>
<b>Vendor DBA: 3013 -</b>					
EMILY HURT	YOUTH SPORTS OFFICIAL	11/06/2025	11/06/2025		135.00
<b>Vendor DBA 3013 - EMILY HURT Total:</b>					<b>135.00</b>
<b>Vendor DBA: 1802 -</b>					
EMPOWER RETIREMENT 457	457 CITY MANAGER	11/06/2025	11/06/2025		540.00
EMPOWER RETIREMENT 457	457 EMP VOLUNTARY	11/06/2025	11/06/2025		612.00
<b>Vendor DBA 1802 - EMPOWER RETIREMENT 457 Total:</b>					<b>1,152.00</b>
<b>Vendor DBA: 0163 - ESRI, INC</b>					
ESRI, INC	GIS SOFTWARE RENEWAL	11/06/2025	11/06/2025		125.00
ESRI, INC	GIS SOFTWARE RENEWAL	11/06/2025	11/06/2025		124.66
ESRI, INC	GIS SOFTWARE RENEWAL	11/06/2025	11/06/2025		125.00
ESRI, INC	GIS SOFTWARE RENEWAL	11/06/2025	11/06/2025		524.66
ESRI, INC	GIS SOFTWARE RENEWAL	11/06/2025	11/06/2025		405.00
ESRI, INC	GIS SOFTWARE RENEWAL	11/06/2025	11/06/2025		400.00
ESRI, INC	GIS SOFTWARE RENEWAL	11/06/2025	11/06/2025		405.00
<b>Vendor DBA 0163 - ESRI, INC Total:</b>					<b>2,109.32</b>
<b>Vendor DBA: 0046 -</b>					
EVERGY KANSAS CENTRAL INC	CP STREET LIGHTS	11/06/2025	11/03/2025		53.34
EVERGY KANSAS CENTRAL INC	STR SIGNS/CROSSWALKS	11/06/2025	11/03/2025		28.05
EVERGY KANSAS CENTRAL INC	FOUNTAINS	11/06/2025	11/03/2025		208.68
EVERGY KANSAS CENTRAL INC	STR SIGNS/CROSSWALKS	11/06/2025	11/03/2025		28.66
EVERGY KANSAS CENTRAL INC	CP STREET LIGHTS	11/06/2025	11/03/2025		53.07
EVERGY KANSAS CENTRAL INC	LIFT STATION	11/06/2025	11/03/2025		661.11
EVERGY KANSAS CENTRAL INC	FOUNTAINS	11/06/2025	11/03/2025		125.75
EVERGY KANSAS CENTRAL INC	LIFT STATION	11/06/2025	11/03/2025		27.98
EVERGY KANSAS CENTRAL INC	POOL	11/06/2025	11/03/2025		39.16
EVERGY KANSAS CENTRAL INC	MAINT SHOP	11/06/2025	11/03/2025		194.26
EVERGY KANSAS CENTRAL INC	MAINT SHOP	11/06/2025	11/03/2025		116.56
EVERGY KANSAS CENTRAL INC	MAINT SHOP	11/06/2025	11/03/2025		233.12
EVERGY KANSAS CENTRAL INC	MAINT SHOP	11/06/2025	11/03/2025		233.12
EVERGY KANSAS CENTRAL INC	CP STREET LIGHTS	11/06/2025	11/03/2025		49.15
EVERGY KANSAS CENTRAL INC	LIFT STATION	11/06/2025	11/03/2025		56.51
EVERGY KANSAS CENTRAL INC	LIFT STATION	11/06/2025	11/03/2025		175.06
EVERGY KANSAS CENTRAL INC	REC	11/06/2025	11/03/2025		29.71
EVERGY KANSAS CENTRAL INC	WATER TOWER	11/06/2025	11/03/2025		121.29
EVERGY KANSAS CENTRAL INC	REC	11/06/2025	11/03/2025		463.20
EVERGY KANSAS CENTRAL INC	STR SIGNS/CROSSWALKS	11/06/2025	11/03/2025		30.32
EVERGY KANSAS CENTRAL INC	LIFT STATION	11/06/2025	11/03/2025		360.97
EVERGY KANSAS CENTRAL INC	CITY HALL	11/06/2025	11/03/2025		1,664.93
EVERGY KANSAS CENTRAL INC	STR SIGNS/CROSSWALKS	11/06/2025	11/03/2025		34.34
EVERGY KANSAS CENTRAL INC	CP STREET LIGHTS	11/06/2025	11/03/2025		85.47
EVERGY KANSAS CENTRAL INC	STR SIGNS/CROSSWALKS	11/06/2025	11/03/2025		60.09
EVERGY KANSAS CENTRAL INC	LIFT STATION	11/06/2025	11/03/2025		263.64
EVERGY KANSAS CENTRAL INC	SPRINKLER	11/06/2025	11/03/2025		28.04
EVERGY KANSAS CENTRAL INC	WATER TOWER	11/06/2025	11/03/2025		271.15
EVERGY KANSAS CENTRAL INC	FOUNTAINS	11/06/2025	11/03/2025		27.98
<b>Vendor DBA 0046 - EVERGY KANSAS CENTRAL INC Total:</b>					<b>5,724.71</b>
<b>Vendor DBA: 2654 -</b>					
EXPERT AUTO CENTER	PD-MAINTENANCE/REPAIR	10/28/2025	10/31/2025		70.27
EXPERT AUTO CENTER	PD-MAINTENANCE/REPAIR	10/28/2025	10/31/2025		58.58
<b>Vendor DBA 2654 - EXPERT AUTO CENTER Total:</b>					<b>128.85</b>
<b>Vendor DBA: 0010 -</b>					
FICA/FEDERAL W/H	SOCIAL SECURITY/FICA	11/06/2025	11/06/2025		12,486.76
FICA/FEDERAL W/H	SOCIAL SECURITY/FICA	11/06/2025	11/06/2025		276.34
FICA/FEDERAL W/H	SOCIAL SECURITY/FICA	11/06/2025	11/06/2025		1,240.98

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FICA/FEDERAL W/H	SOCIAL SECURITY/FICA	11/06/2025	11/06/2025		1,371.22
FICA/FEDERAL W/H	FEDERAL W/H TAXES	11/06/2025	11/06/2025		7,532.01
FICA/FEDERAL W/H	FEDERAL W/H TAXES	11/06/2025	11/06/2025		133.10
FICA/FEDERAL W/H	FEDERAL W/H TAXES	11/06/2025	11/06/2025		664.54
FICA/FEDERAL W/H	FEDERAL W/H TAXES	11/06/2025	11/06/2025		1,008.89
FICA/FEDERAL W/H	MEDICARE/FICA	11/06/2025	11/06/2025		2,920.24
FICA/FEDERAL W/H	MEDICARE/FICA	11/06/2025	11/06/2025		64.62
FICA/FEDERAL W/H	MEDICARE/FICA	11/06/2025	11/06/2025		290.26
FICA/FEDERAL W/H	MEDICARE/FICA	11/06/2025	11/06/2025		320.64
Vendor DBA 0010 - FICA/FEDERAL W/H Total:					28,309.60

## Vendor DBA: 0158 -

FINANCIAL PRINTING RESOUR...	COST OF ISSUANCE	10/28/2025	10/31/2025	028-8802	325.00
FINANCIAL PRINTING RESOUR...	COST OF ISSUANCE	10/28/2025	10/31/2025	027-8802	325.00
Vendor DBA 0158 - FINANCIAL PRINTING RESOURCE/GUEST COMMUNICATIONS CORP Total:					650.00

## Vendor DBA: 2081 -

GARVER	53RD ST N. & ROCK RD BOX R...	11/03/2025	11/06/2025		221.75
GARVER	45TH ST N. OLIVER TO WOOD...	11/03/2025	11/06/2025	021-8832	18,308.94
GARVER	45TH ST N. OLIVER TO WOOD...	11/03/2025	11/06/2025	021-8852	1,063.50
GARVER	CITY OF BEL AIRE KANSAS MSA	11/03/2025	11/06/2025		6,054.95
GARVER	ARTHUR HEIGHTS ENGINEERI...	11/03/2025	11/06/2025	012-8860	547.50
GARVER	ARTHUR HEIGHTS ENGINEERI...	11/03/2025	11/06/2025	012-8880	1,438.50
GARVER	ARTHUR HEIGHTS ENGINEERI...	11/03/2025	11/06/2025	012-8881	525.00
GARVER	CHAPEL LANDING 5TH PH.1 E...	11/03/2025	11/06/2025	007-8862	164.50
GARVER	SAND ST CONVERSION PROJE...	11/03/2025	11/06/2025	010-8862	2,464.50
GARVER	SAND ST CONVERSION PROJE...	11/03/2025	11/06/2025	010-8882	2,736.91
GARVER	SKYVIEW 2ND ADD PH 2	11/03/2025	11/06/2025	006-8862	109.50
Vendor DBA 2081 - GARVER Total:					33,635.55

## Vendor DBA: 1954 -

GRANT STREET GROUP, INC	COST OF ISSUANCE	10/28/2025	10/31/2025	028-8802	1,750.00
GRANT STREET GROUP, INC	COST OF ISSUANCE	10/28/2025	10/31/2025	027-8802	2,250.00
Vendor DBA 1954 - GRANT STREET GROUP, INC Total:					4,000.00

## Vendor DBA: 2599 - HALL'S CULLIGAN WATER

HALL'S CULLIGAN WATER	WATER SERVICE - PD	10/29/2025	10/31/2025		32.50
HALL'S CULLIGAN WATER	WATER SERVICE-CH	10/29/2025	10/31/2025		51.50
HALL'S CULLIGAN WATER	WATER SERVICE - PW	10/29/2025	10/31/2025		8.71
HALL'S CULLIGAN WATER	WATER SERVICE - PW	10/29/2025	10/31/2025		8.72
HALL'S CULLIGAN WATER	WATER SERVICE - PW	10/29/2025	10/31/2025		8.71
HALL'S CULLIGAN WATER	WATER SERVICE - PW	10/29/2025	10/31/2025		8.71
Vendor DBA 2599 - HALL'S CULLIGAN WATER Total:					118.85

## Vendor DBA: 2438 -

IMA FINANCIAL GROUP, INC	HEALTH BENEFITS ADMIN DEC...	10/28/2025	10/31/2025		833.00
Vendor DBA 2438 - IMA FINANCIAL GROUP, INC Total:					833.00

## Vendor DBA: 2582 -

IMAGINE IT INC	COMPUTER SUPPORT SERVICE	11/04/2025	11/06/2025		570.00
IMAGINE IT INC	COMPUTER SUPPORT SERVICE	11/04/2025	11/06/2025		327.09
IMAGINE IT INC	COMPUTER SUPPORT SERVICE	11/04/2025	11/06/2025		165.23
IMAGINE IT INC	COMPUTER SUPPORT SERVICE	11/04/2025	11/06/2025		495.69
IMAGINE IT INC	COMPUTER SUPPORT SERVICE	11/04/2025	11/06/2025		495.69
IMAGINE IT INC	COMPUTER SUPPORT SERVICE	11/04/2025	11/06/2025		165.23
IMAGINE IT INC	COMPUTER SUPPORT SERVICE	11/04/2025	11/06/2025		327.09
IMAGINE IT INC	COMPUTER SUPPORT SERVICE	11/04/2025	11/06/2025		2,819.05
IMAGINE IT INC	COMPUTER SUPPORT SERVICE	11/04/2025	11/06/2025		660.92
IMAGINE IT INC	COMPUTER SUPPORT SERVICE	11/04/2025	11/06/2025		327.09
IMAGINE IT INC	COMPUTER SUPPORT SERVICE	11/04/2025	11/06/2025		826.15
IMAGINE IT INC	COMPUTER SUPPORT SERVICE	11/04/2025	11/06/2025		165.23
IMAGINE IT INC	COMPUTER SUPPORT SERVICE	11/04/2025	11/06/2025		826.15
IMAGINE IT INC	COMPUTER SUPPORT SERVICE	11/04/2025	11/06/2025		829.52
IMAGINE IT INC	COMPUTER SUPPORT SERVICE	11/04/2025	11/06/2025		82.14

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IMAGINE IT INC	COMPUTER SUPPORT SERVICE	11/04/2025	11/06/2025		41.49
IMAGINE IT INC	COMPUTER SUPPORT SERVICE	11/04/2025	11/06/2025		124.48
IMAGINE IT INC	COMPUTER SUPPORT SERVICE	11/04/2025	11/06/2025		124.48
IMAGINE IT INC	COMPUTER SUPPORT SERVICE	11/04/2025	11/06/2025		41.49
IMAGINE IT INC	COMPUTER SUPPORT SERVICE	11/04/2025	11/06/2025		82.14
IMAGINE IT INC	COMPUTER SUPPORT SERVICE	11/04/2025	11/06/2025		707.93
IMAGINE IT INC	COMPUTER SUPPORT SERVICE	11/04/2025	11/06/2025		165.97
IMAGINE IT INC	COMPUTER SUPPORT SERVICE	11/04/2025	11/06/2025		82.14
IMAGINE IT INC	COMPUTER SUPPORT SERVICE	11/04/2025	11/06/2025		207.47
IMAGINE IT INC	COMPUTER SUPPORT SERVICE	11/04/2025	11/06/2025		41.49
IMAGINE IT INC	COMPUTER SUPPORT SERVICE	11/04/2025	11/06/2025		207.47
IMAGINE IT INC	COMPUTER SUPPORT SERVICE	11/04/2025	11/06/2025		208.31
Vendor DBA 2582 - IMAGINE IT INC Total:					11,117.13
<b>Vendor DBA: 2282 - INTERLINGUAL INTERPRETING</b>					
INTERLINGUAL INTERPRETING	COURT INTERPRETER **/**	10/29/2025	10/31/2025		66.00
Vendor DBA 2282 - INTERLINGUAL INTERPRETING Total:					66.00
<b>Vendor DBA: 0091 -</b>					
JOHNSON CONTROLS FIRE PR...	FIRE ALARM TESTING/REPAIR	11/06/2025	11/06/2025		885.96
Vendor DBA 0091 - JOHNSON CONTROLS FIRE PROTECTI Total:					885.96
<b>Vendor DBA: 3026 -</b>					
JOSH GELTZ	2025 SIDEWALK REIMBURSE...	10/28/2025	10/31/2025		2,100.00
Vendor DBA 3026 - JOSH GELTZ Total:					2,100.00
<b>Vendor DBA: 1665 -</b>					
JOY K WILLIAMS, ATTY AT LAW	PROSECUTOR SVC	11/05/2025	11/06/2025		390.00
Vendor DBA 1665 - JOY K WILLIAMS, ATTY AT LAW Total:					390.00
<b>Vendor DBA: 0196 -</b>					
K P E R S	KP&F	11/06/2025	11/06/2025		12,820.43
K P E R S	KPERS 1	11/06/2025	11/06/2025		1,388.49
K P E R S	KPERS 1	11/06/2025	11/06/2025		399.31
K P E R S	KPERS 1	11/06/2025	11/06/2025		465.51
K P E R S	KPERS 1	11/06/2025	11/06/2025		440.10
K P E R S	KPERS 2	11/06/2025	11/06/2025		2,013.77
K P E R S	KPERS 2	11/06/2025	11/06/2025		328.61
K P E R S	KPERS 3	11/06/2025	11/06/2025		6,744.71
K P E R S	KPERS 3	11/06/2025	11/06/2025		886.81
K P E R S	KPERS 3	11/06/2025	11/06/2025		1,460.92
Vendor DBA 0196 - K P E R S Total:					26,948.66
<b>Vendor DBA: 2693 -</b>					
KAMERON KONDA	YOUTH SPORTS OFFICIAL	11/06/2025	11/06/2025		84.00
Vendor DBA 2693 - KAMERON KONDA Total:					84.00
<b>Vendor DBA: 0197 -</b>					
KANSAS DEPT OF REVENUE	KS STATE W/H	11/06/2025	11/06/2025		4,776.98
KANSAS DEPT OF REVENUE	KS STATE W/H	11/06/2025	11/06/2025		81.08
KANSAS DEPT OF REVENUE	KS STATE W/H	11/06/2025	11/06/2025		451.89
KANSAS DEPT OF REVENUE	KS STATE W/H	11/06/2025	11/06/2025		530.14
Vendor DBA 0197 - KANSAS DEPT OF REVENUE Total:					5,840.09
<b>Vendor DBA: 0274 -</b>					
KANSAS GOLF & TURF, INC	MOW EQUIP REPAIR/MAINTEN...	11/06/2025	11/06/2025		613.57
Vendor DBA 0274 - KANSAS GOLF & TURF, INC Total:					613.57
<b>Vendor DBA: 0075 -</b>					
KANSAS ONE-CALL SYSTEM, I...	LOCATE FEES: 325 FOR 10/25	11/05/2025	11/06/2025		216.13
KANSAS ONE-CALL SYSTEM, I...	LOCATE FEES: 325 FOR 10/25	11/05/2025	11/06/2025		216.12
Vendor DBA 0075 - KANSAS ONE-CALL SYSTEM, INC. Total:					432.25
<b>Vendor DBA: 0074 -</b>					
KANSAS STATE TREASURER	COURT FEES	10/22/2025	10/31/2025		72.65
KANSAS STATE TREASURER	COURT FEES	10/22/2025	10/31/2025		388.17
KANSAS STATE TREASURER	COURT FEES	10/22/2025	10/31/2025		112.00

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KANSAS STATE TREASURER	COURT FEES	10/22/2025	10/31/2025		32.34
KANSAS STATE TREASURER	COURT FEES	10/22/2025	10/31/2025		713.13
KANSAS STATE TREASURER	COURT FEES	10/22/2025	10/31/2025		147.68
Vendor DBA 0074 - KANSAS STATE TREASURER Total:					1,465.97

## Vendor DBA: 0169 -

KANSAS STATE TREASURER	BOND PAYMENT	10/30/2025	10/31/2025		310,000.00
KANSAS STATE TREASURER	BOND PAYMENT	10/30/2025	10/31/2025		11,093.75
KANSAS STATE TREASURER	BOND PAYMENT	10/30/2025	10/31/2025		40,000.00
KANSAS STATE TREASURER	BOND PAYMENT	10/30/2025	10/31/2025		1,950.00
KANSAS STATE TREASURER	BOND PAYMENT	10/30/2025	10/31/2025		515,000.00
KANSAS STATE TREASURER	BOND PAYMENT	10/30/2025	10/31/2025		63,125.00
KANSAS STATE TREASURER	BOND PAYMENT	10/30/2025	10/31/2025		125,000.00
KANSAS STATE TREASURER	BOND PAYMENT	10/30/2025	10/31/2025		70,459.38
KANSAS STATE TREASURER	BOND PAYMENT	10/30/2025	10/31/2025		295,000.00
KANSAS STATE TREASURER	BOND PAYMENT	10/30/2025	10/31/2025		23,372.50
KANSAS STATE TREASURER	BOND PAYMENT	10/30/2025	10/31/2025		280,000.00
KANSAS STATE TREASURER	BOND PAYMENT	10/30/2025	10/31/2025		60,525.00
KANSAS STATE TREASURER	BOND PAYMENT	10/30/2025	10/31/2025		265,000.00
KANSAS STATE TREASURER	BOND PAYMENT	10/30/2025	10/31/2025		59,605.00
KANSAS STATE TREASURER	BOND PAYMENT	10/30/2025	10/31/2025		145,000.00
KANSAS STATE TREASURER	BOND PAYMENT	10/30/2025	10/31/2025		8,827.50
KANSAS STATE TREASURER	BOND PAYMENT	10/30/2025	10/31/2025		160,000.00
KANSAS STATE TREASURER	BOND PAYMENT	10/30/2025	10/31/2025		26,975.00
KANSAS STATE TREASURER	BOND PAYMENT	10/30/2025	10/31/2025		190,000.00
KANSAS STATE TREASURER	BOND PAYMENT	10/30/2025	10/31/2025		41,568.75
KANSAS STATE TREASURER	BOND PAYMENT	10/30/2025	10/31/2025		10,000.00
KANSAS STATE TREASURER	BOND PAYMENT	10/30/2025	10/31/2025		3,462.50
KANSAS STATE TREASURER	BOND PAYMENT	10/30/2025	10/31/2025		95,000.00
KANSAS STATE TREASURER	BOND PAYMENT	10/30/2025	10/31/2025		30,203.13
KANSAS STATE TREASURER	BOND PAYMENT	10/30/2025	10/31/2025		227,825.00
KANSAS STATE TREASURER	BOND PAYMENT	10/30/2025	10/31/2025		170,000.00
KANSAS STATE TREASURER	BOND PAYMENT	10/30/2025	10/31/2025		116,803.14
KANSAS STATE TREASURER	BOND PAYMENT	10/31/2025	10/31/2025	027-4710	178,850.46

Vendor DBA 0169 - KANSAS STATE TREASURER Total: 3,524,646.11

## Vendor DBA: 2687 -

LEASE FINANCE PARTNERS	36822QT: 09/25:PD COPIER	10/29/2025	10/31/2025		142.39
LEASE FINANCE PARTNERS	36822QT: 10/25:PD COPIER	10/29/2025	10/31/2025		142.39

Vendor DBA 2687 - LEASE FINANCE PARTNERS Total: 284.78

## Vendor DBA: 1326 - LOGO DEPOT

LOGO DEPOT	UNIFORMS & CLOTHING	10/27/2025	10/31/2025		131.50
LOGO DEPOT	UNIFORMS & CLOTHING	10/27/2025	10/31/2025		207.25
LOGO DEPOT	UNIFORMS & CLOTHING	10/27/2025	10/31/2025		79.50
LOGO DEPOT	UNIFORMS & CLOTHING	10/27/2025	10/31/2025		192.50
LOGO DEPOT	UNIFORMS & CLOTHING	10/27/2025	10/31/2025		200.50
LOGO DEPOT	UNIFORMS & CLOTHING	10/27/2025	10/31/2025		158.50
LOGO DEPOT	UNIFORMS & CLOTHING	10/27/2025	10/31/2025		75.88
LOGO DEPOT	UNIFORMS & CLOTHING	10/27/2025	10/31/2025		75.87
LOGO DEPOT	UNIFORMS & CLOTHING	10/27/2025	10/31/2025		177.25
LOGO DEPOT	UNIFORMS & CLOTHING	10/27/2025	10/31/2025		103.25
LOGO DEPOT	UNIFORMS & CLOTHING	10/27/2025	10/31/2025		190.00
LOGO DEPOT	UNIFORMS & CLOTHING	10/27/2025	10/31/2025		211.00
LOGO DEPOT	UNIFORMS & CLOTHING	10/27/2025	10/31/2025		200.75
LOGO DEPOT	UNIFORMS & CLOTHING	10/27/2025	10/31/2025		136.50
LOGO DEPOT	UNIFORMS & CLOTHING	10/27/2025	10/31/2025		14.06
LOGO DEPOT	UNIFORMS & CLOTHING	10/27/2025	10/31/2025		14.07
LOGO DEPOT	UNIFORMS & CLOTHING	10/27/2025	10/31/2025		14.06
LOGO DEPOT	UNIFORMS & CLOTHING	10/27/2025	10/31/2025		14.06
LOGO DEPOT	UNIFORMS & CLOTHING	10/28/2025	10/31/2025		132.75
LOGO DEPOT	UNIFORMS/CLOTHING	10/28/2025	10/31/2025		276.75

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LOGO DEPOT	UNIFORMS & CLOTHING	10/28/2025	10/31/2025		97.50
LOGO DEPOT	UNIFORMS & CLOTHING	10/28/2025	10/31/2025		97.50
LOGO DEPOT	UNIFORMS & CLOTHING	11/05/2025	11/06/2025		107.75
LOGO DEPOT	UNIFORMS/CLOTHING	11/05/2025	11/06/2025		220.50
LOGO DEPOT	UNIFORMS & CLOTHING	10/29/2025	10/31/2025		20.06
LOGO DEPOT	UNIFORMS & CLOTHING	10/29/2025	10/31/2025		20.06
LOGO DEPOT	UNIFORMS & CLOTHING	10/29/2025	10/31/2025		20.06
LOGO DEPOT	UNIFORMS & CLOTHING	10/29/2025	10/31/2025		20.07
LOGO DEPOT	UNIFORMS & CLOTHING	11/05/2025	11/06/2025		195.00
LOGO DEPOT	UNIFORMS & CLOTHING	11/05/2025	11/06/2025		287.75
Vendor DBA 1326 - LOGO DEPOT Total:					3,692.25
Vendor DBA: 2950 -					
MAGIC CUSTOM POOLS	POOL REPAIRS	10/31/2025	10/31/2025		1,202.00
Vendor DBA 2950 - MAGIC CUSTOM POOLS Total:					1,202.00
Vendor DBA: 0264 -					
MARTY A HESS	YOGA INSTRUCTOR	11/06/2025	11/06/2025		135.00
Vendor DBA 0264 - MARTY A HESS Total:					135.00
Vendor DBA: 1925 -					
MERIDIAN ANALYTICAL LABS,LLC	WATER TESTING-CONSTRUCT...	10/27/2025	10/31/2025	005-8880	200.00
Vendor DBA 1925 - MERIDIAN ANALYTICAL LABS,LLC Total:					200.00
Vendor DBA: 2804 -					
NATHAN J ATWATER	YOUTH SPORTS OFFICIAL	11/06/2025	11/06/2025		72.00
Vendor DBA 2804 - NATHAN J ATWATER Total:					72.00
Vendor DBA: 2296 -					
NICHALAS HARDWICK	YOUTH SPORTS OFFICIAL	11/06/2025	11/06/2025		90.00
Vendor DBA 2296 - NICHALAS HARDWICK Total:					90.00
Vendor DBA: 2101 -					
OPTIV SECURITY INC	KEY FOBS TOKENS	10/03/2025	11/06/2025		65.94
Vendor DBA 2101 - OPTIV SECURITY INC Total:					65.94
Vendor DBA: 1345 -					
OREILLY AUTO PARTS	VEHICLE REPAIR/MAINT	11/05/2025	11/06/2025		42.96
OREILLY AUTO PARTS	VEHICLE REPAIR/MAINT	11/05/2025	11/06/2025		219.44
OREILLY AUTO PARTS	VEHICLE REPAIR/MAINT	11/05/2025	11/06/2025		28.96
Vendor DBA 1345 - OREILLY AUTO PARTS Total:					291.36
Vendor DBA: 3025 -					
PAULA DOWNS	PER DIEM-MILEAGE & MEALS	10/28/2025	10/31/2025		280.80
Vendor DBA 3025 - PAULA DOWNS Total:					280.80
Vendor DBA: 2369 -					
PAYLOCITY CORPORATION	FSA EMPLOYEE EXPENSE	10/30/2025	10/31/2025		328.00
PAYLOCITY CORPORATION	FSA EMPLOYEE EXPENSE	11/06/2025	11/07/2025		92.05
Vendor DBA 2369 - PAYLOCITY CORPORATION Total:					420.05
Vendor DBA: 2324 -					
PROFESSIONAL ENGINEERING...	MONTHLY SERVICES	10/28/2025	10/31/2025	001-8891	10,727.53
PROFESSIONAL ENGINEERING...	MONTHLY SERVICES	10/28/2025	10/31/2025	005-8860	2,145.50
PROFESSIONAL ENGINEERING...	MONTHLY SERVICES	10/28/2025	10/31/2025	005-8861	2,145.50
PROFESSIONAL ENGINEERING...	MONTHLY SERVICES	10/28/2025	10/31/2025	005-8862	4,953.12
PROFESSIONAL ENGINEERING...	MONTHLY SERVICES	10/28/2025	10/31/2025	005-8863	4,953.13
PROFESSIONAL ENGINEERING...	MONTHLY SERVICES	11/03/2025	11/06/2025		10,000.00
PROFESSIONAL ENGINEERING...	MONTHLY SERVICES	11/03/2025	11/06/2025		48,375.00
Vendor DBA 2324 - PROFESSIONAL ENGINEERING CONSU Total:					83,299.78
Vendor DBA: 0456 -					
QUILL	QUILL - OFFICE SUPPLIES	11/05/2025	11/06/2025		43.99
QUILL	QUILL - OFFICE SUPPLIES	11/05/2025	11/06/2025		43.99
QUILL	QUILL - OFFICE SUPPLIES	11/05/2025	11/06/2025		43.99
QUILL	QUILL - OFFICE SUPPLIES	11/05/2025	11/06/2025		43.99
QUILL	QUILL - OFFICE SUPPLIES	11/05/2025	11/06/2025		43.99
QUILL	QUILL - OFFICE SUPPLIES	11/05/2025	11/06/2025		43.99



## AP ORDINANCE

Payment Date

Section VII, Item A.

25

Vendor DBA	Description (Item)	Post Date	Payment Date	Project Account Key	Amount
QUILL	QUILL - OFFICE SUPPLIES	11/05/2025	11/06/2025		21.99
QUILL	QUILL - OFFICE SUPPLIES	11/05/2025	11/06/2025		22.00
QUILL	QUILL - OFFICE SUPPLIES	11/05/2025	11/06/2025		24.99
Vendor DBA 0456 - QUILL Total:					332.92
Vendor DBA: 3006 -					
RESCARE	RESTITUTION	11/05/2025	11/06/2025		69.60
Vendor DBA 3006 - RESCARE Total:					69.60
Vendor DBA: 1952 -					
S&P GLOBAL RATINGS/STAND...	ANALYTICAL SERVICES	10/28/2025	10/31/2025	028-8802	11,700.00
S&P GLOBAL RATINGS/STAND...	COST OF ISSUANCE	09/26/2025	10/31/2025	027-8802	18,810.00
Vendor DBA 1952 - S&P GLOBAL RATINGS/STANDARD & POOR'S FINANCIAL SERV. LLC Total:					30,510.00
Vendor DBA: 0936 - SAM'S CLUB					
SAM'S CLUB	PW BUILDING SHELVES	10/30/2025	10/30/2025		2,737.50
SAM'S CLUB	PW BUILDING SHELVES	10/30/2025	10/30/2025		2,737.50
Vendor DBA 0936 - SAM'S CLUB Total:					5,475.00
Vendor DBA: 1899 - SCKACS					
SCKACS	COURT SERVICES OFFICER	10/29/2025	10/31/2025		400.00
Vendor DBA 1899 - SCKACS Total:					400.00
Vendor DBA: 1077 -					
STAT PADS, LLC	AED FEES-YEARLY RENEWAL-...	10/28/2025	10/31/2025		175.00
STAT PADS, LLC	AED FEES-YEARLY RENEWAL-...	10/28/2025	10/31/2025		175.00
STAT PADS, LLC	AED FEES-YEARLY RENEWAL-...	10/28/2025	10/31/2025		175.00
STAT PADS, LLC	AED FEES-YEARLY RENEWAL-...	10/28/2025	10/31/2025		175.00
Vendor DBA 1077 - STAT PADS, LLC Total:					700.00
Vendor DBA: 3029 -					
SUE ABDINNOUR	2025 SIDEWALK REIMBURSE...	10/29/2025	10/31/2025		3,000.00
Vendor DBA 3029 - SUE ABDINNOUR Total:					3,000.00
Vendor DBA: 1771 - TARGET SOLUTIONS					
TARGET SOLUTIONS	ANNUAL INTERNET ACCESS R...	10/28/2025	10/31/2025		1,249.05
Vendor DBA 1771 - TARGET SOLUTIONS Total:					1,249.05
Vendor DBA: 0369 -					
TERESA WADE	TKW INSTRUCTOR	11/06/2025	11/06/2025		180.00
Vendor DBA 0369 - TERESA WADE Total:					180.00
Vendor DBA: 1171 -					
TRAFFIC CONTROL SERVICES, ...	VEHICLE REPAIR/MAINT	11/05/2025	11/06/2025		818.50
TRAFFIC CONTROL SERVICES, ...	VEHICLE REPAIR/MAINT	11/05/2025	11/06/2025		818.50
TRAFFIC CONTROL SERVICES, ...	VEHICLE REPAIR/MAINT	11/05/2025	11/06/2025		818.50
TRAFFIC CONTROL SERVICES, ...	VEHICLE REPAIR/MAINT	11/05/2025	11/06/2025		818.50
Vendor DBA 1171 - TRAFFIC CONTROL SERVICES, INC. Total:					3,274.00
Vendor DBA: 0903 -					
TRIPLETT, WOOLF, GARRETSON...	LEGAL SERVICES	11/04/2025	11/06/2025		32,116.00
TRIPLETT, WOOLF, GARRETSON...	LEGAL SERVICES	11/03/2025	11/06/2025		2,274.00
Vendor DBA 0903 - TRIPLETT, WOOLF, GARRETSON, LLC/TWG Total:					34,390.00
Vendor DBA: 0989 -					
VERIZON	CELL PHONE SERVICE	11/06/2025	11/02/2025		299.40
VERIZON	CELL PHONE SERVICE	11/06/2025	11/02/2025		41.55
VERIZON	CELL PHONE SERVICE	11/06/2025	11/02/2025		720.18
VERIZON	CELL PHONE SERVICE	11/06/2025	11/02/2025		24.36
VERIZON	CELL PHONE SERVICE	11/06/2025	11/02/2025		24.36
VERIZON	CELL PHONE SERVICE	11/06/2025	11/02/2025		244.68
VERIZON	CELL PHONE SERVICE	11/06/2025	11/02/2025		135.98
VERIZON	CELL PHONE SERVICE	11/06/2025	11/02/2025		209.80
VERIZON	CELL PHONE SERVICE	11/06/2025	11/02/2025		135.97
Vendor DBA 0989 - VERIZON Total:					1,836.28
Vendor DBA: 1849 - WRIGHT EXPRESS FSC					
WRIGHT EXPRESS FSC	FLEET FUEL	10/27/2025	10/31/2025		2,795.40

**AP ORDINANCE**

				Payment Date	Section VII, Item A.	25
Vendor DBA	Description (Item)	Post Date	Payment Date	Project Account Key	Amount	
WRIGHT EXPRESS FSC	FLEET FUEL	10/27/2025	10/31/2025		140.57	
WRIGHT EXPRESS FSC	FLEET FUEL	10/27/2025	10/31/2025		274.77	
WRIGHT EXPRESS FSC	FLEET FUEL	10/27/2025	10/31/2025		42.37	
WRIGHT EXPRESS FSC	FLEET FUEL	10/27/2025	10/31/2025		107.05	
Vendor DBA 1849 - WRIGHT EXPRESS FSC Total:					3,360.16	
Grand Total:					3,879,058.37	

## Report Summary

## Fund Summary

Fund	Payment Amount
100 - General Fund	187,972.66
200 - Special Street & Highway	2,972.32
320 - Capital Projects Fund 2	286,615.68
355 - Capital Improvement Reserve	24,472.44
410 - Bond & Interest	3,345,795.65
520 - Water Utility	11,645.44
530 - Sewer Utility	13,307.48
550 - Stormwater Utility	6,276.70
<b>Grand Total:</b>	<b>3,879,058.37</b>

## Account Summary

Account Number	Account Name	Payment Amount
100-000-000-2014	FEDERAL TAX PAYABLE	7,532.01
100-000-000-2016	SOCIAL SECURITY PAYAB...	12,486.76
100-000-000-2018	MEDICARE PAYABLE	2,920.24
100-000-000-2020	STATE TAX PAYABLE	4,776.98
100-000-000-2022	KPERS 1 PAYABLE	1,388.49
100-000-000-2024	KPERS 2 PAYABLE	2,013.77
100-000-000-2026	KPERS 3 PAYABLE	6,744.71
100-000-000-2028	KP&F PAYABLE	12,820.43
100-000-000-2034	457 DEFERRED COMP P...	1,152.00
100-000-000-2062	FSA HEALTH PAYABLE	420.05
100-000-000-2076	COURT REINST FIXED FEE...	72.65
100-000-000-2078	COURT REINST FEE PAY...	388.17
100-000-000-2080	COURT JUDICIAL DOCKET...	112.00
100-000-000-2082	COURT JUDICIAL EDUCAT...	32.34
100-000-000-2084	COURT KLETC FEE PAYAB...	713.13
100-000-000-2090	COURT RESTITUTION PA...	106.04
100-000-000-2092	COURT STATE DUI FEE P...	147.68
100-100-110-6008	PROFESSIONAL DUES/M...	195.00
100-100-110-6014	OFFICE SUPPLIES	43.99
100-100-110-6030	ADVERTISING & MARKET...	315.08
100-100-110-6038	MERCHANDISE TSF OR D...	18.25
100-100-110-6040	UNIFORMS/CLOTHING	190.00
100-100-110-7014	IT - MANAGED SERVICES	409.23
100-100-110-7046	COMMUNICATION SERV...	299.40
100-100-110-7800	ENGINEERING SERVICES	48,375.00
100-100-110-7804	LEGAL SERVICES	32,116.00
100-100-130-6008	PROFESSIONAL DUES/M...	125.00
100-100-130-6040	UNIFORMS/CLOTHING	131.50
100-100-130-7014	IT - MANAGED SERVICES	206.72
100-100-130-7032	ENGINEERING SERVICES -..	10,000.00
100-100-140-6040	UNIFORMS/CLOTHING	528.50
100-100-140-7014	IT - MANAGED SERVICES	620.17
100-100-160-6008	PROFESSIONAL DUES/M...	124.66
100-100-160-6014	OFFICE SUPPLIES	43.99
100-100-160-6028	PUBLICATIONS/PRINTING	500.00
100-100-160-6030	ADVERTISING & MARKET...	50.00
100-100-160-6040	UNIFORMS/CLOTHING	557.25
100-100-160-7014	IT - MANAGED SERVICES	620.17
100-100-160-7024	CONTRACTUAL SVCS	868.00
100-100-160-7046	COMMUNICATION SERV...	41.55
100-100-170-6040	UNIFORMS/CLOTHING	79.50
100-100-170-7014	IT - MANAGED SERVICES	206.72
100-100-170-7024	CONTRACTUAL SERVICES	35.00
100-100-170-7804	LEGAL SERVICES	2,274.00
100-120-240-6014	OFFICE SUPPLIES	43.99

## Account Summary

Account Number	Account Name	Payment Amount
100-120-240-6020	IT - COMPUTERS AND E...	65.94
100-120-240-6040	UNIFORMS/CLOTHING	207.25
100-120-240-7014	IT - MANAGED SERVICES	409.23
100-120-240-7024	CONTRACTUAL SERVICES	90.00
100-120-240-7804	LEGAL SERVICES	2,093.98
100-120-250-6014	OFFICE SUPPLIES	43.99
100-120-250-6040	UNIFORMS/CLOTHING	107.75
100-120-250-6056	PETROLEUM PRODUCTS	2,795.40
100-120-250-6602	VEH/EQUIP REPAIRS & ...	175.00
100-120-250-6604	VEHICLE/EQUIP SUPPLIE...	377.25
100-120-250-7012	COMPUTER SUPPORT SE...	1,249.05
100-120-250-7014	IT - MANAGED SERVICES	3,526.98
100-120-250-7016	SOFTWARE/HARDWARE...	570.00
100-120-250-7024	CONTRACTUAL SERVICES	317.28
100-120-250-7046	COMMUNICATION SERV...	720.18
100-130-330-7024	CONTRACTUAL SERVICES	175.00
100-130-330-7048	UTILITIES	39.16
100-130-330-8010	PUBLIC GROUNDS IMPR...	1,202.00
100-130-340-7024	CONTRACTUAL SERVICES	35.00
100-130-350-6014	OFFICE SUPPLIES	43.99
100-130-350-6056	PETROLEUM PRODUCTS	42.96
100-130-350-7014	IT - MANAGED SERVICES	826.89
100-130-350-7024	CONTRACTUAL SERVICES	265.00
100-130-350-7036	INSTRUCTORS	780.00
100-130-350-7046	COMMUNICATION SERV...	24.36
100-130-350-7048	UTILITIES	492.91
100-130-350-8012	REC FACILITY EQUIPMENT	9,600.00
100-150-510-6040	UNIFORMS/CLOTHING	34.12
100-150-510-6602	VEH/EQUIP REPAIRS & ...	613.57
100-150-510-6604	VEHICLE/EQUIP SUPPLIE...	818.50
100-150-510-7014	IT - MANAGED SERVICES	409.23
100-150-510-7024	CONTRACTUAL SERVICES	8.71
100-150-510-7046	COMMUNICATION SERV...	24.36
100-150-510-7048	UTILITIES	584.71
100-160-610-6008	PROFESSIONAL DUES/M...	125.00
100-160-610-6014	OFFICE SUPPLIES	43.99
100-160-610-6040	UNIFORMS/CLOTHING	995.75
100-160-610-6048	HOTEL & TRAVEL	280.80
100-160-610-6056	PETROLEUM PRODUCTS	140.57
100-160-610-7014	IT - MANAGED SERVICES	1,033.62
100-160-610-7024	CONTRACTUAL SERVICES	90.00
100-160-610-7046	COMMUNICATION SERV...	244.68
100-190-910-6014	OFFICE SUPPLIES	24.99
100-190-910-7024	CONTRACTUAL SVCS	1,712.46
100-190-910-7048	UTILITIES	1,664.93
200-000-000-2014	FEDERAL TAX PAYABLE	133.10
200-000-000-2016	SOCIAL SECURITY PAYAB...	276.34
200-000-000-2018	MEDICARE PAYABLE	64.62
200-000-000-2020	STATE TAX PAYABLE	81.08
200-000-000-2022	KPERS 1 PAYABLE	399.31
200-210-200-6040	UNIFORMS/CLOTHING	34.13
200-210-200-6056	PETROLEUM PRODUCTS	274.77
200-210-200-6604	VEHICLE/EQUIP SUPPLIE...	818.50
200-210-200-7014	IT - MANAGED SERVICES	206.72
200-210-200-7024	CONTRACTUAL SERVICES	8.72
200-210-200-7040	STREET LIGHTING	241.03
200-210-200-7046	COMMUNICATION SERV...	135.98
200-210-200-7048	UTILITIES	298.02

**Account Summary**

<b>Account Number</b>	<b>Account Name</b>	<b>Payment Amount</b>
320-320-320-4710	TN/BOND PROCEEDS	178,850.46
320-320-320-6028	PUBLICATIONS/PRINTING	143.36
320-320-320-8802	COST OF ISSUANCE	74,510.67
320-320-320-8860	INSPECTION - WATER	2,693.00
320-320-320-8861	INSPECTION - SEWER	2,145.50
320-320-320-8862	INSPECTION - PAVING	7,691.62
320-320-320-8863	INSPECTION - DRAINAGE	4,953.13
320-320-320-8880	CONSTRUCTION - WATER	1,638.50
320-320-320-8881	CONSTRUCTION - SEWER	525.00
320-320-320-8882	CONSTRUCTION - PAVING	2,736.91
320-320-320-8891	OWNER'S REP	10,727.53
355-355-355-8014	STREET IMPROVEMENTS	19,372.44
355-355-355-8024	SIDEWALK PROJECTS	5,100.00
410-410-410-8700	DEBT SERVICE PRINCIPAL	2,600,000.00
410-410-410-8702	DEBT SERVICE INTEREST	745,795.65
520-000-000-2014	FEDERAL TAX PAYABLE	664.54
520-000-000-2016	SOCIAL SECURITY PAYAB...	1,240.98
520-000-000-2018	MEDICARE PAYABLE	290.26
520-000-000-2020	STATE TAX PAYABLE	451.89
520-000-000-2022	KPERS 1 PAYABLE	465.51
520-000-000-2024	KPERS 2 PAYABLE	328.61
520-000-000-2026	KPERS 3 PAYABLE	886.81
520-210-520-6008	PROFESSIONAL DUES/M...	524.66
520-210-520-6014	OFFICE SUPPLIES	21.99
520-210-520-6040	UNIFORMS/CLOTHING	408.00
520-210-520-6056	PETROLEUM PRODUCTS	42.37
520-210-520-6600	EQUIPMENT	2,737.50
520-210-520-6604	VEHICLE/EQUIP SUPPLIE...	818.50
520-210-520-7014	IT - MANAGED SERVICES	1,033.62
520-210-520-7016	SOFTWARE/HARDWARE...	405.00
520-210-520-7024	CONTRACTUAL SERVICES	489.84
520-210-520-7046	COMMUNICATION SERV...	209.80
520-210-520-7048	UTILITIES	625.56
530-000-000-2014	FEDERAL TAX PAYABLE	1,008.89
530-000-000-2016	SOCIAL SECURITY PAYAB...	1,371.22
530-000-000-2018	MEDICARE PAYABLE	320.64
530-000-000-2020	STATE TAX PAYABLE	530.14
530-000-000-2022	KPERS 1 PAYABLE	440.10
530-000-000-2026	KPERS 3 PAYABLE	1,460.92
530-210-530-6008	PROFESSIONAL DUES/M...	400.00
530-210-530-6014	OFFICE SUPPLIES	22.00
530-210-530-6040	UNIFORMS/CLOTHING	418.50
530-210-530-6056	PETROLEUM PRODUCTS	107.05
530-210-530-6600	EQUIPMENT	2,737.50
530-210-530-6604	VEHICLE/EQUIP SUPPLIE...	818.50
530-210-530-6806	LIFT STATION OPERATIO...	1,545.27
530-210-530-7014	IT - MANAGED SERVICES	1,037.83
530-210-530-7016	SOFTWARE/HARDWARE...	405.00
530-210-530-7024	CONTRACTUAL SERVICES	314.83
530-210-530-7046	COMMUNICATION SERV...	135.97
530-210-530-7048	UTILITIES	233.12
550-550-550-8018	DRAINAGE SYSTEM IMP...	6,276.70
<b>Grand Total:</b>		<b>3,879,058.37</b>

**Project Account Summary**

<b>Project Account Key</b>	<b>Payment Amount</b>
**None**	3,573,070.25
001-8891	10,727.53

**Project Account Summary**

<b>Project Account Key</b>	<b>Payment Amount</b>
005-8860	2,145.50
005-8861	2,145.50
005-8862	4,953.12
005-8863	4,953.13
005-8880	200.00
006-8862	109.50
007-8862	164.50
010-8862	2,464.50
010-8882	2,736.91
012-8860	547.50
012-8880	1,438.50
012-8881	525.00
021-8832	18,308.94
021-8852	1,063.50
027-4710	178,850.46
027-8802	44,444.50
028-6028	143.36
028-8802	30,066.17
<b>Grand Total:</b>	<b>3,879,058.37</b>



City of Bel Aire, KS

Section VII, Item A.

# Payroll Check Register Report Summary

Pay Period: 10/18/2025-10/31/2025

Packet: PYPKT00218 - PP 10.18.25-10.31.25: PD11.06.25

Payroll Set: Payroll Set 01 - 01

Type	Count	Amount
Regular Checks	0	0.00
Manual Checks	0	0.00
Reversals	0	0.00
Voided Checks	0	0.00
Direct Deposits	69	89,771.54
<b>Total</b>	<b>69</b>	<b>89,771.54</b>

Approved 11/12/25

AP ORD 25-21 total Expenses: \$3,968,829.91

Special Assessment Project Costs: \$295,260.59

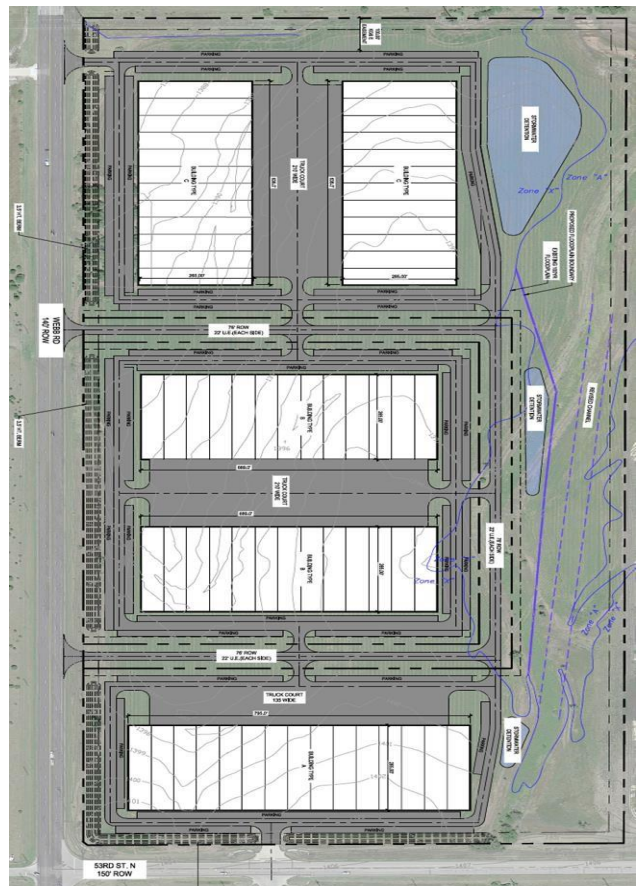
*Barry Smith*



DATE: November 12, 2025  
 TO: Bel Aire City Council  
 FROM: Ted Henry, City Manager  
 SUBJECT: Aspen Funds

## Summary

On April 16, 2024, the City Council held a public hearing, adopted a resolution, and signed a letter of intent authorizing up to \$105,000,000 in Industrial Revenue Bonds (IRBs) for the development of land near 53rd Street and Webb Road. The developer, Aspen Funds, proposes constructing approximately five buildings totaling about 200,000 square feet each for use as warehouse or manufacturing facilities, with full build-out expected by the end of 2034. The first building has now been completed, and Aspen Funds is requesting that the City issue IRBs in the principal amount of \$18,000,000 for that building. Kevin Cowan with Gilmore & Bell will attend the meeting to present this item and answer any questions.







**CITY OF BEL AIRE, KANSAS**  
**NOT TO EXCEED \$18,000,000**  
**TAXABLE INDUSTRIAL REVENUE BONDS**  
**(ASPEN FUNDS LLC)**

November						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

Section XI, Item A.

December						
S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

### **FINANCING SCHEDULE**

Following is a tentative financing schedule. If you have any comments on the schedule, please provide as soon as possible.

City of Bel Aire, Kansas  
 Aspen Funds LLC  
 Polsinelli PC  
 Maria Schrock, Esq.  
 Gilmore & Bell, P.C.  
 Security Bank of Kansas City

“Issuer”  
 “Tenant” and “Purchaser”  
 “Tenant’s Counsel”  
 “Issuer’s Attorney”  
 “Bond Counsel”  
 “Trustee”

<u><b>DATE</b></u>	<u><b>DESCRIPTION</b></u>	<u><b>RESPONSIBLE PARTY</b></u>	<u><b>COMPLETED</b></u>
3/8/24	Preparation of Cost Benefit Analysis	Tenant	✓
4/4/24	Publish Notice of Public Hearing	Bond Counsel/Issuer	✓
4/16/24	Public Hearing and Resolution of Intent	Issuer	✓
6/24/24	Sales Tax Exemption to KS Department of Revenue	Issuer	✓
2/18/25	Amending Resolution of Intent	Issuer	✓
11/6/25	Distribute first draft of bond documents	Bond Counsel	
11/11/25	Comments due on first draft bond documents	ALL	
11/12/25	Distribute bond documents for agenda	Bond Counsel	
11/18/25	Passage of Ordinance	Issuer	
11/20/25	Publication of Ordinance	Bond Counsel	
11/20/25	Informational Statement to BOT (at least 7 days prior to closing)	Bond Counsel	
11/25/25	Distribute Closing Letter and Print bonds	Bond Counsel	
12/2/25	Preclosing*	ALL	
12/4/25	Closing*	ALL	

\*Attendance at preclosing and closing is optional if signature pages are furnished in advance.

Gilmore & Bell, P.C.  
10/21/2025

**EXCERPT OF MINUTES OF A MEETING  
OF THE GOVERNING BODY OF  
THE CITY OF BELAIRE, KANSAS  
HELD ON NOVEMBER 18, 2025**

The Governing Body (the “Governing Body”) met in regular session at the usual meeting place in the City, at 7:00 P.M., the following members being present and participating, to-wit:

Absent:

The Mayor declared that a quorum was present and called the meeting to order.

\*\*\*\*\*

(Other Proceedings)

There was presented an Ordinance entitled:

**AN ORDINANCE AUTHORIZING THE CITY OF BELAIRE, KANSAS, TO ISSUE TAXABLE INDUSTRIAL REVENUE BONDS (ASPEN SUNFLOWER INDUSTRIAL I, LLC PROJECT), SERIES 2025, IN A PRINCIPAL AMOUNT NOT TO EXCEED \$18,000,000, FOR THE PURPOSE OF PROVIDING FUNDS TO PAY THE COST ACQUIRING LAND AND CONSTRUCTING AND EQUIPPING BUILDINGS FOR USE IN INDUSTRIAL, MANUFACTURING, WAREHOUSE, DISTRIBUTION, FLEX AND/OR OFFICE PURPOSES; AUTHORIZING THE ISSUER TO ENTER INTO CERTAIN DOCUMENTS AND ACTIONS IN CONNECTION WITH THE ISSUANCE OF SAID BONDS.**

Councilmember \_\_\_\_\_ moved that the Ordinance be passed. The motion was seconded by Councilmember \_\_\_\_\_. The Ordinance was duly read and considered, and upon being put, the motion for the passage of the Ordinance was carried by the following vote of the Governing Body:

Yea: \_\_\_\_\_

Nay: \_\_\_\_\_

The Mayor declared the Ordinance duly passed and the Ordinance was then duly numbered Ordinance No. \_\_\_, was signed and approved by the Mayor and attested by the Clerk and the Ordinance was directed to be published one time in the official newspaper of the City.

\*\*\*\*\*

(Other Proceedings)

On motion duly made, seconded and carried, the meeting thereupon adjourned.

**CERTIFICATE**

I hereby certify that the foregoing Excerpt of Minutes is a true and correct excerpt of the proceedings of the Governing Body of the City of Bel Aire, Kansas, held on the date stated therein, and that the official minutes of such proceedings are on file in my office.

(SEAL)

---

Clerk

(PUBLISHED ON THE CITY WEBSITE ON NOVEMBER 20, 2025)

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE AUTHORIZING THE CITY OF BEL AIRE, KANSAS, TO ISSUE TAXABLE INDUSTRIAL REVENUE BONDS (ASPEN SUNFLOWER INDUSTRIAL I, LLC PROJECT), SERIES 2025, IN A PRINCIPAL AMOUNT NOT TO EXCEED \$18,000,000, FOR THE PURPOSE OF PROVIDING FUNDS TO PAY THE COST OF ACQUIRING LAND AND CONSTRUCTING AND EQUIPPING BUILDINGS FOR USE IN INDUSTRIAL, MANUFACTURING, WAREHOUSE, DISTRIBUTION, FLEX AND/OR OFFICE PURPOSES; AUTHORIZING THE ISSUER TO ENTER INTO CERTAIN DOCUMENTS AND ACTIONS IN CONNECTION WITH THE ISSUANCE OF SAID BONDS.**

**WHEREAS**, the City of Bel Aire, Kansas (the “Issuer”), is authorized pursuant to the provisions of K.S.A. 12-1740 to 12-1749d, inclusive, as amended (the “Act”), to acquire, purchase, construct, install and equip certain commercial and industrial facilities, and to issue industrial revenue bonds for the purpose of paying the cost of such facilities, and to lease such facilities to private persons, firms or corporations; and

**WHEREAS**, the governing body of the Issuer has heretofore and does now find and determine that it is desirable in order to promote, stimulate and develop the general economic welfare and prosperity of the Issuer and the State of Kansas that the Issuer issue its Taxable Industrial Revenue Bonds (Aspen Sunflower Industrial I, LLC Project), Series 2025 (the “Bonds”), in a principal amount not to exceed \$18,000,000, for the purpose of acquiring land and constructing a building for use in industrial, manufacturing, warehouse, distribution, flex and/or office purposes, located within the corporate limits of the Issuer immediately northeast of the intersection of 53<sup>rd</sup> Street North and Webb Road (the “Project 1”) for Aspen Sunflower Industrial I LLC, a Kansas limited liability company, holding an undivided 62.0% interest, 2 Patriots Investments II, LLC, a Kansas limited liability company, holding an undivided 29.6% interest, SMT Properties 2, LLC, a Kansas limited liability company, holding an undivided 6.8% interest, ETG A, LLC, a Kansas limited liability company, holding an undivided 0.8% interest, and SREV1, LLC, a Kansas limited liability company, holding an undivided 0.8%, as tenants in common (the “Tenants in Common”); and

**WHEREAS**, the Bonds will be issued under a Bond Trust Indenture dated as of the date set forth therein (the “Indenture”), by and between the Issuer and Security Bank of Kansas City, as Trustee (the “Trustee”); and

**WHEREAS**, the Tenants in Common will lease Project 1 to the Issuer pursuant to the Base Lease Agreement dated as of the date set forth therein (the “Base Lease Agreement”) between the Tenants in Common and the Issuer; and

**WHEREAS**, simultaneously with the execution and delivery of the Indenture, the Issuer will enter into a Lease Agreement dated as of the date set forth therein (the “Lease Agreement”), by and between the Issuer, as lessor, and the Tenants in Common, as lessee, pursuant to which Project 1 will be acquired, constructed, furnished and equipped, and pursuant to which the Issuer will lease Project 1 to the Tenants in Common, and the Tenants in Common will agree to pay the rental payments due under the Lease Agreement sufficient to pay the principal of and premium, if any, and interest on, the Bonds; and

**WHEREAS**, the governing body of the Issuer further finds and determines that it is necessary and desirable in connection with the issuance of these bonds that the Issuer enter into certain agreements, and that the Issuer take certain other actions and approve the execution of certain other documents as herein provided;

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF BELAIRE, KANSAS, AS FOLLOWS:

**Section 1. Authorization for the Acquisition, Purchase, Construction, Installation and Equipping of Project 1.** The Issuer is hereby authorized to provide for the acquisition, purchase, construction, installation, furnishing and equipping of Project 1, all in the manner and as more particularly described in the Indenture and the Lease hereinafter authorized.

**Section 2. Authorization of and Security for the Bonds.** The Issuer is hereby authorized to issue and sell the Bonds in a principal amount not to exceed \$18,000,000 (the “Bonds”), for the purpose of providing funds to pay the cost of acquiring land and constructing and equipping Project 1. The Bonds shall be issued and secured pursuant to the herein authorized Indenture and shall bear such date, shall mature at such time, shall be in such denominations, shall bear interest at such rates, shall be in such form, shall be subject to redemption and other terms and conditions, and shall be issued in such manner, subject to such provisions, covenants and agreements, as are set forth in the Indenture. The Bonds shall be payable solely out of the rents, revenues and receipts derived by the Issuer from Project 1, and Project 1 and the net earnings derived by the Issuer from Project 1 shall be pledged and assigned to the Trustee as security for payment of the Bonds as provided in the Indenture.

**Section 3. Authorization of Documents.** The Issuer is hereby authorized to enter into the following documents, in substantially the forms presented to and reviewed by the governing body of the Issuer (copies of which documents, upon execution thereof, shall be filed in the office of the Clerk of the Issuer), with such changes therein as shall be approved by the officers of the Issuer executing such documents (the “Bond Documents”), such officers’ signatures thereon being conclusive evidence of their approval thereof:

- (a) Trust Indenture, between the Issuer and the Trustee;
- (b) Base Lease Agreement, between the Tenants in Common and the Issuer;
- (c) Lease Agreement, between the Issuer and the Tenants in Common;
- (d) Bond Purchase Agreement dated the date set forth therein, among the Issuer, the Tenants in Common and Aspen Sunflower Industrial I, LLC, as Purchaser; and
- (e) Agreement for Payment in Lieu of Taxes, between the Issuer and the Tenants in Common.

**Section 4. Execution of Bond and Documents.** The Mayor of the Issuer is hereby authorized and directed to execute the Bonds and to deliver the Bonds to the Trustee for authentication for and on behalf of and as the act and deed of the Issuer in the manner provided in the Indenture. The Mayor (or, in the Mayor’s absence, the acting Mayor) of the Issuer is hereby authorized and directed to execute the Bonds, the Bond Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance, for and on behalf of and as the act and deed of the Issuer. The Clerk of the Issuer is hereby authorized and directed to attest to and affix the seal of the Issuer to the Bonds, the Bond Documents and such other documents, certificates and instruments as may be necessary.

**Section 5. Pledge of Project 1 and Net Lease Rentals.** The Issuer hereby pledges Project 1 and the net rentals generated under the Lease Agreement to the payment of the Bonds in accordance with K.S.A. 12-1744. The lien created by the pledge will be discharged when all of the Bonds are paid or deemed to have been paid under the Indenture

**Section 6. Further Authority.** The Issuer shall, and the officers, employees and agents of the Issuer and the Issuer's Bond Counsel, Gilmore & Bell, P.C. are hereby authorized and directed to, take such action, 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 Issuer with respect to the Bonds and the Bond Documents.

**Section 7. Electronic Transactions.** The issuance of the Bonds and the transactions related thereto and described herein may be conducted and documents may be stored by electronic means. All closing documents, certificates, and related instruments may be executed by electronic transmission. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents (or documents executed by electronic transmission) shall be deemed to be authentic and valid counterparts of such documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

**Section 8. Effective Date.** This Ordinance shall take effect and be in force from and after its passage by the governing body, approval by the Mayor and publication of the Ordinance in the official Issuer newspaper.

[BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK]

**PASSED** by the governing body of the City of Bel Aire, Kansas on November 18, 2025 and  
**APPROVED AND SIGNED** by the Mayor.

---

Mayor

[SEAL]

ATTEST:

---

City Clerk

GILMORE & BELL, P.C.  
11/01/2025

AGREEMENT FOR PAYMENT IN LIEU OF TAXES

**This Agreement**, dated as of December 4, 2025 (the “**Agreement**”), between the **CITY OF BEL AIRE, KANSAS**, a municipal corporation organized and existing under the laws of the State of Kansas (the “**Issuer**”), and **ASPEN SUNFLOWER INDUSTRIAL I LLC**, a Kansas limited liability company, holding an undivided 62.0% interest, **2 PATRIOTS INVESTMENTS II, LLC**, a Kansas limited liability company, holding an undivided 29.6% interest, **SMT PROPERTIES 2, LLC**, a Kansas limited liability company, holding an undivided 6.8% interest, **ETG A, LLC**, a Kansas limited liability company, holding an undivided 0.8% interest, and **SREV1, LLC**, a Kansas limited liability company, holding an undivided 0.8%, as tenants in common (the “**Tenants in Common**”);

WITNESSETH THAT:

1.       **Tax Exemption; Payment in Lieu of Taxes.** In consideration of (i) the issuance by the Issuer of its Taxable Industrial Revenue Bonds (Aspen Sunflower Industrial I, LLC Project), Series 2025, in the principal amount of not to exceed \$18,000,000 (the “**Bonds**”), to finance acquiring land and constructing and equipping a building for use in industrial, manufacturing, warehouse, distribution, flex and/or office purposes, located within the corporate limits of the Issuer immediately northeast of the intersection of 53<sup>rd</sup> Street North and Webb Road (the “**Project 1**”), to be leased by the Issuer to the Tenants in Common, (ii) the execution by the Tenants in Common of a lease agreement of Project 1 financed with the proceeds of the Bonds (the “**Lease Agreement**”), (iii) the laws of the State of Kansas affording exemption from *ad valorem* property taxation for the portion of Project 1 acquired, purchased or constructed with the proceeds of the Bonds for a period commencing with the year after calendar year in which bonds are issued, and (iv) the agreement by the Issuer to apply for the exemption if the payments provided for herein are made, the Tenants in Common agree to make payments in lieu of *ad valorem* property taxes in the amounts specified herein, in the manner provided for herein, provided that each Tenant in Common shall be responsible only for their proportionate share of payment in lieu of taxes hereunder.

2.       **Amount of Payments; Place of Payment.** In lieu of general *ad valorem* property taxes on Project 1 for the ten (10) calendar years following the year in which the Bonds are issued, other than special assessments levied on account of special benefits, the Tenants in Common shall pay by separate check to the Treasurer of Sedgwick County, Kansas, or other appropriate office as directed by the Issuer, on or before December 20 in each of the years, with the privilege of half payment as provided by law for general *ad valorem* taxes, a payment in lieu of taxes, the total amount of which is specified below, to be distributed as and for a part of the general *ad valorem* tax collections for all taxing subdivisions in which Project 1 is located. The total amount of the payments shall be determined as follows:

Calendar Year	Payment in Lieu of Taxes
2026	0%
2027	0%
2028	0%
2029	0%
2030	0%
2031	25%
2032	25%
2033	25%
2034	25%
2035	25%



(expressed as a percentage of *ad valorem* tax otherwise payable in respect of Project 1)

The amount of the payment in lieu of taxes will be determined in the same manner and according to the same statutory procedure as general *ad valorem* taxes, real and personal, as the case may be, are determined, using the valuations determined by the Sedgwick County Appraiser's office. The payments shall be distributed to all applicable taxing subdivisions in Sedgwick County as provided in K.S.A. 12-1742. Each Tenant in Common shall be responsible only for their proportionate share of any obligations hereunder.

3. **Reduction of Payment for Actual Taxes Paid.** Except for the *ad valorem* taxes described in **Section 4** herein, the annual amount to be paid pursuant to **Section 2** herein shall be reduced (but not below zero) by any actual *ad valorem* tax payments paid in respect of the real property constituting a part of Project 1 by or on behalf of the Tenants in Common for any given year.

4. **No Exemption for Special Assessments and Capital Outlay Levy.** All special assessments and the unified school district's capital outlay levy provided in K.S.A. 72-53,113 that is levied against the real property portion of Project 1, if any, will not abate and will continue to be the obligation of the Tenants in Common, payable in the manner provided by law.

5. **Failure to Make Payment in Lieu of Taxes.** Should the Tenants in Common fail to make the payments required above, penalties and/or interest will be assessed against the Tenants in Common by the Sedgwick County Treasurer in accordance with applicable state laws relating to late tax payments. If the Tenants in Common fail to make a payment required by this Agreement and the failure shall continue for one year, this Agreement shall be deemed terminated effective as of December 20 in the year the payment was originally due, and Tenant agrees that from and after the termination date, it shall pay in full the regular amount of *ad valorem* real estate and personal property taxes on the property constituting Project 1.

6. **Approval of Exemption.** This Agreement is conditioned on the issuance by the Board of Tax Appeals of the State of Kansas of an order exempting the bond-financed portion of the Project from *ad valorem* taxation in accordance with Kansas law, including particularly K.S.A. 79-201a *Twenty-Fourth*.

7. **Counterparts.** This Agreement may be executed simultaneously and several counterparts, each of which shall be deemed to be an original and all of which shall constitute the same instrument.

8. **Transferability.** The benefits of this Agreement may be transferred to any assignee of the Lease Agreement made in accordance with the provisions of the Lease Agreement between the Issuer and the Tenants in Common.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

**IN WITNESS WHEREOF**, the Issuer has caused this Agreement to be signed by a duly authorized official, the signature to be attested by a duly authorized officer and its official seal to be applied, and the Tenants in Common have caused this Agreement to be signed on its behalf by a duly authorized officer, the signature attested by a duly authorized officer, and its corporate seal (if any) to be applied, as of the day and year first above written.

**CITY OF BEL AIRE, KANSAS**

[SEAL]

By: \_\_\_\_\_  
Jim Benage, Mayor

ATTEST:

\_\_\_\_\_  
Melissa Krehbiel, City Clerk

**TENANTS IN COMMON:**

**ASPEN SUNFLOWER INDUSTRIAL I LLC,  
a Tenant in Common**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Manager  
Ownership Interest: 62.0%

**2 PATRIOTS INVESTMENTS II, LLC,  
a Tenant in Common**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Manager  
Ownership Interest: 29.6%

**SMT PROPERTIES 2, LLC,  
a Tenant in Common**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Manager  
Ownership Interest: 6.8%

**ETG A, LLC,  
a Tenant in Common**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Manager  
Ownership Interest: 0.8%

**SREV1, LLC, a Tenant in Common**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Manager  
Ownership Interest: 0.8%

GILMORE& BELL, P.C.  
10/30/2025

ORIGINATION FEE AGREEMENT

**THIS ORIGINATION FEE AGREEMENT** (the “**Fee Agreement**”) is made and entered into as of November 18, 2025, by and between Aspen Sunflower Industrial I LLC, a Kansas limited liability company, holding an undivided 62.0% interest, 2 Patriots Investments II, LLC, a Kansas limited liability company, holding an undivided 29.6% interest, SMT Properties 2, LLC, a Kansas limited liability company, holding an undivided 6.8% interest, ETG A, LLC, a Kansas limited liability company, holding an undivided 0.8% interest, and SREV1, LLC, a Kansas limited liability company, holding an undivided 0.8%, as tenants in common (the “**Tenants in Common**”); and the City of Bel Aire, Kansas, a municipal corporation, (the “**City**”).

**WHEREAS**, the City is empowered to issue industrial revenue bonds pursuant to K.S.A. 12-1740 *et seq.*, and to grant property tax exemptions under K.S.A. 79-201a *Second*, subject to satisfaction of the applicable conditions precedent under State law and City policies; and,

**WHEREAS**, Tenants in Common are engaged in the business of commercial and industrial facilities and desires to conduct that business within the City; and,

**WHEREAS**, Tenants in Common have acquired necessary land (the “**Project Site**”) and constructed and equipped thereon a building for use in industrial, manufacturing, warehouse, distribution, flex and/or office purposes, located within the corporate limits of the City immediately northeast of the intersection of 53rd Street North and Webb Road (the “**Project 1**”), for the primary purpose of conducting Tenants in Common’s business within the City; and,

**WHEREAS**, Tenants in Common have requested the City issue up to \$18,000,000 in taxable industrial revenue bonds and grant a property tax exemption on Project 1 financed with the proceeds of such bonds, subject to payments in lieu of taxes (the “**Abatement**”); and,

**WHEREAS**, in connection with the issuance of such bonds, Tenants in Common have offered to pay the City an origination fee, subject to the conditions in this Fee Agreement; and

**WHEREAS**, the City desires to issue such bonds and grant the Abatement, subject to the conditions in this Fee Agreement.

**NOW THEREFORE**, in consideration of the mutual covenants contained in this Fee Agreement, the parties agree as follows:

1. The City agrees to issue its Taxable Industrial Revenue Bonds (Aspen Sunflower Industrial I, LLC Project), Series 2025, in the maximum principal amount of \$18,000,000 pursuant to K.S.A. 12-1740 *et seq.*, in an aggregate principal amount of \$18,000,000 (the “**Bonds**”), for the purpose of making the proceeds thereof available for the benefit of Tenants in Common to pay the costs of Project 1. The City further agrees, as a part of the issuance of the Bonds, to the request of Tenants in Common for the Abatement on Project 1 for a period of 10 years commencing with the calendar year following the year in which the Bonds are issued. Tenants in Common also have qualified for a Sales Tax Exemption Certificate for all Bond-financed personal property acquired for Project 1. Any such Abatement and exemption shall further be subject to applicable law, the policies of the City, and the provisions of Section 2, hereinafter.

2. The City agrees to take all actions reasonably necessary, and Tenants in Common shall cooperate, to procure the approval by the Kansas Board of Tax Appeals (“BOTA”) of the Abatement. The parties acknowledge that said Abatement is subject to the submission of an appropriate application to, and the approval of such application by, BOTA. Tenants in Common acknowledge that, although the City will execute such application and pursue with Tenants in Common such approval, the City makes no assurance that such approval will be given. Tenants in Common with the City will pursue such application to obtain an order from BOTA approving such application and granting such Abatement. If Tenants in Common determine that it is necessary to appeal the order of BOTA to secure such Abatement, the City shall cooperate with Tenants in Common, at the request and expense of Tenants in Common, in pursuance of such appeal. The continuation of such tax abatement, on an annual basis, shall be subject to the rules and procedures of BOTA and further subject to Tenants in Common’s compliance with this Fee Agreement and with all applicable rules, regulations, statutes and ordinances.

3. On or before the date of closing on the issuance of the Bonds, Tenants in Common will pay an origination fee to the City in an amount equal to 1.00% of the aggregate principal amount of the Bonds or \$100,000, whichever is less. The City shall use the origination fee solely for local economic development activities, pursuant to K.S.A. 12-1742.

4. The City agrees that it shall make no requirement in the Bond documents for any additional or other origination fees than that set forth above (the foregoing not including, however, the costs of issuance or other fees, costs or expenses which are customarily the responsibility of the beneficiary of industrial revenue bond financing), and other than certain in-lieu-of-tax payments, as prescribed by K.S.A. 12-1742.

5. This Fee Agreement is contingent upon the successful and satisfactory completion of the issuance of the Bonds. In the event the Bonds are not issued for any reason, then the parties shall be released from the provisions of this Fee Agreement.

6. All notices or communications herein required or which either party desires to give to the other shall be in writing and shall be sent by: certified or registered, return receipt requested, postage prepaid, mail; personal delivery; recognized commercial courier which maintains evidence of delivery; or confirmed electronic or facsimile transmission, and shall be deemed sufficiently given if mailed, delivered or transmitted to the respective party at the address noted for said party, as set forth hereinafter. Regardless of the actual time of receipt, all notices or communications sufficiently given are deemed given 3 days after the postmarked date if given through the mail, and on the day received if given by personal delivery, commercial courier, electronic transmission or facsimile transmission. The addresses are, as follows:

Tenants in Common: Aspen Sunflower Industrial I, LLC,  
5700 West 112<sup>th</sup> Street, Suite 110  
Overland Park, Kansas 66211  
Attn.: Manager

The City: City of Bel Aire, Kansas  
7651 East Central Park Avenue  
Bel Aire, Kansas 67226  
Attn: City Clerk

7. This Fee Agreement may be modified, amended or supplemented only by a writing of equal dignity. The parties' legal counsel may, on behalf of their respective clients, execute any writing as aforesaid and such writing shall be deemed authorized and of the same force and effect as if executed by the respective party and may be relied upon by the other party.

8. No party shall delegate or assign this Fee Agreement or any rights or duties hereunder (including by the merger or consolidation of a party with any third person) without the prior, written consent of the other. This Fee Agreement shall be binding upon and shall inure to the benefit of the City and Tenants in Common and the respective successors and permitted assigns of each upon execution hereof by the City and Tenants in Common. This Fee Agreement creates no rights as a third-party beneficiary or otherwise in any person not a party.

9. This Fee Agreement may be executed in multiple counterparts, each of which shall be deemed to be and shall constitute one and the same instrument.

10. This Fee Agreement is entered into in the State of Kansas and shall be interpreted under the laws of that state.

11. Each Tenant in Common shall be responsible only for their proportionate share of any obligations hereunder.

[BALANCE OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have executed this Fee Agreement as of the date set forth above.

[SEAL]

**CITY OF BEL AIRE, KANSAS**

ATTEST:

By: \_\_\_\_\_  
Jim Benage, Mayor

\_\_\_\_\_  
Melissa Krehbiel, City Clerk

**TENANTS IN COMMON:**

**ASPEN SUNFLOWER INDUSTRIAL I LLC,  
a Tenant in Common**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Manager  
Ownership Interest: 62.0%

**2 PATRIOTS INVESTMENTS II, LLC,  
a Tenant in Common**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Manager  
Ownership Interest: 29.6%

**SMT PROPERTIES 2, LLC,  
a Tenant in Common**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Manager  
Ownership Interest: 6.8%

**ETG A, LLC,  
a Tenant in Common**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Manager  
Ownership Interest: 0.8%

**SREV1, LLC, a Tenant in Common**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Manager  
Ownership Interest: 0.8%

**GILMORE & BELL, P.C.**  
**10/21/2025**

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**BASE LEASE AGREEMENT**

**Dated as of December 4, 2025**

---

**Between**

**ASPEN SUNFLOWER INDUSTRIAL I LLC, 2 PATRIOTS INVESTMENTS II, LLC, SMT  
PROPERTIES 2, LLC, ETG A, LLC, AND SREV1, LLC, AS TENANTS IN COMMON,  
as Lessor**

**And**

**CITY OF BEL AIRE, KANSAS,  
as Lessee**

**Relating to:**

**\$18,000,000  
(Aggregate Maximum Principal Amount)  
City of Bel Aire, Kansas  
Taxable Industrial Revenue Bonds  
(Aspen Sunflower Industrial I, LLC Project)  
Series 2025**

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BASE LEASE AGREEMENT

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BASE LEASE AGREEMENT

**THIS BASE LEASE AGREEMENT** dated as of December 4, 2025 (this “**Base Lease Agreement**”), by and between **ASPEN SUNFLOWER INDUSTRIAL I LLC**, a Kansas limited liability company, holding an undivided 62.0% interest, **2 PATRIOTS INVESTMENTS II, LLC**, a Kansas limited liability company, holding an undivided 29.6% interest, **SMT PROPERTIES 2, LLC**, a Kansas limited liability company, holding an undivided 6.8% interest, **ETG A, LLC**, a Kansas limited liability company, holding an undivided 0.8% interest, and **SREV1, LLC**, a Kansas limited liability company, holding an undivided 0.8%, as tenants in common, as lessor (the “**Tenants in Common**”), and the **CITY OF BEL AIRE, KANSAS**, a municipal corporation organized and existing under the laws of the State of Kansas, as lessee (the “**Issuer**”). *Capitalized terms not defined elsewhere herein shall have the meanings set forth in Article I.*

RECITALS:

1. The Tenants in Common have requested that the Issuer issue \$18,000,000 maximum principal amount of Taxable Industrial Revenue Bonds (Aspen Sunflower Industrial I, LLC Project), Series 2025 (the “**Bonds**”), pursuant to the Trust Indenture of even date herewith (the “**Indenture**”) between the Issuer and Security Bank of Kansas City, as trustee (the “**Trustee**”) for the purpose of providing funds to (a) finance acquiring land and constructing and equipping a building for use in industrial, manufacturing, warehouse, distribution, flex and/or office purposes, located within the corporate limits of the Issuer immediately northeast of the intersection of 53<sup>rd</sup> Street North and Webb Road (the “**Project 1**”) and (b) pay certain costs related to the issuance of the Bonds.

2. In order to satisfy the requirements of the Act, the Issuer proposes to purchase and acquire a leasehold interest in Project 1 pursuant to this Base Lease Agreement and proposes to sublease Project 1 to the Tenants in Common pursuant to the Lease Agreement dated as of December 4, 2025, between the Issuer, as sublessor, and the Tenants in Common, as sublessee (the “**Lease Agreement**”), for rentals which will be sufficient to provide for the payment of the principal, redemption premium, if any, and interest on the Bonds.

3. The Tenants in Common propose to lease Project 1 to the Issuer and the Issuer desires to lease Project 1 from the Tenants in Common upon the terms and conditions and for the purposes set forth herein;

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

ARTICLE I

DEFINITIONS

**Section 1.1. Definitions.** The terms used herein and not otherwise defined herein shall have the meanings assigned to them in the Indenture.

## ARTICLE II

### REPRESENTATIONS

**Section 2.1. Representations by Tenants in Common.** The Authorized TIC Represent and warrant that:

(a) Each of the Tenants in Common is a limited liability company duly organized and existing under the laws of the State of Kansas, has power and authority to own its properties and carry on its business as now being conducted, and is duly qualified to do such business in the State of Kansas and wherever else such qualification is required.

(b) Neither the execution and delivery of this Base Lease Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Base Lease Agreement conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which it is now a party or by which it is bound, or constitutes a default under any of the foregoing.

(c) The Tenants in Common are the owners of Project 1, each owning an undivided interest, and each Tenant in Common shall be responsible only for their proportionate share of any obligations hereunder.

**Section 2.2. Representations by Issuer.** The Issuer represents and warrants that:

(a) The Issuer is a municipal corporation organized and existing under the laws of the State of Kansas. Under the provisions of the Act, the Issuer has lawful power and authority to enter into the transactions contemplated by this Base Lease Agreement and to carry out its obligations hereunder. The Issuer has been duly authorized to execute and deliver this Base Lease Agreement, acting by and through its duly authorized officers. The Issuer agrees that it will do or use its best efforts to cause to be done all things necessary to preserve and keep in full force and effect the Issuer's existence.

(b) The Issuer is authorized, and has taken all necessary action, to issue the Bonds to provide funds for the purposes set forth in the Indenture and proposes by the Lease Agreement to sublease Project 1 to the Tenants in Common.

(c) No member of the governing body of the Issuer or any other officer of the Issuer has any significant or conflicting interest, financial, employment or otherwise, in the Tenants in Common or in the transactions contemplated hereby.

## ARTICLE III

### LEASE OF THE PROJECT

**Section 3.1. Lease of the Project.** The Tenants in Common hereby, rent, lease and let to the Issuer the interest of the Tenants in Common in Project 1, which Project 1 is described on Exhibit A, attached hereto and incorporated herein, and the Issuer rents, leases and hires Project 1 from the Tenants in Common, for rentals and upon and subject to the terms and conditions herein set forth, for a term commencing on the date hereof and ending on June 1, 2036; provided, however, this Base Lease Agreement shall remain in full force and effect so long as any obligation of the Tenants in Common under the Lease Agreement shall be outstanding and so long as the Lease Agreement shall remain in effect (the “Lease

**Term”**), unless sooner terminated in a manner provided for herein, provided that the Tenants in Common shall not exercise any right so reserved in any manner that will interfere with any rights of the Issuer hereunder.

ARTICLE IV

QUIET ENJOYMENT; RENTAL PROVISIONS

**Section 4.1. Quiet Enjoyment.** The Tenants in Common hereby covenant and agree that it will not take any action, other than pursuant to **Article V, VII or VIII** of this Base Lease Agreement, to prevent the Issuer from having quiet and peaceable possession and enjoyment of Project 1 during the Lease Term and will, at the request of the Issuer, and at the expense of the Tenants in Common, cooperate with the Issuer in order that the Issuer may have quiet and peaceable possession and enjoyment of Project 1 and will defend the Issuer’s enjoyment thereof against all parties.

**Section 4.2. Consideration and Rentals.** The Issuer shall deposit the proceeds from the sale of the Bonds with the Trustee in accordance with the Indenture. Such deposit shall constitute full and complete payment of all rentals due hereunder and following such deposit the Issuer shall not have any obligation to make any payments to any Person in connection with this Base Lease Agreement.

**Section 4.3. Sublease by Issuer.** It is understood and agreed by the Issuer and the Tenants in Common that the Issuer will sublease Project 1 to the Tenants in Common pursuant to the Lease Agreement. The Issuer shall at no time agree to any amendment or modification of the provisions of the Lease Agreement without the prior written consent of the Tenants in Common and the Trustee.

**Section 4.4. Payment of Taxes.** The Tenants in Common covenant and agree that it will, from time to time, promptly pay and discharge or cause to be paid and discharged when due and prior to delinquency all taxes, assessments and other governmental charges lawfully imposed upon Project 1 or any part thereof or upon the income and profits thereof.

ARTICLE V

SPECIAL COVENANTS

**Section 5.1. Granting of Easements.** If no Event of Default under this Base Lease Agreement shall have happened and be continuing, the Tenants in Common may, to the extent permitted under the Indenture, at any time or times (a) grant easements, licenses, rights-of-way and other rights or privileges in the nature of easements with respect to any property included in Project 1, or (b) release existing easements, licenses, rights-of-way and other rights or privileges, all with or without consideration and upon such terms and conditions as the Tenants in Common shall determine. The Issuer agrees that it will execute and deliver or will cause and direct the Trustee to execute and deliver any instrument necessary or appropriate to confirm and grant or release any such easement, license, right-of-way or other right or privilege or any such agreement or other arrangement, upon receipt by the Issuer and the Trustee of (i) a copy of the instrument of grant or release or of the agreement or other arrangement, (ii) a written application signed by the Authorized TIC Representative requesting such instrument, and (iii) a certificate executed by the Authorized TIC Representative stating that such grant or release is not detrimental to the proper conduct of the business of the Tenants in Common, is permitted by the Indenture, will not impair the effective use or

interfere with the efficient and economical operation of Project 1, and will not materially adversely affect the security intended to be given by or under the Indenture.

## **Section 5.2. Indemnification.**

(a) The Authorized TIC Release the Issuer and the Trustee from, agree that the Issuer shall not be liable for, and indemnifies the Issuer and Trustee against, all liabilities, losses, damages (including reasonable attorneys' fees), causes of action, suits, claims, costs and expenses, demands and judgments of any nature imposed upon or asserted against the Issuer on account of: (i) any loss or damage to property or injury to or death of or loss by any person that may be occasioned by any cause whatsoever pertaining to the construction, maintenance, operation and use of Project 1; (ii) any breach or default on the part of the Tenants in Common in the performance of any covenant or agreement of the Tenants in Common under the Transaction Documents, or any related document, or arising from any act or failure to act by the Tenants in Common, or any of its agents, contractors, servants, employees or licensees; (iii) violation of any law, ordinance or regulation affecting Project 1 or a part thereof or the ownership, occupancy or use thereof; (iv) the authorization, issuance and sale of the Bonds, and the provision of any information furnished in connection therewith concerning Project 1 or the Tenants in Common (including, without limitation, any information furnished by the Tenants in Common for inclusion in, or as a basis for preparation of, the information statements filed by the Issuer) or arising from (1) any errors or omissions of any nature whatsoever such that the Bonds, when delivered to the owners thereof, are not validly issued and binding obligations of the Issuer or (2) any fraud or misrepresentations or omissions contained in the proceedings of the Issuer furnished by or attributable to the Authorized TIC Relating to the issuance of the Bonds or pertaining to the financial condition of the Tenants in Common which, if known to the original purchaser, might be considered a material factor in its decision to purchase the Bonds; and (v) any claim or action or proceeding with respect to the matters set forth in subsections (i), (ii), (iii) and (iv) above brought thereon; provided, however, the indemnification contained in this paragraph shall not extend to the Issuer if such loss, claim, damage, liability or expense is the result of (a) the Issuer's (or any employees or agents thereof) negligence or willful misconduct, or (b) the Issuer not following the valid written instructions of the Tenants in Common or the Owner of the Bonds relating to the Bonds delivered to the Issuer pursuant to the terms of the Transaction Documents.

(b) In case any action or proceeding is brought against the Issuer in respect of which indemnity may be sought hereunder, the Issuer shall promptly give notice of that action or proceeding to the Tenants in Common, and the Tenants in Common upon receipt of that notice shall have the obligation and the right to assume the defense of the action or proceeding; provided, that failure of the Issuer to give that notice shall not relieve the Tenants in Common from any of their obligations under this Section unless that failure prejudices the defense of the action or proceeding by the Tenants in Common. The Issuer may employ separate counsel and participate in the defense at its own expense. The Tenants in Common shall not be liable for any settlement without their consent.

(c) The indemnification set forth above is intended to and shall include the indemnification of all affected members of the Issuer's governing body, officials, officers, attorneys, accountants, financial advisors, staff and employees of the Issuer. Such indemnification is intended to and shall be enforceable by the Issuer to the full extent permitted by law.

ARTICLE VI

ASSIGNMENT, SUBLEASING AND MORTGAGING

**Section 6.1. No Assignment, Subleasing and Mortgaging of the Project by the Issuer; Assignment by Tenants in Common.**

(a) The Issuer agrees that, except for the assignment of its interest in the Lease Agreement to the Trustee pursuant to the Indenture, it will not sell, assign, convey, mortgage, encumber or otherwise dispose of its interest in this Base Lease Agreement or any part of its interest in Project 1 except as permitted by this Base Lease Agreement and the Lease Agreement during the Lease Term. If the laws of the State of Kansas at the time shall so permit, nothing contained in this Section shall prevent the consolidation of the Issuer with, or merger of the Issuer into, or transfer of the complete interest of the Issuer in Project 1 to, any municipal or public corporation whose property and income are not subject to taxation and which has corporate authority to carry on the business of leasing Project 1; provided that, upon any such consolidation, merger or transfer, the due and punctual performance and observance of all the agreements and conditions of this Base Lease Agreement to be kept and performed by the Issuer, shall be expressly assumed in writing by such entity resulting from such consolidation or surviving such merger or to which the Issuer's complete interest in Project 1 shall be transferred.

(b) The Tenants in Common may assign this Base Lease Agreement to any person to whom the Lease Agreement is being assigned pursuant to Section 13.1(a) of the Lease Agreement.

**Section 6.2. Subordination to Mortgagee.** The Issuer acknowledges that the Tenants in Common may grant one or more mortgages, assignments of rents and leases, UCC financing statements and other security documents (each, a **"Mortgage"**) on Project 1 to a lender (each, a **"Mortgagee"**) during the term of this Base Lease Agreement. The Issuer agrees that in such case this Base Lease Agreement would be subject to and subordinate to any such Mortgage and that the Mortgagee shall not be required to grant any rights of nondisturbance with respect to this Base Lease Agreement. Upon the request of the Tenants in Common, the Issuer shall provide any additional documentation evidencing such subordination as required by the Mortgagee.

ARTICLE VII

DEFAULT AND REMEDIES

**Section 7.1. Events of Default.** An **"Event of Default"** or **"default"** shall mean, wherever used in this Base Lease Agreement, any failure by the Issuer to observe and perform any covenant, condition or agreement in this Base Lease Agreement on its part to be observed or performed and the lapse of a period of 60 days after written notice, specifying such failure and requesting that it be remedied, given to the Issuer and the Trustee by the Tenants in Common, unless the Tenants in Common shall agree in writing to an extension of such time prior to its expiration.

**Section 7.2. Remedies on Default.** Whenever an Event of Default specified in **Section 7.1** hereof shall have happened and be continuing, the Tenants in Common shall have the option to provide for the termination of this Base Lease Agreement in the manner provided in **Article VIII**. The Issuer and the Tenants in Common shall each be entitled to specific performance and injunctive or other equitable relief for any breach or threatened breach of any of the provisions of this Base Lease Agreement, notwithstanding availability of an adequate remedy at law, and each party hereby waives the right to raise such defense in

any proceeding in equity; provided, however, no remedy shall be exercised against such party in any manner which may impair the payment of principal of, premium, if any, or interest on any of the Bonds.

**Section 7.3. Performance by Issuer.** The Issuer shall not be obligated to take any action or execute any instrument pursuant to any provision hereof until it shall have been requested to do so by the Tenants in Common in writing, or shall have received the instrument to be executed, and at the Issuer’s option shall have received from the Tenants in Common assurance or indemnity satisfactory to the Issuer that the Issuer shall be reimbursed for its reasonable expenses incurred or to be incurred in connection with taking such action or executing such instrument. Nothing in this Section is intended to imply that the Issuer must take any action or execute any instrument unless specifically required to do so by this Base Lease Agreement.

ARTICLE VIII

EARLY TERMINATION OF THIS BASE LEASE AGREEMENT

**Section 8.1. Early Termination of this Base Lease Agreement.**

- (a) In the event the Tenants in Common shall cause all of the Bonds to be paid in the manner set forth in **Article XIII** of the Indenture, the Tenants in Common shall be entitled to terminate this Base Lease Agreement prior to the end of the Lease Term upon written notice to the Issuer and the Trustee. Upon such termination the Issuer shall deliver to the Tenants in Common any instruments which may be reasonably required by the Tenants in Common to evidence such termination and the relinquishment of all of the Issuer’s rights and interest in Project 1 and in this Base Lease Agreement.
- (b) In the event that any Mortgagee exercises its rights of foreclosure pursuant to the terms of any Mortgage of Project 1 and subsequently takes title to Project 1, such Mortgagee, shall be entitled to terminate this Base Lease Agreement upon five (5) days written notice to the Issuer, provided, that if the holder of any of the Bonds is an entity other than the Mortgagee or the lessee under the Lease Agreement, the Tenants in Common shall remain liable for all outstanding amounts owed to Issuer under this Base Lease Agreement or the Lease Agreement, including, but not limited to, the payment of principal, premium, if any, or interest on any of the Bonds.

ARTICLE IX

MISCELLANEOUS

**Section 9.1. Notices.** All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given to the appropriate notice address by the methods set forth in the Indenture. A duplicate copy of each notice, certificate or other communication given hereunder by either the Issuer or the Tenants in Common to the other shall also be given to the Trustee and to the original purchaser of the Bonds. A duplicate copy of each notice given by the Issuer or the Tenants in Common or either of them to the Trustee shall also be given to the other party hereto. The Issuer, the Tenants in Common and the Trustee may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

**Section 9.2. Binding Effect.** This Base Lease Agreement shall inure to the benefit of and shall be binding upon Issuer, the Tenants in Common and their respective successors and assigns. The Trustee shall be third-party beneficiary of this Base Lease Agreement.

**Section 9.3. Severability.** In the event any provision of this Base Lease Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**Section 9.4. Amounts Remaining in Funds and Accounts.** It is agreed by the parties hereto that any amounts remaining in the Funds and Accounts under the Indenture upon (i) expiration or sooner termination of this Base Lease Agreement as provided herein or after payment in full of the Bonds (or provision for payment thereof having been made in accordance with the provisions of the Indenture), and (ii) payment of fees and expenses of the Trustee in accordance with the Indenture, shall be paid in accordance with the provisions of the Indenture.

**Section 9.5. Amendments, Changes and Modifications.** Subsequent to the issuance of the Bonds and prior to their payment in full (or provision for the payment thereof having been made in accordance with the provisions of **Article X** of the Indenture), this Base Lease Agreement may not be effectively amended, changed, modified, altered or terminated without the written consent of the parties hereto and the Trustee and the Bondowner.

**Section 9.6. Execution in Counterparts.** This Base Lease Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**Section 9.7. Applicable Law.** This Base Lease Agreement shall be governed by and construed in accordance with the laws of the State of Kansas.

**Section 9.8. Electronic Storage and Transactions.** The parties agree that the transactions described herein may be conducted and related documents may be received, sent or stored by electronic means. All closing documents, certificates, and related instruments may be executed by electronic transmission. Copies, telecopies, facsimiles, electronic files, and other reproductions of original executed documents (or documents executed by electronic transmission) shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

**Section 9.9. Captions.** The captions or headings in this Base Lease Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Base Lease Agreement.

[BALANCE OF PAGE INTENTIONALLY LEFT BLANK]



**IN WITNESS WHEREOF**, the Issuer has caused this Base Lease Agreement to be executed in its name and its seal to be hereunto affixed and attested by its duly authorized officers and the Tenants in Common have caused this Base Lease Agreement to be executed in its name and attested by its duly authorized officers all as of the date first above written.

**CITY OF BEL AIRE, KANSAS**

[SEAL]

ATTEST:

By: \_\_\_\_\_  
Jim Benage, Mayor

\_\_\_\_\_  
Melissa Krehbiel, City Clerk

**TENANTS IN COMMON:**

**ASPEN SUNFLOWER INDUSTRIAL I LLC,  
a Tenant in Common**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Manager  
Ownership Interest: 62.0%

**2 PATRIOTS INVESTMENTS II, LLC,  
a Tenant in Common**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Manager  
Ownership Interest: 29.6%

**SMT PROPERTIES 2, LLC,  
a Tenant in Common**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Manager  
Ownership Interest: 6.8%

**ETG A, LLC,  
a Tenant in Common**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Manager  
Ownership Interest: 0.8%

**SREV1, LLC, a Tenant in Common**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Manager  
Ownership Interest: 0.8%

## **EXHIBIT A**

### **Description of Project 1**

All real property, buildings, improvements, equipment, furnishings and machinery owned or leased by the Tenants in Common and paid for in whole or in part with the proceeds of the Bonds and located or to be located on the following property:

### **LEGAL DESCRIPTION**

Lot 1, Block 1, SUNFLOWER COMMERCE PARK 4<sup>TH</sup>, a subdivision of land in the City of Bel Aire, Sedgwick County, Kansas;

**GILMORE & BELL, P.C.**  
**10/21/2025**

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**CITY OF BEL AIRE, KANSAS,**  
**As Lessor,**

**AND**

**ASPEN SUNFLOWER INDUSTRIAL I LLC, 2 PATRIOTS INVESTMENTS II, LLC, SMT  
PROPERTIES 2, LLC, ETG A, LLC, AND SREV1, LLC, AS TENANTS IN COMMON,**  
**As Lessee**

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**LEASE AGREEMENT**

**Dated as of December 4, 2025**

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**Relating to:**

**\$18,000,000**  
**(Aggregate Maximum Principal Amount)**  
**City of Bel Aire, Kansas**  
**Taxable Industrial Revenue Bonds**  
**(Aspen Sunflower Industrial I, LLC Project)**  
**Series 2025**

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The interest of the City of Bel Aire, Kansas (the “Issuer”), in this Lease Agreement has been pledged and assigned to Security Bank of Kansas City, as Trustee under the Trust Indenture dated as of December 4, 2025, between the Issuer and the Trustee.

LEASE AGREEMENT

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LEASE AGREEMENT

**THIS LEASE AGREEMENT**, dated as of December 4, 2025 (the **“Lease”**), between the **CITY OF BEL AIRE, KANSAS**, a municipal corporation organized and existing under the laws of the State of Kansas (the **“Issuer”**), as lessor, and **ASPEN SUNFLOWER INDUSTRIAL I LLC**, a Kansas limited liability company, holding an undivided 62.0% interest, **2 PATRIOTS INVESTMENTS II, LLC**, a Kansas limited liability company, holding an undivided 29.6% interest, **SMT PROPERTIES 2, LLC**, a Kansas limited liability company, holding an undivided 6.8% interest, **ETG A, LLC**, a Kansas limited liability company, holding an undivided 0.8% interest, and **SREV1, LLC**, a Kansas limited liability company, holding an undivided 0.8%, as tenants in common, as lessee (the **“Tenants in Common”**);

**WITNESSETH:**

**WHEREAS**, the Issuer is authorized under the provisions of K.S.A. 12-1740 to 12-1749d, inclusive, as amended (the **“Act”**), to purchase, acquire, construct, improve, equip, remodel, sell and lease certain facilities within its jurisdiction for commercial purposes, and to issue revenue bonds for the purpose of paying the cost of such facilities, and to pledge the income and revenues to be derived from the operation of such facilities to secure the payment of the principal of and interest on such bonds;

**WHEREAS**, pursuant to the Act, the governing body of the Issuer has heretofore passed Ordinance No. \_\_\_\_\_ (the **“Ordinance”**) on December 4, 2025, authorizing the Issuer to issue its Taxable Industrial Revenue Bonds (Aspen Sunflower Industrial I, LLC Project), Series 2025, in the maximum principal amount of \$18,000,000 (the **“Bonds”**), for the purpose providing funds to finance acquiring land and constructing and equipping a building for use in industrial, manufacturing, warehouse, distribution, flex and/or office purposes, located within the corporate limits of the Issuer immediately northeast of the intersection of 53<sup>rd</sup> Street North and Webb Road (the **“Project 1”**), and authorizing the Issuer to lease Project 1 to the Tenants in Common;

**WHEREAS**, pursuant to the Base Lease Agreement dated as of December 4, 2025, between the Tenants in Common and the Issuer (the **“Base Lease Agreement”**), the Issuer has leased Project 1 from the Tenants in Common for the term stated therein;

**WHEREAS**, pursuant to the Ordinance, the Issuer is authorized to enter into a Trust Indenture of even date herewith (the **“Indenture”**), with Security Bank of Kansas City (the **“Trustee”**), for the purpose of issuing and securing the Bonds, as therein provided, and to enter into this Lease Agreement with the Tenants in Common under which the Issuer will acquire, purchase, construct, improve, furnish, and equip Project 1 and will lease Project 1 to the Tenants in Common in consideration of rental payments by the Tenants in Common which will be sufficient to pay the principal of and interest on the Bonds;

**WHEREAS**, pursuant to the foregoing, the Issuer desires to lease Project 1 to the Tenants in Common and the Tenants in Common desires to lease Project 1 from the Issuer, for the rentals and upon the terms and conditions hereinafter set forth;

**NOW, THEREFORE**, in consideration of the premises and the mutual representations, covenants and agreements herein contained, the Issuer and the Tenants in Common do hereby represent, covenant and agree as follows:

## ARTICLE I

### DEFINITIONS

**Section 1.1. Definitions of Words and Terms.** In addition to any words and terms defined elsewhere in this Lease Agreement and the words and terms defined in **Section 101** of the Indenture which definitions are hereby incorporated herein by reference, and terms defined, the following words and terms as used in this Lease Agreement shall have the following meanings:

**“Additional Rent”** means the additional rental described in **Sections 5.2** and **6.2** of this Lease Agreement and, in addition, all payments required to be made to the Sedgwick County Treasurer in lieu of general ad valorem and personal property taxes pursuant to the PILOT Agreement.

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

**“Event of Default”** means any Event of Default as described in **Section 12.1** of this Lease Agreement.

**“Leasehold Mortgage”** means any Leasehold Mortgage, Assignment of Rents and Leases and Security Agreement, relating to Project 1 and any other leasehold mortgage permitted pursuant to the provisions of **Section 10.4(b)** hereof.

**“Lease Term”** means the period from the effective date of this Lease Agreement until the expiration thereof pursuant to **Section 3.2** of this Lease Agreement.

**“Mortgage”** means, collectively, any mortgage, assignment of rents and leases, UCC financing statements, or other security documents granted by the Tenants in Common on Project 1 to secure a loan to finance or refinance all or a portion of Project 1.

**“Net Proceeds”** means, when used with respect to any insurance or condemnation award with respect to Project 1, the gross proceeds from the insurance or condemnation award with respect to which that term is used remaining after payment of all expenses (including attorneys’ fees, trustee’s fees and any extraordinary expenses of the Issuer and the Trustee) incurred in the collection of such gross proceeds.

**“Permitted Encumbrances”** means, as of any particular time (a) liens for ad valorem taxes and special assessments not then delinquent, (b) the Indenture, (c) the Base Lease Agreement and this Lease Agreement, (d) utility, access and other easements and rights-of-way, mineral rights, restrictions, exceptions and encumbrances that will not materially interfere with or impair the operations being conducted on the Project Site or easements granted to the Issuer, (e) such minor defects, irregularities, encumbrances, easements, mechanic's liens, rights-of-way and clouds on title as normally exist with respect to properties similar in character to Project 1 and as do not in the aggregate materially impair the property affected thereby for the purpose for which it was acquired or is held by the Issuer, (f) the Mortgage, (g) any subleases permitted by **Section 3.4** hereof, and (h) any other lien, encumbrance, lease, easements, restrictions or covenants consented to by the Owner of 100% of the principal amount of the Bonds.

**“Plans and Specifications”** means the plans and specifications prepared for and showing Project 1, as amended by the Tenants in Common from time to time prior to the Completion Date, the same being duly certified by the Tenants in Common, and on file at the principal office of the Authorized TIC Representative and which shall be available for reasonable inspection by the Issuer, the Trustee and their duly appointed representatives.



**“Project Equipment”** means all items of machinery, equipment and parts or other personal property installed or acquired or to be acquired for installation in the Project Improvements or elsewhere on the Project Site pursuant to **Article IV** hereof and paid for in whole or in part from the proceeds of Bonds, as described in **Exhibit C** attached hereto and by this reference made a part hereof, and all replacements thereof and substitutions therefor made pursuant to this Lease Agreement.

**“Project Improvements”** means all buildings, structures, improvements and fixtures located on or to be acquired, purchased, constructed, improved or remodeled on the Project Site pursuant to **Article IV** hereof, including all rights-of-way and appurtenances necessary and convenient therefor, as described in **Exhibit B** attached hereto and by this reference made a part hereof, and all additions, alterations, modifications and improvements thereof made pursuant to this Lease Agreement.

**“Project Site”** means all of the real estate described in **Exhibit A** attached hereto and by this reference made a part hereof.

**Section 1.2. Rules of Interpretation.**

- (a) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders.
- (b) Unless the context shall otherwise indicate, words importing the singular number shall include the plural and vice versa, and words importing persons shall include firms, associations and corporations, including governmental entities, as well as natural persons.
- (c) Wherever in this Lease Agreement it is provided that either party shall or will make any payment or perform or refrain from performing any act or obligation, each such provision shall, even though not so expressed, be construed as an express covenant to make such payment or to perform, or not to perform, as the case may be, such act or obligation.
- (d) All references in this instrument to designated “Articles,” “Sections” and other subdivisions are, unless otherwise specified, to the designated Articles, Sections and subdivisions of this instrument as originally executed. The words “herein,” “hereof,” “hereunder” and other words of similar import refer to this Lease Agreement as a whole and not to any particular Article, Section or other subdivision.
- (e) The Table of Contents and the Article and Section headings of this Lease Agreement shall not be treated as a part of this Lease Agreement or as affecting the true meaning of the provisions hereof.

**ARTICLE II**

**REPRESENTATIONS**

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

- (a) The Issuer is a municipal corporation duly organized and validly existing under the laws of the State of Kansas. Under the provisions of the Act, the Issuer has lawful power and authority to enter into the transactions contemplated by this Lease Agreement and to carry out its obligations hereunder. By proper action of its governing body, the Issuer has been duly authorized to execute and deliver this Lease Agreement, acting by and through its duly authorized officers.

(b) The Issuer proposes to acquire a leasehold interest in the Project Site, subject to Permitted Encumbrances, and proposes to acquire, purchase, construct, improve, furnish, equip and remodel or cause to be acquired, purchased, constructed, improved, furnished, equipped and remodeled on the Project Site the Project Improvements, and proposes to acquire and install, or cause to be acquired and installed, the Project Equipment in the Project Improvements or on the Project Site. The Issuer proposes to lease Project 1 to the Tenants in Common and sell Project 1 to the Tenants in Common if the Tenants in Common exercise their option to purchase Project 1, all for the purpose of furthering the public purposes of the Act, and the governing body of the Issuer has found and determined that the acquisition, purchase, construction, improving, furnishing, equipping and remodeling of Project 1 will further the public purposes of the Act.

(c) To finance the costs of Project 1, the Issuer proposes to issue the Bonds which will be scheduled to mature as set forth in **Article II** of the Indenture and will be subject to redemption prior to maturity in accordance with the provisions of **Article III** of the Indenture.

(d) The Bonds are to be issued under and secured by the Indenture, pursuant to which Project 1 and the net earnings therefrom, including all rents, revenues and receipts to be derived by the Issuer from the leasing or sale of Project 1, will be pledged and assigned to the Trustee as security for payment of the principal of and interest on the Bonds.

(e) The Issuer will not mortgage Project 1 or pledge the revenues derived therefrom for any bonds or other obligations other than the Bonds except with the written consent of the Authorized TIC Representative.

(f) The Issuer shall have no authority to operate Project 1 as a business or in any other manner except as the lessor thereof.

(g) The acquisition, purchase, construction, improvement, furnishing, and equipping and of Project 1 and the leasing of Project 1 by the Issuer to the Tenants in Common will further the public purposes of the Act.

(h) No member of the governing body of the Issuer or any other officer of the Issuer has any significant or conflicting interest, financial, employment or otherwise, in the Tenants in Common or in the transactions contemplated hereby.

**Section 2.2. Representations by the Tenants in Common.** The Tenants in Common make the following representations as the basis for the undertakings on their part herein contained:

(a) Each of the Tenants in Common is a limited liability company duly organized, and validly existing limited liability company organized under the laws of the State of Kansas and duly qualified to do business in the State of Kansas.

(b) The Tenants in Common have lawful power and authority to enter into this Lease Agreement and to carry out their obligations hereunder and by proper corporate action of their members, the Tenants in Common have been duly authorized to execute and deliver this Lease Agreement.

(c) The execution and delivery of this Lease Agreement, the consummation of the transactions contemplated hereby, and the performance of or compliance with the terms and conditions of this Lease Agreement by the Tenants in Common will not conflict with or result in a material breach of any of the terms, conditions or provisions of, or constitute a material default under, any mortgage, deed of trust, lease or any other restrictions or any agreement or instrument to which the Tenants in Common are a party or by

which they or any of their property is bound, or any order, rule or regulation applicable to the Tenants in Common or any of their property of any court or governmental body, or constitute a material default under any of the foregoing, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Tenants in Common under the terms of any instrument or agreement to which the Tenants in Common are a party.

(d) Project 1 will comply with all presently applicable building and zoning, health, environmental and safety ordinances and laws, and to the best of their knowledge, without independent investigation, Project 1 will comply with all other applicable laws, rules and regulations.

(e) Project 1 is located wholly within the corporate limits of the Issuer.

**Section 2.3. Survival of Representations.** All representations of the Issuer and the Tenants in Common contained in this Lease Agreement or in any certificate or other instrument delivered by the Issuer and the Tenants in Common pursuant to this Lease Agreement, the Indenture, or any other Transaction Document, or in connection with the transactions contemplated thereby, shall survive the execution and delivery thereof and the issuance, sale and delivery of the Bonds, as representations of facts existing as of the date of execution and delivery of the instruments containing such representations.

## ARTICLE III

### GRANTING PROVISIONS

**Section 3.1. Granting of Leasehold Estate.** The Issuer hereby rents, leases and lets Project 1 to the Tenants in Common, subject to Permitted Encumbrances, and the Tenants in Common hereby rent, lease and hire Project 1 from the Issuer, subject to Permitted Encumbrances, for the rentals and upon and subject to the terms and conditions herein contained.

**Section 3.2. Lease Term.** This Lease Agreement shall become effective upon its delivery, and subject to sooner termination pursuant to the provisions of this Lease Agreement, shall have an initial term commencing as of the date of this Lease Agreement and terminating on June 1, 2036.

### **Section 3.3. Possession and Use of the Project.**

(a) The Issuer covenants and agrees that as long as neither the Issuer nor the Trustee has exercised any of the remedies set forth in **Section 12.2(c)** following the occurrence and continuance of an Event of Default, the Tenants in Common shall have sole and exclusive possession of Project 1 (subject to Permitted Encumbrances and the Issuer's and the Trustee's right of access pursuant to **Section 10.3** hereof) and shall and may peaceably and quietly have, hold and enjoy Project 1 during the Lease Term. The Issuer covenants and agrees that it will not take any action, other than expressly pursuant to **Article XII** of this Lease Agreement, to prevent the Tenants in Common from having quiet and peaceable possession and enjoyment of Project 1 during the Lease Term and will, at the request and expense of the Tenants in Common, cooperate with the Tenants in Common in order that the Tenants in Common may have quiet and peaceable possession and enjoyment of Project 1 and will defend the Tenants in Common's enjoyment and possession thereof against all parties.

(b) Subject to the provisions of this Section, the Tenants in Common shall have the right to use Project 1 for any lawful purpose allowed by law and contemplated by the Act. The Tenants in Common shall comply with all statutes, laws, ordinances, orders, judgments, decrees, regulations, directions and requirements of all federal, state, local and other governments or governmental authorities, now or hereafter

applicable to Project 1 or to any adjoining public ways, as to the manner of use or the condition of Project 1 or of adjoining public ways. The Tenants in Common shall also comply with the mandatory requirements, rules and regulations of all insurers under the policies carried under the provisions of **Article VII** hereof. The Tenants in Common shall pay all costs, expenses, claims, fines, penalties and damages that may in any manner arise out of, or be imposed as a result of, the failure of the Tenants in Common to comply with the provisions of this Section. Notwithstanding any provision contained in this Section, however, the Tenants in Common shall have the right, at their own cost and expense, to contest or review by legal or other appropriate procedures the validity or legality of any such governmental statute, law, ordinance, order, judgment, decree, regulation, direction or requirement, or any such requirement, rule or regulation of an insurer, and during such contest or review the Tenants in Common may refrain from complying therewith.

**Section 3.4. Sublease by the Tenants in Common.** The Tenants in Common may rent and sublease all or portions of Project 1 for use by others in the normal course of their business without the consent of the Issuer. Any such subleases entered into after the effective date of this Lease Agreement shall be subject and subordinate in all respects to the provisions of this Lease Agreement. Nothing in this Lease Agreement shall allow the Issuer, its successors or assigns, to disturb the rights of a sublessee to use Project 1 under the terms and conditions as set forth in such sublessee's sublease with the Tenants in Common.

**Section 3.5. Subordination to Lender.** The Issuer acknowledges that the Tenants in Common may grant a Mortgage, Leasehold Mortgage, and/or other security on Project 1 to a lender (each, a "**Mortgagee**") during the term of this Lease Agreement. The Issuer agrees that in such case this Lease Agreement shall be subject to, and subordinate to, any such Mortgage or Leasehold Mortgage, and that the Mortgagee shall not be required to grant any rights of nondisturbance with respect to this Lease Agreement. Upon the request of the Tenants in Common and at Tenants in Common's sole cost and expense, the Issuer shall provide any additional reasonable documentation evidencing such subordination as required by the Mortgagee.

## ARTICLE IV

### PURCHASE, CONSTRUCTION, RENOVATION, INSTALLATION AND EQUIPPING OF THE PROJECT

#### **Section 4.1. Issuance of the Bonds.**

(a) In order to for the financing of the Project Costs, the Issuer agrees that it will issue, sell and cause to be delivered to the purchaser thereof the Bonds in accordance with the provisions of the Indenture and the Bond Purchase Agreement. The proceeds of the sale of the Bonds, when received, shall be paid over to the Trustee for the account of the Issuer. The Trustee shall promptly deposit such proceeds, when received, as provided in the Indenture, to be used and applied as hereinafter provided in this Article and in the Indenture.

(b) The Issuer may authorize the issuance of Additional Bonds from time to time upon the terms and conditions provided in **Section 209** of the Indenture for the purposes described therein.

(c) If the Tenants in Common are not in default hereunder, the Issuer will, at the request of the Tenants in Common, from time to time, use its best efforts to issue the amount of Additional Bonds specified by the Tenants in Common; provided that the terms of such Additional Bonds, the purchase price to be paid therefor and the manner in which the proceeds therefrom are to be disbursed shall have been approved in writing by the Tenants in Common; provided further that the Tenants in Common and the Issuer shall have entered into an amendment to this Lease Agreement to provide for rent in an amount at least sufficient to

pay principal and interest on the Additional Bonds when due and the Issuer shall have otherwise complied with the provisions of the Indenture with respect to the issuance of such Additional Bonds.

**Section 4.2. Purchase, Construction, Renovation, Installation and Equipping of the Project.**

The Issuer and the Tenants in Common agree that the Issuer will and the Tenants in Common as the agents of the Issuer shall, but solely from the Project Fund except as otherwise provided herein, acquire, purchase, construct, improve, furnish, equip and remodel Project 1 as follows:

(a) Concurrently with the execution of this Lease Agreement, the Issuer will acquire a leasehold interest in the Project Site and any Project Improvements and Project Equipment located on the Project Site.

(b) The Tenants in Common will, on behalf of the Issuer, acquire, purchase, construct, improve and remodel the Project Improvements on the Project Site and otherwise improve the Project Site in accordance with the Plans and Specifications. The Tenants in Common may make minor changes in and to the construction contracts and the Plans and Specifications incorporated therein without the consent of the Issuer. The Tenants in Common shall notify the Issuer in writing of major changes. Major changes shall be any change that has an estimated cost (increase or decrease) of \$500,000. The Tenants in Common agree that the aforesaid acquisition, purchase, construction, improvement and remodeling will, with such changes and additions as may be made hereunder, result in a Project suitable for use by the Tenants in Common for their purposes, and that all real and personal property described therein is necessary in connection with Project 1.

(c) The Tenants in Common will, on behalf of the Issuer, purchase and install the Project Equipment in the Project Improvements or on the Project Site in accordance with the Plans and Specifications. The Issuer and the Tenants in Common recognize that the Project Equipment is subject to change during the construction period and thereafter pursuant to the provisions of this Lease Agreement, and agree that the definitive list of the Project Equipment shall be the list maintained by the Trustee pursuant to **Section 10.8** of this Lease Agreement.

(d) The Tenants in Common agrees that they will use their best efforts to cause the acquisition, purchase, construction, improvement, furnishing, equipping and remodeling of Project 1 to be completed as soon as practicable with all reasonable dispatch. In the event such acquisition, purchase, construction, improvement, furnishing, equipping and remodeling commences prior to the receipt of proceeds from the sale of the Bonds, the Tenants in Common agree to advance all funds necessary for such purpose. The Tenants in Common may seek reimbursement for all such funds advanced.

**Section 4.3. Project Costs.** The term Project Costs shall have the meaning set forth in the Indenture.

The Issuer hereby agrees to pay for, but solely from the Project Fund, and hereby authorizes and directs the Trustee to pay for, but solely from the Project Fund, all Project Costs upon receipt by the Trustee of a certificate pursuant to **Section 4.4** hereof. The proceeds of the Bonds shall only be used to pay for Project Costs that are part of Project 1.

**Section 4.4. Payment for Project Costs.** All Project Costs as specified in **Section 4.3** hereof shall be paid by the Trustee from the Project Fund as more fully provided in the Indenture. The Issuer hereby authorizes and directs the Trustee to make disbursements from the Project Fund, upon receipt by the Trustee of certificates in substantially the form attached hereto as **Exhibit D**, signed by an Authorized Tenants in Common Representative:

(a) requesting payment of a specified amount of such funds and directing to whom such amount shall be paid (whose name and address shall be stated);

(b) describing in reasonable detail each item of Project Costs for which payment is being requested;

(c) stating that each item for which payment is requested is or was necessary and appropriate in connection with the purchase, acquisition, construction, improvement, furnishing, equipping or remodeling of Project 1, has been properly incurred and is a proper charge against the Project Fund, that the amount requested either has been paid, or is justly due, and has not been the basis of any previous requisition from the Project Fund; and

(d) stating that, except for the amounts, if any, stated in said certificate, to the best of their knowledge there are no outstanding statements which are then due and payable for labor, wages, materials, supplies or services in connection with the purchase, acquisition, construction, improving, furnishing, equipping or remodeling of Project 1 which, if unpaid, might become the basis of a vendors', mechanics', laborers' or materialmen's statutory or other similar lien upon Project 1 or any part thereof, or setting out (i) all disputed statements and the reason for such disputes, and (ii) all statements in process but not yet presented to the Trustee for payment.

The Trustee may rely conclusively on any such certificate and shall not be required to make any independent investigation in connection therewith. In addition, the Project Costs may be paid or deemed to be paid in such manner as provided by the Trustee upon receipt of any such certificate.

**Section 4.5. Establishment of Completion Date.** The Completion Date shall be evidenced to the Trustee by a certificate signed by the Authorized TIC Representative stating (a) that the acquisition, purchase, construction, improvement, furnishing, equipping and remodeling of Project 1 has been completed in accordance with the Plans and Specifications, (b) that all costs and expenses incurred in the acquisition, purchase, construction, improvement, furnishing, equipping and remodeling of Project 1 have been paid except costs and expenses the payment of which is not yet due or is being retained or contested in good faith by the Tenants in Common, and (c) amounts to be retained by Trustee with respect to item (b) above. Notwithstanding the foregoing, such certificate shall state that it is given without prejudice to any rights against third parties which exist at the date of such certificate, or which may subsequently come into being. The Tenants in Common and the Issuer agree to cooperate in causing such certificate to be furnished to the Trustee.

#### **Section 4.6. Surplus or Deficiency in Project Fund.**

(a) Upon receipt of the certificate described in **Section 4.5** hereof, the Trustee shall, as provided in **Section 504** of the Indenture, transfer any remaining moneys then in the Project Fund to the Bond Fund to be applied as directed by the Tenants in Common solely to (1) the payment of principal and premium, if any, of the Bonds through the payment (including regularly scheduled principal payments, if any) or redemption thereof at the earliest date permissible under the terms of the Indenture, or (2) at the option of the Tenants in Common, to the purchase of Bonds, to the extent practical, pursuant to the appropriate written instructions of the Tenants in Common, at such earlier date or dates as the Tenants in Common may elect. Any amount so deposited in the Bond Fund may be invested as permitted by **Section 702** of the Indenture.

(b) If the Project Fund shall be insufficient to pay fully all Project Costs and to complete Project 1 lien free, the Tenants in Common shall pay, in cash, the full amount of any such deficiency by

making payments thereof directly to the contractors and to the suppliers of materials and services as the same shall become due, and the Tenants in Common shall save the Issuer and the Trustee whole and harmless from any obligation to pay such deficiency.

## ARTICLE V

### RENT PROVISIONS

**Section 5.1. Basic Rent.** The Tenants in Common covenants and agrees to pay to the Trustee in same day funds for the account of the Issuer during this Lease Term, on or before 11:00 a.m., Trustee's local time, on each Interest Payment Date, as Basic Rent for the Project Site, an amount which, when added to any collected funds then on deposit in the Bond Fund and available for the payment of principal of the Bonds and the interest thereon on such Interest Payment Date, shall be equal to the amount payable on such payment date as principal of the Bonds and the interest thereon as provided in the Indenture. Each Tenant in Common shall be responsible only for their proportionate share of any obligations hereunder. All payments of Basic Rent provided for in this Section shall be paid directly to the Trustee and shall be deposited in accordance with the provisions of the Indenture into the Bond Fund and shall be used and applied by the Trustee in the manner and for the purposes set forth in this Lease Agreement and the Indenture. In the event the Authorized TIC Representative is the sole Bondowner, then the Tenants in Common may set-off their obligation to the Issuer as lessee under this Lease Agreement against the Issuer's obligations to the Authorized TIC Representative as Bondowner under the Indenture. The Trustee may conclusively rely on the absence of any notice from the Tenants in Common to the contrary as evidence that such set-off has occurred. Subject to the other provisions of this Lease Agreement and the Indenture, at any time that the Authorized TIC Representative is the sole Bondowner, the Tenants in Common may, at their option, make payments of Basic Rent, including prepayment of Basic Rent: (i) by tendering a portion of the principal amount of the Bonds equal to such principal payment thereon to the Trustee for cancellation, or (ii) via transaction entry on the trust records held by the Trustee and the Paying Agent without requiring the Tenants in Common to wire or otherwise transfer any moneys to such Owner or the Trustee.

**Section 5.2. Additional Rent.** The Tenants in Common shall pay as Additional Rent the following amounts:

(a) all reasonable fees, charges and expenses, including, without limitation, agent and counsel fees and expenses, of the Trustee and the Paying Agent incurred under the Indenture, the Lease Agreement or any other document entered into in connection with the Bonds, as and when the same become due;

(b) all costs incident to the payment of the principal of and interest on the Bonds as the same becomes due and payable, including all costs and expenses in connection with the call, redemption and payment of all Outstanding Bonds;

(c) all fees, costs, charges and expenses reasonably incurred in connection with the enforcement of any rights against the Tenants in Common or Project 1 under this Lease Agreement or the Indenture by the Issuer, the Trustee or the Bondowners, except for such expenses as may be incurred solely as a result of the negligence or wrongful misconduct of the Issuer, the Trustee or both;

(d) an amount sufficient to reimburse the Issuer for all expenses reasonably incurred by the Issuer hereunder and in connection with the performance of their obligations under this Lease Agreement, the Indenture or the PILOT Agreement;

(e) all amounts payable under the PILOT Agreement;

- (f) all annual fees of the Issuer or the Kansas Board of Tax Appeals; and
- (g) all other payments of whatever nature which the Tenants in Common have agreed to pay or assume under the provisions of this Lease Agreement, the Indenture or any other document entered into in connection with the Bonds.

### **Section 5.3. Obligations of Tenants in Common Absolute and Unconditional.**

(a) The obligations of the Tenants in Common under this Lease Agreement to make payments of Basic Rent and Additional Rent on or before the date the same become due, and to perform all of their other obligations, covenants and agreements hereunder shall be absolute and unconditional, without notice or demand, and without abatement, deduction, set-off, counterclaim, recoupment or defense or any right of termination or cancellation arising from any circumstance whatsoever, whether now existing or hereafter arising, and irrespective of whether Project 1 shall have been started or completed, or whether the Issuer's title thereto or to any part thereof is defective or nonexistent, and notwithstanding any damage to, loss, theft or destruction of, Project 1 or any part thereof, any failure of consideration or frustration of commercial purpose, the taking by eminent domain of title to or of the right of temporary use of all or any part of Project 1, legal curtailment of the Tenants in Common's use thereof, the eviction or constructive eviction of the Tenants in Common, any change in the tax or other laws of the United States of America, the State of Kansas or any political subdivision thereof, any change in the Issuer's legal organization or status, or any default of the Issuer hereunder, and regardless of the invalidity of any action of the Issuer, and regardless of the invalidity of any portion of this Lease Agreement. Notwithstanding any other provisions herein, each Tenant in Common shall be responsible only for their proportionate share of obligations hereunder.

(b) Nothing in this Lease Agreement shall be construed to release the Issuer from the performance of any agreement on its part herein contained or as a waiver by the Tenants in Common of any rights or claims the Tenants in Common may have against the Issuer under this Lease Agreement or otherwise, but any recovery upon such rights and claims shall be had from the Issuer separately, it being the intent of this Lease Agreement that the Tenants in Common shall be unconditionally and absolutely obligated to perform fully all of their obligations, agreements and covenants under this Lease Agreement (including the obligation to pay Basic Rent and Additional Rent) for the benefit of the Bondowners. The Tenants in Common may, however, at their own cost and expense and in their own name or in the name of the Issuer, prosecute or defend any action or proceeding or take any other action involving third persons which the Tenants in Common deems reasonably necessary in order to secure or protect their right of possession, occupancy and use hereunder, and in such event the Issuer hereby agrees to cooperate fully with the Tenants in Common and to take all action necessary to effect the substitution of the Tenants in Common for the Issuer in any such action or proceeding if the Tenants in Common shall so request.

**Section 5.4. Prepayment of Basic Rent.** The Tenants in Common may at any time prepay all or any part of the Basic Rent provided for hereunder. During such times as the amount held by the Trustee in the Bond Fund shall be sufficient to pay, at the time required, the principal of and interest on all the Bonds then remaining unpaid, the Tenants in Common shall not be obligated to make payments of Basic Rent under the provisions of this Lease Agreement.

**Section 5.5. Redemption of Bonds.** The Issuer and the Trustee, at the written direction of the Tenants in Common, at any time the aggregate moneys in the Bond Fund are sufficient for such purposes or Bonds have been submitted in satisfaction thereof, shall (a) if the same are then redeemable under the provision of **Article III** of the Indenture, take all steps that may be necessary under the applicable redemption provisions of the Indenture to effect the redemption of all or such part of the then Outstanding Bonds as may be specified by the Tenants in Common, on such redemption date as may be specified by the



Tenants in Common or (b) cause such moneys in the Bond Fund or such part thereof as the Tenants in Common shall direct, to be applied by the Trustee, to the extent practical, pursuant to the appropriate written instructions of the Tenants in Common, for the purchase of Bonds in the open market for the purpose of cancellation at prices not exceeding the principal amount thereof, or (c) a combination of (a) and (b) as provided in such direction.

## ARTICLE VI

### MAINTENANCE, TAXES AND UTILITIES

**Section 6.1. Maintenance and Repairs.** Throughout the Lease Term the Tenants in Common shall, at their own expense, keep Project 1 in as reasonably safe condition as the operation thereof will permit, and keep Project 1 in good repair and in good operating condition, making from time to time all necessary repairs thereto and renewals and replacements thereof.

#### **Section 6.2. Taxes, Assessments and Other Governmental Charges.**

(a) The Tenants in Common shall promptly pay and discharge, as the same become due, all taxes and assessments, general and special, and other governmental charges of any kind whatsoever that may be lawfully taxed, charged, levied, assessed or imposed upon or against Project 1, or any part thereof or interest therein (including the leasehold estate of the Tenants in Common therein) or any buildings, improvements, machinery and equipment at any time installed thereon by the Tenants in Common, or the income therefrom or Basic Rent and other amounts payable under this Lease Agreement, including any new taxes and assessments not of the kind enumerated above to the extent that the same are lawfully made, levied or assessed in lieu of or in addition to taxes or assessments now customarily levied against real or personal property, and further including all utility charges, assessments and other general governmental charges and impositions whatsoever, foreseen or unforeseen, which if not paid when due would materially impair the security of the Bonds or materially encumber the Issuer's leasehold interest in Project 1; provided that with respect to any special assessments or other governmental charges that are lawfully levied and assessed which may be paid in installments, the Tenants in Common shall be obligated to pay only such installments thereof as become due and payable during the Lease Term.

(b) The Tenants in Common shall have the right, in their own name or in the Issuer's name, to contest the validity or amount of any tax, assessment or other governmental charge which the Tenants in Common are required to bear, pay and discharge pursuant to the terms of this Article by appropriate legal proceedings instituted before the tax, assessment or other governmental charge complained of becomes delinquent if and provided (1) the Tenants in Common, before instituting any such contest, give the Issuer and the Trustee written notice of their intention so to do, (2) the Tenants in Common diligently prosecute any such contest, at all times effectively stays or prevents any official or judicial sale therefor, under execution or otherwise, and (3) the Tenants in Common promptly pay any final judgment enforcing the tax, assessment or other governmental charge so contested and thereafter promptly procures record release or satisfaction thereof. The Issuer agrees to cooperate fully with the Tenants in Common in connection with any and all administrative or judicial proceedings related to any tax, assessment or other governmental charge. The Tenants in Common shall hold the Issuer and the Trustee whole and harmless from any reasonable costs and expenses the Issuer may incur related to any of the above.

**Section 6.3. Utilities.** All utilities and utility services used by the Tenants in Common in, on or about Project 1 shall be paid for by the Tenants in Common and shall be contracted for by the Tenants in Common in the Tenants in Common's own names, and the Tenants in Common shall, at their sole cost and expense, procure any and all permits, licenses or authorizations necessary in connection therewith.

**Section 6.4. Kansas Retailers’ Sales Tax.** The parties have entered into this Lease Agreement in contemplation that, under the existing provisions of K.S.A. 79-3606, subsections (b) and (d) and other applicable laws, sales of tangible personal property or services purchased in connection with acquisition, purchase, construction, improving, furnishing, equipping or remodeling of Project 1 are entitled to exemption from the tax imposed by the Kansas Retailers’ Sales Tax Act. The parties agree that the Issuer shall, upon the request of and with the Tenants in Common’s assistance, promptly obtain from the State and furnish to the contractors and suppliers an exemption certificate for the acquisition, purchase, construction, improving, furnishing, equipping or remodeling of Project 1. The Tenants in Common covenant that said exemption shall be used only in connection with the purchase of tangible personal property or services becoming a part of Project 1.

**Section 6.5. Ad Valorem Taxes.** Notwithstanding any provisions herein to the contrary, the Issuer and the Tenants in Common acknowledge that under the existing provisions of K.S.A. 79-201a, as amended, the property purchased, acquired, constructed, reconstructed, improved, equipped, furnished, repaired, enlarged or remodeled with the proceeds of the Bonds shall be entitled to exemption from general ad valorem taxes (other than special assessments levied on account of special benefits and taxes that may not be abated by the Issuer under Kansas law) on real and personal property, other than inventory for a period of ten (10) calendar years after the calendar year in which the Bonds are issued, provided proper application is made therefor. The Issuer covenants that it will not voluntarily take any action which may be reasonably construed as tending to cause or induce the levy or assessment of such ad valorem taxes on Project 1 so long as any of the Bonds are Outstanding and unpaid or for said ten (10) year period, whichever shall be the shorter time, and at the Tenants in Common’s request, fully cooperate with the Tenants in Common in all reasonable ways to prevent any such levy or assessment. The Issuer shall prepare for execution by the Tenants in Common and the Tenants in Common shall timely file the Application for Exemption to effect the property tax abatement described in K.S.A. 79-201a and the Issuer agrees to fully cooperate with the Tenants in Common in connection with such Application for Exemption. The Tenants in Common agree to pay any such levies or assessments that are lawful on Project 1.

**Section 6.6. Payment in Lieu of Taxes.** The Tenants in Common agree that, during each year Project 1 is exempt from ad valorem taxes by reason thereof, the Tenants in Common will make a payment in lieu of taxes to the Issuer in the amounts and at the times set forth in the PILOT Agreement providing for payments in lieu of such ad valorem taxes.

ARTICLE VII

INSURANCE AND INDEMNIFICATION

**Section 7.1. Insurance.** The Tenants in Common shall maintain, or cause to be maintained at their sole cost and expense, insurance with respect to their property, the operation thereof and their business against such casualties, contingencies and risks (including but not limited to property and casualty, worker’s compensation, general liability and employee dishonesty) and in amounts not less than is customary and adequate in the case of organizations engaged in the same or similar activities and similarly situated and as is adequate to protect their property and operations. The amount and deductible provisions for the general liability insurance shall be subject to approval by the Issuer. The Tenants in Common shall annually review the insurance they maintain pursuant hereto as to whether such insurance is customary and adequate. The Tenants in Common’s property insurance policy with respect to Project 1 shall name the Issuer as an additional insured, and shall name the Trustee as a loss payee thereunder. The Tenants in Common’s general liability policy shall name each of the Issuer and the Trustee as an additional insured.

All such insurance shall be maintained with responsible insurance carriers. Each policy or other contract for such insurance under which the Issuer or Trustee is named an additional insured or loss payee shall contain an agreement by the insurer that, notwithstanding any right of cancellation reserved to such insurer, such policy or contract shall continue in force for at least ten (10) days after written notice of cancellation to the Tenants in Common, the Trustee, and the Issuer.

The Tenants in Common shall deposit with the Trustee and Issuer, at the closing of the Bonds, and annually on December 1, a certificate or certificates of the respective insurers stating that such insurance is in force and effect. In lieu of separate policies, the Tenants in Common may maintain a single policy, blanket or umbrella policies, or a combination thereof, in which event the Tenants in Common shall deposit with the Bond Trustee a certificate or certificates of the respective insurers as to the amount of coverage in force upon the property of the Tenants in Common.

## ARTICLE VIII

### ALTERATION OF THE PROJECT

**Section 8.1. Additions, Modifications and Improvements of the Project.** The Tenants in Common shall have and are hereby given the right, at their sole cost and expense, to make such additions, modifications and improvements in and to any part of Project 1 as the Tenants in Common from time to time may deem necessary or desirable for business purposes. All additions, modifications and improvements made by the Tenants in Common pursuant to the authority of this Section shall (a) be made in workmanlike manner and in strict compliance with all laws and ordinances applicable thereto, (b) when commenced, be prosecuted to completion with due diligence, and (c) when completed, be deemed a part of Project 1; provided, however, that additions of machinery and equipment installed in Project 1 by the Tenants in Common not purchased or acquired from funds deposited with the Trustee hereunder and not constituting repairs, renewals or replacements of Project Equipment under **Section 8.2** hereof shall remain the property of the Tenants in Common and may be removed by the Tenants in Common.

**Section 8.2. Removal of Project Equipment.** The Tenants in Common shall cause Project 1 and all of its property used or useful in the conduct of its business and operations to be maintained, preserved and kept in good repair and working order and condition and in as safe condition as its operations will permit and will make all repairs, renewals, replacements and improvements thereof necessary for the efficient and advantageous conduct of its business and operations. Nothing in this Section shall obligate the Tenants in Common to preserve, repair, renew or replace any element or unit of Project 1 or any of its property no longer used or no longer useful in the conduct of its business, or prevent the Tenants in Common from discontinuing the operation of any element or unit of Project 1 or any of its property or from removing or demolishing any building or buildings, if in their judgment (evidenced, in the case of such a cessation other than in the ordinary course of business, by a determination by their governing boards) such discontinuance is desirable in the conduct of their business and not disadvantageous in any material respect to the owners of the Bonds. The Tenants in Common may make additions, alterations and changes to Project 1 or its property so long as such additions, alterations and changes are made in compliance with the provisions of this Lease Agreement and will not result in a violation of the provisions of this Lease Agreement, and the Tenants in Common may dispose of any property as permitted by this Lease Agreement.

**Section 8.3. Additional Improvements on the Project Site.** The Tenants in Common shall have and is hereby given the right, at their sole cost and expense, to construct on portions of the Project Site not theretofore occupied by buildings or improvements such additional buildings and improvements as the Tenants in Common from time to time may deem necessary or desirable for their business purposes. All additional buildings and improvements constructed on the Project Site by the Tenants in Common pursuant

to the authority of this Section shall, during the life of this Lease Agreement, remain the property of the Tenants in Common and may be added to, altered or razed and removed by the Tenants in Common at any time. The Tenants in Common covenant and agree (a) to make any repairs and restorations required to be made to Project 1 because of the construction of, addition to, alteration or removal of said additional buildings or improvements, (b) to keep and maintain said additional buildings and improvements in good condition and repair, ordinary wear and tear excepted, and (c) to promptly and with due diligence either raze and remove in a good and workmanlike manner, or repair, replace or restore any of said additional buildings and improvements as may from time to time be damaged by fire or other casualty.

**Section 8.4. Permits and Authorizations.** The Tenants in Common shall not do or permit others under its control to do any work on Project 1 related to any repair, rebuilding, restoration, replacement, modification or addition to Project 1, or any part thereof, unless all requisite municipal and other governmental permits and authorizations shall have been first procured. The Issuer agrees not to charge the Tenants in Common any fees for any such permits or authorizations. All such work shall be done in a good and workmanlike manner and in compliance with all applicable building, zoning and other laws, ordinances, governmental regulations and requirements and in accordance with the requirements, rules and regulations of all insurers under the policies required to be carried under the provisions of **Article VII** hereof.

**Section 8.5. Mechanics' Liens.**

(a) Neither the Issuer nor the Tenants in Common shall do or suffer anything to be done whereby Project 1, or any part thereof, may be encumbered by any mechanics' or other similar lien. Whenever and as often as any mechanics' or other similar lien is filed against Project 1, or any part thereof, purporting to be for or on account of any labor done or materials or services furnished in connection with any work in or about Project 1, the Tenants in Common shall discharge the same of record within 90 days after the date of filing. Notice is hereby given that the Issuer shall not be liable for any labor or materials furnished the Tenants in Common or anyone claiming by, through or under the Tenants in Common upon credit, and that no mechanics' or other similar lien for any such labor, services or materials shall attach to or affect the reversionary or other estate of the Issuer in and to Project 1 or any part thereof.

(b) Notwithstanding paragraph (a) above, the Tenants in Common shall have the right to contest any such mechanics' or other similar lien if within said 90-day period stated above they notify the Issuer and the Trustee in writing of their intention so to do, and provided the Tenants in Common diligently prosecute such contest, at all times effectively stays or prevents any official or judicial sale of Project 1, or any part thereof or interest therein, under execution or otherwise, and pays or otherwise satisfies any final judgment enforcing such contested lien claim and thereafter promptly procures record release or satisfaction thereof. The Tenants in Common shall hold the Issuer and the Trustee whole and harmless from any loss, costs or expenses the Issuer may incur related to any such contest. The Issuer shall cooperate fully with the Tenants in Common in any such contest.

**Section 8.6. Option to Purchase Unimproved Portions of the Project Site.** The Issuer hereby grants to the Tenants in Common the right at any time and from time to time to purchase any unimproved portion or portions of the Project Site. For the purposes of this Section "unimproved" shall mean real property upon which no improvements are located, excluding improvements relating to streets, sidewalks, bridges, stormwater, grading, utility or other similar improvements. As conditions to such purchase the Issuer and the Trustee shall receive from the Tenants in Common at least 30 days prior to the proposed date for completing the purchase the following (1) a written certificate from the Tenants in Common to the effect (i) that the Tenants in Common desire to purchase an unimproved portion of the Project Site, (ii) the proposed date for completing the purchase, and (iii) that the Tenants in Common is not in default under any of the provisions of this Lease Agreement or the Indenture, (2) providing the Issuer and the Trustee with an

adequate legal description of that portion (together with the interest in such portion) of the property to be purchased and a copy of a title commitment with respect to such property, (3) a certificate of an independent engineer or surveyor, dated not more than 30 days prior to the date of the request stating that, in the opinion of the person signing such certificate, (i) the unimproved portion of the Project Site is unimproved within the definition contained in this Section (ii) the unimproved portion of the Project Site so proposed to be purchased is not needed for the operation of Project 1, and (iii) the proposed purchase will not impair the usefulness of Project 1 for its intended purposes and will not destroy the means of ingress thereto and egress therefrom, and (4) the written consent of the Owners of all of the Bonds.

The purchase price for such unimproved portion of the Project Site shall be determined by the Owners of all of the Bonds and shall be received in writing by the Issuer and the Trustee at least 10 days prior to the proposed date for completing the purchase. Such purchase price shall be paid to the Trustee at the time the Issuer executes and delivers a release from the Base Lease Agreement and this Lease Agreement of the property which is to be purchased to the Tenants in Common. The Trustee shall deposit such amount (if any) into the Bond Fund. If such amount is more than \$1,000, such amount shall be used by the Trustee to redeem Bonds in accordance with **Section 302(a)** of the Indenture. If such amount is \$1,000 or less the Trustee shall apply such amount to the next interest payment on the Bonds.

Upon the Issuer's receipt of written notice from the Trustee that the Trustee has received all of the items required by this Section, any duly authorized officers of the Issuer shall execute the necessary documents to release such property from the Base Lease Agreement and Lease Agreement.

Upon any purchase of portions of the Project Site pursuant to this Section, the portions of the Project Site so purchased shall no longer be entitled to the benefits of the PILOT Agreement.

## ARTICLE IX

### DAMAGE, DESTRUCTION AND CONDEMNATION

**Section 9.1. Damage, Destruction and Condemnation.** In the event of damage to or destruction of Project 1, or any portion thereof, resulting from fire or other casualty, or in the event Project 1, or any portion thereof, is condemned or taken for any public or quasi-public use or title thereto is found to be deficient, the Net Proceeds of such insurance, condemnation, or taking shall be paid directly to the Tenants in Common.

The Tenants in Common shall promptly notify the Issuer in writing as to the nature and extent of such damage, loss or condemnation and whether it is practicable or desirable to rebuild, repair, restore or replace such damage or loss or acquire or construct substitute improvements. If the Tenants in Common shall determine that such rebuilding, repairing, restoring or replacing is practicable and desirable, to the extent permitted by law, the Tenants in Common will forthwith replace, repair, reconstruct or restore Project 1 to substantially the same or an improved condition or utility value as existed prior to the event affecting Project 1 and will to the extent necessary apply the Net Proceeds received by the Tenants in Common to the payment or reimbursement of the costs of such replacement, repair, reconstruction or restoration. Any remaining balance not required for said purpose shall be retained by the Tenants in Common. If the Tenants in Common shall determine that rebuilding, repairing, restoring or replacing Project 1 is not practicable and desirable, any Net Proceeds received with respect to any such damage, loss or condemnation to Project 1 shall be paid or applied as required by the holder of the Mortgage, if any. The Tenants in Common agree that they shall be reasonable in exercising their judgment pursuant to this Article.

## ARTICLE X

### SPECIAL COVENANTS

**Section 10.1. No Warranty of Condition or Suitability by the Issuer; Exculpation and Indemnification.** The Issuer makes no warranty, either express or implied, as to the condition of Project 1 or that it will be suitable for the Tenants in Common's purposes or needs. The Tenants in Common release the Issuer from, agrees that the Issuer shall not be liable for and agrees to hold the Issuer harmless against, any loss or damage to property or any injury to or death of any person that may be occasioned by any cause whatsoever pertaining to Project 1 or the use thereof; unless such loss is the result of the Issuer's gross negligence or willful misconduct.

**Section 10.2. Surrender of Possession.** Upon accrual of the Issuer's right of re-entry because of the Tenants in Common's default hereunder or upon the cancellation or termination of this Lease Agreement for any reason other than the Tenants in Common's purchase of Project 1 pursuant to **Article XI** hereof, the Tenants in Common shall peacefully surrender possession of Project 1 to the Issuer in good condition and repair, ordinary wear and tear excepted; provided, however, the Tenants in Common shall have the right within 90 days (or such later date as the Issuer may agree to) after the termination of this Lease Agreement to remove from the Project Site any buildings, improvements, furniture, trade fixtures, machinery and equipment owned by the Tenants in Common and not constituting part of Project 1. All repairs to and restorations of Project 1 required to be made because of such removal shall be made by and at the sole cost and expense of the Tenants in Common, and during said 90-day (or extended) period the Tenants in Common shall bear the sole responsibility for and bear the sole risk of loss for said buildings, improvements, furniture, trade fixtures, machinery and equipment. All buildings, improvements, furniture, trade fixtures, machinery and equipment owned by the Tenants in Common and which are not so removed from Project 1 prior to the expiration of said period shall be the separate and absolute property of the Issuer.

**Section 10.3. Issuer's Right of Access to the Project.** The Tenants in Common agree that the Issuer and the Trustee and their duly authorized agents shall have the right to enter upon the Project Site after delivering written notice to the Tenants in Common (a) as may be reasonably necessary to cause to be completed the acquisition, purchase, construction, improving, equipping or remodeling provided for in **Section 4.2** hereof, (b) to perform such work in and about Project 1 made necessary by reason of the Tenants in Common's default under any of the provisions of this Lease Agreement, (c) to inspect Project 1 for compliance with the Issuer's building, fire and zoning codes, and (d) following an Event of Default, to exhibit Project 1 to prospective purchasers, lessees or trustees.

**Section 10.4. Granting of Easements; Leasehold Mortgages.**

(a) If no Event of Default under this Lease Agreement shall have happened and be continuing, the Tenants in Common may at any time or times (1) grant easements, licenses, rights-of-way (including the dedication of public highways) and other rights or privileges in the nature of easements that are for the direct use of Project 1, or part thereof, by the grantee, (2) release existing easements, licenses, rights-of-way and other rights or privileges, all with or without consideration and upon such terms and conditions as the Tenants in Common shall determine, or (3) incur Permitted Encumbrances. The Issuer agrees that it will execute and deliver and will cause and direct the Trustee to execute and deliver any instrument necessary or appropriate to confirm and grant or release any such easement, license, right-of-way or other right or privilege or any such agreement or other arrangement, upon receipt by the Issuer and the Trustee of: (i) a copy of the instrument of grant or release or of the agreement or other arrangement, (ii) a written application signed by an Authorized TIC Representative requesting such instrument, and (iii) a certificate executed by an Authorized TIC Representative stating that such grant or release is not detrimental to the proper conduct of the business of the Tenants in Common, will not impair the effective use or interfere with the efficient

and economical operation of Project 1, and will not materially adversely affect the security intended to be given by or under the Indenture. If the instrument of grant shall provide that any such easement or right and the rights of such other parties thereunder shall be superior to the rights of the Issuer and the Trustee under this Lease Agreement and the Indenture and shall not be affected by any termination of this Lease Agreement or default on the part of the Tenants in Common hereunder then such easement shall not have any effect whatsoever without the written consent of the Issuer. If no Event of Default shall have happened and be continuing beyond any applicable grace period, any payments or other consideration received by the Tenants in Common for any such grant or with respect to or under any such agreement or other arrangement shall be and remain the property of the Tenants in Common, but, in the event of the termination of this Lease Agreement or during the continuation of an Event of Default, all rights then existing of the Tenants in Common with respect to or under such grant shall inure to the benefit of and be exercisable by the Issuer and the Trustee.

(b) The Tenants in Common may mortgage the leasehold estate created by this Lease Agreement without the Issuer's consent, provided and upon condition that a duplicate original or certified copy or photostatic copy of each such leasehold mortgage, and the note or other obligation secured thereby, is delivered to the Issuer and the Trustee within thirty (30) days after the execution thereof.

(c) Notwithstanding anything contained to the contrary in this Lease Agreement, (a) the Tenants in Common shall have the right to assign this Lease Agreement and any subleases to any Mortgagee or to the designee or nominee of such Mortgagee, without the consent of the Issuer, and (b) if the Mortgagee or its designee or nominee shall acquire ownership of the leasehold estate, either following foreclosure of such Mortgage or Leasehold Mortgage or in liquidation of the indebtedness and in lieu of foreclosure thereof, the Mortgagee or its designee or nominee shall have the further right to further assign this Lease Agreement and any subleases and any purchase money mortgage accepted in connection therewith, without the consent of the Issuer and such assignee shall enjoy all rights, powers and privileges granted herein to Mortgagees.

(d) If (1) the Tenants in Common shall execute and deliver a Leasehold Mortgage, and (2) the provisions and conditions of subsection (b) above shall have been fully complied with and observed with respect to such Leasehold Mortgage, and (3) the Tenants in Common or the mortgagee under such Leasehold Mortgage shall have notified the Issuer in writing of the making thereof and of the name and address of such Leasehold Mortgage; then:

(i) this Lease Agreement may not be modified, amended, canceled or surrendered by agreement between the Issuer and the Tenants in Common, without the prior written consent of such leasehold mortgagee;

(ii) there shall be no merger of this Lease Agreement or of the leasehold estate created hereby with the fee title to Project 1, notwithstanding that this Lease Agreement or said leasehold estate and said fee title shall be owned by the same person or persons, without the prior written consent of such leasehold mortgagee;

(iii) the Issuer shall serve upon each such leasehold mortgagee a copy of each notice of default and each notice of termination given to the Tenants in Common under this Lease Agreement, at the same time as such notice is served upon the Tenants in Common. No such notice to the Tenants in Common shall be effective unless a copy thereof is thus served upon each leasehold mortgagee;

(iv) each leasehold mortgagee shall have the same period of time after the service of such notice upon it within which the Tenants in Common may remedy or cause to be remedied the default which is the basis of the notice plus twenty (20) days; and the Issuer shall accept performance by such leasehold mortgagee as timely performance by the Tenants in Common;

(v) such leasehold mortgagee shall not be required to continue possession or continue foreclosure proceedings under paragraph (vii) of this subsection if the particular default has been cured;

(vi) the Issuer may exercise any of its rights or remedies with respect to any other default by the Tenants in Common occurring during the period of such forbearance provided for under said paragraph (vii), subject to the rights of the leasehold mortgagee under this Section as to such other defaults;

(vii) in case of default by the Tenants in Common under this Lease Agreement, other than a default in the payment of money, the Issuer shall take no action to effect a termination of this Lease Agreement by service of a notice or otherwise, without first giving to such leasehold mortgagee a reasonable time within which either to obtain possession of Project 1 and to remedy such default in the case of a default which is susceptible of being cured when such leasehold mortgagee has obtained possession of Project 1, or to institute and with reasonable diligence to complete foreclosure proceedings or otherwise acquire the Tenants in Common's leasehold estate under this Lease Agreement in the case of a default which is not so susceptible of being remedied by such leasehold mortgagee, provided that the leasehold mortgagee shall deliver to the Issuer within thirty (30) days after the expiration of the grace period applicable to the particular default, an instrument unconditionally agreeing to remedy such default other than a default not susceptible of being remedied by such leasehold mortgagee. The Issuer's right to terminate this Lease Agreement by reason of a default which is not susceptible of being remedied by such leasehold mortgagee shall end with respect to such default when the leasehold mortgagee obtains possession of Project 1 as aforesaid, which possession shall be deemed to include possession by a receiver;

(viii) if this Lease Agreement shall terminate prior to the expiration of the Lease Term, the Issuer shall enter into a new lease for Project 1 with any such leasehold mortgagee, or its designee or nominee, for the remainder of the term, effective as of the date of such termination, at the same rent and upon the same terms, covenants and conditions contained herein, except that such new lease shall not guarantee possession of Project 1 to the new tenant as against the Tenants in Common and/or anyone claiming under the Tenants in Common, and the Issuer, simultaneously with the execution and delivery of such new lease, shall turn over to the new tenant all monies, if any, then held by the Issuer under the Lease Agreement on behalf of the Tenants in Common, on condition that:

(A) such leasehold mortgagee shall make written request for such new lease within thirty (30) days after the date of such termination, and

(B) on the commencement date of the term of the new lease, such leasehold mortgagee shall cure all defaults of the Tenants in Common under the Lease Agreement (susceptible of being cured by such leasehold mortgagee) which remain uncured on that date, and shall pay or cause to be paid all unpaid sums which at such time would have been payable under this Lease Agreement but for such termination, and shall pay or cause to be paid to the Issuer on that date all fees, costs, charges and expenses, including, without limitation, reasonable counsel fees, court costs and disbursements, incurred by the Issuer



or the Trustee in connection with any such default and termination as well as in connection with the execution and delivery of such new lease;

(ix) if such leasehold mortgagee or its designee or nominee shall become the owner of this Lease Agreement either following foreclosure of such leasehold mortgage or in liquidation of the indebtedness and in lieu of foreclosure thereof and such leasehold mortgagee or its designee or nominee shall have assigned this Lease Agreement, such leasehold mortgagee or its designee or nominee so assigning shall be released from all liability accruing from and after the date of such assignment.

If more than one leasehold mortgagee shall request such new lease, such new lease shall be made with and delivered to the leasehold mortgagee (or its nominee or designee) whose mortgage is prior in lien to those of any others. The opinion of a reputable title insurance company, licensed to insure title to real property in the State of Kansas, setting forth the order of priority of such mortgage liens, may be relied on by the Issuer and the Trustee as conclusive evidence of such priority.

**Section 10.5. Indemnification of Issuer and Trustee.** The Tenants in Common shall indemnify and save the Issuer and the Trustee harmless from and against all claims, losses, liabilities, damages, costs and expenses (including, without limitation, attorney's fees and expenses) by or on behalf of any person, firm or corporation arising from the conduct or management of, or from any work or thing done in, on or about, Project 1 during the Lease Term, and against and from all claims, losses, liabilities, damages, costs and expenses (including, without limitation, attorney's fees and expenses) arising during the Lease Term from (a) any condition of Project 1 caused by the Tenants in Common, (b) any breach or default on the part of the Tenants in Common in the performance of any of their obligations under this Lease Agreement, (c) any contract entered into in by the Tenants in Common or their sublessee, if any, in connection with the acquisition, purchase, construction, improving, equipping or remodeling of Project 1, (d) any act of negligence of the Tenants in Common or of any of their agents, contractors, servants, employees or licensees, and (e) any act of negligence of any assignee or sublessee of the Tenants in Common, or of any agents, contractors, servants, employees or licensees of any assignee or sublessee of the Tenants in Common; provided, however, the indemnification contained in this **Section 10.5** shall not extend to the Issuer if (i) such claim is the result of work being performed at Project 1 by employees of the Issuer, or (ii) such claim is the result of the Issuer's negligence or willful misconduct. The Tenants in Common shall indemnify and save the Issuer and the Trustee harmless from and against all costs and expenses, including, without limitation, attorney's fees and expenses, (except those which have arisen from the willful misconduct or negligence of the Issuer or the Trustee) incurred in or in connection with any action or proceeding brought in connection with claims arising from circumstances described in clauses (a) through (e), and upon notice from the Issuer or the Trustee, the Tenants in Common shall defend them or either of them in any such action or proceeding.

The Tenants in Common agree to indemnify and reimburse the Issuer and the Trustee, and their respective members, directors, officers, employees, agents, attorneys, successors and assigns for any liability, loss, damage, expense or cost, including, without limitation, attorney's fees and expenses, arising out of or incurred by the Issuer or the Trustee or their respective members, directors, officers, employees, agents, attorneys, successors and assigns, which is the result of any liability, loss, damage, expense or cost sustained as a result of any failure to comply any law, statute, ordinance, rule, code, order or regulation, whether federal, state or local, relating to environmental protection, environmental contamination and the cleanup thereof, asbestos, underground storage tanks and other environmental matters ("**Environmental Laws**") or of there being located in, on or about the Project Site or Project 1 any hazardous, dangerous, or toxic pollutants, wastes or chemicals, together with attorney's fees and expenses incurred in connection with the defense of any action against the Issuer or the Trustee arising out of the above. The Tenants in Common represent and warrant to the Issuer and the Trustee that the Project Site and Project 1 and their

respective prior and existing uses have at all times complied with and will comply with all Environmental Laws. The Tenants in Common shall promptly and diligently take or cause to be taken all actions necessary to cure any noncompliance with any Environmental Law and shall be solely responsible for any violation by it, its employees or agents of any Environmental Laws, and the Tenants in Common further agrees that they will take all necessary action to clean-up, eliminate or contain any environmental contamination, including contamination caused by any previous owner of Project 1 or the Project Site, and will pay in full all costs and expenses associated with such action.

**Section 10.6. Depreciation, Investment Tax Credit and Other Tax Benefits.** The Issuer agrees that any depreciation, investment tax credit or any other tax benefits with respect to Project 1 or any part thereof shall be made available to the Tenants in Common, and the Issuer will fully cooperate with the Tenants in Common in any effort by the Tenants in Common to avail themselves of any such depreciation, investment tax credit or other tax benefits.

**Section 10.7. Tenants in Common to Maintain Corporate Existence.** Each Tenant in Common agrees that until the Bonds are paid or payment is provided for in accordance with the terms of the Indenture, it will not dissolve or otherwise dispose of all or substantially all of its assets; provided, however, that a Tenant in Common may, without violating the agreement contained in this Section, consolidate with or merge into another domestic corporation (i.e., a corporation incorporated and existing under the laws of one of the states of the United States) or permit one or more other domestic corporations to consolidate with or merge into it, or may sell or otherwise transfer to another domestic corporation all or substantially all of its assets as an entirety and thereafter dissolve, provided, the surviving, resulting or transferee corporation expressly assumes in writing all the obligations of the Tenant in Common contained in this Lease Agreement and the PILOT Agreement.

**Section 10.8. Security Interests.** At the written request of the Owner of the Bonds, the Issuer and the Tenants in Common agree to enter into all instruments (including financing statements and statements of continuation) necessary for perfection of and continuance of the perfection of the security interests of the Issuer and the Trustee in Project 1. Upon the written instructions of the Owner of the Bonds, the Trustee shall file, at the expense of the Tenants in Common, all instruments the Owner of the Bonds shall deem necessary to be filed and shall continue or cause to be continued the liens of such instruments for so long as the Bonds shall be Outstanding. The Issuer and the Tenants in Common shall cooperate with the Trustee in this regard by executing such continuation statements and providing such information as the Trustee may require to renew such liens. The Trustee shall, at the expense of the Tenants in Common, maintain a file showing a description of all Project Equipment, said file to be compiled from the certificates furnished to the Trustee pursuant to **Section 4.4** and **Section 8.2** hereof.

## ARTICLE XI

### OPTION AND OBLIGATION TO PURCHASE THE PROJECT

**Section 11.1. Option to Purchase the Project.** The Tenants in Common shall have, and are hereby granted, the option to purchase Project 1 at any time, prior to the expiration of the Lease Term upon payment in full of all Bonds then Outstanding or provision for their payment having been made pursuant to **Article XIII** of the Indenture. To exercise such option the Tenants in Common shall give written notice to the Issuer and to the Trustee, if any, of the Bonds as shall then be unpaid or provision for their payment shall not have been made in accordance with the provisions of the Indenture, and shall specify therein the date of closing such purchase, which date shall be not less than 30 nor more than 180 days from the date such notice is mailed, and in case of a redemption of the Bonds in accordance with the provisions of the Indenture the Tenants in Common shall make arrangements satisfactory to the Trustee for the giving of the

required notice of redemption. The purchase price payable by the Tenants in Common in the event of their exercise of the option granted in this Section shall be the sum of the following:

- (a) an amount of money which, when added to the amount then on deposit in the Bond Fund, will be sufficient to redeem all the then Outstanding Bonds on the earliest redemption date next succeeding the closing date, including, without limitation, principal and interest to accrue to said redemption date and redemption expense; plus
- (b) an amount of money equal to the Trustee's and the Paying Agent's agreed to and reasonable fees and expenses under the Indenture accrued and to accrue until such redemption of the Bonds; plus
- (c) an amount of money equal to the Issuer's costs, expenses, including reasonable attorney's fees, related to conveying Project 1 to the Tenants in Common; plus
- (d) the sum of \$100.

**Section 11.2. Conveyance of the Project.** At the closing of the purchase of Project 1 pursuant to this Article, the Issuer will upon receipt of the purchase price deliver to the Tenants in Common the following:

- (a) If the Indenture shall not at the time have been satisfied in full, a release from the Trustee of Project 1 from the lien and/or security interest of the Indenture.
- (b) Documents terminating the Base Lease Agreement and Lease Agreement.

The Authorized Issuer Representative is authorized to execute any and all documents necessary under this Section without any further action from the governing body of the Issuer.

**Section 11.3. Relative Position of Option and Indenture.** The options and obligation to purchase Project 1 granted to the Tenants in Common in this Article shall be and remain prior and superior to the Indenture and may be exercised whether or not the Tenants in Common is in default under this Lease Agreement, provided that such default will not result in nonfulfillment of any condition to the exercise of any such option and further provided that all options herein granted shall terminate upon the termination of this Lease Agreement.

**Section 11.4. Obligation to Purchase the Project.** The Tenants in Common hereby agree to purchase, and the Issuer hereby agrees to sell, Project 1 for the sum of \$100 at the expiration of the Lease Term following full payment of the Bonds or provision for payment thereof and all other fees, charges and expenses having been made in accordance with the provisions of the Indenture, this Lease Agreement and all other documents entered into with respect to the Bonds.

## ARTICLE XII

### DEFAULTS AND REMEDIES

**Section 12.1. Events of Default.** If any one or more of the following events shall occur and be continuing, it is hereby defined as and declared to be and to constitute an "Event of Default" or "default" under this Lease Agreement:

(a) Default in the due and punctual payment of Basic Rent or Additional Rent for a period of ten (10) days following written notice to the Tenants in Common by the Issuer or the Trustee; or

(b) Default in the due observance or performance of any other covenant, agreement, obligation or provision of this Lease Agreement on the Tenants in Common's part or parts to be observed or performed, and such default shall continue for 60 days after the Issuer or the Trustee has given the Tenants in Common written notice specifying such default (or such longer period as shall be reasonably required by the Tenants in Common to cure such default; provided that (1) the Tenants in Common have commenced such cure within said 60-day period, and (2) the Tenants in Common diligently prosecute such cure to completion); or

(c) Any of the Tenants in Common shall: (1) admit in writing its inability to pay its debts as they become due; or (2) file a petition in bankruptcy or for reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the Bankruptcy Code as now or in the future amended or any other similar present or future federal or state statute or regulation, or file a pleading asking for such relief; or (3) make an assignment for the benefit of creditors; or (4) consent to the appointment of a trustee, receiver or liquidator for all or a major portion of its property or shall fail to have the appointment of any trustee, receiver or liquidator made without the Tenant in Common's consent or acquiescence, vacated or set aside; or (5) be finally adjudicated as bankrupt or insolvent under any federal or state law; or (6) be subject to any proceeding, or suffer the entry of a final and non-appealable court order, under any federal or state law appointing a trustee, receiver or liquidator for all or a major part of its property or ordering the winding-up or liquidation of its affairs, or approving a petition filed against it under the Bankruptcy Code, as now or in the future amended, which order or proceeding, if not consented to by it, shall not be dismissed, vacated, denied, set aside or stayed within 60 days after the day of entry or commencement; or (7) suffer a writ or warrant of attachment or any similar process to be issued by any court against all or any substantial portion of its property, and such writ or warrant of attachment or any similar process is not contested, stayed, or is not released within 60 days after the final entry, or levy or after any contest is finally adjudicated or any stay is vacated or set aside; or

(d) The Tenants in Common shall vacate or abandon Project 1, or shall have been ejected from Project 1 or any portion thereof by reason of a defect in title to Project 1, and the same shall remain uncared for and unoccupied for a period of 60 days; or

(e) The occurrence and continuance of a default by the Tenants in Common under the PILOT Agreement following any applicable notice and grace period provided therein.

**Section 12.2. Remedies on Default.** If any Event of Default referred to in **Section 12.1** hereof shall have occurred and be continuing, then the Issuer may at the Issuer's election (subject, however, to any restrictions against acceleration of the maturity of the Bonds or termination of this Lease Agreement in the Indenture), then or at any time thereafter, and while such Event of Default shall continue, take any one or more of the following actions:

(a) cause all amounts payable with respect to the Bonds for the remainder of the term of this Lease Agreement to become due and payable, as provided in the Indenture;

(b) give the Tenants in Common written notice of intention to terminate this Lease Agreement on a date specified therein, which date shall not be earlier than 30 days after such notice is given, and if all defaults have not then been cured, on the date so specified, the Tenants in Common's rights to possession of Project 1 shall cease and this Lease Agreement shall thereupon be terminated, and the Issuer may re-enter and take possession of Project 1; or

(c) without terminating this Lease Agreement, re-enter Project 1 to take possession thereof pursuant to legal proceedings or pursuant to any notice provided for by law, and having elected to re-enter or take possession of Project 1 without terminating this Lease Agreement, the Issuer shall use reasonable diligence to relet Project 1, or parts thereof, for such term or terms and at such rental and upon such other terms and conditions as the Issuer may deem advisable, with the right to make alterations and repairs to Project 1, and no such re-entry or taking of possession of Project 1 by the Issuer shall be construed as an election on the Issuer's part to terminate this Lease Agreement, and no such re-entry or taking of possession by the Issuer shall relieve the Tenants in Common of their obligation to pay Basic Rent or Additional Rent (at the time or times provided herein), or any of their other obligations under this Lease Agreement, all of which shall survive such re-entry or taking of possession, and the Tenants in Common shall continue to pay the Basic Rent and Additional Rent provided for in this Lease Agreement until the end of this Lease Term, whether or not Project 1 shall have been relet, less the net revenues, if any, of any reletting of Project 1 after deducting all of the Issuer's reasonable expenses in or in connection with such reletting, including without limitation all repossession costs, brokerage commissions, legal expenses, expenses of employees, alteration costs and expenses of preparation for reletting. Said net revenues of any reletting shall be deposited in the Bond Fund. Having elected to re-enter or take possession of Project 1 without terminating this Lease Agreement, the Issuer may (subject, however, to any restrictions against termination of this Lease Agreement in the Indenture), by notice to the Tenants in Common given at any time thereafter following an Event of Default, elect to terminate this Lease Agreement on a date to be specified in such notice, which date shall be not earlier than 30 days after re-entry under (b) above, and if all defaults shall not have then been cured, on the date so specified this Lease Agreement shall thereupon be terminated. If in accordance with any of the foregoing provisions of this Article the Issuer shall have the right to elect to re-enter and take possession of Project 1, the Issuer may enter and expel the Tenants in Common and those claiming through or under the Tenants in Common and remove the property and effects of both or either (forcibly if necessary) without being guilty of any manner of trespass and without prejudice to any remedies for arrears of rent or preceding breach of covenant. The Issuer may take whatever action at law or in equity which may appear necessary or desirable to collect rent then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Tenants in Common under this Lease Agreement.

**Section 12.3. Survival of Obligations.** The Tenants in Common covenants and agrees with the Issuer and Bondowners that their obligations under this Lease Agreement shall survive the cancellation and termination of this Lease Agreement, for any cause, and that the Tenants in Common shall continue to pay the Basic Rent and Additional Rent and perform all other obligations provided for in this Lease Agreement, all at the time or times provided in this Lease Agreement; provided, however, that upon the payment of all Basic Rent and Additional Rent required under **Article V** hereof, and upon the satisfaction and discharge of the Indenture under **Section 1301** thereof, the Tenants in Common's obligation under this Lease Agreement shall thereupon cease and terminate in full.

**Section 12.4. Limitation of Liability and Indemnity.** Notwithstanding anything contained to the contrary in this Lease Agreement, it is agreed that the Issuer will look only to the Tenants in Common's interest in and to Project 1 and any sublease with respect thereto for the collection of any judgment (or other judicial process) requiring the payment of money by the Tenants in Common in the event of a breach or default under this Lease Agreement by the Tenants in Common, and no other property or assets of the

Tenants in Common or their principals, disclosed or undisclosed, shall be subject to levy, execution or other enforcement procedures for the satisfaction of any such judgment (or other judicial process).

**Section 12.5. Performance of the Tenants in Common's Obligations by the Issuer.** If the Tenants in Common shall fail to keep or perform any of their obligations as provided in this Lease Agreement in the making of any payment or performance of any obligation, then the Issuer, or the Trustee in the Issuer's name, may (but shall not be obligated so to do) upon the continuance of such failure on the Tenants in Common's part for 30 days after written notice of such failure is given the Tenants in Common by the Issuer or the Trustee, and without waiving or releasing the Tenants in Common from any obligation hereunder, as an additional but not exclusive remedy, make any such payment or perform any such obligation, and all reasonable sums so paid by the Issuer or the Trustee and all necessary incidental reasonable costs and expenses (including, without limitation, interest at the Trustee's prime rate plus 2% and attorney's fees and expenses) incurred by the Issuer or the Trustee in performing such obligations shall be deemed Additional Rent and shall be paid to the Issuer or the Trustee on demand, and if not so paid by the Tenants in Common, the Issuer or the Trustee shall have the same rights and remedies provided for in **Section 12.2** hereof in the case of default by the Tenants in Common in the payment of Basic Rent.

**Section 12.6. Rights and Remedies Cumulative.** The rights and remedies reserved by the Issuer and the Tenants in Common hereunder and those provided by law shall be construed as cumulative and continuing rights. No one of them shall be exhausted by the exercise thereof on one or more occasions. The Issuer and the Tenants in Common shall each be entitled to specific performance and injunctive or other equitable relief for any breach or threatened breach of any of the provisions of this Lease Agreement, notwithstanding availability of an adequate remedy at law, and each party hereby waives the right to raise such defense in any proceeding in equity.

**Section 12.7. Waiver of Breach.** No waiver of any breach of any covenant or agreement herein contained shall operate as a waiver of any subsequent breach of the same covenant or agreement or as a waiver of any breach of any other covenant or agreement, and in case of a breach by the Tenants in Common of any covenant, agreement or undertaking by the Tenants in Common, the Issuer or the Trustee may nevertheless accept from the Tenants in Common any payment or payments hereunder without in any way waiving the Issuer's right to exercise any of its rights and remedies provided for herein with respect to any such breach or breaches of the Tenants in Common which were in existence at the time such payment or payments were accepted by the Issuer or the Trustee.

**Section 12.8. Notice of Defaults Under Section 12.1; Opportunity to Cure Defaults.**

(a) Anything herein to the contrary notwithstanding, no default specified in **Section 12.1(c)** through **(e)** shall constitute an Event of Default until actual notice of such default by registered or certified mail shall be given by the Issuer, the Trustee or by the Owners of 25% in aggregate principal amount of all Bonds Outstanding to the Tenants in Common and the Tenants in Common shall have had 30 days after receipt of such notice to correct said default or cause said default to be corrected, and shall not have corrected said default or caused said default to be corrected within such period; provided, however, if any such default shall be such that it cannot be corrected within such period, it shall not constitute an Event of Default if corrective action is instituted by the Tenants in Common within such period and diligently pursued until the default is corrected.

(b) Anything herein to the contrary notwithstanding, no default specified in **Section 12.1(b)** shall constitute an Event of Default until actual notice of such default by registered or certified mail shall be given (i) at any time the Authorized TIC Representative is the Owner of 100% in aggregate principal amount of all Bonds Outstanding, by the Issuer or Trustee, and (ii) at any time the Authorized TIC Representative is not the Owner of 100% in aggregate principal amount of all Bonds Outstanding, the

Issuer, the Trustee or by the Owners of 25% in aggregate principal amount of all Bonds Outstanding, to the Tenants in Common and the Tenants in Common shall have had 30 days after receipt of such notice to correct said default or cause said default to be corrected, and shall not have corrected said default or caused said default to be corrected within such period; provided, however, if any such default shall be such that it cannot be corrected within such period, it shall not constitute an Event of Default if corrective action is instituted by the Tenants in Common within such period and diligently pursued until the default is corrected.

(c) With regard to any alleged default concerning which notice is given to the Tenants in Common under the provisions of this Section, the Issuer hereby grants the Tenants in Common full authority for account of the Issuer to perform any covenant or obligation, the nonperformance of which is alleged in said notice to constitute a default, in the name and stead of the Issuer, with full power to do any and all things and acts to the same extent that the Issuer could do and perform any such things and acts in order to remedy such default.

**Section 12.9. Trustee's Exercise of the Issuer's Remedies.** Whenever any Event of Default shall have occurred and be continuing, the Trustee may, but except as otherwise provided in the Indenture shall not be obliged to, exercise any or all of the rights of the Issuer under this Article, upon notice as required of the Issuer unless the Issuer has already given the required notice. In addition, the Trustee shall have available to it all of the remedies prescribed by the Indenture.

## ARTICLE XIII

### ASSIGNMENT AND SUBLEASE

#### Section 13.1. Assignment; Sublease.

(a) The Tenants in Common shall have the right to assign, transfer, encumber or dispose of this Lease Agreement or any interest therein or part thereof, with the written consent of the governing body of the Issuer, for any lawful purpose under the Act; provided, however, the prior written consent of the governing body of the Issuer shall not be required if such assignee is an affiliate (an entity that the Tenants in Common controls, is controlled by, or is under common control with) of the Tenants in Common. Notwithstanding any other provision of this Section or other provision in this Lease Agreement, the sole requirement of the Tenants in Common with respect to an assignment to such an affiliate is to provide notice of such event within sixty (60) days thereafter to the Issuer. With respect to any other assignment, the Tenants in Common shall comply with the following conditions:

(1) Such assignment shall be in writing, duly executed and acknowledged by the assignor and in proper form for recording;

(2) Such assignment shall include the entire then unexpired term of this Lease Agreement and an assumption of all obligations of the Tenants in Common under the Base Lease Agreement and this Lease Agreement;

(3) A duplicate original of such assignment shall be delivered to the Issuer and the Trustee within ten (10) days after the execution thereof, together with an assumption agreement, duly executed and acknowledged by the assignee in proper form for recording, by which the assignee shall assume all of the terms, covenants and conditions of this Lease Agreement on the part of the Tenants in Common to be performed and observed;

(4) At the time of any such assignment there shall be: (i) no damage or destruction to Project 1 which has not been repaired, restored and replaced in accordance with the provisions of this Lease Agreement, unless any funds then held by the Tenants in Common for the purposes of such repair, restoration and replacement are simultaneously transferred to the assignee and (ii) no unpaid taxes, assessments and similar charges under **Section 6.2** hereof and unpaid payments in lieu of taxes under the PILOT Agreement.

Upon the satisfaction of the conditions set forth herein, the assignor shall be relieved of all further liability occurring on and after the effective date of such assignment, provided that such assignment shall not relieve the assignor of its obligations pursuant to **Section 10.5**. The consent of the Issuer to any assignment, transfer, encumbrance or disposition described in this subsection (a) shall not be unreasonably withheld, delayed or conditioned.

(b) The Tenants in Common shall have the right, without the written consent of the Issuer but with notice to the Issuer and Trustee, to sublet all of Project 1 to a single entity for any lawful purpose under the Act. The Tenants in Common shall have the right, without the consent of the Issuer, to sublet any part of Project 1 to more than one entity in the ordinary course of their business for any lawful purpose under the Act. No sublease of Project 1 shall release or discharge the Tenants in Common from their primary liability for the payment of the Basic Rent and Additional Rent hereunder and the performance of each and all of the covenants and agreements herein contained, and their duties and obligations under this Lease Agreement shall continue as if no such sublease had been made. The Tenants in Common shall, within 10 days after the delivery thereof, furnish or cause to be furnished to the Issuer and the Trustee a true and correct copy of each such sublease. Any sublease may provide, at the Tenants in Common's option, that the Issuer's consent shall not be required in respect of any further subletting thereunder if such further subletting is for a similar purpose as the original sublease and is for a purpose permissible under the Act.

If for any reason this Lease Agreement and the leasehold estate of the Tenants in Common hereunder is terminated by the Issuer by summary proceedings or otherwise in accordance with the terms of this Lease Agreement, the Issuer covenants and agrees that such termination of this Lease Agreement shall not result in a termination of any sublease affecting Project 1 or any part or parts thereof and that they shall all continue for the duration of their respective terms and any extensions thereof as a direct lease between the Issuer hereunder and the sublessee thereunder, with the same force and effect as if the Issuer hereunder had originally entered into such sublease as landlord thereunder. Any such sublessee shall not be named or joined in any action or proceeding by the Issuer under this Lease Agreement to recover possession of Project 1 or for any other relief if such sublessee is not then in default under the terms of its sublease beyond any applicable grace period for curing the same. The Issuer shall, upon request, execute, acknowledge and deliver such agreements evidencing and agreeing to the foregoing in a form reasonably satisfactory to the Tenants in Common.

Any consent of the Issuer required by this subsection (b) shall not be unreasonably withheld, conditioned or delayed.

**Section 13.2. Assignment of Revenues by Issuer.** The Issuer shall assign and pledge any rents, revenues and receipts receivable under this Lease Agreement, to the Trustee pursuant to the Indenture as security for payment of the principal of, interest and premium, if any, on the Bonds and the Tenants in Common hereby consent to such pledge and assignment.

**Section 13.3. Assignment by Issuer.** The Issuer may assign its interest in and pledge any moneys receivable under this Lease Agreement to the Trustee pursuant to the Indenture as security for payment of the principal of and interest on the Bonds.



**Section 13.4. Restrictions on Sale or Encumbrance of Project by Issuer.** During this Lease Term, the Issuer agrees that, except to secure the Bonds to be issued pursuant to the Indenture, it will not sell, assign, encumber, mortgage, transfer or convey Project 1 or any interest therein.

ARTICLE XIV

AMENDMENTS, CHANGES AND MODIFICATIONS

**Section 14.1. Amendments, Changes and Modifications.** Except as otherwise provided in this Lease Agreement or in the Indenture, subsequent to the issuance of Bonds and prior to the payment in full of the Bonds (or provision for the payment thereof having been made in accordance with the provisions of the Indenture), this Lease Agreement may not be effectively amended, changed, modified, altered or terminated without the prior written consent of the Trustee, given in accordance with the provisions of the Indenture.

ARTICLE XV

MISCELLANEOUS PROVISIONS

**Section 15.1. Notices.** All notices, certificates or other communications required or desired to be given hereunder shall be in writing and shall be given to or filed with the Issuer, the Trustee, the Tenants in Common or the Owners of the Bonds if the same is given or filed in the manner and at the addresses specified in the Indenture.

**Section 15.2. Issuer Shall Not Unreasonably Withhold Consents and Approvals.** Wherever in this Lease Agreement it is provided that the Issuer shall, may or must give its approval or consent, or execute supplemental agreements or schedules, the Issuer shall not unreasonably, arbitrarily or unnecessarily withhold or refuse to give such approvals or consents or refuse to execute such supplemental agreements or schedules.

**Section 15.3. Net Lease.** The parties hereto agree (a) that this Lease Agreement shall be deemed and construed to be a net lease, (b) that the payments of Basic Rent are designed to provide the Issuer and the Trustee funds adequate in amount to pay all principal of and interest accruing on the Bonds as the same become due and payable, and (c) that if after the principal of and interest on the Bonds and all fees, expenses and costs incident to the payment of the Bonds have been paid in full the Trustee or the Issuer holds unexpended funds received in accordance with the terms hereof such unexpended funds shall, after payment therefrom of all sums then due and owing by the Tenants in Common under the terms of this Lease Agreement, and except as otherwise provided in this Lease Agreement and the Indenture, become the absolute property of and be paid over forthwith to the Tenants in Common.

**Section 15.4. No Pecuniary Liability.** No provision, covenant or agreement contained in this Lease Agreement, the Indenture or the Bonds, or any obligation herein or therein imposed upon the Issuer, or the breach thereof, shall constitute or give rise to or impose upon the Issuer a pecuniary liability or a charge upon the general credit or taxing powers of the Issuer or the State of Kansas. Such limitation shall not apply to any liability or charge directly resulting from the Issuer's breach of any provision, covenant or agreement contained herein.

**Section 15.5. Governing Law.** This Lease Agreement shall be construed in accordance with and governed by the laws of Kansas.

**Section 15.6. Binding Effect.** This Lease Agreement shall be binding upon and shall inure to the benefit of the Issuer and the Tenants in Common and their respective successors and assigns.

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

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

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

**Section 15.10. Satisfaction of Tenants in Common's Obligations.** Any obligation of the Tenants in Common under this Lease Agreement, including, but not limited to, the obligations of the Tenants in Common to pay Basic Rent, Additional Rent and to maintain insurance pursuant to **Article VII**, may be performed by any of the Tenants in Common, and such performance by any Tenant in Common shall be treated as though the obligation were performed by the obligated Tenant in Common.

[BALANCE OF PAGE INTENTIONALLY LEFT BLANK]

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

**CITY OF BEL AIRE, KANSAS**

[SEAL]

ATTEST:

By: \_\_\_\_\_  
Jim Benage, Mayor

\_\_\_\_\_  
Melissa Krehbiel, City Clerk

**TENANTS IN COMMON:**

**ASPEN SUNFLOWER INDUSTRIAL I LLC,  
a Tenant in Common**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Manager  
Ownership Interest: 62.0%

**2 PATRIOTS INVESTMENTS II, LLC,  
a Tenant in Common**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Manager  
Ownership Interest: 29.6%

**SMT PROPERTIES 2, LLC,  
a Tenant in Common**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Manager  
Ownership Interest: 6.8%

**ETG A, LLC,  
a Tenant in Common**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Manager  
Ownership Interest: 0.8%

**SREV1, LLC, a Tenant in Common**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Manager  
Ownership Interest: 0.8%

**EXHIBIT A**

**PROJECT SITE**

Lot 1, Block 1, SUNFLOWER COMMERCE PARK 4<sup>TH</sup>, a subdivision of land in the City of Bel Aire, Sedgwick County, Kansas;

## **EXHIBIT B**

### **PROJECT IMPROVEMENTS**

All buildings, structures, improvements and fixtures located on or to be acquired or purchased for the construction, improvement, furnishing, equipping or remodeling of the Project Site pursuant to **Article IV** hereof, including all rights-of-way and appurtenances necessary and convenient therefor, and paid for in whole or in part from the proceeds of Bonds and all additions, alterations, modifications and improvements thereof made pursuant to this Lease Agreement.

## EXHIBIT C

### PROJECT EQUIPMENT

All items of machinery, equipment and parts or other personal property installed or acquired or to be acquired for installation in the Project Improvements or elsewhere on the Project Site, or for use in connection with the Tenants in Common's business, pursuant to **Article IV** hereof and paid for in whole or in part from the proceeds of Bonds and all replacements thereof and substitutions therefor made pursuant to this Lease Agreement.

**EXHIBIT D****[FORM OF REQUISITION CERTIFICATE]**

Requisition No. \_\_\_\_\_

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

**REQUISITION CERTIFICATE**

TO: SECURITY BANK OF KANSAS CITY, AS TRUSTEE UNDER A TRUST INDENTURE DATED AS OF DECEMBER 4, 2025, BETWEEN THE CITY OF BEL AIRE, KANSAS, AND THE TRUSTEE, AND LEASE AGREEMENT DATED AS OF DECEMBER 4, 2025, BETWEEN THE CITY OF BEL AIRE, KANSAS, AND ASPEN SUNFLOWER INDUSTRIAL I, LLC

The undersigned hereby requests that a total of \$\_\_\_\_\_ be paid for Project Costs (as defined in said Lease) in such amounts, to such payees and for such purposes as set forth on **Schedule 1** attached hereto.

I hereby state and certify that: (i) the amounts requested are or were necessary and appropriate in connection with the acquisition, purchase, construction, improving, furnishing, equipping or remodeling of Project 1, have been properly incurred and are a proper charge against the Project Fund, and have been paid by or are justly due to the persons whose names and addresses are stated above, and have not been the basis of any previous requisition from the Project Fund; (ii) as of this date, except for the amounts referred to above, there are no, to the best of my knowledge, outstanding statements which are due and payable for labor, wages, materials, supplies or services in connection with the acquisition, purchase, construction, improving, furnishing, equipping or remodeling of said buildings and improvements which, if unpaid, might become the basis of a vendors', mechanics', laborers' or materialmen's statutory or similar lien upon Project 1 or any part thereof; and (iii) no part of the several amounts paid or due as stated above has been or is being made the basis for the withdrawal of any moneys from the Project Fund in any previous or pending application for payment made pursuant to said Lease.

**ASPEN SUNFLOWER INDUSTRIAL I, LLC,**  
a Kansas limited liability company

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

## SCHEDULE 1 TO REQUISITION CERTIFICATE

[illegible]



**GILMORE & BELL, P.C.**  
**10/21/2025**

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**CITY OF BEL AIRE, KANSAS**

**AND**

**SECURITY BANK OF KANSAS CITY**  
**As Trustee**

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**TRUST INDENTURE**

**Dated as of December 4, 2025**

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**Relating to:**

**\$18,000,000**  
**(Aggregate Maximum Principal Amount)**  
**City of Bel Aire, Kansas**  
**Taxable Industrial Revenue Bonds**  
**(Aspen Sunflower Industrial I, LLC Project)**  
**Series 2025**

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TRUST INDENTURE

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TRUST INDENTURE

**THIS TRUST INDENTURE** dated as of December 4, 2025 (the “**Indenture**”), between the **CITY OF BEL AIRE, KANSAS**, a municipal corporation organized and existing under the laws of the State of Kansas (the “**Issuer**”), and **SECURITY BANK OF KANSAS CITY**, a national banking association duly organized and existing under the laws of the United States of America and authorized to accept and execute trusts of the character herein set forth under the laws of the State of Kansas, with its principal corporate trust office located in the city of Kansas City, Missouri, as Trustee (the “**Trustee**”);

WITNESSETH:

**WHEREAS**, the Issuer is authorized under the provisions of K.S.A. 12-1740 to 12-1749d, inclusive, as amended (the “**Act**”), to purchase, acquire, construct, improve, equip and remodel certain facilities within its jurisdiction for commercial purposes, and to enter into leases and lease-purchase agreements with any person, firm or corporation for said facilities, and to issue revenue bonds for the purpose of paying the cost of any such facilities, and to pledge the income and revenues to be derived from the operation of such facilities to secure the payment of the principal of and interest on such bonds;

**WHEREAS**, pursuant to the Act, the governing body of the Issuer adopted a Resolution on April 16, 2024 (the “**Resolution**”), expressing the intent of the Issuer to issue its industrial revenue bonds in the approximate principal amount of \$18,000,000 for an industrial project for **ASPEN SUNFLOWER INDUSTRIAL I LLC**, a Kansas limited liability company, holding an undivided 62.0% interest, **2 PATRIOTS INVESTMENTS II, LLC**, a Kansas limited liability company, holding an undivided 29.6% interest, **SMT PROPERTIES 2, LLC**, a Kansas limited liability company, holding an undivided 6.8% interest, **ETG A, LLC**, a Kansas limited liability company, holding an undivided 0.8% interest, and **SREV1, LLC**, a Kansas limited liability company, holding an undivided 0.8%, as tenants in common, (the “**Tenants in Common**”)

**WHEREAS**, pursuant to the Act, the governing body of the Issuer has passed Ordinance No. [ ] (the “**Ordinance**”) authorizing the Issuer to issue its Taxable Industrial Revenue Bonds (Aspen Sunflower Industrial I, LLC Project), Series 2025, in the maximum principal amount of \$18,000,000 (the “**Bonds**”), for the purpose providing funds to finance acquiring land and constructing and equipping a building for use in industrial, manufacturing, warehouse, distribution, flex and/or office purposes, located within the corporate limits of the Issuer immediately northeast of the intersection of 53<sup>rd</sup> Street North and Webb Road (the “**Project 1**”), and authorizing the Issuer to lease Project 1 to Tenants in Common;

**WHEREAS**, Tenants in Common will lease Project 1 to the Issuer pursuant to the Base Lease Agreement of even date herewith (the “**Base Lease Agreement**”) between Tenants in Common and the Issuer;

**WHEREAS**, the Issuer will lease Project 1 to Tenants in Common pursuant to the Lease Agreement of even date herewith (the “**Lease Agreement**”) between the Issuer and Tenants in Common; and

**WHEREAS**, all things necessary to make the Bonds, when authenticated by the Trustee and issued as in this Indenture provided, the valid and legally binding obligations of the Issuer, and to constitute this Indenture a valid and legally binding pledge and assignment of the Trust Estate herein made for the security of the payment of the principal of and interest on the Bonds, have been done and performed, and the

execution and delivery of this Indenture and the execution and issuance of the Bonds, subject to the terms hereof, have in all respects been duly authorized;

**NOW, THEREFORE, THIS TRUST INDENTURE WITNESSETH:**

**GRANTING CLAUSES**

That the Issuer, in consideration of the premises, the acceptance by the Trustee of the trusts hereby created, the purchase and acceptance of the Bonds by the Owners thereof, and of other good and valuable consideration, the receipt of which is hereby acknowledged, and in order to secure the payment of the principal of and interest on all of the Bonds issued and outstanding under this Indenture from time to time according to their tenor and effect, and to secure the performance and observance by the Issuer of all the covenants, agreements and conditions herein and in the Bonds contained, does hereby pledge and assign to the Trustee and its successors and assigns forever (subject to the proviso set forth in the following paragraph), the property described in paragraphs (a), (b) and (c) below (said property being herein referred to as the “**Trust Estate**”), to-wit:

(a) All right, title and interest of the Issuer in, to and under the Base Lease Agreement and Project 1 together with the tenements, hereditaments, appurtenances, rights, privileges and immunities thereunto belonging or appertaining;

(b) All right, title and interest of the Issuer in, to and under the Lease Agreement, and all rents, revenues and receipts derived by the Issuer from Project 1 including, without limitation, all rentals and other amounts to be received by the Issuer and paid by Tenants in Common under and pursuant to and subject to the provisions of the Lease Agreement; and

(c) All moneys and securities from time to time held by the Trustee under the terms of this Indenture, and any and all other real or personal property of every kind and nature from time to time hereafter, by delivery or by writing of any kind, pledged, assigned or transferred as and for additional security hereunder by the Issuer or by anyone in its behalf, or with its written consent, to the Trustee, which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof.

**TO HAVE AND TO HOLD**, all and singular, the Trust Estate with all rights and privileges hereby pledged and assigned or agreed or intended so to be, to the Trustee and its successors and assigns forever;

**IN TRUST NEVERTHELESS**, upon the terms and subject to the conditions herein set forth, for the equal and proportionate benefit, protection and security of all Owners from time to time of the Bonds outstanding under this Indenture, without preference, priority or distinction as to lien or otherwise of any of the Bonds over any other of the Bonds except as expressly provided in or permitted by this Indenture;

**PROVIDED, HOWEVER**, that if the Issuer shall well and truly pay, or cause to be paid, the principal of and interest on the Bonds, at the time and in the manner mentioned in the Bonds, according to the true intent and meaning thereof, or shall provide for the payment thereof (as provided in **Article XIII** hereof), and shall pay or cause to be paid to the Trustee all other sums of money due or to become due to it in accordance with the terms and provisions hereof, then upon such final payments this Indenture and the rights thereby granted shall cease, determine and be void; otherwise, this Indenture shall be and remain in full force and effect.

**THIS INDENTURE FURTHER WITNESSETH**, and it is hereby expressly declared, covenanted and agreed by and between the parties hereto, that all Bonds issued and secured hereunder are to be issued, authenticated and delivered and that all the Trust Estate is to be held and applied under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed, and the Issuer does hereby agree and covenant with the Trustee and with the respective Owners from time to time of the Bonds or coupons, as follows:

ARTICLE I  
DEFINITIONS

**Section 101. Definitions of Words and Terms.** In addition to words and terms defined in **Section 1.1** of the Lease Agreement, which definitions shall be deemed to be incorporated herein, and terms defined elsewhere in this Indenture, the following words and terms as used in this Indenture shall have the following meanings, unless some other meaning is plainly intended:

**“Act”** means K.S.A. 12-1740 to 12-1749d, inclusive, as amended.

**“Additional Bonds”** means any Bonds issued pursuant to **Section 209** of this Indenture.

**“Authorized Issuer Representative”** means the Mayor, City Manager, Director of Finance, Clerk or such other person at the time designated to act on behalf of the Issuer as evidenced by written certificate furnished to Tenants in Common and the Trustee containing the specimen signature of such person and signed on behalf of the Issuer by its Mayor. Such certificate may designate an alternate or alternates each of whom shall be entitled to perform all duties of the Authorized Issuer Representative.

**“Authorized TIC Representative”** means the person at the time designated to act on behalf of Tenants in Common as evidenced by written certificate furnished to the Issuer and the Trustee containing the specimen signature of such person and signed on behalf of Tenants in Common by authorized officers. Such certificate may designate an alternate or alternates each of whom shall be entitled to perform all duties of the Authorized TIC Representative.

**“Base Lease Agreement”** means the Base Lease Agreement dated as of December 4, 2025, between Tenants in Common, as lessor and, the Issuer, as lessee, and as from time to time amended and supplemented in accordance with the Base Lease Agreement.

**“Bond”** or **“Bonds”** means the Taxable Industrial Revenue Bonds (Aspen Sunflower Industrial I, LLC Project), Series 2025, in the maximum principal amount of \$18,000,000, issued pursuant to **Section 208** of this Indenture and Additional Bonds, authenticated and delivered under and pursuant to this Indenture.

**“Bond Fund”** means “City of Bel Aire, Kansas, Taxable Industrial Revenue Bond Fund – ” created in **Section 601** of this Indenture.

**“Bondowner”** or **“Registered Owner”** means the registered owner of any Bond, as recorded in the books maintained by the Trustee for registration and transfer of the Bonds.

**“Bond Purchase Agreement”** means the agreement by that name with respect to the Bonds by and between the Issuer and the purchaser identified therein.

**“Business Day”** shall mean a day which is not (a) a Saturday, Sunday or any other day on which banking institutions in New York, New York, or the Issuer or cities in which the principal payment or other designated corporate office of the Trustee is located are required or authorized to close or (b) a day on which the New York Stock Exchange is closed.

**“Completion Date”** means the date of execution of the certificate required pursuant to **Section 504** hereof.

**“Cumulative Outstanding Principal Amount”** means an amount equal to the aggregate of all amounts paid into the Project Fund in accordance with the provisions of this Indenture, the Bond Purchase Agreement and the Lease Agreement, as reflected in the bond registration records maintained by the Trustee or in the Table of Cumulative Outstanding Principal Amount set forth in the form of Bond in **Section 401** hereof, less any amount redeemed pursuant to **Article III** hereof.

**“Event of Default”** means any Event of Default as defined in **Section 901** hereof.

**“Government Securities”** means direct obligations of, or obligations the payment of principal of and interest on which are unconditionally guaranteed by, the United States of America.

**“Indenture”** means this Trust Indenture, as from time to time amended and supplemented by Supplemental Indentures in accordance with the provisions of **Article XI** hereof.

**“Interest Payment Date”** means each December 1, commencing December 1, 2026.

**“Investment Securities”** means any of the following securities:

(a) any bonds or other obligations which as to principal and interest constitute direct obligations of, or are unconditionally guaranteed by, the United States of America, including obligations of any of the federal agencies set forth in clause (b) below to the extent they are unconditionally guaranteed by the United States of America;

(b) obligations of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Financing Bank, the Federal Intermediate Credit Corporation, Federal Banks for Cooperatives, Federal Land Banks, Federal Home Loan Banks, Farmers Home Administration and Federal Home Loan Mortgage Association;

(c) direct and general obligations of any state of the United States of America, to the payment of the principal of and interest on which the full faith and credit of such state is pledged, provided that at the time of their purchase under this Indenture such obligations are rated in either of the two highest rating categories by a nationally-recognized bond rating agency;

(d) certificates of deposit, whether negotiable or nonnegotiable, issued by any financial institution organized under the laws of any state of the United States of America or under the laws of the United States of America (including the Trustee), provided that such certificates of deposit shall be either (1) continuously and fully insured by the Federal Deposit Insurance Corporation, or (2) continuously and fully secured by such securities as are described above in clauses (a) through (c), inclusive, which shall have a market value (exclusive of accrued interest) at all times at least equal to the principal amount of such certificates of deposit and shall be lodged with the Trustee or a custodian bank, trust company or national banking association. The bank, trust company or national banking association holding each such certificate of deposit required to be so secured shall furnish



the Trustee written evidence satisfactory to it that the aggregate market value of all such obligations securing each such certificate of deposit will at all times be an amount at least equal to the principal amount of each such certificate of deposit and the Trustee shall be entitled to rely on each such undertaking;

(e) Shares of a fund registered under the Investment Company Act of 1940, as amended, whose shares are registered under the Securities Act of 1933, as amended, having assets of at least \$100,000,000, whose only assets are obligations described in (a) above, and which shares, at the time of purchase, are rated by Standard & Poor's and Moody's in one of the two highest rating categories (without regard to any refinements or gradation of rating category by numerical modifier or otherwise) assigned by such rating agencies for obligations of that nature;

(f) Any other investment approved in writing by the Owner of the Bonds.

**“Issuer”** means the City of Bel Aire, Kansas, a municipal corporation organized and existing under the laws of the State of Kansas, and its successors and assigns.

**“Lease Agreement”** means the Lease Agreement dated as of December 4, 2025, between the Issuer, as lessor, and Tenants in Common, as lessee, as from time to time amended and supplemented by Supplemental Leases in accordance with the provisions thereof and of **Article XII** of this Indenture.

**“Outstanding,”** when used with reference to Bonds, means, as of a particular date, all Bonds theretofore authenticated and delivered, except:

(a) Bonds theretofore cancelled by the Trustee or delivered to the Trustee for cancellation;

(b) Bonds deemed to be paid in accordance with the provisions of **Section 1302** hereof; and

(c) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered pursuant to this Indenture.

**“Owner”** shall have the same meaning as Bondowner.

**“Paying Agent”** means the Trustee and any other bank or trust company designated by this Indenture as paying agent for the Bonds at which the principal of or interest on the Bonds shall be payable.

**“PILOT Agreement”** means the Agreement for Payments in Lieu of Taxes dated as of December 4, 2025, by and between the Issuer and Tenants in Common.

**“Project 1”** means the project referred to in the recitals of this Indenture, including the Project Site, the Project Improvements and the Project Equipment, and all additions, modifications, improvements, replacements and substitutions made to Project 1 pursuant to the Lease Agreement as they may at any time exist.

**“Project Costs”** means all costs of acquisition, purchase, construction, improvement, furnishing, equipping and remodeling of Project 1, including the following:

(a) all costs and expenses necessary or incident to the acquisition of the Project Site and any Project Improvements and Project Equipment located thereon at the execution of the Lease Agreement and which Tenants in Common conveys to the Issuer;

(b) fees and expenses of architects, appraisers, surveyors and engineers for estimates, surveys, soil borings and soil tests and other preliminary investigations and items necessary to the commencement of acquisition, purchase, construction, improvement, equipping and remodeling, preparation of plans, drawings and specifications and supervision of construction and renovation, as well as for the performance of all other duties of architects, appraisers, surveyors and engineers in relation to the acquisition, purchase, construction, improvement, equipping and remodeling of Project 1 or the issuance of the Bonds;

(c) all costs and expenses of every nature incurred in acquisition, purchase, construction, improvement and remodeling the Project Improvements and otherwise improving the Project Site and purchasing and installing the Project Equipment, including the actual cost of labor, materials, machinery, furnishings and equipment as payable to contractors, builders and materialmen in connection with the acquisition, purchase, construction, improvement, equipping and remodeling of Project 1;

(d) interest accruing on the Bonds during the period of the acquisition, purchase, construction, improvement, equipping and remodeling of Project 1;

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

(f) reasonable expenses of administration, supervision and inspection properly chargeable to Project 1, underwriting expenses, legal fees and expenses, fees and expenses of accountants and other consultants, publication and printing expenses, and initial fees and expenses of the Trustee to the extent that said fees and expenses are necessary or incident to the issuance and sale of the Bonds or the acquisition, purchase, construction, improvement, equipping and remodeling of Project 1;

(g) all other items of expense not elsewhere specified in this definition as may be necessary or incident to: (1) the authorization, issuance and sale of the Bonds; (2) the acquisition, purchase, construction, improvement, equipping and remodeling of Project 1; and (3) the financing thereof; and

(h) reimbursement to Tenants in Common or those acting for it for any of the above enumerated costs and expenses incurred and paid by them before or after the execution of the Lease Agreement;

provided, however, the Project Costs shall not include any of the foregoing items if such item was paid or incurred prior to adoption of the Resolution, with the following exception: costs and expenses relating to architectural and engineering services for Project 1 constitute Project Costs within the meaning of this definition regardless of the date such costs were paid to the extent such costs are properly capitalizable in accordance with generally accepted accounting principles.

**“Project Fund”** means “City of Bel Aire, Kansas, Project Fund – ” created in **Section 501** of this Indenture.

“**Refunding Bonds**” shall have the meaning set forth in **Section 209** hereof.

“**Supplemental Indenture**” means any indenture supplemental or amendatory to this Indenture entered into by the Issuer and the Trustee pursuant to **Article XI** hereof.

“**Supplemental Lease**” means any supplement or amendment to the Lease Agreement entered into pursuant to **Article XII** hereof.

“**Transaction Documents**” means this Indenture, the Bonds, the Base Lease Agreement, the Lease Agreement, the Bond Purchase Agreement, the PILOT Agreement and any and all future renewals and extensions or restatements of, or amendments or supplements to, any of the foregoing; provided, however, that when the words “Transaction Documents” are used in the context of the authorization, execution, delivery, approval or performance of Transaction Documents by a particular party, the same shall mean only those Transaction Documents that provide for or contemplate authorization, execution, delivery and approval by such party.

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

“**Trustee**” means Security Bank of Kansas City, a state banking association duly organized and existing under the laws of the State of Kansas, and its successor or successors and any other corporation which at the time may be substituted in its place pursuant to and at the time serving as Trustee under this Indenture.

**Section 102. Rules of Interpretation.**

- (a) Unless the context shall otherwise indicate, the words importing the singular number shall include the plural and vice versa, and words importing persons shall include firms, associations and corporations, including public bodies, as well as natural persons.
- (b) Wherever in this Indenture it is provided that either party shall or will make any payment or perform or refrain from performing any act or obligation, each such provision shall, even though not so expressed, be construed as an express covenant to make such payment or to perform, or not to perform, as the case may be, such act or obligation.
- (c) All references in this instrument to designated “Articles,” “Sections” and other subdivisions are, unless otherwise specified, to the designated Articles, Sections and subdivisions of this instrument as originally executed. The words “herein,” “hereof,” “hereunder” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or subdivision.
- (d) The Table of Contents and the Article and Section headings of this Indenture shall not be treated as a part of this Indenture or as affecting the true meaning of the provisions hereof.

**ARTICLE II**

**THE BONDS**

**Section 201. Title and Amount of Bonds.** No Bonds may be issued under this Indenture except in accordance with the provisions of this Article. The Bonds authorized to be issued under this Indenture shall be designated as “City of Bel Aire, Kansas Taxable Industrial Revenue Bond (Aspen Sunflower

Industrial I, LLC Project), Series 2025,” with such other appropriate particular designation added to or incorporated in such title for the Bonds of any particular series of Additional Bonds as the Issuer may determine. The maximum total principal amount of Bonds that may be issued hereunder is hereby expressly limited to \$18,000,000, plus the principal amount of any Additional Bonds.

**Section 202. Nature of Obligation.** The Bonds and the interest thereon shall be special obligations of the Issuer payable solely out of the rents, revenues and receipts derived by the Issuer from Project 1 and not from any other fund or source of the Issuer, and are secured by a pledge and assignment of the Trust Estate to the Trustee in favor of the Owners of the Bonds, as provided in this Indenture. The Bonds and the interest thereon shall not constitute general obligations of the Issuer or the State of Kansas, and neither the Issuer nor said State shall be liable thereon, and the Bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, and are not payable in any manner by taxation.

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

(a) The Bonds shall be issuable in the form of one fully registered Bond without coupons in the minimum denomination of \$100,000 and any multiple of \$0.01 in excess thereof up to \$18,000,000. The Bond shall be substantially in the form hereinafter set forth in **Article IV** of this Indenture.

(b) The Bond of each series will be numbered from 1 upward, and shall be dated by the Trustee as of the date of initial delivery thereof as provided herein. If the Bond is at any time thereafter transferred, any Bond replacing such Bond shall be dated as of the date of authentication thereof.

**Section 204. Method and Place of Payment of Bond.**

(a) The principal of and interest on the Bond shall be payable in any coin or currency of the United States of America which on the respective dates of payment thereof is legal tender for payment of public and private debts.

(b) Payment of the principal of the Bond shall be made upon the presentation and surrender of such Bond at the principal payment office of any Paying Agent named in the Bond; **provided**, that so long as Aspen Sunflower Industrial I LLC is the sole Bondowner, the Trustee shall make payments of principal on such Bond by internal bank transfer or by wire transfer to an account at a commercial bank or savings institution designated by such Bondowner and located in the continental United States; **provided, further**, that upon any payment by internal bank transfer or by wire transfer of principal on such Bond, the Trustee shall record the amount of such principal payment on the registration books for the Bonds maintained by the Trustee on behalf of the Issuer. If the Bond is presented to the Trustee together with such payment, the Trustee may enter the amount of such principal payment on the Table of Cumulative Outstanding Principal Amount on the Bond. Notwithstanding the foregoing, the registration books maintained by the Trustee shall be the official record of the Cumulative Outstanding Principal Amount on the Bond at any time, and the Bondowner is not required to present the Bond for action by the Trustee, as bond registrar, with each payment of principal on the Bond. Payment of the interest on the Bond shall be made by the Trustee on each Interest Payment Date to the person appearing on the registration books of the Issuer hereinafter provided for as the Registered Owner thereof on the fifteenth day (whether or not a Business Day) of the calendar month next preceding such Interest Payment Date by check or draft mailed to such Registered Owner at such Owner's address as it appears on such registration books.

In the event that Aspen Sunflower Industrial I LLC is the sole Bondowner, the Trustee is authorized to make interest payments on such Bond by internal bank transfer or by wire transfer to an account at a commercial bank or savings institution designated by such Bondowner and located in the continental United

States. In addition, at the written request of any Registered Owner of Bonds in the aggregate principal amount of at least **\$500,000**, the principal and interest on this Bond shall be paid by electronic transfer to such Owner upon written notice to the Trustee from such Owner containing the electronic transfer instructions to which such owner wishes to have such transfer directed and such written notice is given by such owner to the Trustee not less than the fifteenth day (whether or not a Business Day) of the calendar month next preceding such Interest Payment Date. Any such written notice for electronic transfer shall be signed by such Owner and shall include the name of the bank (which shall be in the continental United States), its address, its ABA routing number and the name, number and contact name related to such Owner's account at such bank to which the payment is to be credited.

In addition, as provided in the Lease Agreement, the Bond may be paid or deemed paid in such other manner as provided by the Trustee.

In the event that Aspen Sunflower Industrial I LLC is the sole Bondowner, then Tenants in Common may set-off their obligation to the Issuer as lessee under the Lease Agreement against the Issuer's obligations to Tenants in Common as the Bondowner under this Indenture. The Trustee may conclusively rely on the absence of any notice from Tenants in Common to the contrary as evidence that such set-off has occurred. On the Maturity Date, Aspen Sunflower Industrial I LLC may deliver to the Trustee for cancellation the Bonds and Tenants in Common shall receive a credit against the Basic Rent payable by Tenants in Common the Lease Agreement in an amount equal to the remaining principal on the Bonds so tendered for cancellation plus accrued interest thereon.

#### **Section 205. Execution and Authentication of Bonds.**

(a) The Bond shall be executed on behalf of the Issuer by the manual or facsimile signature of its Mayor and attested by the manual or facsimile signature of its Clerk or acting Clerk, and shall have the corporate seal of the Issuer affixed thereto or imprinted thereon. In case any officer whose signature or facsimile thereof appears on the Bond shall cease to be such officer before the delivery of such Bond, such signature or facsimile thereof shall nevertheless be valid and sufficient for all purposes, the same as if such person had remained in office until delivery. Any Bond may be signed by such persons as at the actual time of the execution of such Bond shall be the proper officers to sign such Bond although at the date of such Bond such persons may not have been such officers.

(b) The Bond shall have endorsed thereon a Certificate of Authentication substantially in the form set forth in **Exhibit A** hereto, which shall be manually executed by the Trustee. No Bond shall be entitled to any security or benefit under this Indenture or shall be valid or obligatory for any purposes unless and until such Certificate of Authentication shall have been duly executed by the Trustee. Such executed Certificate of Authentication upon any Bond shall be conclusive evidence that such Bond has been duly authenticated and delivered under this Indenture. The Certificate of Authentication on any Bond shall be deemed to have been duly executed if signed by any authorized officer or employee of the Trustee.

#### **Section 206. Registration, Transfer and Exchange of Bonds.**

(a) The Trustee shall keep books for the registration and for the transfer of Bonds as provided in this Indenture.

(b) The Bond may be transferred only upon the books kept for the registration and transfer of Bonds upon surrender thereof to the Trustee duly endorsed for transfer or accompanied by an assignment duly executed by the Registered Owner or such owner's attorney or legal representative, in such form as shall be satisfactory to the Trustee. The Bond has not been registered under the Securities Act of 1933, as

amended, or any state securities law, and the Bond may not be transferred unless the Issuer consents in writing to such transfer. The Bond may be transferred to any successor to Aspen Sunflower Industrial I LLC or any entity owned or under common ownership with Tenants in Common, as Lessee under the Lease Agreement without the necessity of obtaining the Issuer's consent or such an opinion. In connection with any such transfer of the Bond the Trustee shall receive an executed representation letter signed by the proposed assignee in substantially the form attached hereto as **Exhibit B**. Upon any such transfer, the Issuer shall execute and the Trustee shall authenticate and deliver in exchange for such Bond a new fully registered Bond or Bonds, registered in the name of the transferee, of any denomination or denominations authorized by this Indenture, in an aggregate principal amount equal to the outstanding principal amount of such Bond, of the same maturity and bearing interest at the same rate.

(c) In all cases in which Bonds shall be exchanged or transferred hereunder the provisions of any legend restrictions on the Bonds shall be complied with and the Issuer shall execute and the Trustee shall authenticate and deliver at the earliest practicable time Bonds in accordance with the provisions of this Indenture. All Bonds surrendered in any such exchange or transfer shall forthwith be cancelled by the Trustee. The Issuer or the Trustee may make a reasonable charge for every such exchange or transfer of Bonds sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer, and such charge shall be paid before any such new Bond shall be delivered. Neither the Issuer nor the Trustee shall be required to make any such exchange or transfer of Bonds during the 15 days immediately preceding an Interest Payment Date on the Bonds or, in the case of any proposed redemption of Bonds, during the 15 days immediately preceding the selection of Bonds for such redemption or after such Bonds or any portion thereof has been selected for redemption.

In the event any Registered Owner fails to provide a correct taxpayer identification number to the Trustee, the Trustee may impose a charge against such Registered 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, such amount may be deducted by the Trustee from amounts otherwise payable to such Registered Owner hereunder or under the Bonds.

(d) The Issuer and the Trustee consent to the Mortgage and the pledge of the Bond to any Mortgagee thereunder.

**Section 207. Persons Deemed Owners of Bonds.** As to any Bond, the person in whose name the same shall be registered as shown on the bond registration books required by **Section 206** hereof shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal of and interest on any such Bond shall be made only to or upon the order of the Registered Owner thereof or a legal representative thereof. All such payments shall be valid and effectual to satisfy and discharge the liability upon such bond, including the interest thereon, to the extent of the sum or sums so paid.

#### **Section 208. Authorization of the Bonds.**

(a) There shall be issued and secured by this Indenture a series of Bonds in the aggregate maximum principal amount of \$18,000,000 for the purpose of providing Sunflower Industrial for paying the costs of Project 1, which Bonds shall be designated "City of Bel Aire, Kansas Taxable Industrial Revenue Bond (Aspen Sunflower Industrial I, LLC Project), Series 2025" (the "Series 2025 Bonds"). The Series 2025 Bonds shall be dated as provided in **Section 203(b)** hereof, shall become due on December 1, 2034 (subject to prior redemption as hereinafter provided in **Article III**) and shall bear interest as specified in **Section 208(e)** hereof, payable on the dates specified in **Section 208(e)** hereof.

(b) The Trustee is hereby designated as the Issuer's Paying Agent for the payment of the principal of and interest on the Bonds.

(c) The Bond shall be executed without material variance from the form and in manner set forth in **Article IV** hereof and delivered to the Trustee for authentication, but prior to or simultaneously with the authentication and delivery of the Bond by the Trustee, there shall be filed with the Trustee the following:

(1) An original or certified copy of Ordinance passed by the governing body of the Issuer authorizing the issuance of the Bonds and the execution of this Indenture and the Lease Agreement;

(2) An original executed counterpart of this Indenture;

(3) Original executed counterparts of the Base Lease Agreement, the Lease Agreement, the Bond Purchase Agreement, and the PILOT Agreement;

(4) A request and authorization to the Trustee on behalf of the Issuer, executed by the Authorized Issuer Representative, to authenticate the Bond and deliver the same to the purchaser identified in the Bond Purchase Agreement upon payment to the Trustee, for the account of the Issuer, of the purchase price thereof specified in the Bond Purchase Agreement. The Trustee shall be entitled to conclusively rely upon such request and authorization as to names of the purchaser and the amount of such purchase price;

(5) An opinion of counsel nationally recognized on the subject of municipal bonds to the effect that the Bonds constitute valid and legally binding limited and special revenue obligations of the Issuer;

(6) An opinion of counsel to the Authorized TIC Representative to the effect that the Base Lease, Lease Agreement, Bond Purchase Agreement, and the PILOT Agreement constitute enforceable and binding obligations of Tenants in Common; and

(7) Evidence of insurance coverage as required by **Article VII** of the Lease Agreement.

(d) When the documents specified in subsection (c) of this Section shall have been filed with the Trustee, and when the Bond shall have been executed and authenticated as required by this Indenture, the Trustee shall deliver the Bond to or upon the order of the purchaser thereof, but only upon payment to the Trustee of the purchase price of the Bond, as specified in the Bond Purchase Agreement. The proceeds of the sale of the Bonds shall be immediately paid over to the Trustee, and the Trustee shall deposit and apply such proceeds as provided in **Article V** hereof.

(e) The Series 2025 Bond shall bear interest at the rate of        % per annum on the Cumulative Outstanding Principal Amount of the Bond, and such interest shall be payable in arrears on each Interest Payment Date, and continuing thereafter until the said Cumulative Outstanding Principal Amount is paid in full. Interest shall be calculated on the basis of a year of 360 days consisting of twelve months of 30 days each. Principal shall be payable at maturity unless redeemed prior to said date in accordance with **Article III**.

## **Section 209. Authorization of Additional Bonds.**

(a) Additional Bonds may be issued under and equally and ratably secured by this Indenture on a parity with the Bonds, and any other Additional Bonds which remain Outstanding after the issuance of such Additional Bonds, at any time or from time to time, upon compliance with the conditions hereinafter provided in this Section, for the purpose of providing funds for (i) refunding all or part of the Bonds then Outstanding of any series, including the payment of any premium thereon and interest to accrue to the designated redemption dated and any expenses in connection with such refunding, (ii) to provide funds to pay the costs of completing Project 1, (iii) to provide funds to pay all or any part of the costs of repairing, replacing or restoring Project 1 in the event of damage, destruction or condemnation thereto or thereof, and (iv) to provide funds to pay all or any part of the costs of acquisition, purchase, construction, improvement, furnishing, equipping and remodeling to Project 1 as Tenants in Common may deem necessary or desirable. Additional Bonds issued for purposes described in clause (i) above shall also be referred to as “Refunding Bonds.”

(b) Before any Additional Bonds shall be issued under the provisions of this Section, the Issuer shall (i) pass an ordinance authorizing the issuance of such Additional Bonds, fixing the amount thereof and describing the Bonds to be refunded, authorizing the Issuer to enter into a Supplemental Indenture for the purpose of issuing such Additional Bonds and, if required, authorizing the Issuer to enter into a Supplemental Lease with Tenants in Common, and (ii) except in the case of Refunding Bonds, for which consent shall not be required, obtain the written consent to the issuance of the proposed Additional Bonds from the Owners of 100% of the Bonds Outstanding as reflected on the bond registration books maintained by the Trustee immediately preceding the issuance of such Additional Bonds.

(c) Such Additional Bonds shall be dated, shall be stated to mature in such year or years, shall bear interest at such rate or rates not exceeding the maximum rate then permitted by law, and shall be redeemable at such times and prices, all as may be provided by the Supplemental Indenture authorizing the issuance of such Additional Bonds. Except as to any difference in the date, the maturity or maturities, the rate or rates of interest or the provisions for redemptions, such Additional Bonds shall be on a parity with and shall be entitled to the same benefit and security of this Indenture as the Bonds, and any other Additional Bonds which remain Outstanding after the issuance of such Additional Bonds.

(d) Except as provided in this Section, the Issuer will not otherwise issue any obligations on a parity with the Bonds, but the Issuer may, at the written request of Tenants in Common, issue other obligations specifically subordinate and junior to the Bonds, without the written consent of all or any of the Owners.

(e) Such Additional Bonds shall be executed in the manner set forth in **Section 205** hereof and shall be deposited with the Trustee for authentication, but prior to or simultaneously with the authentication and delivery of such Additional Bonds by the Trustee, and as a condition precedent thereto, there shall be filed with the Trustee the following:

(1) An original or certified copy of the ordinance passed by the Issuer authorizing the issuance of such Additional Bonds and the execution of the Supplemental Indenture, Supplemental Lease, a supplement to the PILOT Agreement, and supplements to any other documents as may be necessary;

(2) Original executed counterparts of the Supplemental Indenture, the Supplemental Lease and a supplement to the PILOT Agreement;



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

(4) A request and authorization to the Trustee on behalf of the Issuer, executed by the Authorized Issuer Representative, to authenticate the Additional Bonds and deliver the same to the Purchaser upon payment, for the account of the Issuer, of the purchase price thereof specified in the bond purchase agreement executed in connection with the purchase of the Additional Bonds. The Trustee shall be entitled to conclusively rely upon such request and authorization as to names of the purchaser and the amount of such purchase price;

(5) An opinion of counsel nationally recognized on the subject of municipal bonds to the effect that the Additional Bonds constitute valid and legally binding special obligations of the Issuer; and

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

When the documents specified in this subsection have been filed with the Trustee, and when the Additional Bonds have been executed and authenticated as required by this Indenture, either:

(1) The Purchaser shall pay the purchase price to the Trustee, and the Trustee shall endorse the Additional Bonds in an amount equal to the purchase price and then either hold the Additional Bonds in trust or is so directed in writing deliver the Additional Bonds to or upon the order of the Purchaser; or

(2) Tenants in Common shall submit a requisition certificate in accordance with the Lease in an amount equal to the purchase price of the Additional Bonds, and the Trustee shall authenticate and endorse the Additional Bonds in an amount equal to the purchase price and pursuant to **Section 208(c)** hereof either hold the Additional Bonds in trust for the Purchaser or if so directed in writing deliver the Bonds to the Purchaser (or another purchaser or assignee designated by the Purchaser).

In either case, the Purchaser shall be deemed to have paid over to the Trustee, and the Trustee shall be deemed to have deposited an amount equal or up to the purchase price of any Additional Bonds.

(f) When the documents specified above have been filed with the Trustee, and when such Additional Bonds have been executed and authenticated as required by this Indenture, the Trustee shall deliver such Additional Bonds to or upon the order of the Purchaser thereof, but only upon payment to the Trustee of the purchase price of such Additional Bonds. The proceeds of the sale of such Additional Bonds (except Additional Bonds issued to refund Outstanding Bonds), including accrued interest and premium thereon, if any, shall be immediately paid over to the Trustee and shall be deposited and applied by the Trustee as provided in **Article V** hereof and in the Supplemental Indenture authorizing the issuance of such Additional Bonds. The proceeds of all Additional Bonds issued to refund Outstanding Bonds (excluding accrued interest and premium, if any, which shall be deposited in a separate account in the Bond Fund) shall be deposited by the Trustee, after payment or making provision for payment of all expenses incident to such financing, to the credit of a special trust fund, appropriately designated, to be held in trust for the sole and exclusive purpose of paying the principal of, premium, if any, and interest on the Bonds to be refunded, as provided herein and in the Supplemental Indenture authorizing the issuance of such refunding Bonds.

**Section 210. Mutilated, Lost, Stolen or Destroyed Bonds.** In the event any Bond shall become mutilated, or be lost, stolen or destroyed, the Issuer shall execute and the Trustee shall authenticate and deliver a new Bond of like series, date and tenor as the Bond mutilated lost, stolen or destroyed; provided that, in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Trustee, and in the case of any lost, stolen or destroyed Bond, there shall be first furnished to the Issuer and the Trustee evidence of such loss, theft or destruction satisfactory to the Issuer and the Trustee, together with indemnity satisfactory to them. In the event any such Bond shall have matured, instead of issuing a substitute Bond, the Issuer and the Trustee may require the payment of an amount sufficient to reimburse the Issuer and the Trustee for any tax or other governmental charge that may be imposed in relation thereto and any other reasonable fees and expenses incurred in connection therewith.

**Section 211. Cancellation and Destruction of Bonds Upon Payment.**

(a) All Bonds which have been paid or redeemed or which the Trustee has purchased or which have otherwise been surrendered to the Trustee under this Indenture, either at or before maturity shall be cancelled by the Trustee immediately upon the payment, redemption or purchase of such Bonds and the surrender thereof to the Trustee.

(b) All Bonds cancelled under any of the provisions of this Indenture shall be destroyed by the Trustee. The Trustee shall execute a certificate in triplicate describing the Bonds so destroyed, and shall file executed counterparts of such certificate with the Issuer and Tenants in Common.

### ARTICLE III

#### REDEMPTION OF BONDS

**Section 301. Redemption of Bonds Generally.** The Bonds shall be subject to redemption prior to maturity in accordance with the terms and provisions set forth in this Article. Additional Bonds shall be subject to redemption prior to maturity in accordance with the terms and provisions contained in this Article and as may be specified in the Supplemental Indenture authorizing such Additional Bonds.

**Section 302. Redemption of Bonds.** The Bonds shall be subject to redemption and payment in whole or in part, as follows:

(a) At any time prior to the stated maturity thereof, by the Issuer, at the option of and upon instructions from Tenants in Common, at a price equal to the par value thereof, plus accrued interest thereon, without premium or penalty, to the date of payment.

(b) At any time prior to the stated maturity thereof, to the extent amounts are deposited into the Bond Fund in accordance with **Section 602** hereof, at a price equal to the par value thereof, plus accrued interest thereon, without premium or penalty, to the date of payment.

**Section 303. Effect of Call for Redemption.** Prior to or on the date fixed for redemption, funds or non-callable Government Securities shall be placed with the Trustee which are sufficient to pay the Bonds called for redemption and accrued interest thereon, if any, to the redemption date. Upon the happening of the above conditions and appropriate written notice having been given, the Bonds or the portions of the principal amount of Bonds thus called for redemption shall cease to bear interest on the specified redemption date, and shall no longer be entitled to the protection, benefit or security of this Indenture and shall not be deemed to be Outstanding under the provisions of this Indenture.

**Section 304. Notice of Redemption.** In the event the Bonds are to be called for redemption as provided in **Section 302(a) or (b)** hereof, Tenants in Common shall deliver written notice to the Issuer and the Trustee that it has elected to redeem all or a portion of the Bonds in accordance with **Section 302(a) or (b)** hereof at least ten days prior to the scheduled redemption date. The Trustee shall then deliver written notice to the Owner at least five days prior to the scheduled redemption date by first class mail stating the date upon which the Bonds will be redeemed and paid.

## ARTICLE IV

### FORM OF BONDS

**Section 401. Form Generally.** The Bond and the Trustee's Certificate of Authentication to be endorsed thereon shall be issued in substantially the forms set forth in **Exhibit A** attached hereto. Additional Bonds and the Trustee's Certificate of Authentication to be endorsed thereon shall be in substantially the form set forth in this Article, with such necessary or appropriate variations, omissions and insertions as are permitted or required by this Indenture or any Supplemental Indenture. The Bonds may have endorsed thereon such legends or text as may be necessary or appropriate to conform to any applicable rules and regulations of any governmental authority or any custom, usage or requirements of law with respect thereto.

## ARTICLE V

### CUSTODY AND APPLICATION OF BOND PROCEEDS

**Section 501. Creation of Project Fund.** There is hereby created and ordered to be established in the custody of the Trustee a special trust fund in the name of the Issuer to be designated the "City of Bel Aire, Kansas, Project Fund – " (herein called the "**Project Fund**").

**Section 502. Deposits into the Project Fund.** The proceeds of the sale of the Bond, including Additional Payments provided for in the Bond Purchase Agreement, when received, excluding such amounts required to be paid into the Bond Fund pursuant to **Section 602** hereof, shall be deposited by the Trustee into the Project Fund. Any money received by the Trustee from any other source for the purpose of acquisition, purchasing, construction, improving, furnishing, equipping or remodeling of Project 1 shall also be deposited into the Project Fund.

### **Section 503. Disbursements from the Project Fund.**

(a) The moneys in the Project Fund shall be disbursed by the Trustee for the payment of Project Costs upon receipt of requisition certificates signed by Tenants in Common in accordance with the provisions of **Article IV** of the Lease Agreement, and the Trustee hereby covenants and agrees to disburse such moneys in accordance with such provisions. All disbursements from the Project Fund which are payable to Tenants in Common shall be made by internal bank transfer or wire transfer as designated by Tenants in Common in writing to the Trustee. The Trustee shall disburse moneys in the Project Fund in each case within two (2) Business Days after receipt by the Trustee of an executed written requisition certificate. The Trustee shall notify the Registered Owner of the Bonds by telephone when the Trustee is prepared to disburse moneys pursuant to any requisition certificate. Any moneys received by the Trustee by 11:00 a.m. for deposit in the Project Fund for which the Trustee has received a requisition certificate shall be disbursed from the Project Fund on the same Business Day.

(b) In paying any requisition under this Section, the Trustee may rely conclusively as to the completeness and accuracy of all statements in such requisition certificate if such requisition certificate is signed by the Authorized TIC Representative, without inquiry or investigation. It is understood that the Trustee shall not be required to make any inspections of Project 1, nor any improvements with respect thereto, make any provision to obtain completion bonds, mechanic's or materialmen's lien releases or otherwise supervise Project 1. The approval of each requisition certificate by the Authorized TIC Representative shall constitute, unto the Trustee, an irrevocable determination that all conditions precedent to the payment of the specified amounts from the Project Fund have been completed. If the Issuer so requests in writing, a copy of each requisition certificate submitted to the Trustee for payment under this Section shall be promptly provided by the Trustee to the Issuer.

(c) If required, the Issuer covenants and agrees to take all necessary and appropriate action promptly in approving and ordering all such disbursements. The Trustee is hereby authorized and directed to issue checks for each disbursement in the manner and as provided for by the aforesaid provisions of the Lease Agreement.

(d) The Trustee shall keep and maintain adequate records pertaining to the Project Fund and all disbursements therefrom, and shall provide a statement of receipts and disbursements with respect thereto to Tenants in Common on a monthly basis. After Project 1 has been completed and a certificate of payment of all costs filed as provided in **Section 504** hereof, the Trustee shall file a final statement of receipts and disbursements with respect thereto with the Issuer and Tenants in Common.

**Section 504. Completion of the Project.** The completion of Project 1 and payment of all costs and expenses incident thereto shall be evidenced by the filing with the Trustee of the certificate required by the provisions of **Section 4.5** of the Lease Agreement. As soon as practicable any balance remaining in the Project Fund shall without further authorization be deposited in the Bond Fund.

**Section 505. Disposition Upon Acceleration.** If the principal of the Bonds shall have become due and payable pursuant to **Section 902** of this Indenture, upon the date of payment by the Trustee of any moneys due as hereinafter provided in **Article IX** provided, any balance remaining in the Project Fund shall without further authorization be deposited in the Bond Fund by the Trustee with advice to the Issuer and to Tenants in Common of such action.

## ARTICLE VI

### REVENUES AND FUNDS

**Section 601. Creation of the Bond Fund.** There is hereby created and ordered established in the custody of the Trustee a special trust fund in the name of the Issuer to be designated the "City of Bel Aire, Kansas, Taxable Industrial Revenue Bond Fund –" (herein called the "**Bond Fund**").

**Section 602. Deposits Into the Bond Fund.** The Trustee shall deposit into the Bond Fund, as and when received, (a) all accrued interest on the Bonds paid by the purchaser of the Bonds; (b) all rent payments payable by Tenants in Common to the Issuer specified in **Section 5.1** of the Lease Agreement and amounts due under **Section 5.2** of the Lease Agreement; (c) any amount in the Project Fund to be transferred to the Bond Fund pursuant to **Section 504** hereof upon completion of Project 1 or pursuant to **Section 505** hereof upon acceleration of the Bonds; (d) the balance of any Net Proceeds (as defined in the Lease Agreement) of condemnation awards or insurance received by the Trustee pursuant to **Article IX** of the Lease Agreement; (e) all interest and other income derived from investments of Bond Fund moneys as provided in **Section 702** hereof; and (f) all other moneys received by the Trustee under and pursuant to any

of the provisions of the Lease Agreement when accompanied by directions from the person depositing such moneys that such moneys are to be paid into the Bond Fund, including, without limitation, amounts payable into the Bond Fund by the Issuer pursuant to **Section 801** hereof.

**Section 603. Application of Moneys in the Bond Fund.**

(a) Except as provided in **Section 606** and **Section 908** hereof or in **Section 4.6(a)** of the Lease Agreement, moneys in the Bond Fund shall be expended solely for the payment of the principal of and the interest on the Bonds as the same mature and become due or upon the redemption thereof prior to maturity; provided, however, that any amounts received by the Trustee as Additional Rent under **Section 5.2** of the Lease Agreement and deposited to the Bond Fund as provided in **Section 602** above, shall be expended by the Trustee for such items of Additional Rent as they are received or due without further authorization from the Issuer.

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

(c) Whenever the amount in the Bond Fund from any source whatsoever is sufficient to redeem all of the Bonds Outstanding and to pay interest to accrue thereon prior to such redemption, the Issuer covenants and agrees, upon request of Tenants in Common, to take and cause to be taken the necessary steps to redeem all such Bonds on the next succeeding redemption date for which the required redemption notice may be given or on such later redemption date as may be specified by Tenants in Common. The Trustee may use any moneys in the Bond Fund to redeem a part of the Bonds Outstanding in accordance with and to the extent permitted by **Article III** hereof so long as Tenants in Common are not in default with respect to any payments under the Lease Agreement and to the extent said moneys are in excess of the amount required for payment of Bonds theretofore matured or called for redemption and past due interest, if any, in all cases when such Bonds have not been represented for payment.

**Section 604. Payments Due on Saturdays, Sundays and Holidays.** In any case where the date of maturity of principal of or interest, if any, on the Bonds or the date fixed for redemption of any Bonds shall be a Saturday, a Sunday or a legal holiday or a day on which banking institutions in the Issuer of payment are authorized by law to close, then payment of principal or interest, if any, need not be made on such date but may be made on the next succeeding Business Day not a Saturday, a Sunday or a legal holiday or a day upon which banking institutions are authorized by law to close with the same force and effect as if made on the date of maturity or the date fixed for redemption, and no interest, if any, shall continue to accrue for the period after such date.

**Section 605. Nonpresentment of Bonds.** In the event any Bond shall not be presented for payment when the principal thereof becomes due, either at maturity or otherwise, or at the date fixed for redemption thereof, if funds sufficient to pay such Bond shall have been made available to the Trustee, all liability of the Issuer to the Owner thereof for the payment of such Bond shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Trustee to hold such fund or funds, without liability for interest thereon, for the benefit of the Owner of such Bond who shall thereafter be restricted exclusively to such fund or funds for any claim of whatever nature on his part under this Indenture or on, or with respect to, said Bond. If any Bond shall not be presented for payment within four years following the date when such Bond becomes due, whether by maturity or otherwise, the Trustee shall repay to Tenants in Common the funds theretofore held by it for payment of such Bond, without liability for interest thereon, and such Bond shall, subject to the defense of any applicable statute of limitation, thereafter be an unsecured obligation of Tenants in Common, and the Owner thereof shall be entitled to look only to

Tenants in Common for payment, and then only to the extent of the amount so repaid, and Tenants in Common shall not be liable for any interest thereon and shall not be regarded as a trustee of such money.

**Section 606. Repayment to Tenants in Common from the Bond Fund.** After payment in full of the principal of and interest, if any, on the Bonds (or provision has been made for the payment thereof as provided in this Indenture), and the fees, charges and expenses of the Trustee, the Issuer and any Paying Agent and any other amounts required to be paid under this Indenture and the Lease Agreement, all amounts remaining in the Bond Fund shall be paid to Tenants in Common upon the expiration or sooner termination of the Lease Agreement.

## ARTICLE VII

### SECURITY FOR DEPOSITS AND INVESTMENT OF FUNDS

**Section 701. Moneys to be Held in Trust.** All moneys deposited with or paid to the Trustee for account of the Bond Fund or the Project Fund under any provision of this Indenture, and all moneys deposited with or paid to any Paying Agent under any provision of this Indenture, shall be held by the Trustee or Paying Agent in trust and shall be applied only in accordance with the provisions of this Indenture and the Lease Agreement, and, until used or applied as herein provided, shall constitute part of the Trust Estate and be subject to the lien hereof. Neither the Trustee nor any Paying Agent shall be under any liability for interest, or any moneys received hereunder except such as may be agreed upon.

**Section 702. Investment of Moneys in Project Fund and Bond Fund.** Moneys held in the Project Fund and the Bond Fund shall, pursuant to written direction of Tenants in Common, signed by the Authorized TIC Representative, be separately invested and reinvested by the Trustee in Investment Securities which mature or are subject to redemption by the owner prior to the date such funds will be needed. If Tenants in Common fails to provide written directions concerning investment of moneys held in the Project Fund and the Bond Fund, the Trustee is authorized to invest in such Investment Securities specified in paragraph (e) of the definition of Investment Securities, provided they mature or are subject to redemption prior to the date such funds will be needed. Any such Investment Securities shall be held by or under the control of the Trustee and shall be deemed at all times a part of the fund in which such moneys are originally held, and the interest accruing thereon and any profit realized from such Investment Securities shall be credited to such fund, and any loss resulting from such Investment Securities shall be charged to such fund. After the Trustee has notice pursuant to **Section 1001(h)** of this Indenture of the existence of an Event of Default, the Trustee shall direct the investment of moneys in the Bond Fund and the Project Fund. The Trustee shall sell and reduce to cash a sufficient amount of such Investment Securities whenever the cash balance in any Fund is insufficient for the purposes of such Fund. In determining the balance in any Fund, investments in such Fund shall be valued at the lower of their original cost or their fair market value as of the most recent Interest Payment Date. The Trustee may make any and all investments permitted by the provisions of this Section through its own bond department or any affiliate or short-term investment department.

**Section 703. Record Keeping.** The Trustee shall maintain records designed to show compliance with the provisions of this Article and with the provisions of **Article VI** for at least six years after the payment of all of the Outstanding Bonds.

## ARTICLE VIII

### GENERAL COVENANTS AND PROVISIONS

**Section 801. Payment of Principal and Interest.** The Issuer covenants and agrees that it will, but solely from the rents, revenues and receipts derived from Project 1 as described herein, deposit or cause to be deposited in the Bond Fund sufficient sums payable under the Lease Agreement promptly to meet and pay the principal of and the interest on the Bonds as they become due and payable at the place, on the dates and in the manner provided herein and in the Bonds according to the true intent and meaning thereof, and to this end the Issuer covenants and agrees that it will use its best efforts to cause Project 1 to be continuously and sufficiently leased as a revenue and income-providing undertaking, and that, should there be a default under the Lease Agreement with the result that the right of possession of Project 1 is returned to the Issuer, the Issuer shall fully cooperate with the Trustee and with the Bondowners to the end of fully protecting the rights and security of the Bondowners and shall diligently proceed in good faith and use its best efforts to secure another tenant for Project 1 to the end that at all times sufficient rents, revenues and receipts will be derived from Project 1 promptly to meet and pay the principal of and the interest on the Bonds as they become due and payable. Nothing herein shall be construed as requiring the Issuer to operate Project 1 as a business other than as lessor or to use any funds or revenues from any source other than funds and revenues derived from Project 1.

**Section 802. Authority to Execute Indenture and Issue Bonds.** The Issuer covenants that it is duly authorized under the Constitution and laws of the State of Kansas to execute this Indenture, to issue the Bonds and to pledge and assign the Trust Estate in the manner and to the extent herein set forth; that all action on its part for the execution and delivery of this Indenture and the issuance of the Bonds has been duly and effectively taken; that the Bonds in the hands of the Owners thereof are and will be valid and enforceable obligations of the Issuer according to the import thereof.

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

**Section 804. Instruments of Further Assurance.** The Issuer covenants that it will do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, such Supplemental Indentures and such further acts, instruments, financing statements and other documents as the Trustee may reasonably require for the better pledging and assigning unto the Trustee the property and revenues herein described to the payment of the principal of and interest, if any, on the Bonds. The Issuer covenants and agrees that, except as herein and in the Lease Agreement provided, it will not sell, convey, mortgage, encumber or otherwise dispose of any part of Project 1 or the rents, revenues and receipts derived therefrom or from the Lease Agreement, or of its rights under the Lease Agreement.

**Section 805. Payment of Taxes and Charges.** The Issuer represents that pursuant to the provisions of **Section 5.2** of the Lease Agreement, Tenants in Common have agreed to pay, as the same respectively become due, all taxes, assessments and other governmental charges at any time lawfully levied or assessed upon or against Project 1 or any part thereof.

**Section 806. Insurance.** The Issuer represents that pursuant to the provisions of **Article VII** of the Lease Agreement, Tenants in Common have agreed at their own expense to keep Project 1 constantly insured to the extent provided for therein.

**Section 807. Maintenance and Repair.** The Issuer represents that pursuant to the provisions of **Section 6.1** of the Lease Agreement, Tenants in Common have agreed at their own expense to cause Project 1 to be maintained and kept in good condition, repair and working order, and that pursuant to **Section 8.3** of the Lease Agreement Tenants in Common may, at their own expense, make from time to time additions, changes and alterations to Project 1 under the terms and conditions set forth therein.

**Section 808. Recordings and Filings.** The Issuer will cause this Indenture and all Supplemental Indentures, the Lease Agreement and all Supplemental Leases and all appropriate financing statements and other security instruments to be recorded and filed in such manner and in such places as may be required by law in order to fully preserve and protect the security of the Owners of the Bonds and the rights of the Trustee hereunder. The Trustee shall file UCC continuation statements, as needed.

**Section 809. Inspection of Project Books.** The Issuer covenants and agrees that all books and documents in its possession relating to Project 1 and the rents, revenues and receipts derived from Project 1 shall at all times be open to inspection by such accountants or other agencies as the Trustee may from time to time designate.

**Section 810. Enforcement of Rights Under the Lease Agreement.** The Issuer covenants and agrees that it shall enforce all of its rights and all of the obligations of Tenants in Common (at the expense of Tenants in Common) under the Lease Agreement to the extent necessary to preserve Project 1 in good order and repair, and to protect the rights of the Trustee and the Bondowners hereunder with respect to the pledge and assignment of the rents, revenues and receipts coming due under the Lease Agreement. The Issuer agrees that the Trustee, as assignee of the rentals and other amounts to be received by the Issuer and paid by Tenants in Common under the Lease Agreement, or in its name or in the name of the Issuer, may enforce all rights of the Issuer to receive such rentals and other amounts and all obligations of Tenants in Common to pay such rentals and other amounts under and pursuant to the Lease Agreement for and on behalf of the Bondowners, whether or not the Issuer is in default hereunder.

**Section 811. Subordination of Indenture to the Lease Agreement.** This Indenture and the rights and privileges hereunder of the Trustee and the Owners of the Bonds are specifically made subject and subordinate to the rights and privileges of Tenants in Common (as long as no default by Tenants in Common under the Lease Agreement is continuing beyond any applicable grace period) set forth in the Lease Agreement. So long as not otherwise provided in this Indenture, Tenants in Common shall be suffered and permitted to possess, use and enjoy Project 1 and appurtenances so as to carry out their obligations under the Lease Agreement. Nothing contained in this Section shall be interpreted as eliminating, modifying or affecting in any manner the rights, privileges or immunities granted to the Trustee in **Article X** hereof.

## ARTICLE IX

### DEFAULT AND REMEDIES

**Section 901. Events of Default; Notice; Opportunity to Cure.** If any of the following events occur, it is hereby defined as and declared to be and to constitute an “Event of Default”:

- (a) Default in the due and punctual payment of the principal on any Bond, whether at the stated maturity or accelerated maturity thereof, or at the date fixed for redemption thereof for a period of 5 days following written notice to the Issuer and Tenants in Common by the Trustee or by the Owners of 25% in aggregate principal amount of the Bonds Outstanding;



(b) Default in the due and punctual payment of the interest on any Bond, whether at the stated maturity or accelerated maturity thereof, or at the date fixed for redemption thereof for a period of 5 days following written notice to the Issuer and Tenants in Common by the Trustee or by the Owners of 25% in aggregate principal amount of the Bonds Outstanding; or

(c) The occurrence of an Event of Default as specified in **Section 12.1** of the Lease Agreement shall have occurred.

**Section 902. Acceleration of Maturity in Event of Default.** If an Event of Default shall have occurred and be continuing, the Trustee may, and upon the written request of the Owners of not less than 25% in aggregate principal amount of Bonds then Outstanding shall, by notice in writing delivered to the Issuer and Tenants in Common, declare the principal of all Bonds then Outstanding and the interest accrued thereon immediately due and payable, and such principal and interest shall thereupon become and be immediately due and payable.

**Section 903. Surrender of Possession of Trust Estate; Rights and Duties of Trustee in Possession.** If an Event of Default shall have occurred and be continuing, the Issuer, upon demand of the Trustee, shall forthwith surrender the possession of, and it shall be lawful for the Trustee, by such officer or agent as it may appoint, to take possession of all or any part of the Trust Estate, together with the books, papers and accounts of the Issuer pertaining thereto, and including the rights and the position of the Issuer under the Lease Agreement, and to hold, operate and manage the same, and from time to time make all needful repairs and improvements as shall be deemed wise by the Trustee; the Trustee may lease Project 1 or any part thereof, in the name and for account of the Issuer, and collect, receive and sequester the rents, revenues and receipts therefrom, and out of the same and any moneys received from any receiver of any part thereof pay, and set up proper reserves for the payment of all proper costs and expenses of so taking, holding and managing the same, including without limitation (a) reasonable compensation to the Trustee, his agents and counsel, and (b) any reasonable charges of the Trustee hereunder, and (c) any taxes and assessments and other charges prior to the lien of this Indenture, which the Trustee may deem it wise to pay, and (d) all expenses of such repairs and improvements, and the Trustee shall apply the remainder of the moneys so received in accordance with the provisions of **Section 908** hereof. Whenever all that is due upon the Bonds shall have been paid and all defaults made good, the Trustee shall surrender possession of the Trust Estate to the Issuer, its successors or assigns, the same right of entry, however, to exist upon any subsequent Event of Default. While in possession of such property, the Trustee shall render annually to the Issuer and Tenants in Common a summarized statement of receipts and expenditures in connection therewith.

**Section 904. Appointment of Receivers in Event of Default.** If an Event of Default shall have occurred and be continuing, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Trustee and of the Bondowners under this Indenture, the Trustee shall be entitled, as a matter of right, to the appointment of a receiver or receivers of the Trust Estate or any part thereof, pending such proceedings, with such powers as the court making such appointment shall confer.

**Section 905. Exercise of Remedies by the Trustee.**

(a) Upon the occurrence of an Event of Default, the Trustee may pursue any available remedy at law or in equity by suit, action, mandamus or other proceeding to enforce the payment of the principal of interest on the Bonds then Outstanding, and to enforce and compel the performance of the duties and obligations of the Issuer as herein set forth.

(b) If an Event of Default shall have occurred and be continuing, and if requested to do so by the Owners of 25% in aggregate principal amount of Bonds then Outstanding and indemnified as provided in subsection (l) of **Section 1001** hereof, the Trustee shall be obligated to exercise such one or more of the rights and powers conferred by this Article as the Trustee, being advised by counsel, shall deem most expedient in the interests of the Bondowners.

(c) All rights of action under this Indenture or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceedings relating thereto, and any such suit or proceeding instituted by the Trustee shall be brought in its name as Trustee without necessity of joining as plaintiffs or defendants any Owners of the Bonds, and any recovery of judgment shall, subject to the provisions of **Section 908** hereof, be for the equal benefit of all the Owners of the Outstanding Bonds and coupons.

**Section 906. Limitation on Exercise of Remedies by Bondowners.** No Owner of any Bond shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of this Indenture or for the execution of any trust hereunder or for the appointment of a receiver or any other remedy hereunder, unless (a) a default has occurred of which the Trustee has been notified as provided in subsection (h) of **Section 1001** or of which by said subsection the Trustee is deemed to have notice, (b) such default shall have become an Event of Default, (c) the Owners of 25% in aggregate principal amount of Bonds then Outstanding shall have made written request to the Trustee, shall have offered it reasonable opportunity either to proceed and to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name, and shall have offered to the Trustee indemnity as provided in subsection (l) of **Section 1001**, and (d) the Trustee shall thereafter fail or refuse to exercise the powers herein granted or to institute such action, suit or proceeding in its own name; such notification, request and offer of indemnity are hereby declared in every case, at the option of the Trustee, to be conditions precedent to the execution of the powers and trusts of this Indenture, and to any action or cause of action for the enforcement of this Indenture, or for the appointment of a receiver or for any other remedy hereunder it being understood and intended that no one or more Owners of the Bonds shall have any right in any manner whatsoever to affect, disturb or prejudice this Indenture by their action or to enforce any right hereunder except in the manner herein provided, and that all proceedings at law or equity shall be instituted, had and maintained in the manner herein provided and for the equal benefit of the Owners of all Bonds then Outstanding. Nothing in this Indenture contained shall, however, affect or impair the right of any Bondowner to payment of the principal of and interest on any Bond at and after the maturity thereof or the obligation of the Issuer to pay the principal of and interest on each of the Bonds issued hereunder to the respective Owners thereof at the time, place, from the source and in the manner herein and in the Bonds expressed.

**Section 907. Right of Bondowners to Direct Proceedings.** Anything in this Indenture to the contrary notwithstanding, the Owners of a majority in aggregate principal amount of Bonds then Outstanding shall have the right, at any time, by an instrument or instruments in writing executed and delivered to the Trustee, to direct the time, method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture, or for the appointment of a receiver or any other proceedings hereunder; provided that such direction shall not be otherwise than in accordance with the provisions of law and of this Indenture, including **Section 1001(l)** hereof; and, provided further, that the Trustee shall have the right to decline to follow any such directions if the Trustee shall in good faith determine that the proceedings so directed would involve the Trustee in personal liability.

**Section 908. Application of Moneys in Event of Default.**

(a) All moneys received by the Trustee pursuant to any right given or action taken under the provisions of this Article shall, after payment of the cost and expenses of the proceedings resulting in the collection of such moneys and of the fees, expenses, liabilities and advances incurred or made by the

Trustee, be deposited in the Bond Fund and all moneys so deposited in the Bond Fund shall be applied as follows:

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

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

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

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

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

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

(c) Whenever all of the Bonds and interest thereon, if any, have been paid under the provisions of this Section, and all fees, expenses and charges of the Issuer and the Paying Agent have been paid, any balance remaining in the Bond Fund shall be paid to Tenants in Common as provided in **Section 606** hereof.

**Section 909. Remedies Cumulative.** No remedy by the terms of this Indenture conferred upon or reserved to the Trustee or to the Bondowners is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Trustee or to the Bondowners hereunder or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right, power or remedy accruing upon any Event of Default shall impair any such right, power or remedy or shall be construed to be a waiver of any such Event of Default or acquiescence therein; every such right, power or remedy may be exercised from time to time and as often as may be

deemed expedient. In case the Trustee shall have proceeded to enforce any right under this Indenture by the appointment of a receiver, by entry, or otherwise, and such proceedings have been discontinued or abandoned for any reason, or shall have been determined adversely, then and in every such case the Issuer, Tenants in Common, the Trustee and the Bondowners shall be restored to their former positions and rights hereunder, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

**Section 910. Waivers of Events of Default.** The Trustee may in its discretion waive any Event of Default hereunder and its consequences and rescind any declaration of maturity of principal of and interest, if any, on Bonds, and shall do so upon the written request of the Owners of at least 50% in aggregate principal amount of all the Bonds then Outstanding, provided, however, that there shall not be waived without the consent of the Owners of all the Bonds Outstanding (a) any Event of Default in the payment of the principal of any Outstanding Bonds when due (whether at the date of maturity or redemption specified therein), or (b) any Event of Default in the payment when due of the interest on any such Bonds, unless prior to such waiver or rescission, all arrears of interest, or all arrears of payments of principal when due, as the case may be, and all reasonable fees, charges, costs and expenses of the Trustee and the Issuer, in connection with such default, shall have been paid or provided for. In case of any such waiver or rescission, or in case any proceeding taken by the Trustee on account of any such default shall have been discontinued or abandoned or determined adversely, then and in every such case the Issuer, Tenants in Common, the Trustee and the Bondowners shall be restored to their former positions, rights and obligations hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other default, or impair any right consequent thereon.

## ARTICLE X

### THE TRUSTEE

**Section 1001. Acceptance of the Trusts.** The Trustee hereby accepts the trusts imposed upon it by this Indenture, and agrees to perform said trusts as a corporate trustee ordinarily would perform said trusts under a corporate indenture, but only upon and subject to the following express terms and conditions, and no implied covenants or obligations shall be read into this Indenture against the Trustee:

(a) The Trustee, prior to the occurrence of an Event of Default and after the curing of all Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. If any Event of Default shall have occurred and be continuing, subject to **Section 1001(1)** below, the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and shall use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of its own affairs.

(b) The Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or through agents, attorneys or receivers and shall not be responsible for any misconduct or negligence on the part of any agent, attorney or receiver appointed or chosen by it with due care, and the Trustee shall be entitled to act upon and may conclusively rely upon the opinion or advice of counsel, who may be counsel to the Issuer or to Tenants in Common, concerning all matters of trust hereof and the duties hereunder, and may in all cases pay such reasonable compensation to all such agents, attorneys and receivers as may reasonably be employed in connection with the trusts hereof. The Trustee shall not be responsible for any loss or damage resulting from any action or

nonaction by it taken or omitted to be taken in good faith in reliance upon such opinion or advice of counsel.

(c) Except as provided in the Lease Agreement and particularly **Section 10.8** thereof, the Trustee shall not be responsible for any recital herein or in the Bonds (except with respect to the Certificate of Authentication of the Trustee endorsed on the Bonds), or for the recording or rerecording, filing or refiling of this Indenture or any security agreement in connection therewith, or for insuring Project 1 or collecting any insurance moneys, or for the validity of the execution by the Issuer of this Indenture or of any Supplemental Indentures or instruments of further assurance, or for the sufficiency of the security of the Bonds. The Trustee shall not be responsible or liable for any loss suffered in connection with any investment of funds made by it in accordance with **Article VII** hereof.

(d) The Trustee shall not be accountable for the use of any Bonds authenticated and delivered hereunder. The Trustee, in its individual or any other capacity, may become the owner or pledgee of Bonds with the same rights which it would have if it were not Trustee.

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

(f) As to the existence or nonexistence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, or whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee shall be entitled to rely upon a certificate signed by the Authorized Issuer Representative or Authorized TIC Representative as sufficient evidence of the facts therein contained, and prior to the occurrence of a default of which the Trustee has been notified as provided in subsection (h) of this Section or of which by said subsection it is deemed to have notice, the Trustee shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient, but may at its discretion secure such further evidence deemed necessary or advisable, but shall in no case be bound to secure the same.

(g) The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty, and the Trustee shall not be answerable for other than its negligence or willful misconduct.

(h) The Trustee shall not be required to take notice or be deemed to have notice of any default or Event of Default hereunder except failure by the Issuer to cause to be made any of the payments to the Trustee required to be made in **Article VI** hereof, unless the Trustee shall be specifically notified in writing of such default or Event of Default by the Issuer or the Owners of at least 25% in aggregate principal amount of all Bonds then Outstanding.

(i) At any and all reasonable times and subject to Tenants in Common's reasonable and standard security procedures, the Trustee and its duly authorized agents, attorneys, experts, engineers, accountants and representatives shall have the right, but shall not be required, to inspect any and all

of Project 1, and all books, papers and records of the Issuer pertaining to Project 1 and the Bonds, and to take such memoranda from and in regard thereto as may be desired. The Trustee shall treat all proprietary information of Tenants in Common as confidential.

(j) The Trustee shall not be required to give any bond or surety in respect to the execution of its trusts and powers hereunder or otherwise in respect of Project 1.

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

(l) Before taking any action under this Indenture, the Trustee may require that satisfactory indemnity be furnished to it for the reimbursement of all costs and expenses to which it may be put and to protect it against all liability which it may incur in or by reason of such action, except liability which is adjudicated to have resulted from its negligence or willful misconduct by reason of any action so taken.

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

(n) The Trustee may elect not to proceed in accordance with the directions of the Bondowners without incurring any liability to the Bondowners 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 pursuant to this section from the Bondowners, and the Trustee may rely conclusively upon an opinion of counsel in determining whether any action directed by the Bondowners may result in such liability.

(o) The Trustee may inform the Bondowners 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 which 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 section.

**Section 1002. Fees, Charges and Expenses of the Trustee.** The Trustee shall be entitled to payment of and/or reimbursement for reasonable fees for its ordinary services rendered hereunder and all advances, agent and counsel fees and other ordinary expenses reasonably and necessarily made or incurred by the Trustee in connection with such ordinary services and, in the event that it should become necessary that the Trustee perform extraordinary services, it shall be entitled to reasonable extra compensation therefor and to reimbursement for reasonable and necessary extraordinary expenses in connection therewith; provided that if such extraordinary services or extraordinary expenses are occasioned by the neglect or misconduct of the Trustee, it shall not be entitled to compensation or reimbursement therefor. The Trustee shall be entitled to payment and reimbursement for the reasonable fees and charges of the Trustee as Paying Agent for the Bonds. Pursuant to the provisions of **Section 5.2** of the Lease Agreement, Tenants in Common

have agreed to pay to the Trustee all reasonable fees, charges and expenses of the Trustee under this Indenture. The Trustee agrees that the Issuer shall have no liability for any reasonable fees, charges and expenses of the Trustee, and the Trustee agrees to look only to Tenants in Common for the payment of all reasonable fees, charges and expenses of the Trustee and any Paying Agent as provided in the Lease Agreement. Upon the occurrence of an Event of Default and during its continuance, the Trustee shall have a first lien with right of payment prior to payment on account of principal of or interest on any Bond, upon all moneys in its possession under any provisions hereof for the foregoing reasonable advances, fees, costs and expenses incurred.

**Section 1003. Notice to Bondowners if Default Occurs.** If an Event of Default occurs of which the Trustee is by subsection (h) of **Section 1001** hereof required to take notice or if notice of an Event of Default be given as in said subsection (h) provided, then the Trustee shall give written notice thereof to the last known Owners of all Bonds then Outstanding as shown by the bond registration books required by **Section 206** to be kept at the principal office of the Trustee.

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

**Section 1005. Successor Trustee Upon Merger, Consolidation or Sale.** With the prior written consent of Tenants in Common, any corporation or association into which the Trustee may be merged or converted or with or into which it may be consolidated, or to which it may sell or transfer its corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any merger, conversion, sale, consolidation or transfer to which it is a party, shall be and become successor Trustee hereunder and shall be vested with all the trusts, powers, rights, obligations, duties, remedies, immunities and privileges hereunder as was its predecessor, without the execution or filing of any instrument or any further act on the part of any of the parties hereto.

**Section 1006. Resignation of Trustee.** The Trustee and any successor Trustee may at any time resign from the trusts hereby created by giving 30 days' written notice to the Issuer, Tenants in Common, and the Bondowners, and such resignation shall take effect at the end of such 30 days, or upon the earlier appointment of a successor Trustee by the Bondowners or by the Issuer.

**Section 1007. Removal of Trustee.** The Trustee may be removed at any time, with or without cause, by an instrument or concurrent instruments in writing delivered to the Trustee, the Issuer and Tenants in Common and signed by the Owners of a majority in aggregate principal amount of Bonds then Outstanding.

**Section 1008. Appointment of Successor Trustee.** In case the Trustee hereunder shall resign or be removed, or shall otherwise become incapable of acting hereunder, or in case it shall be taken under the control of any public officer or officers or of a receiver appointed by a court, a successor Trustee reasonably acceptable to the Issuer and Tenants in Common (so long as no Event of Default has occurred and is continuing) may be appointed by the Owners of a majority in aggregate principal amount of Bonds then Outstanding, by an instrument or concurrent instruments in writing; provided, nevertheless, that in case of such vacancy, the Issuer, by an instrument executed and signed by its Mayor and attested by its Clerk under its seal, may appoint a temporary Trustee to fill such vacancy until a successor Trustee shall be appointed by the Bondowners in the manner above provided. Any such temporary Trustee so appointed by the Issuer shall hold such appointment no longer than 90 days without Company approval and shall immediately and without further acts be superseded by the successor Trustee so appointed by such Bondowners. Every such

Trustee appointed pursuant to the provisions of this Section shall be a trust company or bank in good standing and qualified to accept such trust having a reported capital, surplus and undivided profits of not less than **\$500,000**. Should no temporary or successor Trustee be appointed within thirty days following the date of the instrument of resignation or removal, any Bondowner or the resigning or removed Trustee may petition a court of competent jurisdiction for the appointment of a successor.

**Section 1009. Vesting of Trusts in Successor Trustee.** Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the Issuer and Tenants in Common an instrument in writing accepting such appointment hereunder, and thereupon such successor shall, without any further act, deed or conveyance, become fully vested with all the trusts, powers, rights, obligations, duties, remedies, immunities and privileges of its predecessor; but such predecessor shall, nevertheless, on the written request of the Issuer, execute and deliver an instrument transferring to such successor Trustee all the trusts, powers, rights, obligations, duties, remedies, immunities and privileges of such predecessor hereunder; every predecessor Trustee shall deliver all securities and moneys held by it as Trustee hereunder to its successor, and thereupon the obligations and duties of the predecessor Trustee hereunder shall cease and terminate. Should any instrument in writing from the Issuer be required by any successor Trustee for more fully and certainly vesting in such successor the trusts, powers, rights, obligations, duties, remedies, immunities and privileges hereby vested in the predecessor, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Issuer.

**Section 1010. Right of Trustee to Pay Taxes and Other Charges.** In case any tax, assessment or governmental or other charge upon, or insurance premium with respect to, any part of Project 1 is not paid as required herein or in the Lease Agreement, the Trustee may pay such tax, assessment or governmental charge or insurance premium, without prejudice, however, to any rights of the Trustee or the Bondowners hereunder arising in consequence of such failure; any amount at any time so paid under this Section, with interest thereon from the date of payment at the prime rate of the Trustee, plus 2%, shall become an additional obligation secured by this Indenture, and the same shall be given a preference in payment over any payment of principal of or interest on the Bonds, and shall be paid out of the proceeds of rents, revenues and receipts collected from Project 1, if not otherwise caused to be paid; but the Trustee shall be under no obligation to make any such payment unless it shall have been requested to do so by the Owners of at least 25% of the aggregate principal amount of Bonds then Outstanding and shall have been provided adequate funds for the purpose of such payment.

**Section 1011. Trust Estate May be Vested in Co-trustee.**

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

(b) In the event that the Trustee appoints an additional individual or institution as a co-trustee or separate trustee (which appointment shall, so long as no Event of Default has occurred and is continuing, be subject to the approval of Tenants in Common), each and every remedy, power, right, claim, demand, cause of action, immunity, title, interest and lien expressed or intended by this Indenture to be exercised by the Trustee with respect thereto shall be exercisable by such co-trustee or separate trustee but only to the extent necessary to enable such co-trustee or separate trustee to exercise such powers, rights and remedies,



and every covenant and obligation necessary to the exercise thereof by such co-trustee or separate trustee shall run to and be enforceable by either of them.

(c) Should any deed, conveyance or instrument in writing from the Issuer be required by the co-trustee or separate trustee so appointed by the Trustee for more fully and certainly vesting in and confirming to such co-trustee such properties, rights, powers, trusts, duties and obligations, any and all such deeds, conveyances and instruments in writing shall, on request, be executed, acknowledged and delivered by the Issuer.

(d) In case any co-trustee or separate trustee shall die, become incapable of acting, resign or be removed, all the properties, rights, powers, trusts, duties and obligations of such co-trustee or separate trustee, so far as permitted by law, shall vest in and be exercised by the Trustee until the appointment of a successor to such co-trustee or separate trustee.

**Section 1012. Annual Accounting.** The Trustee shall render an annual accounting to the Issuer, Tenants in Common and to any Bondowner requesting the same and, upon the request of Tenants in Common or the Bondowner, a monthly accounting to Tenants in Common and the Bondowner, showing in reasonable detail all financial transactions relating to the Trust Estate during the accounting period and the balance in any funds or accounts created by this Indenture as of the beginning and close of such accounting period.

## ARTICLE XI

### SUPPLEMENTAL INDENTURES

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

(a) To cure any ambiguity or formal defect or omission in this Indenture, or to make any other change not prejudicial to the Bondowners (in making such determination, the Trustee may rely conclusively upon an opinion of counsel);

(b) To grant to or confer upon the Trustee for the benefit of the Bondowners any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Bondowners or the Trustee or either of them;

(c) To more precisely identify Project 1 or to substitute or add additional property thereto;

(d) To subject to this Indenture additional revenues, properties or collateral; or

(e) To issue Refunding Bonds as provided in **Section 209** hereof.

### **Section 1102. Supplemental Indentures Requiring Consent of Bondowners.**

(a) Exclusive of Supplemental Indentures covered by **Section 1101** hereof and subject to the terms and provisions contained in this Section, and not otherwise, the Owners of not less than 50% in aggregate principal amount of the Bonds then Outstanding shall have the right, from time to time, anything contained in this Indenture to the contrary notwithstanding, to consent to and approve the execution by the

Issuer and the Trustee of such other Supplemental Indenture or Supplemental Indentures as shall be deemed necessary and desirable by the Issuer and the Trustee for the purpose of modifying, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Indenture or in any Supplemental Indenture; provided, however, that nothing in this Section contained shall permit or be construed as permitting (1) an extension of the maturity or a shortening of the redemption date of the principal of or the interest, if any, on any Bond issued hereunder, or (2) a reduction in the principal amount of any Bond or the rate of interest thereon, if any, or (3) a privilege or priority of any Bond or Bonds over any other Bond or Bonds, or (4) a reduction in the aggregate principal amount of Bonds the Owners of which are required for consent to any such Supplemental Indenture.

(b) If at the time the Issuer shall request the Trustee to enter into any such Supplemental Indenture for any of the purposes of this Section, the Trustee shall cause notice of the proposed execution of such Supplemental Indenture to be mailed to each Bondowner as shown on the bond registration books required by **Section 206** hereof. Such notice shall briefly set forth the nature of the proposed Supplemental Indenture and shall state that copies thereof are on file at the principal corporate trust office of the Trustee for inspection by all Bondowners. If within 60 days or such longer period as may be prescribed by the Issuer following the mailing of such notice, the Owners of not less than 50% in aggregate principal amount of the Bonds Outstanding at the time of the execution of any such Supplemental Indenture shall have consented to and approved the execution thereof as herein provided, no Owner of any Bond shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the Issuer from executing the same or from taking any action pursuant to the provisions thereof.

**Section 1103. Company's Consent to Supplemental Indentures.** Anything herein to the contrary notwithstanding, a Supplemental Indenture under this Article which affects any rights of Tenants in Common shall not become effective unless and until Tenants in Common shall have consented in writing to the execution and delivery of such Supplemental Indenture, provided that receipt by the Trustee of a Supplemental Lease executed by Tenants in Common in connection with the issuance of Additional Bonds under **Section 209** hereof shall be deemed to be the consent of Tenants in Common to the execution of a Supplemental Indenture pursuant to **Section 209** hereof, respectively. In this regard, the Trustee shall cause notice of the proposed execution and delivery of any such Supplemental Indenture (other than a Supplemental Indenture proposed to be executed and delivered pursuant to **Section 209** hereof) together with a copy of the proposed Supplemental Indenture to be mailed to Tenants in Common at least 15 days prior to the proposed date of execution and delivery of any such Supplemental Indenture.

**Section 1104. Opinion of Counsel.** Prior to or contemporaneously with the execution of any Supplemental Indenture by the Trustee, the Trustee shall receive an opinion of counsel nationally recognized on the subject of municipal bonds to the effect that the provisions of such Supplemental Indenture are authorized under this Indenture and the Act and will, upon execution and delivery thereof be valid and binding upon the Issuer in accordance with its terms.

## ARTICLE XII

### SUPPLEMENTAL LEASES

**Section 1201. Supplemental Leases Not Requiring Consent of Bondowners.** The Issuer and the Trustee shall, without the consent of or notice to the Bondowners, consent to the execution of any Supplemental Lease or Supplemental Leases by the Issuer and Tenants in Common as may be required (a) by the provisions of the Lease Agreement and this Indenture, (b) for the purpose of curing any ambiguity or formal defect or omission in the Lease Agreement, (c) so as to more precisely identify Project 1 or

substitute or add additional property thereto, (d) in connection with the issuance of Refunding Bonds under **Section 209** hereof, (e) in connection with any other change therein which, in the judgment of the Trustee, is not to the material prejudice of the Trustee or the Bondowners (in making such determination, the Trustee may rely upon an opinion of counsel).

**Section 1202. Supplemental Leases Requiring Consent of Bondowners.** Except for Supplemental Leases as provided for in **Section 1201** hereof, neither the Issuer nor the Trustee shall consent to the execution of any Supplemental Lease or Supplemental Leases by the Issuer or Tenants in Common without the mailing of notice and the obtaining of the written approval or consent of the Owners of not less than 50% in aggregate principal amount of the Bonds at the time Outstanding given and obtained as provided in **Section 1102** hereof. If at any time the Issuer and Tenants in Common shall request the consent of the Trustee to any such proposed Supplemental Lease, the Trustee shall cause notice of such proposed Supplemental Lease to be mailed in the same manner as provided in **Section 1102** hereof with respect to Supplemental Indentures. Such notice shall briefly set forth the nature of such proposed Supplemental Lease and shall state that copies of the same are on file in the principal office of the Trustee for inspection by all Bondowners. The Trustee shall not be obligated to consent to any Supplemental Lease which, in the judgment of the Trustee, is prejudicial to the rights of the Trustee.

**Section 1203. Opinions of Counsel.** Prior to or contemporaneously with the consent by the Trustee of execution of any Supplemental Lease, the Trustee shall receive an opinion of counsel nationally recognized on the subject of municipal bonds to the effect that the provisions of such Supplemental Lease are authorized under this Indenture, the Lease Agreement and the Act and will, upon execution and delivery thereof, be valid and binding upon the Issuer in accordance with its terms and an opinion of counsel to the Authorized TIC Representative stating that such Supplemental Lease will, upon execution and delivery thereof, be valid and binding upon Tenants in Common.

## ARTICLE XIII

### SATISFACTION AND DISCHARGE OF INDENTURE

#### **Section 1301. Satisfaction and Discharge of this Indenture.**

(a) When the principal of and interest on all the Bonds shall have been paid or satisfied in accordance with their terms or provision has been made for such payment, as provided in **Section 1302** hereof, and provision shall also be made for paying all other sums payable hereunder, including the reasonable fees and expenses of the Trustee, the Issuer and Paying Agent to the date of retirement of the Bonds, then the right, title and interest of the Trustee in respect hereof shall thereupon cease, determine and be void, and thereupon the Trustee shall cancel, discharge and release this Indenture and shall execute, acknowledge and deliver to the Issuer such instruments of satisfaction and discharge or release as shall be reasonably requested to evidence such release and the satisfaction and discharge of this Indenture, and shall assign and deliver to the Issuer any property at the time subject to this Indenture which may then be in its possession, except amounts in the Bond Fund required to be paid to Tenants in Common under **Section 606** hereof and except funds or securities in which such funds are invested held by the Trustee for the payment of the principal of and interest on the Bonds.

(b) The Issuer is hereby authorized to accept a certificate by the Trustee that the whole amount of the principal and interest, if any, so due and payable upon all of the Bonds or coupons then Outstanding has been paid or such payment provided for in accordance with **Section 1302** hereof as evidence of satisfaction of this Indenture, and upon receipt thereof shall cancel and erase the inscription of this Indenture from its records.

### **Section 1302. Bonds Deemed to be Paid.**

(a) Bonds shall be deemed to be paid within the meaning of this Article when payment of the principal of and interest thereon to the due date thereof (whether such due date be by reason of maturity or upon redemption as provided in this Indenture, or otherwise), (1) shall have been made or caused to be made in accordance with the terms thereof, (2) shall have been provided for by depositing with the Trustee in trust and irrevocably set aside exclusively for such payment (i) moneys sufficient to make such payment or (ii) non-callable Government Securities maturing as to principal and interest in such amount and at such times as will insure the availability of sufficient moneys to make such payment, and, in the case of Bonds which do not mature or will not be redeemed within ninety days of the deposit of cash or non-callable Government Securities, a verification report of a firm of independent certified public accountants as to the adequacy of the amounts so deposited to fully pay the Bonds deemed to be paid, or (3) if Tenants in Common is the sole Owner, shall have been satisfied by surrender of the Bonds to the Trustee by the Owner. At such time as a Bond shall be deemed to be paid hereunder, as aforesaid, it shall no longer be secured by or entitled to the benefits of this Indenture, except for the purposes of such payment from such moneys or Government Securities.

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

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

## **ARTICLE XIV**

### **MISCELLANEOUS PROVISIONS**

#### **Section 1401. Consents and Other Instruments by Bondowners.**

(a) Any consent, request, direction, approval, objection or other instrument required by this Indenture to be signed and executed by the Bondowners may be in any number of concurrent writings of similar tenor and may be signed or executed by such Bondowners in person or by agent appointed in writing. Proof of the execution of any such instrument or of the writing appointing any such agent and of the ownership of Bonds, if made in the following manner, shall be sufficient for any of the purposes of this Indenture, and shall be conclusive in favor of the Trustee with regard to any action taken, suffered or omitted under any such instrument, namely:

(1) The fact and date of the execution by any person of any such instrument may be proved by the certificate of any officer in any jurisdiction who by law has power to take acknowledgements within such jurisdiction that the person signing such instrument acknowledged before him the execution thereof, or by affidavit of any witness to such execution.

(2) The fact of ownership of Bonds and the amount or amounts, numbers and other identification of such Bonds, and the date of holding the same shall be proved by the registration books of the Issuer maintained by the Trustee pursuant to **Section 206** hereof.

(b) In determining whether the Owners of the requisite principal amount of Bonds Outstanding have given any request, demand, authorization, direction, notice, consent or waiver under this Indenture, Bonds owned by Tenants in Common or any affiliate of Tenants in Common, unless Tenants in Common or such affiliate own 100% of the Bonds Outstanding, shall be disregarded and deemed not to be Outstanding under this Indenture, except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Bonds which the Trustee knows to be so owned shall be so disregarded. For purposes of this paragraph, the word “affiliate” means any person directly or indirectly controlling or controlled by or under direct or indirect common control with Tenants in Common; for the purposes of this definition, “control” means the power to direct the management and policies of such person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise, and the terms. Notwithstanding the foregoing, Bonds so owned which have been pledged in good faith shall not be disregarded as aforesaid if the pledgee establishes to the satisfaction of the Trustee the pledgee’s right so to act with respect to such Bonds and that the pledgee is not Tenants in Common or any affiliate of Tenants in Common.

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

**Section 1403. Notices.** It shall be sufficient service of any notice, request, complaint, demand or other paper required by this Indenture to be given or filed with the Issuer, the Trustee, Tenants in Common or Bondowners if the same shall be duly mailed by registered or certified mail, postage prepaid, return receipt requested, (provided that notice to the Trustee shall in no case be deemed effective until received), or delivered by e-mail with confirmation of receipt and followed by a hardcopy via the means described above, addressed:

(a) To the Issuer:

City of Bel Aire, Kansas  
7651 E. Central Park Ave  
Bel Aire, Kansas 67226  
Attention: City Clerk  
Email: [mkrehbiel@belaireks.gov](mailto:mkrehbiel@belaireks.gov)

(b) To Tenants in Common:

Aspen Sunflower Industrial I, LLC  
1700 West 112<sup>th</sup> Street, Suite 110  
Overland Park, Kansas 66211  
Attention: Daniel Schulte, Member  
Email: [dan@aspenfunds.us](mailto:dan@aspenfunds.us)

With a copy to:

Polsinelli P.C.  
 900 West 48<sup>th</sup> Place, Suite 900  
 Kansas City, Missouri 64112  
 Attention: Mark L. Sprecker  
 Email: [msprecker@polsinelli.com](mailto:msprecker@polsinelli.com)

(c) To the Trustee:

Security Bank of Kansas City  
 701 Minnesota Avenue, Suite 206  
 Kansas City, Kansas 66101  
 Attention: Corporate Trust Department  
 Email: [shoebener@securitybankkc.com](mailto:shoebener@securitybankkc.com)

(d) To the Bondowners if the same shall be duly mailed by first-class mail addressed to each of the Owners of Bonds at the time Outstanding as shown by the bond registration books required by **Section 206** hereof to be kept at the principal corporate trust office of the Trustee.

**Section 1404. Severability.** If any provision of this Indenture shall be held or deemed to be invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever.

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

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

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

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**IN WITNESS WHEREOF**, the City of Bel Aire, Kansas, has caused this Indenture to be signed in its name and behalf by its Mayor and the seal of the Issuer to be hereunto affixed and attested by its Clerk, and to evidence its acceptance of the trusts hereby created, Security Bank of Kansas City has caused this Indenture to be signed in its name and behalf by its duly authorized officer and its official seal to be hereunto affixed and attested by its City Clerk, all as of the date first above written.

**CITY OF BELAIRE, KANSAS**

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

[SEAL]

ATTEST:

By: \_\_\_\_\_  
City Clerk

**SECURITY BANK OF KANSAS CITY**  
as Trustee

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

[SEAL]



EXHIBIT A

FORM OF BOND

This Bond has not been registered under the Securities Act of 1933, as amended, or any state securities laws, and this Bond may not be transferred unless (i) the Issuer consents in writing to such transfer, and (ii) the Issuer and the Trustee are furnished a written legal opinion from counsel acceptable to the Issuer, the Trustee and Tenants in Common, to the effect that such transfer is exempt from the registration requirements of the Securities Act of 1933, as amended, and any applicable state securities laws. This Bond may be transferred to any successor of Tenants in Common or any entity owned by or under common ownership with Tenants in Common without the necessity of obtaining the Issuer’s consent or such an opinion.

Registered No. R-\_\_\_\_\_ \$\_\_\_\_\_

UNITED STATES OF AMERICA  
STATE OF KANSAS  
COUNTY OF SEDGWICK

CITY OF BEL AIRE, KANSAS

TAXABLE INDUSTRIAL REVENUE BOND  
(ASPEN SUNFLOWER INDUSTRIAL I, LLC PROJECT)  
SERIES 2025

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Dated Date</u>
_____ %	June 1, 2036	December 4, 2025

REGISTERED OWNER:

MAXIMUM PRINCIPAL AMOUNT: \_\_\_\_\_ DOLLARS

THE CITY OF BEL AIRE, KANSAS, a municipal corporation organized and existing under the laws of the State of Kansas (the “Issuer”), for value received, promises to pay, but solely from the source hereinafter referred to, to the Registered Owner named above or registered assigns, on the Maturity Date shown above, the principal amount shown above or such lesser amount as may be outstanding hereunder as reflected in the bond registration books maintained by the Trustee. The Registered Owner shall note the principal amount outstanding hereunder in the Table of Cumulative Outstanding Principal Amount attached hereto, provided, however, that the registration books maintained by the Trustee shall be the official record of the Cumulative Outstanding Principal Amount of this Bond, in any coin or currency of the United States of America which on the date of payment thereof is legal tender for the payment of public and private debts, and in like manner to pay to the Registered Owner hereof, either by check, electronic transfer or draft mailed to the Registered Owner at a stated address as it appears on the bond registration books of the Issuer kept by the Trustee under the within mentioned Indenture or, in certain situations authorized in the Indenture, by internal bank transfer or by wire transfer to an account in a commercial bank or savings institution located in the continental United States, interest on the Cumulative Outstanding Principal Amount (as hereinafter defined) at the rate shown above per annum payable in arrears on each Interest Payment Date, commencing

on December 1, 2026 and continuing thereafter until the said Cumulative Outstanding Principal Amount is paid in full **provided**, that so long as Aspen Sunflower Industrial I, LLC is the sole Registered Owner, the Paying Agent may make payments of principal on such Bond by internal bank transfer or by wire transfer to an account at a commercial bank or savings institution designated by such Bondowner and located in the continental United States.. Interest shall be computed on the basis of a year of 360 days consisting of 12 months of 30 days each. Principal on this Bond shall be payable on the maturity date set forth above, unless such principal shall have been paid as a result of a redemption of the Bonds prior to such maturity date. The Bonds are issuable in the form of fully registered Bonds without coupons in the denomination of \$100,000 or any integral multiple of \$0.01 in excess thereof.

As used herein, the term “Cumulative Outstanding Principal Amount” means an amount equal to the aggregate of all amounts paid into the Project Fund in accordance with the terms of the hereinafter defined Indenture, less any amounts redeemed, as reflected in the bond registration books maintained by the Trustee.

The Trustee shall keep and maintain a record of the amounts deposited into the Project Fund pursuant to the terms of the Indenture as “Principal Amount Deposited into Project Fund” and shall enter the aggregate principal amount of this Bond then outstanding on its records as the “Cumulative Outstanding Principal Amount” on its records maintained for this Bond. On each date upon which a portion of the Cumulative Outstanding Principal Amount is paid to the Registered Owner hereof, pursuant to the optional redemption provisions of the Indenture, the Trustee shall enter on its records the principal amount paid on the Bond as “Principal Amount Paid Pursuant to Optional Redemption Provisions,” and shall enter the then outstanding principal amount of this Bond as “Cumulative Outstanding Principal Amount” on its records. The Registered Owner may from time to time enter the respective amounts deposited into the Project Fund pursuant to the terms of the Indenture under the column headed “Principal Amount Deposited Into Project Fund” on the attached Table of Cumulative Outstanding Principal Amount (the “Table”) and may enter the aggregate principal amount of this Bond then outstanding under the column headed “Cumulative Outstanding Principal Amount” on the attached Table. On each date upon which a portion of the Cumulative Outstanding Principal Amount is paid to the Registered Owner hereof pursuant to the optional redemption provisions of the Indenture, the Registered Owner may enter the principal amount paid on this Bond under the column headed “Principal Amount Paid Pursuant to Optional Redemption Provisions” on the Table and may enter the then outstanding principal amount of this Bond under the column headed “Cumulative Outstanding Principal Amount” on the Table. However, the records maintained by the Trustee as to amounts deposited into the Project Fund or principal amounts paid on this Bond shall be the official records of the Cumulative Outstanding Principal Amount for all purposes.

THIS BOND is a duly authorized Bond of the Issuer designated “City of Bel Aire, Kansas Taxable Industrial Revenue Bonds (Aspen Sunflower Industrial I, LLC Project), Series 2025,” in the maximum aggregate principal amount of \$18,000,000 (the “Bonds”), to be for the purpose providing funds to finance acquiring land and constructing and equipping a building for use in industrial, manufacturing, warehouse, distribution, flex and/or office purposes, located within the corporate limits of the Issuer immediately northeast of the intersection of 53<sup>rd</sup> Street North and Webb Road (the “Project 1”), to be leased to Aspen Sunflower Industrial I LLC, a Kansas limited liability company, holding an undivided 62.0% interest, 2 Patriots Investments II, LLC, a Kansas limited liability company, holding an undivided 29.6% interest, SMT Properties 2, LLC, a Kansas limited liability company, holding an undivided 6.8% interest, ETG A, LLC, a Kansas limited liability company, holding an undivided 0.8% interest, and SREV1, LLC, a Kansas limited liability company, holding an undivided 0.8%, as tenants in common, (the “Tenants in Common”), under the terms of a Lease Agreement dated as of December 4, 2025 (said Lease Agreement, as amended and supplemented from time to time in accordance with the provisions thereof, being herein called the “Lease Agreement”), between the Issuer and Tenants in Common, all pursuant to the authority of and in full compliance with the provisions, restrictions and limitations and Constitution and statutes of the State of

Kansas, including particularly K.S.A. 12-1740 to 12-1749d, inclusive, as amended, and pursuant to proceedings duly had by the governing body of the Issuer.

THE BONDS are issued under and are equally and ratably secured and entitled to the protection given by a Trust Indenture dated as of December 4, 2025 (said Trust Indenture, as amended and supplemented from time to time in accordance with the provisions thereof, being herein called the “Indenture”), between the Issuer and Security Bank of Kansas City, as trustee (the “Trustee”). Subject to the terms and conditions set forth therein, the Indenture permits the Issuer to issue Additional Bonds (as defined therein) secured by the Indenture on a parity with the Bonds. Reference is hereby made to the Indenture for a description of the provisions, among others, with respect to the nature and extent of the security for the Bonds, the rights, duties and obligations of the Issuer, the Trustee and the owners of the Bonds, and the terms upon which the Bonds are issued and secured. *Capitalized terms not defined herein shall have the meanings set forth in the Indenture.*

THIS BOND shall be subject to redemption and payment as provided in the Indenture.

THE BONDS are special obligations of the Issuer payable solely out of the rents, revenues and receipts derived by the Issuer from Project 1 and not from any other fund or source of the Issuer, and are secured by a pledge and assignment of Project 1 and of such rents, revenues and receipts, including all rentals and other amounts to be received by the Issuer under and pursuant to the Lease Agreement, all as provided in the Indenture. The Bonds do not constitute general obligations of the Issuer or the State of Kansas, and neither the Issuer nor said State shall be liable thereon, and the Bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, and are not payable in any manner by taxation. Pursuant to the provisions of the Lease Agreement, rental payments sufficient for the prompt payment when due of the principal of and interest on the Bonds are to be paid by Tenants in Common directly to the Trustee for the account of the Issuer and deposited in a special account created by the Issuer and designated the “City of Bel Aire, Kansas, Taxable Industrial Revenue Bond Fund – Aspen Sunflower Industrial I, LLC Project, Series 2025.”

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

SUBJECT TO the requirements for transfer set forth above in the legend contained on the face of this Bond, this Bond is transferable, as provided in the Indenture, only upon the books of the Issuer kept for that purpose at the above-mentioned office of the Trustee by the Registered Owner hereof in person or by such person’s duly authorized attorney, upon surrender of this Bond together with a written instrument of transfer satisfactory to the Trustee duly executed by the Registered Owner or such person’s duly authorized attorney, and thereupon a new fully registered Bond or Bonds, without coupons, and in the same aggregate principal amounts, shall be issued to the transferee in exchange therefor as provided in the Indenture, and upon payment of the charges therein prescribed. The Issuer, the Trustee and any Paying Agent may deem and treat the person in whose name this Bond is registered as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or redemption price hereof and interest due hereon and for all other purposes.

THE BONDS are issuable in the form of one fully registered Bond without coupons in the maximum principal denomination of \$18,000,000.

THIS BOND shall not be valid or become obligatory for any purposes or be entitled to any security or benefit under the Indenture until the Certificate of Authentication hereon shall have been executed by the Trustee.

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

IN WITNESS WHEREOF, the City of Bel Aire, Kansas, has caused this Bond to be executed in its name by the manual or facsimile signature of its Mayor, attested by the manual or facsimile signature of its Clerk and its corporate seal to be affixed hereto or imprinted hereon.

**CITY OF BELAIRE, KANSAS**

By: [facsimile signature]  
Mayor

(SEAL)

ATTEST:

By: [facsimile signature]  
City Clerk

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**CERTIFICATE OF AUTHENTICATION**

This Bond is the Taxable Industrial Revenue Bond (Aspen Sunflower Industrial I, LLC Project), Series 2025, described in the Trust Indenture. The effective date of registration of this Bond is December 4, 2025.

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

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



(FORM OF ASSIGNMENT)  
(NOTE RESTRICTIONS ON TRANSFERS)

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

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

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints  
\_\_\_\_\_ attorney to transfer the within Bond on the books kept by the Trustee  
for the registration and transfer of Bonds, with full power of substitution in the premises.

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

\_\_\_\_\_  
NOTICE: The signature to this assignment must  
correspond with the name as it appears upon the  
face of the within Bond in every particular.

Signature Guaranteed By:

[Seal]

\_\_\_\_\_  
(Name of Eligible Guarantor Institution (as )  
defined by SEC Rule 17Ad-15, 12CFR  
240.17Ad-15, or any similar rule which Trustee  
deems applicable))

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

**EXHIBIT B**  
**REPRESENTATION LETTER**

**[DATE]**

City of Bel Aire, Kansas  
Bel Aire, Kansas

Security Bank of Kansas City, as Trustee  
Kansas City, Kansas

Re: City of Bel Aire, Kansas \$18,000,000 Maximum Principal Amount of Taxable Industrial Revenue Bonds (Aspen Sunflower Industrial I, LLC Project), Series 2025

Ladies and Gentlemen:

In connection with the transfer of the above-described bonds (the **“Bonds”**) of the City of Bel Aire, Kansas (the **“Issuer”**) on this date to \_\_\_\_\_ (the **“Transferee”**), Transferee hereby represents, warrants and agrees as follows:

1. Transferee, on the date hereof, received from the Issuer one registered bond designated Taxable Industrial Revenue Bond (Aspen Sunflower Industrial I, LLC Project), Series 2025, in the maximum aggregate principal amount of \$18,000,000 and numbered R-1, becoming due on December 1, 2034, or when called, and bearing interest at the rate set forth therein from its date of authentication until its principal amount is paid in full.

2. Transferee fully understands

(a) that the Bonds have been issued under and pursuant to a Trust Indenture dated as of December 4, 2025 (the **“Indenture”**), between the Issuer and Security Bank of Kansas City (the **“Trustee”**); and

(b) that the Bonds are payable solely out of the rents, revenues and receipts to be derived from the leasing or sale of Project 1 to Aspen Sunflower Industrial I LLC, a Kansas limited liability company, holding an undivided 62.0% interest, 2 Patriots Investments II, LLC, a Kansas limited liability company, holding an undivided 29.6% interest, SMT Properties 2, LLC, a Kansas limited liability company, holding an undivided 6.8% interest, ETG A, LLC, a Kansas limited liability company, holding an undivided 0.8% interest, and SREV1, LLC, a Kansas limited liability company, holding an undivided 0.8%, as tenants in common, (the **“Tenants in Common”**) under a Lease Agreement dated as of December 4, 2025 (the **“Lease”**), between the Issuer and Tenants in Common, which rents, revenues and receipts have been pledged and assigned by the Issuer to the Trustee under the Indenture to secure the payment of the principal of and interest on the Bond.

3. Transferee understands that the Bonds are transferable only in the manner provided for in the Indenture and discussed below and warrants that it is acquiring the Bonds for its own account with the intent of holding the Bonds as an investment, and the acquisition of the Bonds are not made with a view toward their distribution or for the purpose of offering, selling or otherwise participating in a distribution of the Bonds.

4. Transferee agrees not to attempt to offer, sell, hypothecate or otherwise distribute the Bonds to others unless authorized by the terms of the Indenture; provided, that the collateral assignment of the Bonds to the holder of the Mortgage (as defined in the Lease) shall be permitted.

5. Tenants in Common have (a) furnished to Transferee such information about themselves as the Transferee deems necessary in order for it to make an informed investment decision with respect to the purchase of the Bonds, (b) made available to Transferee, during the course of this transaction, ample opportunity to ask questions of, and to receive answers from, appropriate officers of the Issuer and the terms and conditions of the offering of the Bonds, and (c) provided to Transferee all additional information which it has requested.

6. Transferee is now, and was when it agreed to purchase the Bonds, familiar with the operations of Tenants in Common and fully aware of terms and risks associated with purchasing the Bonds. Transferee believes that the Bonds are a security of the kind that it wishes to purchase and hold for investment and that the nature and amount of the Bonds are consistent with Transferee's investment program.

7. The Transferee understands and agrees that the interest on the Bonds is subject to federal income taxation and is not tax-exempt for federal income tax purposes.

8. The Transferee has been furnished with copies of the Indenture, the Lease and the legal approving opinion of Gilmore & Bell, P.C.

[TRANSFEE]

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



**\$18,000,000**  
**Maximum Principal Amount**

**CITY OF BEL AIRE, KANSAS**  
**TAXABLE INDUSTRIAL REVENUE BONDS**  
**(ASPEN SUNFLOWER INDUSTRIAL I, LLC PROJECT)**  
**SERIES 2025**

**December 4, 2025**

**BOND PURCHASE AGREEMENT**

City of Bel Aire, Kansas  
7651 E. Central Park Ave  
Bel Aire, Kansas 67226

On the basis of the representations, and covenants and upon the terms and conditions contained in this Bond Purchase Agreement, Aspen Sunflower Industrial I, LLC, a Kansas limited liability company (the **“Purchaser”**) offers to purchase from the City of Bel Aire, Kansas (the **“Issuer”**), the above-referenced bonds, dated as provided in the Indenture (hereinafter defined), in the maximum aggregate principal amount of \$18,000,000 (the **“Bonds”**), to be issued by the Issuer, under and pursuant to Ordinance No. [\_\_\_\_] passed by the governing body of the Issuer on November 18, 2025 (the **“Ordinance”**) and a Trust Indenture dated as of November 18, 2025 (the **“Indenture”**), by and between the Issuer and Security Bank Of Kansas City, a national banking association duly organized and existing under the laws of the United States of America and authorized to accept and execute trusts of the character herein set forth under the laws of the State of Kansas, with a corporate trust office located in Kansas City, Kansas, as Trustee (the **“Trustee”**). *Any capitalized terms used herein and not otherwise defined herein shall have the respective meanings as set forth in Section 101 of the Indenture which definitions are hereby incorporated herein by reference.*

**SECTION 1. REPRESENTATIONS AND AGREEMENTS**

- (a) By the Issuer’s acceptance hereof, the Issuer hereby represents to the Purchaser that:
- (1) The Issuer is a municipal corporation duly organized and validly existing under the laws of the State of Kansas. The Issuer is authorized pursuant to the Constitution and laws of the State of Kansas, to authorize, issue and deliver the Bonds and to consummate all transactions contemplated by this Bond Purchase Agreement, the Ordinance, the Indenture, the Base Lease Agreement dated as of December 4, 2025 (the **“Base Lease Agreement”**), between the Issuer and Aspen Sunflower Industrial I, LLC, a Kansas limited liability company (the **“Company”**), the Lease Agreement dated as of December 4, 2025 (the **“Lease Agreement”**), between the Issuer and the Company, the Agreement for Payment in Lieu of Taxes dated as of December 4, 2025 (the **“PILOT Agreement”**) and any and all other agreements relating thereto. The proceeds of the Bonds shall be used to finance the

Project as defined in the Indenture and to pay for the costs incurred in connection with the issuance of the Bonds.

(2) There is no controversy, suit or other proceeding of any kind pending or threatened wherein or whereby any question is raised or may be raised, questioning, disputing or affecting in any way the legal organization of the Issuer or its boundaries, or the right or title of any of its officers to their respective offices, or the legality of any official act leading up to the issuance of the Bonds or the constitutionality or validity of the indebtedness represented by the Bonds or the validity of the Bonds, the Base Lease Agreement, the Lease Agreement, the Indenture, or the PILOT Agreement (collectively, the “Bond Documents”).

(b) By the Purchaser’s acceptance hereof, the Purchaser represents to the Issuer that:

(1) The Purchaser understands that the Bonds have been issued under and pursuant to the Indenture, and the Bonds are payable solely out of the rents, revenues and receipts to be derived under the Lease Agreement, which rents, revenues and receipts have been pledged and assigned by the Issuer to the Trustee under the Indenture to secure the payment of the principal of and interest on the Bonds.

(2) The Purchaser understands that the Bonds are transferable only in the manner provided for in the Indenture and warrants that it is acquiring the Bonds for its own account with the intent of holding the Bonds as an investment, and the acquisition of the Bonds are not made with a view toward their distribution or for the purpose of offering, selling or otherwise participating in a distribution of the Bonds.

(3) Purchaser agrees not to attempt to offer, sell, hypothecate or otherwise distribute the Bonds to others unless authorized by the terms of the Indenture; provided, that the collateral assignment of the Bonds to the holder of the Mortgage (as defined in the Lease) shall be permitted.

(4) The Purchaser is familiar with the operations of the Company, has been furnished such information from the Company as requested by the Purchaser and is fully aware of the terms and risks associated with purchasing the Bonds in order for the Purchaser to make an informed investment decision with respect to the purchase of the Bonds.

## **SECTION 2. PURCHASE, SALE AND DELIVERY OF THE BONDS**

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

The interest rate on the Bonds shall be \_\_\_\_\_% per annum.

The maturity date of the Bonds shall be July 1, 2036.

The maximum principal amount of the Bonds is \$18,000,000.

The Bonds shall be sold to the Purchaser by the Issuer on the Closing Date (hereinafter defined) upon payment of an amount equal to the Closing Price (hereinafter defined), which amount shall be deposited in the Project Fund as provided in **Section 502** of the Indenture and shall thereafter on the Closing Date immediately be applied to the payment of Project Costs as provided in **Section 4.4** of the Lease Agreement. From time to time after the Closing Date, the Purchaser may make additional payments with respect to the Bonds (“**Additional Payments**”) to the Trustee under the Indenture, which Additional Payments shall be deposited in the Project Fund and applied to the payment of Project Costs; provided that the sum of the Closing Price and all such Additional Payments shall not, in the aggregate, exceed \$18,000,000.

As used herein, the term “**Closing Date**” shall mean the date first set forth above, or such other date as shall be mutually agreed upon by the Issuer and the Purchaser; the term “**Closing Price**” shall mean that certain amount specified in writing by the Purchaser and agreed to by the Issuer as the amount required to fund the initial disbursement from the Project Fund on the Closing Date.

The Bonds shall be issued under and secured as provided in the Ordinance and in the Bond Documents authorized thereby and the Bonds shall be subject to redemption as set forth therein. The Bonds shall be transferable only in the manner provided for in the Indenture. The delivery of the Bonds shall be made in definitive form as a fully registered bond in the maximum aggregate principal denomination of \$18,000,000; provided, that the principal amount of the Bonds outstanding at any time shall be that amount recorded in the official bond registration records of the Trustee and further provided that interest shall be payable on the Bonds only on the outstanding principal amount of the Bonds, as more fully provided in the Indenture.

The Company agrees to indemnify and hold harmless the Issuer and the Trustee, including any member, officer, official or employee of the Issuer or of the Trustee within the meaning of Section 15 of the Securities Act of 1933, as amended (collectively, the “**Indemnified Parties**”), against any and all losses, claims, damages, liabilities or expenses whatsoever caused by any violation or failure to comply with any federal or state securities laws in connection with the Bonds; provided, however, the indemnification contained in this paragraph shall not extend to such Indemnified Party if such loss, claim, damage, liability or expense is (a) the result of the Indemnified Party’s negligence or willful misconduct, or (b) the Indemnified Party is not following the written instructions of the Company or the Owner of the Bonds.

In case any action shall be brought against one or more of the Indemnified Parties based upon the foregoing indemnification and in respect of which indemnity may be sought against the Company, the Indemnified Parties shall promptly notify the Company in writing and the Company shall promptly assume the defense thereof, including the employment of counsel, the payment of all expenses and the right to negotiate and consent to settlement. Any one or more of the Indemnified Parties shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party or Indemnified Parties unless employment of such counsel has been specifically authorized by the Company. The Company shall not be liable for any settlement of any such action effected without its consent by any of the Indemnified Parties, but if settled with the consent of the Company or if there be a final judgment for the plaintiff in any such action against the Company or any of the Indemnified Parties, with or without the consent of the Company, the Company agrees to indemnify and hold harmless the Indemnified Parties to the extent provided herein.

### SECTION 3. CONDITIONS TO THE PURCHASER'S OBLIGATIONS

The Purchaser's obligations hereunder shall be subject to the due performance by the Issuer of the Issuer's obligations and agreements to be performed hereunder on or prior to the Closing Date and to the accuracy of and compliance with the Issuer's representations contained herein, as of the date hereof and as of the Closing Date, and are also subject to the following conditions:

(a) There shall be delivered to the Purchaser on or prior to the Closing Date a duly executed copy of the Ordinance and the Bond Documents and any other instrument contemplated thereby shall be in full force and effect and shall not have been modified or changed except as may have been agreed to in writing by the Purchaser.

(b) The Issuer shall confirm on the Closing Date by a certificate that at and as of the Closing Date the Issuer has taken all action necessary to issue the Bonds and that there is no controversy, suit or other proceeding of any kind pending or threatened wherein any question is raised affecting in any way the legal organization of the Issuer or the legality of any official act shown to have been done in the transcript of proceedings leading up to the issuance of the Bonds, or the constitutionality or validity of the indebtedness represented by the Bonds or the validity of the Bonds or any proceedings in relation to the issuance or sale thereof. The form and substance of such certificate shall be satisfactory to the Purchaser and the Company.

(c) Receipt by the Purchaser and the Company of an approving opinion from Gilmore & Bell, P.C. as bond counsel to the Issuer (the "**Bond Counsel**"), in form and substance satisfactory to the Purchaser and the Company.

### SECTION 4. THE PURCHASER'S RIGHT TO CANCEL

The Purchaser shall have the right to cancel its obligation hereunder to purchase the Bonds by notifying the Issuer in writing sent by first class mail, facsimile or reputable overnight delivery service, of its election to make such cancellation at any time prior to the Closing Date.

### SECTION 5. CONDITIONS OF OBLIGATIONS

The obligations of the parties hereto are subject to the receipt of the approving opinion of Gilmore & Bell, P.C., Bond Counsel, with respect to the validity of the authorization and issuance of the Bonds.

### SECTION 6. REPRESENTATIONS AND AGREEMENTS TO SURVIVE DELIVERY

All of the representations and agreements by either party shall remain operative and in full force and effect and shall survive delivery of the Bonds to the Purchaser.

### SECTION 7. PAYMENT OF EXPENSES

The Company shall pay all reasonable expenses and costs to effect the authorization, preparation, issuance, delivery and sale of the Bonds from Bond proceeds or otherwise, including, but not limited to any fees of the Issuer, Bond Counsel, Trustee and the Board of Tax Appeals.

**SECTION 8. NOTICE**

Any notice or other communication to be given to the Issuer under this Agreement may be given by mailing or delivering the same in writing to the Issuer at the notice address contained in the Indenture; and any notice or other communication to be given to the Purchaser under this Agreement may be given by delivering the same in writing to Purchaser at 5700 West 112<sup>th</sup> Street, Suite 110, Overland Park, Kansas 66211; and any notice or other communication to be given to the Company under this Agreement may be given by delivering the same in writing at the notice address contained in the Indenture.

**SECTION 9. APPLICABLE LAW; ASSIGNABILITY**

This Bond Purchase Agreement shall be governed by the laws of the State of Kansas and may be assigned by the Purchaser with the written consent of the Issuer, which consent shall not be unreasonably withheld, conditioned or delayed.

**SECTION 10. EXECUTION OF COUNTERPARTS**

This Bond Purchase Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same document.

**SECTION 11. ELECTRONIC STORAGE AND TRANSACTIONS.**

The parties agree that the transactions described herein may be conducted and related documents may be stored by electronic means. All closing documents, certificates, and related instruments may be executed by electronic transmission. Copies, telecopies, facsimiles, electronic files, and other reproductions of original executed documents (or documents executed by electronic transmission) shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

[BALANCE OF PAGE INTENTIONALLY LEFT BLANK]

Very truly yours,

Dated as of the date set forth above.

**ASPEN SUNFLOWER INDUSTRIAL I, LLC,**  
a Kansas limited liability company  
as Purchaser

By: \_\_\_\_\_  
Ben Fraser, Manager

Dated as of the date set forth above.

**CITY OF BEL AIRE, KANSAS**

By: \_\_\_\_\_  
Jim Benage, Mayor

(Seal)

ATTEST:

By: \_\_\_\_\_  
Melissa Krehbiel, City Clerk



DATE: November 12, 2025  
TO: Bel Aire City Council  
FROM: Ted Henry, City Manager  
SUBJECT: Waltons

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### Summary

On March 19, 2024, the City Council held a public hearing, adopted a resolution, and signed a letter of intent authorizing up to \$12,000,000 in Industrial Revenue Bonds (IRBs) for the development of land on 53rd Street between Webb Road and Greenwich Road. Walton's proposes constructing a new headquarters building of approximately 100,000 square feet. The building has now been completed, and Walton's is requesting that the City issue IRBs in the principal amount of \$12,000,000 for the project. Kevin Cowan with Gilmore & Bell will attend the meeting to present this item and answer any questions.



GILMORE & BELL, P.C.  
11/10/2025

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**ORDINANCE NO.**

**OF THE  
CITY OF BEL AIRE, KANSAS**

**AUTHORIZING THE ISSUANCE OF  
NOT TO EXCEED \$12,000,000  
TAXABLE INDUSTRIAL REVENUE BONDS  
SERIES 2025B  
(WALTONS 53RD HOLDINGS LLC)**

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(PUBLISHED ON THE CITY WEBSITE, [WWW.BELAIREKS.GOV](http://WWW.BELAIREKS.GOV), ON NOVEMBER \_\_, 2025)

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE AUTHORIZING THE CITY OF BEL AIRE, KANSAS TO ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS, SERIES 2025B (WALTONS 53RD HOLDINGS LLC) FOR THE PURPOSE OF THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF A MEAT PROCESSING SUPPLY AND EQUIPMENT COMMERCIAL FACILITY; AND AUTHORIZING OTHER RELATED DOCUMENTS AND ACTIONS.**

**THE GOVERNING BODY OF THE CITY OF BEL AIRE, KANSAS HAS FOUND AND DETERMINED:**

A. The City of Bel Aire, Kansas (the “Issuer”) is authorized by K.S.A. 12-1740 *et seq.*, as amended (the “Act”), to acquire, construct, improve and equip facilities (as defined in the Act) for commercial, industrial and manufacturing purposes, to enter into leases and lease-purchase agreements with any person, firm or corporation for the facilities, and to issue revenue bonds for the purpose of paying the costs of the facilities.

B. The Issuer's governing body has determined that it is desirable in order to promote, stimulate and develop the general economic welfare and prosperity of the Issuer and the State of Kansas that the Issuer issue its Taxable Industrial Revenue Bonds, Series 2025B (Waltons 53rd Holdings LLC) in the aggregate principal amount not to exceed \$12,000,000 (the “Series 2025B Bonds”), for the purpose of paying the costs of the acquisition, construction and equipping of a meat processing supply and equipment commercial facility (the “Project”), as more fully described in the Trust Indenture and in the Lease authorized in this Ordinance, for lease to Waltons 53rd Holdings LLC, a Kansas limited liability company (the “Tenant”).

C. The Issuer's governing body finds that it is necessary and desirable in connection with the issuance of the Series 2025B Bonds to execute and deliver the following documents (collectively, the “Bond Documents”):

- (i) a Trust Indenture (the “Trust Indenture”), with Security Bank of Kansas City, Kansas City, Kansas, as Trustee (the “Trustee”), prescribing the terms and conditions of issuing and securing the Series 2025B Bonds;
- (ii) a Site Lease (the “Site Lease”) with the Tenant under which the Tenant will lease an interest in certain real property (the “Real Property”) to the Issuer;
- (iii) a Project Lease (the “Project Lease”) with the Tenant, under which the Issuer will acquire, construct and equip the Project and lease it to the Tenant in consideration of Basic Rent and other payments; and
- (iv) a Bond Purchase Agreement (the “Bond Purchase Agreement”) providing for the sale of the Series 2025B Bonds by the Issuer to Waltons 53<sup>rd</sup> Holdings LLC, Bel Aire, Kansas (the “Purchaser”).

- (v) an Agreement for Payment in Lieu of Taxes (the “Agreement for Payment in Lieu of Taxes”) with the Tenant, under which the Tenant will make payments in lieu of taxes for each year after issuance of the Series 2025B Bonds that the Project is exempt from ad valorem taxation; and
- (vi) an Origination Fee Agreement (the “Origination Fee Agreement”) to be entered into between the Issuer and the Tenant in conjunction with the issuance of the Series 2025B Bonds.

D. The Issuer's governing body has found that under the provisions of K.S.A. 79-201a *Twenty-Fourth*, the Project purchased or constructed with the proceeds of the Series 2025B Bonds is eligible for exemption from ad valorem property taxes for up to 10 years, commencing in the calendar year following the calendar year in which the Bonds are issued, if proper application is made, provided no exemption may be granted from the ad valorem property tax levied by a school district pursuant to the provisions of K.S.A. 72-53,113, and amendments thereto. The Issuer's governing body has further found that the Project should be exempt from ad valorem property taxes for a period of 10 years, subject to a payment in lieu of taxes for each year of the exemption, as more particularly described in the Agreement for Payment in Lieu of Taxes. Prior to making this determination, the governing body of the Issuer has conducted the public hearing and reviewed the analysis of costs and benefits of the exemption required by K.S.A. 12-1749d.

**NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF BEL AIRE, KANSAS:**

Section 1. **Definition of Terms.** All terms and phrases not otherwise defined in this Ordinance will have the meanings set forth in the Trust Indenture and the Project Lease.

Section 2. **Authority to Cause the Project to Be Purchased and Constructed.** The Issuer is authorized to lease the Real Property and cause the Project to be acquired, constructed and equipped in the manner described in the Trust Indenture, the Site Lease and the Project Lease.

Section 3. **Authorization of and Security for the Bonds.** The Issuer is authorized and directed to issue the Series 2025B Bonds, to be designated “City of Bel Aire, Kansas Taxable Industrial Revenue Bonds, Series 2025B (Waltons 53rd Holdings LLC)” in the aggregate principal amount not to exceed \$12,000,000, for the purpose of providing funds to pay the costs of the acquisition, construction and equipping of the Project. The Series 2025B Bonds will be dated and bear interest, will mature and be payable at the times, will be in the forms, will be subject to redemption and payment prior to maturity, and will be issued according to the provisions, covenants and agreements in the Trust Indenture. The Series 2025B Bonds will be special limited obligations of the Issuer payable solely from the Trust Estate under the Trust Indenture, including revenues derived from the Project Lease. The Series 2025B Bonds will not be general obligations of the Issuer, nor constitute a pledge of the faith and credit of the Issuer and will not be payable in any manner by taxation.

Section 4. **Authorization of Trust Indenture.** The Issuer is authorized to enter into the Trust Indenture with the Trustee in the form approved in this Ordinance. The Issuer will pledge the Trust Estate described in the Trust Indenture to the Trustee for the benefit of the owners of the Series 2025B Bonds on the terms and conditions in the Trust Indenture.

Section 5. **Lease of the Project.** The Issuer will lease an interest in the Real Property and acquire, construct and equip the Project and lease it to the Tenant according to the provisions of the Site Lease and Project Lease in the form approved in this Ordinance.

Section 6. **Authorization of Bond Purchase Agreement.** The Issuer is authorized to sell the Series 2025B Bonds to the Purchaser, according to the terms and provisions of the Bond Purchase Agreement, in the form approved in this Ordinance.

Section 6. **Authorization of Origination Fee Agreement.** At or prior to the issuance of the Series 2025B Bonds, the Issuer will enter into the Origination Fee Agreement with the Tenant providing for the payment to the Issuer of an origination fee upon the terms and subject to the conditions set forth in the agreement, in the form approved in this Ordinance.

Section 7. **Execution of Bonds and Bond Documents.** The Mayor of the Issuer is authorized and directed to execute the Series 2025B Bonds and deliver them to the Trustee for authentication on behalf of the Issuer in the manner provided by the Act and in the Trust Indenture. The Mayor, or member of the Issuer's governing body authorized by law to exercise the powers and duties of the Mayor in the Mayor's absence, is further authorized and directed to execute and deliver the Bond Documents on behalf of the Issuer in substantially the forms presented for review prior to passage of this Ordinance, with the corrections or amendments as the Mayor or other person lawfully acting in the absence of the Mayor may approve, which approval shall be evidenced by his or her signature. The authorized signatory may sign and deliver all other documents, certificates or instruments as may be necessary or desirable to carry out the purposes and intent of this Ordinance and the Bond Documents. The City Clerk or the Deputy City Clerk of the Issuer is hereby authorized and directed to attest the execution of the Series 2025B Bonds, the Bond Documents and the other documents, certificates and instruments as may be necessary or desirable to carry out the intent of this Ordinance under the Issuer's corporate seal.

Section 8. **Property Tax Exemption; Payment in Lieu of Taxes.** The Project will be exempt from ad valorem property taxes for 10 years, commencing in the calendar year after the calendar year in which the Series 2025B Bonds are issued, provided no exemption may be granted from the ad valorem property tax levied by a school district pursuant to the provisions of K.S.A. 72-53,113, and amendments thereto. The Tenant will prepare the application for exemption and submit it to the Issuer for its review. After its review, the Issuer will submit the application for exemption to the State Board of Tax Appeals. The Issuer is authorized to enter into the Agreement for Payment in Lieu of Taxes in substantially the form presented for review prior to passage of this Ordinance.

Section 9. **Pledge of the Project and Net Lease Rentals.** The Issuer hereby pledges the Project, and the net rentals generated under the Project Lease to the payment of the Series 2025B Bonds in accordance with K.S.A. 12-1744. The lien created by the pledge will be discharged when all of the Series 2025B Bonds are paid or deemed to have been paid in accordance with the terms of the Trust Indenture.

Section 10. **Authority To Correct Errors and Omissions.** The Mayor or member of the Issuer's governing body authorized to exercise the powers and duties of the Mayor in the Mayor's absence, the City Clerk and any Deputy City Clerk are hereby authorized and directed to make any alterations, changes or additions in the instruments herein approved, authorized and confirmed which may be necessary to correct errors or omissions therein or to conform the same to the other provisions of the instruments or to the provisions of this Ordinance.

Section 11. **Further Authority.** The officials, officers, agents and employees of the Issuer are authorized and directed to take whatever action and execute whatever other documents or certificates as may be necessary or desirable to carry out the provisions of this Ordinance and to carry out and perform the duties of the Issuer with respect to the Series 2025B Bonds and the Bond Documents.

Section 12. **Effective Date.** This Ordinance shall take effect after its passage by the governing body of the Issuer, signature by the Mayor and publication of the Ordinance in the official City newspaper.

**PASSED** by the governing body of the Issuer on November 18, 2025 and **APPROVED AND SIGNED** by the Mayor.

(SEAL)

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

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### **CERTIFICATE**

I hereby certify that the attached copy is a true and correct copy of Ordinance No. \_\_\_\_ of the City of Bel Aire, Kansas duly passed by the governing body, signed by the Mayor and the signed original of the Ordinance is on file in my office; and that the Ordinance or a summary thereof was published in the official City newspaper on the respective dates stated in this Ordinance.

[SEAL]

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City Clerk

**EXCERPT OF MINUTES OF A MEETING  
OF THE GOVERNING BODY OF  
THE CITY OF BEL AIRE, KANSAS  
HELD ON NOVEMBER 18, 2025**

The governing body of the City of Bel Aire, Kansas met in regular session at the usual meeting place in the City, at 7:00 p.m., the following members being present and participating, to-wit:

Absent:

The Mayor declared that a quorum was present and called the meeting to order.

\*\*\*\*\*

(Other Proceedings)

Thereupon, there was presented an Ordinance entitled:

**AN ORDINANCE AUTHORIZING THE CITY OF BEL AIRE, KANSAS TO  
ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS, SERIES 2025B  
(WALTONS 53RD HOLDINGS LLC) FOR THE PURPOSE OF THE  
ACQUISITION, CONSTRUCTION AND EQUIPPING OF A MEAT PROCESSING  
SUPPLY AND EQUIPMENT COMMERCIAL FACILITY; AND AUTHORIZING  
OTHER RELATED DOCUMENTS AND ACTIONS.**

Thereupon, Councilmember \_\_\_\_\_ moved that the Ordinance be passed. The motion was seconded by Councilmember \_\_\_\_\_. The Ordinance was duly read and considered, and upon being put, the motion for the passage of the Ordinance was carried by the vote of the governing body, the vote being as follows:

Aye:

Nay:

Thereupon, the Mayor declared the Ordinance duly passed and the Ordinance was then duly numbered Ordinance No. \_\_\_, was signed and approved by the Mayor and attested by the Clerk and the Ordinance or a summary thereof was directed to be published one time in the official newspaper of the City.

\*\*\*\*\*

(Other Proceedings)

\*\*\*\*\*

### **CERTIFICATE**

I certify that the foregoing Excerpt of Minutes is a true and correct excerpt of the proceedings of the governing body of the City of Bel Aire, Kansas held on the date stated therein, and that the official minutes of the proceedings are on file in my office.

[SEAL]

---

City Clerk

GILMORE & BELL, P.C.  
10/23/2025

AGREEMENT FOR PAYMENT IN LIEU OF TAXES

**This Agreement**, entered into as of December 4, 2025 between the City of Bel Aire, Kansas (the “Issuer”) and Waltons 53rd Holdings LLC (the “Tenant”);

WITNESSETH THAT:

1.       **Tax Exemption; Payment in Lieu of Taxes.** In consideration of (i) the issuance by the Issuer of its Taxable Industrial Revenue Bonds, Series 2025 (Waltons 53rd Holdings LLC), in the principal amount of not to exceed \$12,000,000 (the “Bonds”) to finance acquiring, constructing, and equipping a 100,000-square-foot facility to house a meat processing supply and equipment commercial facility (the “Project”) to be leased by the Issuer to the Tenant, (ii) the Tenant's execution of the lease of the Project financed with the proceeds of the Bonds, (iii) the laws of the State of Kansas affording exemption from *ad valorem* property taxation for the portion of the Project acquired, purchased or constructed with the proceeds of the Bonds for a period commencing with the year after calendar year in which bonds are issued, and (iv) the agreement by the Issuer to apply for the exemption if the payments provided for herein are made, the Tenant agrees to make payments in lieu of *ad valorem* property taxes in the amounts specified herein, in the manner provided for herein.

2.       **Amount of Payments; Place of Payment.** In lieu of general *ad valorem* property taxes on the Project for the ten (10) calendar years following the year in which the Bonds are issued, other than special assessments levied on account of special benefits, the Tenant shall pay by separate check to the Treasurer of Sedgwick County, Kansas, or other appropriate office as directed by the Issuer, on or before December 20 in each of the years, with the privilege of half payment as provided by law for general *ad valorem* taxes, a payment in lieu of taxes, the total amount of which is specified below, to be distributed as and for a part of the general *ad valorem* tax collections for all taxing subdivisions in which the Project is located. The total amount of the payments shall be determined as follows

Calendar Year	Payment in Lieu of Taxes
2026	0%
2027	10%
2028	20%
2029	30%
2030	40%
2031	50%
2032	60%
2033	70%
2034	80%
2035	90%

(expressed as a percentage of *ad valorem* tax otherwise payable in respect of the Project)

The amount of the payment in lieu of taxes will be determined in the same manner and according to the same statutory procedure as general *ad valorem* taxes, real and personal, as the case may be, are determined, using the valuations determined by the Sedgwick County Appraiser's office. The payments shall be distributed to all applicable taxing subdivisions in Sedgwick County as provided in K.S.A. 12-1742.



The Tenant agrees, as a condition to receipt of property tax abatement incentive hereunder, to provide all information required by the State of Kansas under Chapter 54 of the 2025 Kansas Session Laws, which became effective on July 1, 2025, to the Secretary of Commerce of the State of Kansas, at such times and in the form and manner as required by the Secretary, for publication on the department’s database as provided by law.

3. **Reduction of Payment for Actual Taxes Paid.** Except for the *ad valorem* taxes described in **Section 4** herein, the annual amount to be paid pursuant to **Section 2** herein shall be reduced (but not below zero) by any actual *ad valorem* tax payments paid by or on behalf of the Tenant for any given year in respect of real property constituting a part of the Project, including taxes paid on the portion of the Project described on **Exhibit A** hereto (the “Retail Portion of the Project”).

4. **No Exemption for Special Assessments and Capital Outlay Levy.** All special assessments and the unified school district's capital outlay levy provided in K.S.A. 72-53,113 that is levied against the real property portion of the Project, if any, will not abate and will continue to be the obligation of the Tenant, payable in the manner provided by law.

5. **Failure to Make Payment in Lieu of Taxes.** Should the Tenant fail to make the payments required above, penalties and/or interest will be assessed against the Tenant by the Sedgwick County Treasurer in accordance with applicable state laws relating to late tax payments. If the Tenant fails to make a payment required by this Agreement and the failure shall continue for one year, this Agreement shall be deemed terminated effective as of December 20 in the year the payment was originally due, and Tenant agrees that from and after the termination date, it shall pay in full the regular amount of *ad valorem* real estate and personal property taxes on the property constituting the Project.

6. **Approval of Exemption.** This Agreement is conditioned on the issuance by the Board of Tax Appeals of the State of Kansas of an order exempting the bond-financed portion of the Project from *ad valorem* taxation in accordance with Kansas law, including particularly K.S.A. 79-201a *Twenty-Fourth*.

7. **Counterparts.** This Agreement may be executed simultaneously and several counterparts, each of which shall be deemed to be an original and all of which shall constitute the same instrument.

8. **Transferability.** The benefits of this Agreement may be transferred to any assignee of the Project Lease made in accordance with the provisions of the Project Lease between the Issuer and the Tenant.

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**IN WITNESS WHEREOF**, the Issuer has caused this Agreement to be signed by a duly authorized official, the signature to be attested by a duly authorized officer and its official seal to be applied, and the Tenant has caused this Agreement to be signed on its behalf by a duly authorized officer, the signature attested by a duly authorized officer, and its corporate seal (if any) to be applied, as of the day and year first above written.

**CITY OF BEL AIRE, KANSAS**

By: \_\_\_\_\_  
Jim Benage, Mayor

[SEAL]

ATTEST:

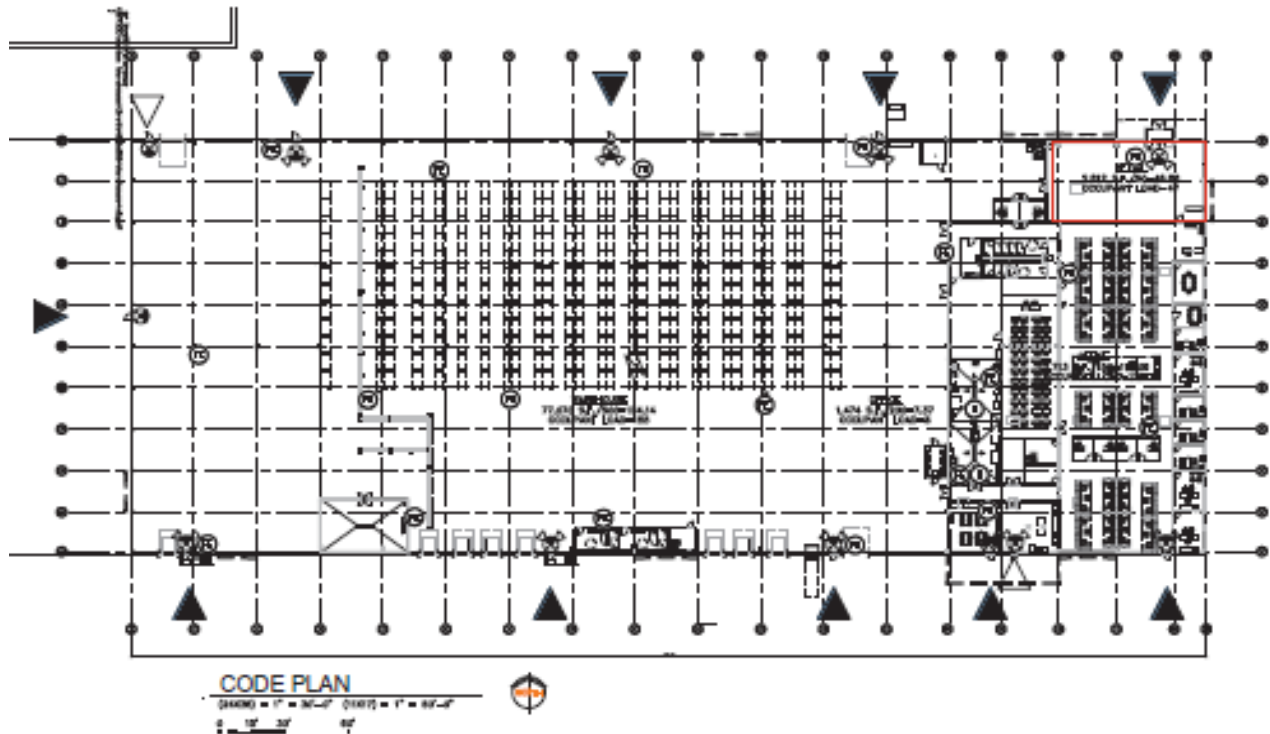
\_\_\_\_\_  
Melissa Krehbiel, City Clerk

**WALTONS 53RD HOLDINGS LLC**

By: \_\_\_\_\_  
Name: Brett Walton  
Title: President

**EXHIBIT A****RETAIL PORTION OF THE PROJECT**

Means that portion of the Project containing 2,812 square feet as described on the site plan set forth below.



GILMORE & BELL, P.C.  
11/11/2025

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**WALTONS 53RD HOLDINGS LLC  
AS TENANT AND  
AS PURCHASER**

**CITY OF BEL AIRE, KANSAS  
AS ISSUER**

**BOND PURCHASE AGREEMENT**

**NOT TO EXCEED \$12,000,000  
TAXABLE INDUSTRIAL REVENUE BONDS  
SERIES 2025B  
(WALTONS 53RD HOLDINGS LLC)**

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## BOND PURCHASE AGREEMENT

NOT TO EXCEED \$12,000,000  
CITY OF BEL AIRE, KANSAS  
TAXABLE INDUSTRIAL REVENUE BONDS  
SERIES 2025B  
(WALTONS 53RD HOLDINGS LLC)  
Dated: DECEMBER 4, 2025

**THIS AGREEMENT** entered into December 4, 2025 (the “Sale Date”), between Waltons 53rd Holdings LLC, a Kansas limited liability company (the “Tenant” and the “Purchaser”) and the City of Bel Aire, Kansas (the “Issuer”), collectively referred to herein as the “Parties.” All capitalized terms not specifically defined herein shall have the same meaning as defined in the hereinafter referenced Indenture and Project Lease, unless some other meaning is plainly indicated.

### SECTION 1. RECITALS.

(a) The Issuer proposes to issue and sell the Bonds identified above (the “Bonds”) to provide funds for the acquisition, construction and equipping of a meat processing supply and equipment commercial facility (the “Project”) located within the corporate limits of the Issuer, to be leased by the Issuer to the Tenant pursuant to a Project Lease dated as of December 4, 2025 (the “Project Lease”).

(b) Pursuant to the constitution and laws of the State of Kansas, including K.S.A. 12-1740 *et seq.* (the “Act”), the Bonds are limited obligations of the Issuer payable solely from the Trust Estate under the Trust Indenture (hereinafter defined), including payments derived by the Issuer from the Project Lease. The Bonds will be dated December 4, 2025, will contain such other terms and provisions as are set forth in an ordinance duly passed by the governing body of the Issuer on November 18, 2025 (the “Ordinance”), and other proceedings and determinations related thereto as authorized and governed by the provisions of a Trust Indenture (the “Indenture”) dated December 4, 2025 between the Issuer and Security Bank of Kansas City, Kansas City, Kansas, as trustee (the “Trustee”).

(c) In order to induce the Purchaser to enter into this Bond Purchase Agreement and to purchase the Bonds at a price and bearing interest at the rate or rates set forth in the Trust Indenture, the Issuer and the Tenant have joined in this Bond Purchase Agreement.

(d) The proceeds of the sale of the Bonds are to be applied:

- (i) to provide for accrued interest through the date of Closing;
- (ii) to provide funds to pay Project Costs (as defined in the Trust Indenture); and
- (iii) to pay expenses related to Bond issuance

all as set forth in the Project Lease, Ordinance and Trust Indenture.

### SECTION 2. PURCHASE, SALE AND DELIVERY OF THE BONDS.

(a) On the basis of the representations, warranties and covenants contained herein and in the other agreements and documents referred to herein, and subject to the terms and conditions herein set forth, the Purchaser agrees to purchase from the Issuer and the Issuer agrees to sell to the Purchaser the

Bonds not later than 12:00 Noon, applicable Central time on December 4, 2025, or such other place, time or date as shall be mutually agreed upon by the Issuer and the Purchaser, at the purchase price set forth in the Trust Indenture (the “Purchase Price”). The date of such delivery and payment is herein called the “Issue Date,” the hour and date of such delivery and payment is herein called the “Closing Time” and the transactions to be accomplished for delivery of the Bonds on the Issue Date shall be herein called the “Closing.” The Bonds shall be issued under and secured as provided in the Trust Indenture and the Bonds shall have the maturities and interest rates as set forth therein. The Bonds shall contain such other provisions as are described in the Trust Indenture.

(b) The Parties acknowledge and agree that: (i) the purchase and sale of the Bonds pursuant to this Bond Purchase Agreement is an arm’s-length commercial transaction between the Issuer and the Purchaser; (ii) in connection with such transaction, the Purchaser is acting solely as a principal and not as an agent or a fiduciary of any of Issuer; (iii) the Purchaser has not assumed (individually or collectively) a fiduciary responsibility in favor of the Issuer with respect to the offering of the Bonds or the process leading thereto or any other obligation to the Issuer, except with respect to the obligations expressly set forth in this Bond Purchase Agreement; and (iv) the Issuer has consulted with their own legal and financial advisors to the extent it deemed appropriate in connection with the offering of the Bonds.

(c) The Bonds are purchased by Purchaser under the following conditions: (i) the Bonds are not being registered or otherwise qualified for sale under the “Blue Sky” laws; (ii) Purchaser will hold the Bonds as one single debt instrument, (iii) no CUSIP numbers will be obtained for the Bonds, (iv) no official statement or other similar offering document has been prepared in connection with the private placement of the Bonds, and (v) the Bonds will not close through the DTC or any similar repository and will not be in book entry form.

(d) The delivery of the Bonds shall be made in definitive form, as fully registered bonds (in such denominations as the Purchaser shall specify in writing at least 48 hours prior to the Closing Time), duly executed and authenticated; provided, however, the Bonds may be delivered in temporary form. The Bonds shall be available for examination and packaging by the Purchaser at least 24 hours prior to the Closing Time.

### **SECTION 3. REPRESENTATIONS, WARRANTIES, COVENANTS AND AGREEMENTS OF THE PURCHASER**

By the execution hereof the Purchaser hereby represents, warrants and agrees with the Issuer and the Tenant that as of the date hereof and at the Closing Time:

(a) Purchaser is knowledgeable and experienced in financial and business matters and is capable of evaluating investment merit and risks associated with its purchase of the Bonds. The Purchaser has been furnished and has reviewed the provisions of the Ordinance, Indenture and Project Lease relating to the authorization of and security for payment of the Bonds. Prior to the execution hereof Purchaser also obtained and examined such financial records and information necessary in order to enable itself to fully evaluate the terms and provisions of the Bonds and of the Trust Indenture and Project Lease authorizing their issuance and providing for the payment thereof and the financial and investment merits and risks associated with the purchase of the Bonds. On the basis of such information materials and Purchaser's investigation, Purchaser has made the decision to purchase the Bonds and has not relied upon any representations of the Issuer or any of its officers or employees with respect to the Project, the Tenant or security for payment of the Bonds.

(b) Purchaser is purchasing the Bonds as an investment for its own account and not with a view to the sale, redistribution or other disposition thereof in the ordinary course of business in a transaction not amounting to a public offering as contemplated by Section 4(2) of the Securities Act of 1933, as amended. Purchaser acknowledges that (i) the Bonds will not be registered under the Securities Act of 1933, as amended or any applicable state securities law, (ii) the Bonds may not be transferred unless, in the opinion of counsel acceptable to the Issuer and the Trustee, such transfer will not cause a violation of the Securities Act of 1933, as amended, or any applicable state securities law and that (iii) language consistent with the foregoing restrictions will appear in the registration and transfer provisions of the Trust Indenture.

#### **SECTION 4. ISSUER'S REPRESENTATIONS.**

The Issuer represents, covenants and warrants, to the best of its knowledge and belief, as follows, all of which will continue in effect subsequent to the Closing:

(a) The Issuer is a municipal corporation incorporated as a city of the second class under the laws of the State of Kansas.

(b) The governing body of the Issuer did enact the Ordinance; it has been signed by a duly authorized official of the Issuer, it has been published once in the official city newspaper as required by law, and it is presently in full force and effect and has not been amended or modified.

(c) The Issuer has full power and authority to execute and deliver the Trust Indenture, the Site Lease, the Project Lease, the Bond Purchase Agreement and any and all other documents reasonably necessary in connection with the Trust Indenture, the Project Lease the Site Lease and the Bond Purchase Agreement (the "Issuer Documents"); the Issuer Documents have been duly executed and delivered by the Issuer in the manner authorized and constitute legal, valid and binding obligations of the Issuer in accordance with their terms, except to the extent limited by or subject to bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights, principles of equity or the exercise of judicial discretion.

(d) The execution, delivery and performance of the Issuer Documents will not conflict with or constitute on the part of the Issuer a material breach or default under any agreement, indenture or instrument known to it to which the Issuer is a party or by which it is bound.

(e) The Issuer has duly and validly authorized the taking on its behalf of any and all actions necessary to carry out and give effect to the transactions contemplated to be performed on its part by the Ordinance and the Issuer Documents.

(f) There is not now pending or, to the knowledge of the officials of the Issuer, threatened any litigation seeking to restrain or enjoin the issuance or delivery of the Bonds, or contesting or questioning (i) the validity of the Bonds, (ii) the proceedings or authority under which they are issued, (iii) the existence of the Issuer, (iv) the authority of the Issuer to enact the Ordinance or enter into the Issuer Documents, or (v) the Issuer's pledge of the Project, the revenues therefrom and the Trust Estate under the Trust Indenture as security for the payment of the Bonds.

(g) Any certificate signed by an official of the Issuer and delivered to the Purchaser shall be deemed a representation by the Issuer to the Purchaser as to the truth of the statements made in such certificate.

## **SECTION 5. REPRESENTATIONS OF THE TENANT.**

The Tenant makes the following representations as of the Closing, all of which will continue in effect subsequent to the Closing:

(a) The Tenant is a duly formed Kansas limited liability company, duly authorized to do business under the laws of the State of Kansas.

(b) The Tenant has full power and authority to enter into, execute and deliver the Project Leases and Leases and this Bond Purchase Agreement (the “Tenant Documents”), and to perform its obligations thereunder, all of which have been duly authorized by all proper and necessary corporate action, and no consent or approval of parties not signatories to this Bond Purchase Agreement or of any public authority other than the Issuer is necessary to carry out the same.

(c) The execution, delivery and performance by the Tenant of the Tenant Documents will not conflict with or constitute a material violation or breach of or a default under its articles of organization or operating agreement, or any mortgage, indenture, deed of trust, contract, instrument or agreement binding on it or affecting its property, or any provision of law or order, rule, regulation, ordinance or decree of any court, government or governmental body having jurisdiction over the Tenant or any of its property.

(d) All written information (including financial statements) supplied by the Tenant which has been relied upon by Gilmore & Bell, P.C. (“Bond Counsel”) and the Purchaser.

(e) To the actual knowledge of the members of the Tenant and the officer of the Tenant signing this Bond Purchase Agreement, there is no litigation, proceeding or investigation by or before any court, public board or body, pending, or threatened, against or affecting the Tenant, its officers or property, challenging the validity of the Tenant Documents, or seeking to enjoin any of the transactions contemplated by such instruments or the performance by the Tenant of its obligations thereunder, or challenging the acquisition or operation of the Project. Further, no litigation, proceeding, or investigation is pending or, to the knowledge of the officer of the Tenant signing this Bond Purchase Agreement, threatened, against the Tenant, its officers, members or property except (i) that arising in the normal course of the its business operations, and being defended by or on behalf of the Tenant in which the probable ultimate recovery and estimated defense costs and expenses, in the opinion of the management of the Tenant will be entirely within applicable insurance policy limits (subject to applicable self-insurance, retentions and deductibles), or (ii) that which, if determined adversely to the Tenant would not, in the opinion of the management of the Tenant, materially adversely affect the Tenant’s operations or condition, financial or otherwise.

## **SECTION 6. TENANT’S COVENANT.**

The Tenant will promptly notify the Purchaser of any material adverse change in the business, properties or financial condition of the Tenant, or with respect to the Project, occurring before Closing or within 90 days thereafter, which would require a change in the Official Statement or be necessary in order to make the information contained therein not misleading in connection with the sale of the Bonds.

## **SECTION 7. REPRESENTATIONS TO SURVIVE CLOSING.**

The representations, warranties, agreements, and indemnities of the Issuer, the Tenant and the Purchaser contained herein will survive the Closing and any investigation made by or on behalf of the Issuer, the Tenant or the Purchaser, of any matters described in, or related to, the transactions contemplated hereby and by the Site Lease and the Project Lease.



## SECTION 8. CONDITIONS OF CLOSING.

The Purchaser's obligations to purchase the Bonds are subject to fulfillment of the following conditions at or before Closing:

(a) The representations of the Issuer and the Tenant hereunder must be true on and as of the Issue Date and must be confirmed by certificates dated as of the Closing;

(b) Neither the Issuer nor the Tenant has defaulted in the performance of any of their respective covenants hereunder;

(c) The Purchaser must receive at the Closing:

(i) an opinion of Bond Counsel, dated as of the Closing; in form and substance satisfactory to the Purchaser and its counsel;

(ii) an opinion of counsel for the Tenant, dated as of the Closing, in form and substance satisfactory to Bond Counsel and to the Purchaser and its counsel confirming the Tenant's representations as set forth in paragraphs (b) through (e) inclusive of *Section 5* of this Bond Purchase Agreement;

(iii) an opinion of counsel for the Issuer, dated as of the Closing, in form and substance satisfactory to Bond Counsel and to the Purchaser and its counsel, confirming the Issuer's representations set forth in paragraphs (a) through (f) inclusive of *Section 4* of this Bond Purchase Agreement;

(iv) a certificate or certificates, satisfactory in form and substance to Bond Counsel and the Purchaser and its counsel, of an authorized official of the Issuer dated the date of the Closing to the effect that (A) each of the representations of the Issuer set forth in *Section 4* hereof is true, accurate and complete in all material respects as of the Closing, and each of the agreements of the Issuer set forth in this Bond Purchase Agreement to be complied with at or prior to the Closing has been complied with; and (B) no litigation is pending, or to such official's knowledge, threatened, to restrain or enjoin the issuance or delivery of the Bonds, or contesting or questioning the validity of the Bonds, the proceedings or authority under which they are issued, the existence of the Issuer, the authority of the Issuer to enact the Ordinance or enter into the Trust Indenture, the Project Lease or the Bond Purchase Agreement, or the Issuer's pledge of the Project, the revenues therefrom and the Trust Estate under the Trust Indenture as security for the payment of the Bonds, and (C) that none of the proceedings authorizing issuance of the Bonds or execution and delivery of the bond documents has been repealed, revoked or rescinded;

(v) a certificate or certificates, satisfactory in form and substance to Bond Counsel and to the Purchaser and its counsel, of a member authorized officers of the Tenant, dated the date of Closing to the effect that each of the representations of the Tenant set forth in *Section 5* hereof is true, accurate and complete in all material respects as of the Closing, and each of the agreements of the Tenant set forth in this Bond Purchase Agreement to be complied with at or prior to the Closing has been complied with as of such time; and

- (vi) such additional certificates, legal and other documents, listed on a closing agenda to be approved by Bond Counsel and counsel to the Purchaser, as the Purchaser may reasonably request to evidence performance or compliance with the provisions hereof and the transactions contemplated hereby and by the Trust Indenture and Project Lease, or as Bond Counsel shall require in order to render its opinion, all such certificates and other documents to be satisfactory in form and substance to the Purchaser.

(d) At Closing, there shall not have been any adverse change in the business, property or financial condition of the Tenant from that furnished to the Purchaser which, in the judgment of the Purchaser, is material and makes it inadvisable to proceed with the sale of the Bonds; and the Purchaser shall have received a certificate from the Tenant that no material adverse change has occurred or, if such a change has occurred, full information with respect thereto.

## **SECTION 9. THE PURCHASER'S RIGHT TO CANCEL.**

The Purchaser shall have the right to cancel the obligation hereunder to purchase the Bonds (such cancellation shall not constitute a default for purposes of **Section 1** hereof) by notifying the Issuer, the Tenant in writing or by facsimile of its election to make such cancellation prior to the Closing Time, if at any time after the execution of this Bond Purchase Agreement and prior to the Closing Time, the market price or marketability of the Bonds, or the ability of the Purchaser to enforce contracts for the sale of the Bonds, shall be materially adversely affected by any of the following events:

(a) Any legislation, ordinance, rule or regulation shall be introduced in or be enacted by the Legislature of the State or by any other governmental body, department or agency of the State, or a decision by any court of competent jurisdiction within the State shall be rendered, or litigation challenging the law under which the Bonds are to be issued shall be filed in any court in the State.

(b) A stop order, ruling, regulation or official statement by, or on behalf of, the SEC or any other governmental agency having jurisdiction of the subject matter shall be issued or made to the effect that the issuance, offering or sale of obligations of the general character of the Bonds, or the issuance, offering or sale of the Bonds, including all underlying obligations, as contemplated, is in violation or would be in violation of any provision of the 1933 Act, the 1934 Act or the Trust Indenture Act of 1939, as amended.

(c) Legislation shall be enacted by the Congress of the United States of America, or a decision by a court of the United States of America shall be rendered, to the effect that obligations of the general character of the Bonds, or the Bonds, including all the underlying obligations, are not exempt from registration under or from other requirements of the 1933 Act or the 1934 Act.

(d) A material disruption in securities settlement, payment or clearance services affecting the Bonds shall have occurred; or additional material restrictions not in force as of the date hereof shall have been imposed upon trading in securities generally by any governmental authority or by any national securities exchange.

(e) The New York Stock Exchange or any other national securities exchange, or any governmental authority, shall impose, as to the Bonds or obligations of the general character of the Bonds, any material restrictions not now in force, or increase materially those now in force, with respect to the extension of credit by, or the charge to the net capital requirements of, the Purchaser.

- (f) Any general banking moratorium shall have been established by federal, New York or Kansas authorities.
- (g) A material default has occurred with respect to the obligations of, or proceedings have been instituted under the Federal bankruptcy laws or any similar state laws by or against, any state of the United States or any city located in the United States having a population in excess of one million persons or any entity issuing obligations on behalf of such a city or state.
- (h) Any proceeding shall be pending or threatened by the SEC against the Issuer.
- (i) A war involving the United States shall have been declared, or any conflict involving the armed forces of the United States shall have escalated, or any other national emergency relating to the effective operation of government or the financial community shall have occurred.
- (j) A default by or a moratorium initiated by the United States in respect to payment of any direct obligation of, or obligation the principal of and interest on which is fully and unconditionally guaranteed as to full and timely payment by, the United States of America.

**SECTION 10. PAYMENT OF EXPENSES.**

- (a) Whether or not the Bonds are sold by the Issuer to the Purchaser (unless such sale is prevented at the Closing Time by the Purchaser's default), the Purchaser, unless otherwise contracted for, shall be under no obligation to pay any expenses incident to the performance of the obligations of the Issuer or the Tenant hereunder; nor shall the Issuer or the Tenant, unless otherwise contracted for, be under any obligation to pay any expenses incident to the performance of the obligations of the Purchaser hereunder (unless such sale is prevented at the Closing Time by the Issuer's or the Tenant's default).
- (b) If the Bonds are sold by the Issuer to the Purchaser, except as hereinafter set forth, all expenses and costs to effect the authorization, preparation, issuance, delivery and sale of the Bonds shall be paid by the Tenant out of the proceeds of the Bonds or other Tenant funds. Such expenses and costs shall include, but not be limited to: (i) the fees and disbursements of Bond Counsel; (ii) the fees and disbursements of the Issuer's legal counsel; (iii) fees and disbursements of the Tenant's legal counsel; (iv) costs associated with obtaining municipal bond insurance or municipal bond ratings relating to the Bonds, if any; (v) the expenses and costs for the preparation, printing, photocopying, execution and delivery of the Bonds, this Bond Purchase Agreement and all other agreements and documents contemplated hereby; (vi) fees of the Trustee; and (vii) all costs and expenses of the Issuer relating to the issuance of the Bonds. The Purchaser shall be responsible for payment of the costs of qualifying the Bonds for sale in the various states chosen by the Purchaser, all advertising expenses in connection with the offering of the Bonds, the fees and disbursements of the Purchaser's legal counsel and all other expenses incurred by the Purchaser in connection with the offering, sale and distribution of the Bonds.

**SECTION 11. NOTICES AND OTHER ACTIONS.**

All notices, demands and formal actions hereunder will be in writing mailed, faxed or delivered to:

The Issuer:

City of Bel Aire, Kansas  
7651 E. Central Park Ave.  
Bel Aire, Kansas 67226  
Attn: City Clerk

The Tenant  
and Purchaser:                     Waltons 53rd Holdings LLC  
  10321 E 53rd North  
  Bel Aire, Kansas 67226  
  Attention: President

**SECTION 12. MISCELLANEOUS.**

- (a) This Bond Purchase Agreement shall be binding upon the Parties and their respective successors. This Bond Purchase Agreement and the terms and provisions hereof are for the sole benefit of only those persons, except that the representations, warranties, indemnities and agreements of the Issuer and the Tenant contained in this Bond Purchase Agreement shall also be deemed to be for the benefit of the person or persons, if any, who control the Purchaser (within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act). Nothing in this Bond Purchase Agreement is intended or shall be construed to give any person, other than the persons referred to in this Paragraph, any legal or equitable right, remedy or claim under or in respect of this Bond Purchase Agreement or any provision contained herein. All of the representations, warranties and agreements of the Issuer contained herein shall remain in full force and effect, regardless of: (i) any investigation made by or on behalf of the Purchaser, (ii) delivery of and payment for the Bonds; or (iii) any termination of this Bond Purchase Agreement.
- (b) For purposes of this Bond Purchase Agreement, “business day” means any day on which the New York Stock Exchange is open for trading.
- (c) This Bond Purchase Agreement shall be governed by and construed in accordance with the laws of the State of Kansas.
- (d) This Bond Purchase Agreement may be executed in one or more counterparts, and if executed in more than one counterpart, the executed counterparts shall together constitute a single instrument.
- (e) This Bond Purchase Agreement may not be assigned by either party without the express written consent of the other party.

**SECTION 13. EFFECTIVE DATE.**

This Bond Purchase Agreement shall become effective upon acceptance hereof by the Issuer.

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Upon your acceptance of the offer, the foregoing agreement will be binding upon you and the Purchaser. Please acknowledge your agreement with the foregoing by executing the enclosed copy of this Bond Purchase Agreement and returning it to the undersigned.

**WALTONS 53RD HOLDINGS LLC**  
Wichita, Kansas

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

By: \_\_\_\_\_  
Name: Brett Walton  
Title: President

Accepted and agreed to as of  
the date first above written.

**CITY OF BELAIRE, KANSAS**

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

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

ATTEST:

(Seal)

By: \_\_\_\_\_  
City Clerk

GILMORE& BELL, P.C.  
11/10/2025

**ORIGINATION FEE AGREEMENT**

**THIS ORIGINATION FEE AGREEMENT** (the “**Fee Agreement**”) is made and entered into as of December 4, 2025, by and between Waltons 53rd Holdings LLC, a Kansas limited liability company (the “**Company**”); and the City of Bel Aire, Kansas, a municipal corporation, (the “**City**”).

**WHEREAS**, the City is empowered to issue industrial revenue bonds pursuant to K.S.A. 12-1740 *et seq.*, and to grant property tax exemptions under K.S.A. 79-201a *Second*, subject to satisfaction of the applicable conditions precedent under State law and City policies; and,

**WHEREAS**, the Company has built a meat processing supply and equipment commercial facility and desires to conduct that business within the City of Bel Aire; and,

**WHEREAS**, the Company has acquired necessary land (the “**Real Property**”) and constructed thereon a storage facility (the “**Project**”) for the primary purpose of conducting the Company’s business within the City; and,

**WHEREAS**, the Company has requested the City issue up to \$12,000,000 in taxable industrial revenue bonds in a principal amount not to exceed \$12,000,000(the “**Bonds**”) and grant a property tax abatement on the Project financed with the proceeds of the Bonds (the "**Project**") ; and,

**WHEREAS**, in connection with the issuance of the Bonds, the Company has offered to pay the City an origination fee, subject to the conditions in this Fee Agreement; and

**WHEREAS**, the City desires to issue the Bonds and grant a property tax abatement, subject to the conditions in this Fee Agreement.

**NOW THEREFORE**, in consideration of the mutual covenants contained in this Fee Agreement, the parties agree as follows:

1. The City agrees to consider, in good faith, the Company’s request for the City to issue its taxable industrial revenue bonds pursuant to K.S.A. 12-1740 *et seq.*, in an amount not to exceed \$12,000,000 (the “**Bonds**”) for the purpose of making the proceeds thereof available for the benefit of the Company to pay the costs of the acquisition of the Real Property and the costs of constructing and equipping the Project. The City further agrees to consider, in good faith, as a part of the issuance of the Bonds, the request of the Company for the exemption of *ad valorem* property taxes on the Project for a period of 10 years commencing with the calendar year following the year in which the Bonds are issued. The Company will qualify for a Sales Tax Exemption Certificate for all Bond-financed personal property acquired for the Project. No exemption shall apply for any Real Property located within a tax increment financing (TIF) district. Any such exemption shall further be subject to both applicable law, the policies of the City, and the provisions of Section 2, hereinafter.

2. In the event the City grants the exemption set forth in Section 1, above, the City agrees to take all actions reasonably necessary, and the Company shall cooperate, to procure the approval by the Kansas Board of Tax Appeals (“**BOTA**”) of such exemptions. The parties acknowledge that said exemptions are subject to the submission of an appropriate application to, and the approval of such application by, BOTA. The Company acknowledges that, although the City will execute such application and pursue with the Company such approval, the City makes no assurance that such approval will be

given. The Company with the City will pursue such application to obtain an order from BOTA approving such application and granting such exemption. If the Company determines that it is necessary to appeal the order of BOTA to secure such exemption, the City shall cooperate with the Company, at the request and expense of the Company, in pursuance of such appeal. The continuation of such tax abatement (the “Abatement”), on an annual basis, shall be subject to the rules and procedures of BOTA and further subject to the Company’s compliance with this Fee Agreement and with all applicable rules, regulations, statutes and ordinances.

3. On or before the date of closing on the issuance of the Bonds, the Company will pay an origination fee to the City in an amount equal to the lesser of 1.00% of the aggregate principal amount of the Bonds or \$100,000. The City shall use the origination fee solely for local economic development activities, pursuant to K.S.A. 12-1742.

4. The City agrees that it shall make no requirement in the Bond documents for any additional or other origination fees than that set forth above (the foregoing not including, however, the costs of issuance or other fees, costs or expenses which are customarily the responsibility of the beneficiary of industrial revenue bond financing), and other than certain in-lieu-of-tax payments, as prescribed by K.S.A. 12-1742.

5. This Fee Agreement is contingent upon the successful and satisfactory completion of the negotiations of the terms of the Bond issue. In the event such negotiations are not successfully completed or the Bonds are not issued for any reason, then the parties shall be released from the provisions of this Fee Agreement.

6. All notices or communications herein required or which either party desires to give to the other shall be in writing and shall be sent by: certified or registered, return receipt requested, postage prepaid, mail; personal delivery; recognized commercial courier which maintains evidence of delivery; or confirmed electronic or facsimile transmission, and shall be deemed sufficiently given if mailed, delivered or transmitted to the respective party at the address noted for said party, as set forth hereinafter. Regardless of the actual time of receipt, all notices or communications sufficiently given are deemed given 3 days after the postmarked date if given through the mail, and on the day received if given by personal delivery, commercial courier, electronic transmission or facsimile transmission. The addresses are, as follows:

The Company:	Waltons 53rd Holdings LLC 10321 E 53rd North Bel Aire, Kansas 67226 Attn.: Brett Walton, President Email: <a href="mailto:brett@waltons.com">brett@waltons.com</a>
The City:	City of Bel Aire, Kansas 7651 East Central Park Avenue Bel Aire, Kansas 67226 Attn: City Clerk Email: <a href="mailto:mkrehbiel@belaireks.gov">mkrehbiel@belaireks.gov</a>

7. This Fee Agreement may be modified, amended or supplemented only by a writing of equal dignity. The parties' legal counsel may, on behalf of their respective clients, execute any writing as aforesaid and such writing shall be deemed authorized and of the same force and effect as if executed by the respective party and may be relied upon by the other party.

**8.** No party shall delegate or assign this Fee Agreement or any rights or duties hereunder (including by the merger or consolidation of a party with any third person) without the prior, written consent of the other. This Fee Agreement shall be binding upon and shall inure to the benefit of the City and the Company and the respective successors and permitted assigns of each upon execution hereof by the City and the Company. This Fee Agreement creates no rights as a third-party beneficiary or otherwise in any person not a party.

**9.** This Fee Agreement may be executed in multiple counterparts, each of which shall be deemed to be and shall constitute one and the same instrument.

**10.** This Fee Agreement is entered into in the State of Kansas and shall be interpreted under the laws of that state.

[BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK]



**IN WITNESS WHEREOF**, the parties have executed this Fee Agreement as of the date set forth above.

**CITY OF BEL AIRE, KANSAS:**

**ATTEST:**

\_\_\_\_\_  
Jim Benage, Mayor

\_\_\_\_\_  
Melissa Krehbiel, City Clerk

**WALTONS 53RD HOLDINGS LLC:**

\_\_\_\_\_  
Name: Brett Walton  
Title: President

GILMORE & BELL, P.C.  
11/10/2025

---

**SITE LEASE**

**BY AND BETWEEN**

**WALTONS 53RD HOLDINGS LLC**  
As Lessor

**AND**

**CITY OF BEL AIRE, KANSAS**  
As Issuer

**DATED AS OF DECEMBER 4, 2025**

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SITE LEASE

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## SITE LEASE

**THIS SITE LEASE** entered into as of December 4, 2025 between Waltons 53rd Holdings LLC, a Kansas limited liability company (the “Lessor”), and the City of Bel Aire, Kansas, a municipal corporation incorporated as a city of the second class under the laws of the State of Kansas (the “Issuer”);

### WITNESSETH:

**WHEREAS**, Lessor has requested that the Issuer issue its Taxable Industrial Revenue Bonds, Series 2025B (Waltons 53rd Holdings LLC) (the “Bonds”) under and pursuant to K.S.A. 12-1740 *et seq.*, as amended (the “Act”), for the purpose of financing the acquisition, construction and equipping of a meat processing supply and equipment commercial facility (the “Improvements”), which Bonds shall be issued and secured under the provisions of an Ordinance duly enacted by the Issuer and a Trust Indenture dated as of December 4, 2025 (the “Trust Indenture”) entered into between the Issuer and Security Bank of Kansas City, as Trustee (the “Trustee”); and

**WHEREAS**, the Improvements are existing on a tract of land (the “Real Property”) more specifically described in *Schedule I* attached hereto, which property is owned by the Lessor; and

**WHEREAS**, the Project, consisting of the leasehold under this Site Lease and the Improvements located on the Real Property shall be leased by the Issuer to the Lessor, as Tenant, under and pursuant to a Lease dated as of December 4, 2025 (the “Project Lease”); and

**WHEREAS**, in consideration of the issuance of the Bonds by the Issuer and the execution and delivery by the Issuer of the Project Lease, the Lessor is willing to lease the Real Property to provide the Issuer a leasehold interest in the Real Property; and

**WHEREAS**, the Lessor will not take any action to disturb, alter, avoid or set aside the leasehold interest of the Issuer created under this Site Lease as long as the Bonds are outstanding;

**THEREFORE**, in consideration of the mutual covenants and agreements contained herein, the sufficiency of which consideration is hereby acknowledged, the Lessor and the Issuer agree as follows:

## ARTICLE I

**Section 1.1. Representation and Covenants of Lessor.** The Lessor makes the following representations and covenants:

(a) It is a Kansas limited liability company duly authorized and qualified to do business in the state of Kansas (the “State”), with lawful power and authority to enter into this Site Lease, acting by and through a designated signatory.

(b) It (i) shall maintain its authority to do business in the State, and (ii) shall not initiate any proceedings to liquidate without providing written notice to the Issuer and Trustee.

(c) To the knowledge of the Lessor, neither the execution nor delivery of this Site Lease, the consummation of the transactions contemplated hereby or by the Trust Indenture, nor the fulfillment of or compliance with the terms and conditions of this Site Lease contravenes any provisions of its articles of organization and operating agreement, or conflicts with or results in a material breach of the terms,

conditions or provisions of any mortgage, debt, agreement, indenture or instrument to which it is a party or by which it is bound, or to which it or any of its properties is subject, or would constitute a default (without regard to any required notice or the passage of any period of time) under any of the foregoing or would result in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of its property or assets under the terms of any mortgage, debt, agreement, indenture or instrument, or violates any existing law, administrative regulation or court order or consent decree to which it is subject.

(d) This Site Lease constitutes a legal, valid and binding obligation, enforceable against it in accordance with its terms.

**Section 1.2. Representations and Covenants by the Issuer.** The Issuer represents, covenants and warrants, to the best of its knowledge and belief, as follows:

(a) It is a municipal corporation duly incorporated and existing as a city of the second class under the constitution and laws of the State. Under the provisions of the Act, the Issuer has the power to enter into and perform the transactions contemplated by this Site Lease and the Project Lease and to carry out its obligations hereunder and thereunder.

(b) It has not, in whole or in part, assigned, leased, hypothecated or otherwise created any other interest in, or disposed of, or caused or permitted any lien, claim or encumbrance to be placed against its interest in, the Real Property, except for the pledge of its leasehold interest in the Real Property under this Site Lease to the payment of the Bonds.

(c) Except as otherwise provided herein or in the Trust Indenture, it will not during the Site Lease Term, in whole or in part, assign, lease, hypothecate or otherwise create any other interest in, or dispose of, or cause or permit any lien, claim or encumbrance to be placed against its interest in the Real Property, except for the pledge of the Project pursuant to the Trust Indenture.

(d) It has duly authorized the execution and delivery of this Site Lease in connection with the execution and delivery of the Project Lease.

ARTICLE II

**Section 2.1. Grant of Leasehold.** Lessor, in consideration of the issuance of the Bonds and the contemporaneous execution and delivery of the Project Lease, hereby rents, leases and lets unto the Issuer, and the Issuer hereby rents, leases and hires from Lessor, upon and subject to the terms and conditions hereinafter set forth, the Real Property for a term commencing as of the date of this Site Lease and ending on December 31, 2035 (or such earlier date as the principal of, redemption premium, if any, and interest on all Outstanding Bonds is paid in full) (the "Site Lease Term").

**Section 2.2. Consideration.** The issuance of the Bonds and the contemporaneous execution and delivery of the Project Lease by the Issuer are the sole consideration to be received by the Lessor for the grant of this Site Lease. No cash rentals shall be payable hereunder.

**Section 2.3. Impositions.** Lessor, as Tenant under the Project Lease, shall bear, pay and discharge, before the delinquency thereof, any and all taxes and assessments, general and special, which may be lawfully levied or assessed against or in respect of the Real Property, or any part thereof, or any improvements at any time erected thereon, and all water and sewer charges, assessments (including special assessments) and other similar governmental charges whatsoever, foreseen or unforeseen, which if not paid when due would encumber the fee simple title to the Real Property ("Impositions"). In the event any

Impositions may be lawfully paid in installments, Lessor shall be required to pay only such installments thereof as become due and payable during the term of this Site Lease, as and when the same become due and payable.

**Section 2.4. Contest of Impositions.** Lessor, as Tenant under the Project Lease, shall have the right to contest the validity or amount of any Imposition by appropriate legal proceeding instituted at least ten days before the Imposition complained of becomes delinquent, on the condition that Lessor or its sublessee shall give Issuer written notice of its intention to do so and shall diligently prosecute any such contest, effectively stay or prevent official or judicial sale therefor, under execution or otherwise, and shall promptly pay any final judgment in forcing the Imposition so contested and thereafter secure record release or satisfaction thereof.

**Section 2.5. Assignment and Sublease.** Issuer covenants that it will not, without Lessor's written consent, unless required by law, ordinance or the terms of the Project Lease or the Trust Indenture, sell, assign, sublease or otherwise part with or encumber its interest in the Real Property at any time during the Site Lease Term, except that Issuer may sublease the Real Property to the Lessor as a part of property leased by the Issuer pursuant to the Project Lease.

**Section 2.6. Use of Real Property.** Except as may be stated to the contrary in this Site Lease, Issuer shall have no right or authority with respect to the Real Property except to lease the Real Property pursuant to the Project Lease for use as provided therein. The parties will comply with all federal, state and local laws, regulations and requirements as to the manner of use or the condition of the Real Property, or of adjoining public ways, now or hereafter applicable to the Real Property, and Issuer shall comply with the mandatory requirements of all insurers under policies required to be carried under the provisions of the Project Lease.

**Section 2.7. Covenant Against Other Assignments.** Neither party to this Site Lease shall assign or in any manner transfer its interest under this Site Lease, nor will it suffer or permit any assignment thereof by operation of law, except in accordance with the limitations, conditions and requirements set forth herein, and, to the extent applicable, the Trust Indenture and the Project Lease.

ARTICLE III

**Section 3.1. Improvements.** Issuer shall have the right, from the proceeds of the Bonds, to construct on the Real Property, or in the air space above the Real Property, such building improvements as the Issuer from time to time may deem necessary or advisable in accordance with and subject to the provisions of the Project Lease.

**Section 3.2. Mechanic's Liens.** Neither party to the Site Lease shall permit or suffer anything to be done whereby the Real Property, or any part thereof, may be encumbered by any mechanic's or other similar lien. If any mechanic's or other similar lien is filed against the Real Property, or any part thereof, the same shall be dealt with as provided in the Project Lease. Notice is hereby given that except to the extent payable from the proceeds of the Bonds issued concurrently with the execution and delivery of the Project Lease, the Issuer does not authorize or consent to the furnishing of any labor or materials to the Real Property and it shall not be liable for them.

**Section 3.3. Contest of Liens.** In the event any mechanic's or other similar lien is filed against the Real Property, or any part thereof, the Issuer or the Lessor may contest such lien in the manner and as provided in the Project Lease.

## ARTICLE IV

**Section 4.1. Indemnity.** The Lessor shall indemnify the Issuer from any and all claims, demands, liabilities and costs, including attorney's fees, arising from damage or injury, actual or claimed, to property or persons occurring or allegedly occurring in, on or about the Project during the term hereof; provided, however, that the indemnity described in this section shall be subject in all respects to the provisions of the Project Lease.

**Section 4.2. Access to Real Property.** The Issuer, for itself and its duly authorized representatives and agents, including the Tenant under the Project Lease and the Trustee under the Trust Indenture, shall have the right to enter the Real Property at any reasonable time throughout the term of this Site Lease for the purposes of performing any work made necessary by reason of any Event of Default under the Project Lease, and, while an Event of Default (as defined therein) is continuing under the Project Lease, for the purpose of exhibiting the Real Property and the improvements constructed thereon to prospective purchasers, lessees or mortgagees.

## ARTICLE V

**Section 5.1. Non-Disturbance of Leasehold Interest.** Lessor and the Issuer each covenant and agree with one another, that as long as the Issuer, its sublessee, their successors or assigns, shall continue to perform all obligations provided for in this Site Lease, including the discharge of all obligations and covenants hereunder, the Issuer, its assignee or sublessee shall have a leasehold interest in the Real Property, notwithstanding the occurrence of any Event of Default under the Project Lease until this Site Lease is terminated according to its terms.

**Section 5.2. Release of Leasehold Interest.** Upon cancellation or termination of this Site Lease, the Issuer shall release its leasehold interest in the Real Property to Lessor as provided in the Project Lease.

**Section 5.3. Notices.** All notices required to be given hereunder shall be given to the notice representative designated for each of the parties in the Project Lease. To be effective, notices required or desired to be given hereunder shall be given in the manner provided in the Project Lease.

**Section 5.4. Rights and Remedies.** The rights and remedies reserved by the parties hereto, their successors and assigns and those provided by law shall be construed as cumulative and continuing rights and remedies.

**Section 5.5. Waiver.** No waiver of any breach of any covenant or agreement contained in this Site Lease shall operate as a waiver of any subsequent breach of the same covenant or agreement or as a waiver of any breach of any other covenant or agreement, and in the event of a breach by either party of any covenant, agreement or undertaking, the nondefaulting party may nevertheless accept from the other any performance without in any way waiving its right to exercise any of its rights and remedies provided for herein or otherwise with respect to any other default.



## ARTICLE VI

**Section 6.1. Purpose of Site Lease.** The parties acknowledge and agree that this Site Lease is executed and delivered concurrently with the execution and delivery of the Project Lease and the other documents and agreements executed in connection therewith and as a condition precedent thereto, and that the Trustee and the owners of the Bonds shall be deemed to be third party beneficiaries.

**Section 6.2. Limitation of Liability.** The liability of Issuer under this Site Lease for any payments to be made to or for the account of Lessor is specifically limited, such that the Issuer shall have no liability beyond the value of the Real Property, the Project, or the rentals and receipts to be received by the Issuer under the Project Lease.

**Section 6.3. Amendments.** This Site Lease may be amended or modified in the manner prescribed in the Project Lease with respect to amendments thereto.

## ARTICLE VII

**Section 7.1. Construction and Enforcement.** This Site Lease shall be construed and enforced in accordance with the laws of the State of Kansas. The provisions of this Site Lease shall be applied and interpreted in accordance with the rules of interpretation set forth in the Project Lease. Words and terms used herein shall have the meanings set forth in the Project Lease if not expressly defined in this Site Lease.

**Section 7.2. Partial Invalidity.** If for any reason any provision hereof shall be termed to be invalid or unenforceable, such partial invalidity shall not affect the remainder of the provisions hereof.

**Section 7.3. Binding Effect.** The covenants, agreements and conditions herein shall be binding upon and inure to the benefit of the parties, their respective successors and assigns.

**Section 7.4. Section Headings.** The section headings hereof are for the convenience of reference only and shall not be treated as a part of this Site Lease or as affecting the true meanings of the provisions hereof.

**Section 7.5. Execution of Counterparts; Electronic Transactions.** This Site Lease may be executed simultaneously in multiple counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one instrument. The transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

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**IN WITNESS WHEREOF**, the parties have executed this instrument as of the day and year first above written.

**WALTONS 53RD HOLDINGS LLC**

By: \_\_\_\_\_  
Name: Brett Walton  
Title: President

**ACKNOWLEDGMENT**

STATE OF KANSAS                    )  
  ) SS:  
COUNTY OF SEDGWICK            )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of November, 2025 by Brett Walton, President of Waltons 53rd Holdings LLC, a Kansas limited liability company.

[SEAL]

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

My Appointment Expires: \_\_\_\_\_

**“LESSOR”**

**CITY OF BEL AIRE, KANSAS**

By: \_\_\_\_\_  
Jim Benage, Mayor

(SEAL)

ATTEST:

\_\_\_\_\_  
Melissa Krehbiel, City Clerk

**ACKNOWLEDGMENT**

STATE OF KANSAS            )  
  ) SS:  
COUNTY OF SEDGWICK    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of November, 2025 by Jim Benage, Mayor of the City of Bel Aire, Kansas.

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

\_\_\_\_\_  
Typed Name of Notary Public

(SEAL)

My Appointment Expires: \_\_\_\_\_

**“ISSUER”**

***SCHEDULE I***

SCHEDULE I TO THE SITE LEASE DATED AS OF DECEMBER 4, 2025,  
BETWEEN WALTONS 53RD HOLDINGS LLC AND THE CITY OF BEL AIRE,  
KANSAS

**PROPERTY SUBJECT TO LEASE**

(A) The following described real estate located in Sedgwick County, Kansas, to wit:

Lot 8, Block C, Sunflower Commerce Park Addition to the City of Bel Aire, Kansas,  
Sedgwick County, Kansas (087-105-21-0-11-01-004.00)

the real property constituting the “Real Property” as referred to in the Site Lease, subject to Permitted Encumbrances.

GILMORE & BELL, P.C.  
11/6/2025

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**CITY OF BEL AIRE, KANSAS**

**AS ISSUER**

**AND**

**WALTONS 53RD HOLDINGS LLC**

**AS TENANT**

**PROJECT LEASE**

**DATED AS OF DECEMBER 4, 2025**

**NOT TO EXCEED \$12,000,000  
TAXABLE INDUSTRIAL REVENUE BONDS  
SERIES 2025B  
(WALTONS 53RD HOLDINGS LLC)**

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## PROJECT LEASE

**THIS PROJECT LEASE**, made and entered into as of December 4, 2025 between the City of Bel Aire, Kansas (the “Issuer”), and Waltons 53rd Holdings LLC, a Kansas limited liability company (the “Tenant”).

### WITNESSETH:

**WHEREAS**, the Issuer is a municipal corporation incorporated as a city of the second class, duly organized and existing under the laws of the State, with full lawful power and authority to enter into this Project Lease by and through its governing body; and

**WHEREAS**, the Issuer, in furtherance of the purposes and pursuant to the provisions of the laws of the State, particularly K.S.A. 12-1740 *et seq.* (the “Act”), and in order to provide for the economic development and welfare of the Issuer and its environs and to provide employment opportunities for its citizens and to promote the economic stability of the State, has proposed and does hereby propose that it shall:

- (a) Lease the Real Property from the Tenant pursuant to the Site Lease and acquire the Improvements;
- (b) Lease the Project to the Tenant for the rentals and upon the terms and conditions hereinafter set forth; and
- (c) Issue, for the purpose of paying Project Costs, the Bonds under and pursuant to and subject to the provisions of the Act and the Trust Indenture, the Trust Indenture being incorporated herein by reference and authorized by an Ordinance of the governing body of the Issuer; and

**WHEREAS**, the Tenant, pursuant to the foregoing proposals of the Issuer, desires to lease the Project from the Issuer for the rentals and upon the terms and conditions hereinafter set forth;

**NOW, THEREFORE**, in consideration of the premises and the mutual covenants and agreements herein set forth, Issuer and the Tenant do hereby covenant and agree as follows:

## ARTICLE I

**Section 1.1. Definitions.** Capitalized terms not otherwise defined in this Project Lease shall have the meanings set forth in the Trust Indenture. In addition to the words, terms and phrases defined in the Trust Indenture, the Site Lease and elsewhere in this Project Lease, the capitalized words, terms and phrases as used herein shall have the meanings set forth below, unless some other meaning is plainly intended:

**“Additional Rent”** means all fees, charges, costs and expenses of the Trustee or the Issuer (including reasonable attorneys' fees), all Impositions, all Default Administration Costs, all other payments of whatever nature payable or to become payable pursuant to the Trust Indenture or which the Tenant has agreed to pay or assume under the provisions of this Project Lease and any and all expenses (including reasonable attorneys' fees) incurred by the Issuer or the Trustee in connection with the issuance of the Bonds or the administration or enforcement of any rights under this Project Lease or the Trust Indenture. The fees, charges, costs and expenses of the Trustee shall include all costs incurred in connection with the issuance, transfer, exchange, registration, redemption or payment of the Bonds and the administration or enforcement of any rights or obligations under this Project Lease, the Trust Indenture except (a) the reasonable fees and

expenses in connection with the replacement of a Bond or Bonds mutilated, stolen, lost or destroyed or (b) any tax or other government charge imposed on the Trustee in relation to the transfer, exchange, registration, redemption or payment of the Bonds. The fees, charges, costs and expenses of the Issuer shall include, but not be limited to, any and all costs incurred by the Issuer in connection with the administration or enforcement of any rights, duties, or obligations under this Project Lease, the exercise or pursuit of any remedy upon an Event of Default, the amendment of this Project Lease, the granting of consents, easements or similar actions or any other action required of or available to the Issuer under the terms of this Project Lease.

**“Additional Term”** shall mean that term commencing on the last day of the Basic Term and terminating five (5) years thereafter.

**“Bankruptcy Code”** means Title 11 of the United States Code, as amended.

**“Basic Rent”** means the pro rata amount which, when added to Basic Rent Credits, will be sufficient to pay, on each Basic Rent Payment Date, all principal of, redemption premium, if any, and interest on all Outstanding Bonds which is due and payable on such Basic Rent Payment Date. If for any reason on any Basic Rent Payment Date the Trustee does not have on deposit in the Debt Service Fund sufficient moneys to pay all principal and interest due on the Bonds on such Basic Rent Payment Date, then the Tenant shall pay, as Basic Rent, on such Basic Rent Payment Date, the amount of such deficiency.

**“Basic Rent Credits”** means all funds on deposit in the Debt Service Fund and available for the payment of principal of, redemption premium, if any, and interest on the Bonds on any Basic Rent Payment Date.

**“Basic Rent Payment Date”** means December 31, 2026 and each December 31 until the principal of, redemption premium, if any, and interest on all Outstanding Bonds have been fully paid or provision made for their payment in accordance with the provisions of the Trust Indenture.

**“Basic Term”** means that term commencing as of the delivery of this Project Lease and ending on December 31, 2035, subject to prior termination as specified in this Project Lease, but ending, in any event, when all of the principal of, redemption premium, if any, and interest on all Outstanding Bonds shall have been paid in full or provision made for their payment in accordance with the provisions of the Trust Indenture.

**“CERCLA”** means the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601, et seq.

**“Certificate of Completion”** means a written certificate signed by the Authorized Tenant Representative stating that (i) the Improvements have been substantially completed in accordance with the plans and specifications prepared or approved by the Issuer or the Tenant, as the case may be; (ii) the Improvements have been substantially completed in a good and workmanlike manner; (iii) no mechanic's or materialmen's liens have been filed, nor is there any basis for the filing of such liens, with respect to the Project; (iv) all Improvements constituting a part of the Project are located or installed upon the Real Property; and (v) if required by ordinances duly adopted by the Issuer or by applicable building codes, that an appropriate certificate of occupancy has been issued with respect to the Improvements. A form of Certificate of Completion is attached as *Appendix B*.

**“Completion Date”** means the date on which the Improvements are certified as substantially completed in accordance with *Section 5.4* of this Project Lease.

**“Default”** means any event or condition the occurrence of which, with the lapse of time or the giving of notice or both, may constitute an Event of Default.

**“Environmental Assessment”** means an environmental assessment with respect to the Project conducted by an independent consultant satisfactory to the Issuer and the Trustee which reflects the results of such inspections, records reviews, soil tests, groundwater tests and other tests requested, which assessment and results shall be satisfactory in scope, form and substance to the Issuer and the Trustee.

**“Environmental Law”** means CERCLA, SARA, and any other federal, state or local environmental statute, regulation or ordinance presently in effect or coming into effect during the Term of this Project Lease.

**“Event of Bankruptcy”** means an event whereby the Tenant shall: (i) admit in writing its inability to pay its debts as they become due; or (ii) file a petition in bankruptcy or for reorganization or for the adoption of an arrangement under the Bankruptcy Code as now or in the future amended, or file a pleading asking for such relief; or (iii) make an assignment for the benefit of creditors; or (iv) consent to the appointment of a trustee or receiver for all or a major portion of its property; or (v) be finally adjudicated as bankrupt or insolvent under any federal or state law; or (vi) suffer the entry of a final and nonappealable court order under any federal or state law appointing a receiver or trustee for all or a major part of its property or ordering the winding-up or liquidation of its affairs, or approving a petition filed against it under the Bankruptcy Code, which order, if the Tenant has not consented thereto, shall not be vacated, denied, set aside or stayed within 60 days after the day of entry; or (vii) suffer a writ or warrant of attachment or any similar process to be issued by any court against all or any substantial portion of its property, and such writ or warrant of attachment or any similar process is not contested, stayed, or is not released within 60 days after the final entry or levy or after any contest is finally adjudicated or any stay is vacated or set aside.

**“Event of Default”** means any one of the following events:

(a) Failure of the Tenant to make any payment of Basic Rent at the time and in the amounts required hereunder; or

(b) Failure of the Tenant to make any payment of Additional Rent at the times and in the amounts required hereunder, or failure to observe or perform any other covenant, agreement, obligation or provision of this Project Lease on the Tenant's part to be observed or performed, and the same is not remedied within thirty (30) days after the Issuer or the Trustee has given the Tenant written notice specifying such failure (or such longer period as shall be reasonably required to correct such default; provided that (i) the Tenant has commenced such correction within the 30-day period and (ii) the Tenant diligently prosecutes such correction to completion); or

(c) An Event of Bankruptcy; or

(d) Abandonment of the Project by the Tenant; or

(e) A default under the Site Lease on the part of the Tenant, as Lessor, which remains unremedied after any applicable grace period.

**“Full Insurable Value”** means full actual replacement cost less physical depreciation.

**“Hazardous Substances”** shall mean “hazardous substances” as defined in CERCLA.

**“Impositions”** means all taxes and assessments, general and special, which may be lawfully taxed, charged, levied, assessed or imposed upon or against or payable for or in respect of the Project or any part thereof, or any improvements at any time thereon or the Tenant's interest therein, including any new lawful 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 governmental charges and impositions whatsoever, foreseen or unforeseen, which, if not paid when due, would encumber the Issuer's interest in the Project.

**"Indenture"** means the Trust Indenture delivered concurrently with this Project Lease, as from time to time amended and supplemented by Supplemental Indentures in accordance with the provisions of *Article XI* of the Trust Indenture.

**"Net Proceeds"** means the gross proceeds from the insurance (including without limitation title insurance) or condemnation award with respect to which that term is used remaining after the payment of all expenses (including without limitation attorneys' fees and any expenses of the Issuer, the Tenant, the Trustee or any other Owner) incurred in the collection of such gross proceeds.

The term **"Notice Address"** shall mean:

(a) With respect to the Tenant:

Waltons 53rd Holdings LLC  
10321 E 53rd North  
Bel Aire, Kansas 67226  
Attention: President

(b) With respect to the Issuer:

City of Bel Aire, Kansas  
7651 E. Central Park Ave.  
Bel Aire, Kansas 67226  
Attention: City Clerk

(c) With respect to the Trustee:

Security Bank of Kansas City  
701 Minnesota Avenue, Suite 206  
P.O. Box 171297  
Kansas City, Kansas 66117  
Attention: Corporate Trust Department

**"Owner's Title Evidence"** means for purposes of *Section 6.3* of this Project Lease, either (i) an owner's or lender's policy of title insurance insuring the Tenant's fee simple title in the Real Property or (ii) a certificate of title from a title insurance company evidencing Tenant's fee simple title in the Real Property.

**"Permitted Encumbrances"** means all easements, liens and rights-of-way of record at the time of lease of the Real Property to the Issuer, and any mortgages, liens or other encumbrances or title exceptions referenced in the Owner's Title Evidence.

**"Project Lease"** means this Project Lease between the Issuer and the Tenant, as from time to time supplemented and amended in accordance with the provisions hereof.

**"Real Property"** means the real property (or interests therein) described in *Schedule I* hereto.

“**SARA**” means the Superfund Amendments and Reauthorization Act of 1986, as now in effect and as hereafter amended.

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

“**Term**” means, collectively, the Basic Term and any Additional Term of this Project Lease.

**Section 1.2. Representations and Covenants by the Tenant.** The Tenant makes the following covenants and representations as the basis for the undertakings on its part herein contained:

(a) The Tenant is a Kansas limited liability company, duly organized and existing under the laws of the state, and is duly authorized and qualified to do business in the State, with lawful power and authority to enter into this Project Lease, acting by and through its duly authorized officers.

(b) Except as otherwise permitted herein, the Tenant shall (1) maintain and preserve its existence and organization as a limited liability company and its authority to do business in the State and to operate the Project; and (2) not initiate any proceedings of any kind whatsoever to dissolve or liquidate without (A) securing the prior written consent thereto of the Issuer and (B) making provision for the payment in full of the principal of redemption premium, if any, and interest on the Bonds. If, at any time during the Term of this Project Lease or the Trust Indenture, the Tenant changes its state of organization, changes its form of organization, changes its name, or takes any other action which could affect the proper location for filing Uniform Commercial Code financing statements or continuation statements or which could render existing filings seriously misleading or invalid, the Tenant shall immediately provide written notice of such change to the Trustee, and thereafter promptly deliver to the Trustee such amendments and/or replacement financing statements, together with an Opinion of Counsel to the effect that such amendments and/or replacement financing statements have been properly filed so as to create a perfected security interest in the collateral securing the Trust Indenture, and such additional information or documentation regarding such change as the Trustee may reasonably request.

(c) Neither the execution and/or delivery of this Project Lease, the consummation of the transactions contemplated hereby or by the Trust Indenture, nor the fulfillment of or compliance with the terms and conditions of this Project Lease contravenes in any material respect any provisions of its articles of organization or operating agreement, or conflicts in any material respect with or results in a material breach of the terms, conditions or provisions of any mortgage, debt, agreement, indenture or instrument to which the Tenant is a party or by which it is bound, or to which it or any of its properties is subject, or would constitute a material default (without regard to any required notice or the passage of any period of time) under any of the foregoing, or would result in the creation or imposition of any lien, charge or encumbrance upon any of the property or assets of the Tenant under the terms of any mortgage, debt, agreement, indenture or instrument, or violates in any material respect any existing law, administrative regulation or court order or consent decree to which the Tenant is subject.

(d) This Project Lease constitutes a legal, valid and binding obligation of the Tenant enforceable against the Tenant in accordance with its terms.

(e) The Tenant agrees to operate and will operate the Project, or cause the Project to be operated as a "facility," as that term is contemplated in the Act, from the date of the Issuer's acquisition of the Project to the end of the Term.

(f) The Tenant has obtained or will obtain any and all permits, authorizations, licenses and franchises necessary to construct the Improvements and to enable it to operate and utilize the Project for the purposes for which it was leased by the Tenant under this Project Lease.

(g) The estimated total cost of the Improvements to be financed by the proceeds of the Bonds, plus interest on the Bonds during acquisition, construction and equipping of the Project, and Costs of Issuance of the Bonds, will not be less than the original aggregate principal amount of the Bonds.

(h) After reasonable inquiry and investigation, the Tenant is not aware of (i) any Hazardous Substances generated from or located on the Project; (ii) any prior use of the Real Property which might reasonably involve Hazardous Substances; or (iii) any investigations, complaints or inquiries of any kind, from any source, concerning Hazardous Substances with respect to the Project or properties adjoining the Project.

(i) The Tenant will not use or permit the Project to be used by any other person or entity in any manner which would involve the generation, storage, disposal or transportation of Hazardous Substances, except in strict compliance with applicable Environmental Laws.

(j) The proceeds of the Bonds are to be used (i) to acquire, construct, install, equip and furnish the Project, and (ii) to pay certain costs related to the issuance of the Bonds.

(k) Subject to the provisions of *Section 10.2*, all Improvements and machinery and equipment comprising the Project will be located and maintained entirely and exclusively on the Real Property to and until the principal of, redemption premium, if any, and interest on the Bonds have been satisfied in full.

**Section 1.3. Representations and Covenants by the Issuer.** The Issuer represents, covenants and warrants, to the best of its knowledge and belief, as follows:

(a) It is a municipal corporation duly incorporated and existing as a city of the second class under the constitution and laws of the State. Under the provisions of the Act and the Ordinance, the Issuer has the power to enter into and perform the transactions contemplated by this Project Lease and the Trust Indenture and to carry out its obligations hereunder and thereunder.

(b) It has not, in whole or in part, assigned, leased, hypothecated or otherwise created any other interest in, or disposed of, or caused or permitted any lien, claim or encumbrance to be placed against, the Project, except for this Project Lease, the assignment of this Project Lease to the Trustee, any Permitted Encumbrances, any Impositions, and the pledge of the Project pursuant to the Trust Indenture.

(c) Except as otherwise provided herein or in the Trust Indenture, it will not during the Term, in whole or in part, assign, lease, hypothecate or otherwise create any other interest in, or dispose of, or cause or permit any lien, claim or encumbrance to be placed against, the Project, except Permitted Encumbrances, this Project Lease, any Impositions and the pledge of the Project pursuant to the Trust Indenture.

(d) It has pledged the Project and the net rentals therefrom generated under this Project Lease to payment of the Bonds in the manner prescribed by the Act, and has duly authorized the execution and delivery of this Project Lease and the Trust Indenture and the issuance, sale and delivery of the Bonds.

(e) It has notified or obtained the consent to and/or approval of the issuance of the Bonds by each municipal corporation and political subdivision, the notification, consent or approval of which is required by the provisions of the Act.

## ARTICLE II

**Section 2.1. Granting of Leasehold.** The Issuer by these presents hereby rents, leases and lets the Project unto the Tenant and the Tenant hereby rents, leases and hires the Project for the Term from the Issuer, for the rentals and upon and subject to the terms and conditions hereinafter set forth.

## ARTICLE III

**Section 3.1. Basic Rent.** The Issuer reserves and the Tenant covenants and agrees to pay Basic Rent to the Trustee, as assignee of the Issuer, for the account of the Issuer, for deposit in the Debt Service Fund, on each Basic Rent Payment Date. Basic Rent shall be payable at the principal office of the Trustee on each Basic Rent Payment Date.

Notwithstanding the foregoing, if the Tenant is the sole Owner of the Bonds, payments of Basic Rent made by the Tenant under the Project Lease which coincide with payments of principal and interest on the Bonds may be entered on the books of the Tenant as Owner of the Bonds without being deposited in the Debt Service Fund and the Trustee shall not be required to take notice, or be deemed to have notice, of any default in such payments. Such payments shall be credited against the Tenant's obligation to make payments of Basic Rent under the Project Lease and against the Issuer's obligation to make payments of principal and interest on the Bonds. If the Bonds are at any time held by more than one Owner, then payments of Basic Rent shall be received and disbursed in accordance with the provisions of the Trust Indenture.

**Section 3.2. Additional Rent.** Within 30 days after receipt of written notice thereof, the Tenant shall pay any Additional Rent required to be paid pursuant to this Project Lease not already paid.

**Section 3.3. Rent Payable Without Abatement or Setoff.** The Tenant covenants and agrees with and for the express benefit of the Issuer and the Owner that all payments of Basic Rent and Additional Rent shall be made by the Tenant as the same become due, and that the Tenant shall perform all of its obligations, covenants and agreements hereunder without notice or demand and without abatement, deduction, setoff, counterclaim, recoupment or defense or any right of termination or cancellation arising from any circumstance whatsoever, whether now existing or hereafter arising, and irrespective of whether the Improvements shall have been acquired, started or completed, or whether the Issuer's interest in the Project or any part thereof is defective or non-existent, and notwithstanding any failure of consideration or commercial frustration of purpose, the eviction or constructive eviction of the Tenant or any subtenant, any Change of Circumstances, any change in the tax or other laws of the United States of America, the State, or any municipal corporation of either, any change in the Issuer's legal organization or status, or any default of the Issuer hereunder, and regardless of the invalidity of any action of the Issuer or any other event or condition whatsoever, and regardless of the invalidity of any portion of this Project Lease, and the Tenant hereby waives the provisions of any statute or other law now or hereafter in effect contrary to any of its obligations, covenants or agreements under this Project Lease or which releases or purports to release the Tenant therefrom. Nothing in this Project Lease shall be construed as a waiver by the Tenant of any rights or claims the Tenant may have against the Issuer under this Project Lease or otherwise, but any recovery upon such rights and claims shall be had from the Issuer separately, it being the intent of this Project Lease that the Tenant shall be unconditionally and absolutely obligated to perform fully all of its obligations, agreements and covenants under this Project Lease (including the obligation to pay Basic Rent and Additional Rent) for the benefit of the Owner.

**Section 3.4. Prepayment of Basic Rent.** The Tenant may at any time prepay all or any part of the Basic Rent. Prepayments of Basic Rent will be applied to redemption of Bonds (other than mandatory



sinking fund redemption), including payment of redemption premium, as directed in writing by the Tenant, to the extent that Bonds are subject to optional redemption at the time of prepayment. Otherwise, prepayments of Basic Rent will be deposited in the Debt Service Fund to be applied to purchase of Bonds as provided in the Trust Indenture, or to optional redemption of Bonds (including redemption premium and interest) at the earliest date on which Bonds are subject to optional redemption. Prepayments of Basic Rent which are not sufficient to redeem all Bonds Outstanding at the time of the prepayment will be applied to redeem the principal amounts of Bonds Outstanding in inverse order of maturity, unless otherwise directed by the Tenant.

**Section 3.5. Deposit of Rent by the Trustee.** As assignee of the Issuer's rights hereunder, the Trustee shall deposit, use and apply all payments of Basic Rent and Additional Rent in accordance with the provisions of this Project Lease and the Trust Indenture.

**Section 3.6. Acquisition of Bonds.** If the Tenant acquires any or all of the Outstanding Bonds, it may present the certificate(s) representing such part of the Bonds to the Trustee for cancellation, and upon such cancellation, the Tenant's obligation to pay Basic Rent shall be reduced or terminated, as the case may be, in the same manner as provided for prepayments by the Tenant of Basic Rent. In no event, however, shall the Tenant's obligation to pay Basic Rent be reduced in such a manner that the Trustee shall not have on deposit in the Debt Service Fund, on the next succeeding Payment Date, available funds sufficient to pay the maturing principal of, redemption premium, if any, and interest on Outstanding Bonds as and when the same shall become due and according to the terms of the Bonds; except in the case when Tenant owns and surrenders for cancellation all of the Outstanding Bonds.

## ARTICLE IV

**Section 4.1. Disposition of Original Proceeds; Project Fund.** Except as otherwise provided below, any Original Proceeds shall be paid over to the Trustee for the account of the Issuer and applied as set forth in *Section 5.02* of the Trust Indenture. Notwithstanding any statement set forth in this Project Lease or in the Trust Indenture to the contrary, in the event Tenant has completed the Project prior to the Issue Date with its own funds, then Tenant shall not be required to deposit any Original Proceeds with the Trustee. In such an event, the Tenant shall certify to the Issuer and Trustee that the Project has been completed and paid in full, whereupon the Issuer and Trustee shall deliver the Bonds to the Tenant on the Issue Date.

## ARTICLE V

**Section 5.1. Acquisition of Interest in Real Property and Improvements.** The Tenant shall prior to or concurrently with the issuance of the Bonds, execute and deliver the Site Lease under which the Tenant shall lease to the Issuer, subject to Permitted Encumbrances, the Real Property as described in *Schedule I*, and such of the Improvements as are then completed, installed or in progress. The Tenant shall also concurrently with delivery of the Site Lease make provisions for the discharge or subordination to the interests acquired by the Issuer of any liens or encumbrances incurred by it in connection with the construction, installation or development of the Improvements, other than Permitted Encumbrances.

**Section 5.2. Payment of Project Costs for Buildings and Improvements.** The Issuer hereby agrees to pay or reimburse the Tenant for the acquisition or construction of the Improvements or any repairs or replacements to be made pursuant to *Article XVIII* of this Project Lease, but solely from Original Proceeds of the Bonds (or Net Proceeds, as applicable), as deposited in the Project Fund and hereby authorizes and directs the Trustee to pay for the same, but solely from the Project Fund, from time to time, after issuance of the Bonds while the Tenant is in compliance with the requirements of *Section 6.1* hereof, upon receipt by the

Trustee of a requisition certificate signed by the Authorized Tenant Representative in the form set forth as *Appendix A* hereto, which is incorporated herein by reference.

The sole obligation of the Issuer under this paragraph shall be to cause the Trustee to make such disbursements upon receipt of such certificates and releases or waivers. The Trustee may rely fully on any such certificates and shall not be required to make any investigation in connection therewith, except that the Trustee shall investigate requests for reimbursements directly to the Tenant and shall require such supporting evidence as would be required by a reasonable and prudent fiduciary.

**Section 5.3. Payment of Project Costs for Machinery and Equipment.** The Issuer hereby agrees to pay for the purchase and acquisition of any machinery and equipment constituting a part of the Improvements, but solely from the Project Fund, from time to time, upon receipt by the Trustee of a certificate signed by the Authorized Tenant Representative in the form provided by *Appendix A* hereto which is incorporated herein by reference.

The sole obligation of the Issuer under this Section shall be to cause the Trustee to make such disbursements upon receipt of the certificates and proof of mechanic's or subcontractor's lien waiver or release, if the item is to become a fixture on the Real Property. The Trustee may rely fully on any such certificate and supporting documentation and shall not be required to make any independent investigation in connection therewith. All machinery, equipment and/or personal property acquired, in whole or in part, from funds deposited in the Project Fund pursuant to this Section will be considered a part of the Project. With respect to items of machinery and equipment constituting a part of the Improvements, the Tenant shall maintain a running master list of such machinery and equipment, and within 30 days after the Completion Date, the Tenant shall prepare an accurate detailed final list of machinery and equipment constituting a part of the Improvements (but not installed as fixtures therein or thereon), which list shall be filed with the Trustee, and shall constitute a part of this Project Lease by reference. All machinery and equipment constituting a part of the Improvements shall be appropriately identified by separate schedule or other means acceptable to the Trustee.

**Section 5.4. Completion of Project.** The Tenant warrants that the Project, when completed, will be occupied and used by the Tenant for its lawful business purposes. The Tenant covenants and agrees to proceed diligently to complete or acquire the Improvements as promptly as possible. The Tenant will draw the entire authorized principal amount of the Bonds on or before the Completion Date. Upon completion of the Improvements, the Tenant shall cause the Authorized Tenant Representative to deliver a Certificate of Completion, in the form substantially as attached hereto as *Appendix B*, to the Trustee. In the event funds remain on hand in the Project Fund on the date the Certificate of Completion is furnished to the Trustee, such remaining funds shall be transferred by the Trustee to the Debt Service Fund on the Completion Date and shall be applied in accordance with the provisions of the Trust Indenture.

**Section 5.5. Deficiency of Project Fund.** If Bond Proceeds in the Project Fund are insufficient to pay fully all Project Costs (including reimbursements to the Tenant for Project Costs advanced by the Tenant prior to issuance of the Bonds) and to fully complete the Improvements, lien-free (except for Permitted Encumbrances), the Tenant covenants to pay the full amount of any such deficiency by making payments directly to the contractors and to the suppliers of materials, machinery, equipment, property and services as the same become due, and the Tenant shall save the Issuer and the Trustee whole and harmless from any obligation to pay such deficiency.

**Section 5.6. Right of Entry by the Issuer and the Trustee.** The duly authorized agents of the Issuer and/or the Trustee shall have the right (but shall not be required) at any reasonable time and upon reasonable notice to the Tenant prior to the completion of the Improvements to

have access to the Project or any part thereof for the purpose of inspecting the acquisition, installation or construction thereof.

**Section 5.7. Machinery and Equipment Purchased by the Tenant.**

If no part of the purchase price of an item of machinery, equipment or personal property is paid from Original Proceeds deposited in the Project Fund pursuant to the terms of this Project Lease, then such item of machinery, equipment or personal property will not be considered a part of the Project.

**Section 5.8. Issuer's Leasehold Interest in Improvements.**

All Improvements, all work and materials on Improvements as such work progresses, any Project Additions, anything under this Project Lease which becomes, is deemed to be, or constitutes a part of the Project, and the Project as fully completed, repaired, rebuilt, rearranged, restored or replaced by the Tenant under the provisions of this Project Lease, except as otherwise specifically provided herein, shall immediately when erected or installed be included in the Site Lease to the Issuer.

**Section 5.9. Kansas Retailers' Sales Tax.** The parties have entered into this Project Lease in contemplation that, under the existing provisions of K.S.A. 79-3606, subsections (b) and (d) and other applicable laws, sales of tangible personal property or services purchased in connection with construction of the Improvements are entitled to exemption from the tax imposed by the Kansas Retailers' Sales Tax Act. The parties agree that the Issuer shall, upon the request of and with the Tenant's assistance, promptly obtain from the State and furnish to the contractors and suppliers a project exemption certificate for the construction of the Improvements. The Tenant covenants that the exemption certificate will be used only in connection with the purchase of tangible personal property or services becoming a part of the Project. The Issuer shall not be responsible for any failure on the part of the State to issue such project exemption certificate.

## ARTICLE VI

**Section 6.1. Insurance Requirements.** Tenant agrees to maintain the following policies of insurance in full force and effect:

(a) General accident and public liability insurance covering the Tenant's operations in or upon the Project (including coverage for losses arising from the ownership, maintenance, use or operation of any automobile, truck or other vehicle in or upon the Project) under which the Tenant shall be insured and the Issuer and the Trustee shall be additional insureds or mortgagees, as their interests in the Project appear, in an amount not less than the then maximum liability of a governmental entity for claims arising out of a single occurrence as provided by the Kansas tort claims act or other similar future law (currently \$500,000 per occurrence); which policy shall provide that such insurance may not be canceled by the issuer thereof without at least 30 days' advance written notice to the Issuer, the Tenant and the Trustee, such insurance to be maintained throughout the Term of this Project Lease;

(b) Statutory workers' compensation insurance; and

(c) insurance on the Improvements against loss or damage by fire, lightning and all other risks covered by the broadest form extended coverage insurance endorsement then in use in the State in an amount equal to the Full Insurable Value thereof, which policy shall provide that such insurance may not be canceled by the issuer thereof without at least 30 days' advance written notice to the Issuer, the Tenant and the Trustee, such insurance to be maintained throughout the Term of this Project Lease.

## **Section 6.2. General Insurance Provisions.**

(a) Within 30 days of renewal dates of expiring policies, certificates of the insurance provided for in this Article shall be delivered by the Tenant to the Trustee. All policies of such insurance and all renewals thereof shall name the Tenant as insured and the Issuer and the Trustee as additional insureds or mortgagees and loss payees as their respective interests may appear, shall contain a provision that such insurance may not be canceled or amended by the issuer thereof without at least 30 days' written notice to the Issuer, the Tenant and the Trustee and shall be payable to the Issuer, the Tenant and the Trustee as their respective interests appear. The Issuer and the Tenant each hereby agree to do anything necessary, be it the endorsement of checks or otherwise, to cause any payment of insurance proceeds to be made to the Trustee, as long as such payment is required by this Project Lease to be made to the Trustee. Any charges made by the Trustee for its services in connection with insurance payments shall be paid by the Tenant.

(b) Each policy of insurance hereinabove referred to shall be issued by a nationally recognized responsible insurance company authorized under the laws of the State to assume the risks covered therein, except that the Tenant may be self-insured as to any required insurance coverages under a program of self-insurance approved by the State Commissioner of Insurance or other applicable State regulatory authority.

(c) Certificates of insurance evidencing the insurance coverages herein required shall be filed with the Trustee continuously during the Term of this Project Lease.

(d) Each policy of insurance hereinabove referred to may be subject to a reasonable deductible or self-insured retention.

(e) Each policy of insurance required herein may be provided through blanket policies maintained by the Tenant.

(f) Anything in this Project Lease to the contrary notwithstanding, the Tenant shall be liable to the Issuer and the Trustee pursuant to the provisions of this Project Lease or otherwise, as to any loss or damage which may have been occasioned by the negligence of the Tenant, its agents, licensees, contractors, invitees or employees.

**Section 6.3. Evidence of Title.** The Tenant shall furnish Owner's Title Evidence in the form of a policy of owner's or lender's title insurance, insuring the Tenant's fee simple title to the Real Property, as of the Issue Date, subject to Permitted Encumbrances. Such evidence of title shall contain no exceptions, other than the title insurance company's standard printed exceptions, Permitted Encumbrances, and the encumbrance created by the Site Lease and this Project Lease.

If the Tenant is the sole Owner, in lieu of providing Owner's Title Evidence as of the Issue Date, the Tenant may furnish evidence of the Tenant's fee simple title to the Real Property in the form of a copy of a policy of owner's title insurance, a copy of a loan policy of title insurance or a certificate of owner's title, evidencing the Tenant's fee simple title to the Real Property, subject to Permitted Encumbrances.

## **ARTICLE VII**

**Section 7.1. Impositions.** The Tenant shall, during the Term of this Project Lease, bear, pay and discharge, before the delinquency thereof, any and all Impositions. In the event any Impositions may be lawfully paid in installments, the Tenant shall be required to pay only such installments thereof as become due and payable during the Term of this Project Lease as and when the same become due and payable.

**Section 7.2. Receipted Statements.** Unless the Tenant exercises its right to contest any Impositions in accordance with *Section 7.3* hereof, the Tenant shall, within 30 days after the last day for payment without penalty or interest of an Imposition which the Tenant is required to bear, pay and discharge pursuant to the terms hereof, deliver to the Trustee a copy of the statement issued therefor duly receipted to show the payment thereof.

**Section 7.3. Contest of Impositions.** The Tenant shall have the right, in its own or the Issuer's name or both, to contest the validity or amount of any Imposition by appropriate legal proceedings instituted before the Imposition complained of becomes delinquent if, and provided, the Tenant (i) before instituting any such contest, shall give the Issuer and the Trustee written notice of its intention to do so and, if requested in writing by the Issuer or the Trustee, shall deposit with the Trustee a surety bond of a surety company acceptable to the Issuer as surety, in favor of the Issuer and the Trustee, as their interests may appear, or cash, in a sum of at least the amount of the Imposition so contested, assuring the payment of such contested Impositions together with all interest and penalties to accrue thereon and court costs, (ii) diligently prosecutes any such contest and at all times effectively stays or prevents any official or judicial sale therefor, under execution or otherwise, and (iii) promptly pays any final judgment enforcing the Imposition so contested and thereafter promptly procures record release or satisfaction thereof. The Tenant shall indemnify and hold the Issuer whole and harmless from any costs and expenses the Issuer may incur related to any such contest.

**Section 7.4. Ad Valorem Taxes.** The parties acknowledge that under the existing provisions of K.S.A. 79-201a, as amended, the property acquired, constructed or purchased with the proceeds of the Bonds (except such property used for retail uses) is eligible to receive exemption from *ad valorem* taxation for a period up to 10 calendar years after the calendar year in which the Bonds are issued, provided the Issuer has complied with notice, hearing and procedural requirements established by law, and proper application has been made; , and further provided no exemption may be granted from the *ad valorem* property tax levied: (a) by a school district pursuant to the provisions of K.S.A. 72-53,113, and amendments thereto; (b) for the uses restricted pursuant to the provisions of K.S.A. 79-201a, *Second* and *Twenty-Fourth*. The Issuer represents that such notice, hearing and procedural requirements will have been complied with at the Issue Date. Subject to the provisions of *Section 7.5* of this Project Lease, and to the provisions of the Agreement for Payment in Lieu of Taxes referred to therein, the Issuer will, at the Tenant's request, with information furnished by Tenant and the Trustee, make all necessary filings regarding the application for *ad valorem* tax exemption for the full 10-year period in the calendar year following the calendar year in which the Bonds were issued, and will renew the application from time to time and take any other action as may be necessary to maintain such *ad valorem* tax exemption in full force and effect, in accordance with K.S.A. 79-201a, 79-210 *et seq.* and the requirements of the State Board of Tax Appeals. If it becomes necessary to litigate the issue of availability or applicability of the *ad valorem* tax exemption, the Issuer will cooperate fully with Tenant in pursuing such litigation, but all litigation costs and reasonable attorneys' fees must be paid by Tenant, either directly or as Additional Rent.

**Section 7.5. Payment in Lieu of Taxes.** The Tenant agrees to make payments in lieu of taxes on the Project for each year that the Project is exempt from *ad valorem* taxes and to pay as an Imposition hereunder taxes for any year in which the Project did not, or does not qualify, in accordance with the separate Agreement for Payment in Lieu of Taxes delivered concurrently with this Project Lease.

## ARTICLE VIII

**Section 8.1. Use of Project.** Subject to the provisions of this Project Lease, the Tenant shall have the right to use the Project for any and all purposes allowed by law and contemplated by the constitution of the State and the Act. The Tenant shall comply in all material respects with all statutes, laws, ordinances,

orders, judgments, decrees, regulations, directions and requirements of all federal, state, local and other governments or governmental authorities, now or hereafter applicable to the Project or to any adjoining public ways, as to the manner of use or the condition of the Project or of adjoining public ways. The Tenant shall comply with the mandatory requirements, rules and regulations of all insurers under the policies required to be carried under the provisions of this Project Lease. The Tenant shall pay all costs, expenses, claims, fines, penalties and damages that may in any manner arise out of, or be imposed as a result of, the failure of the Tenant to comply with the provisions of this Article.

## **Section 8.2. Environmental Provisions.**

(a) The Tenant hereby covenants that it will not cause or permit any Hazardous Substances (as defined herein) to be placed, held, located or disposed of, on, under or at the Real Property or the Project, other than in the ordinary course of business and in compliance with all applicable Environmental Laws.

(b) In furtherance and not in limitation of any indemnity elsewhere provided to the Issuer hereunder and in the Trust Indenture, the Tenant hereby agrees to indemnify and hold harmless the Issuer, the Trustee and the Owner from time to time from and against any and all losses, liabilities, including strict liability, damages, injuries, expenses, including reasonable attorneys' fees, costs of any settlement or judgment, costs of investigation, consultants, testing, sampling, cleanup, or defense, and claims of any and every kind paid, incurred or suffered, with respect to, or as a direct or indirect result of, the actual or alleged presence on or under, or the escape, seepage, leakage, spillage, discharge, emission, discharging or release from the Real Property or the Project of any Hazardous Substance (including, without limitation, any losses, liabilities, reasonable attorneys' fees, costs of any settlement or judgment or claims asserted or arising under any federal, state or local Environmental Law or so-called "Superfund" or "Super lien" law, or any other applicable Environmental Law, rule, regulation, order or decree regulating, relating to or imposing liability, including strict liability, or standard of conduct concerning, any Hazardous Substance) regardless of whether or not caused by or within the control of the Tenant.

(c) If the Tenant receives any notice of (1) the happening of any event involving the use, other than in the ordinary course of business and in compliance with all applicable Environmental Laws, spill, release, leak, seepage, discharge or cleanup of any Hazardous Substance on the Real Property or the Project or in connection with the Tenant's operations thereon or (2) any complaint, order, citation or notice with regard to air emissions, water discharges or any other environmental, health or safety matter affecting the Tenant (an "Environmental Complaint") from any person (including, without limitation, the United States Environmental Protection Agency (the "EPA"), and the Kansas Department of Health and Environment ("KDHE")) then the Tenant shall immediately notify the Issuer and the Trustee in writing. With respect to any such notice that relates to a condition or conditions on the Project site, the Tenant shall promptly initiate action to remediate the conditions cited in the notice, and shall diligently pursue such remediation at its expense to the satisfaction of the city authority.

(d) If the Tenant fails to initiate action to remediate as required in subsection (c) of this section, or otherwise fails to discharge its obligations under this *Section 8.2*, the Issuer shall have the right, but not the obligation, and without limitation of the Issuer's other rights under this Project Lease, to enter the Project or to take such actions as it may deem necessary or advisable to inspect, clean up, remove, resolve or minimize the impact of, or to otherwise deal with, any Hazardous Substance or Environmental Complaint following receipt of any notice asserting the existence on the Project of any Hazardous Substance or an Environmental Complaint pertaining to the Project or any part thereof which, if true, could result in an order, suit or other action against the Tenant and/or which, in the reasonable judgment of the Issuer, could jeopardize its interests under this Project Lease. All reasonable costs and expenses incurred by the Issuer in the exercise of any such rights shall be payable by the Tenant as Additional Rent on demand, and if not so paid, shall bear interest until paid at the average rate of interest on the Bonds plus 200 basis points.

(e) If an Event of Default shall have occurred and is continuing at the request of the Issuer or the Trustee, the Tenant shall periodically perform (at the Tenant's expense) an environmental audit and, if reasonably deemed necessary by the Issuer or the Trustee, an Environmental Assessment, (each of which must be reasonably satisfactory to the Issuer and the Trustee) of the Project, or the hazardous waste management practices and/or hazardous waste disposal sites used by the Tenant with respect to the Project. The audit and/or Environmental Assessment shall be conducted by an environmental consultant satisfactory to the Issuer and the Trustee. Should the Tenant fail to perform any environmental audit or risk assessment within 30 days of the written request of the Issuer or the Trustee, either shall have the right, but not the obligation, to retain an environmental consultant to perform any such environmental audit or risk assessment. All costs and expenses incurred by the Issuer or the Trustee in the exercise of such rights shall be payable by the Tenant as Additional Rent on demand, and if not so paid, shall bear interest until paid at the average rate of interest on the Bonds plus 200 basis points.

(f) The Tenant shall not install nor permit to be installed in the Project friable asbestos or any substance containing asbestos and deemed hazardous by Environmental Law applicable to the Project and respecting such material, and with respect to any such material currently present in the Project, shall promptly either (1) remove any material which such applicable regulations deem hazardous and require to be removed or (2) otherwise comply with such applicable Environmental Law, at the Tenant's expense. If the Tenant shall fail to so remove or otherwise comply, the Issuer may declare an Event of Default and/or do whatever is necessary to eliminate the substances from the Project or otherwise comply with the applicable Environmental Law or order, and the costs thereof shall be payable by the Tenant on demand, and if not so paid, shall bear interest until paid at the average rate of interest on the Bonds plus 200 basis points. The Tenant shall defend, indemnify, and save the Issuer, the Trustee and the Owner harmless from all costs and expenses (including consequential damages) asserted or proven against the Tenant, or incurred to comply with such regulations.

(g) The provisions of this *Section 8.2* shall survive the termination of this Project Lease or exercise of the Tenant's option to purchase the Project, except with respect to obligations which arise solely and exclusively as a result of the use, spill, release, leak, seepage or discharge of Hazardous Substances on the Real Property or the Project after the Project is no longer occupied by the Tenant.

## ARTICLE IX

**Section 9.1. Sublease by the Tenant.** The Tenant may sublease the Project to a single party or entity, with the prior written consent of the Issuer. The Tenant may sublease portions of the Project for use by others in the normal course of its business without the Issuer's prior consent or approval. In the event of any such subleasing, the Tenant shall remain fully liable for the performance of its duties and obligations hereunder, and no such subleasing and no dealings or transactions between the Issuer or the Trustee and any such subtenant shall relieve the Tenant of any of its duties and obligations hereunder. Any such sublease shall be subject and subordinate in all respects to the provisions of this Project Lease.

**Section 9.2. Assignment by the Tenant.** The Tenant may assign, mortgage, sell or otherwise transfer its interest in this Project Lease only with the prior written consent of the Issuer. In the event of any such assignment, the Tenant shall remain fully liable for the performance of its duties and obligations hereunder, except to the extent hereinafter provided, and no such assignment and no dealings or transactions between the Issuer or the Trustee and any such assignee shall relieve the Tenant of any of its duties and obligations hereunder, except as may be otherwise provided in the following Section.

**Section 9.3. Release of the Tenant.** If, in connection with an assignment by the Tenant of its interest in this Project Lease, (a) the Issuer and the Owners of at least seventy-five percent (75%) in aggregate

principal amount of the Outstanding Bonds (including any Additional Bonds) shall file with the Trustee their prior written consent to such assignment, and (b) the proposed assignee shall expressly assume and agree to perform all of the obligations of the Tenant under this Project Lease with regard to the Bonds; then the Tenant shall be fully released from all obligations accruing hereunder after the date of such assignment.

**Section 9.4. Mergers and Consolidations.**

Notwithstanding the provisions of *Sections 9.2 and 9.3* above, if the Tenant shall assign or transfer, by operation of law or otherwise, its interests in this Project Lease in connection with a transaction involving the merger or consolidation of the Tenant with or into, or a sale, lease or other disposition of all or substantially all of the property of the Tenant as an entirety to another person, association, corporation or other entity, and (a) the Issuer shall file with the Trustee its prior written consent to such assignment, transfer or merger, (b) the proposed assignee, transferee or surviving entity shall expressly assume and agree to perform all of the obligations of the Tenant under this Project Lease with regard to the Bonds, and (c) the Tenant shall furnish the Trustee and the Issuer with evidence in the form of financial statements accompanied by a proforma balance sheet prepared by an independent certified public accountant of recognized standing showing that the net worth of such proposed assignee, transferee or surviving entity immediately following such assignment, transfer or merger will be at least equal to the net worth of the Tenant as shown by the most recent financial statements of the Tenant furnished to the Trustee pursuant to this Project Lease; then and in such event the Tenant shall be fully released from all obligations accruing hereunder after the date of such assignment, transfer or merger.

**Section 9.5. Covenant Against Other Assignments.** The Tenant will not assign or in any manner transfer its interests under this Project Lease, nor will it suffer or permit any assignment thereof by operation of law, except in accordance with the limitations, conditions and requirements set forth in this *Article IX*.

**ARTICLE X**

**Section 10.1. Repairs and Maintenance.** The Tenant covenants and agrees that it will, during the Term of this Project Lease, at its own expense, keep and maintain the Project and all parts thereof in good condition and repair (ordinary wear and tear excepted), including but not limited to the furnishing of all parts, mechanisms and devices required to keep the machinery, equipment and personal property constituting a part of the Project in good mechanical and working order (ordinary wear and tear excepted).

**Section 10.2. Removal, Disposition and Substitution of Machinery or Equipment.** The Tenant shall have the right, provided the Tenant is not in Default, to remove and sell or otherwise dispose of any machinery or equipment which constitutes a part of the Project and which is no longer used by the Tenant or, in the opinion of the Tenant, is no longer useful to the Tenant in its operations (whether by reason of changed processes, changed techniques, obsolescence, depreciation or otherwise).

All machinery or equipment constituting a part of the Project and removed by the Tenant in compliance with this Section shall become the absolute property of the Tenant and may be sold or otherwise disposed of by the Tenant without otherwise accounting to the Issuer. In all cases, the Tenant shall pay all the costs and expenses of any such removal and shall immediately repair at its expense all damage caused thereby. The Tenant's rights under this Section to remove machinery or equipment constituting a part of the Project is intended only to permit the Tenant to maintain an efficient operation by the removal of such machinery and equipment no longer suitable to the Tenant's use for any of the reasons set forth in this Section and such right is not to be construed to permit a removal under any other circumstances and shall not be construed to permit the wholesale removal of such machinery or equipment by the Tenant.



## ARTICLE XI

**Section 11.1. Alteration of Project.** The Tenant shall have and is hereby given the right, at its sole cost and expense, to make such additions, changes and alterations in and to any part of the Project as the Tenant from time to time may deem necessary or advisable, provided however, the Tenant shall not make any major addition, change or alteration which will adversely affect the intended use or structural strength or value of any part of the Improvements. All additions, changes and alterations made by the Tenant pursuant to the authority of this Article shall (a) be made in a workmanlike manner and in strict compliance with all laws and ordinances applicable thereto, (b) when commenced, be prosecuted to completion with due diligence, and (c) when completed, be deemed a part of the Project; provided, however, additions of machinery, equipment and/or personal property of the Tenant, not purchased or acquired from proceeds of the Bonds and not constituting a part of the Project shall remain the separate property of the Tenant and may be removed by the Tenant prior to or as provided in *Section 22.1* hereof.

## ARTICLE XII

**Section 12.1. Additional Improvements.** The Tenant shall have and is hereby given the right, at its sole cost and expense, to construct on the Real Property or within areas occupied by the Improvements, or in airspace above the Project, such additional buildings and improvements as the Tenant from time to time may deem necessary or advisable. All additional buildings and improvements constructed by the Tenant pursuant to the authority of this Article shall, during the Term, remain the property of the Tenant and may be added to, altered or razed and removed by the Tenant at any time during the Term hereof. The Tenant covenants and agrees (a) to make all repairs and restorations, if any, required to be made to the Project because of the construction of, addition to, alteration or removal of, the additional buildings or improvements, (b) to keep and maintain the additional buildings and improvements in good condition and repair, ordinary wear and tear excepted, (c) to promptly and with due diligence either raze and remove from the Real Property, in a good, workmanlike manner, or repair, replace or restore such of the additional buildings or improvements as may from time to time be damaged by fire or other casualty, and (d) that all additional buildings and improvements constructed by the Tenant pursuant to this Article which remain in place after the termination of this Project Lease for any cause other than the purchase of the Project pursuant to *Article XVII* hereof shall, upon and in the event of such termination, become the separate and absolute property of the Issuer.

## ARTICLE XIII

**Section 13.1. Securing of Permits and Authorizations.** The Tenant shall not do or permit others under its control to do any work in or in connection with the Project or related to any repair, rebuilding, restoration, replacement, alteration of or addition to the Project, or any part thereof, unless all requisite municipal and other governmental permits and authorizations shall have first been procured and paid for. All such work shall be done in a good and workmanlike manner and in compliance with all applicable building, zoning and other laws, ordinances, governmental regulations and requirements and in accordance with the requirements, rules and regulations of all insurers under the policies required to be carried under the provisions of this Project Lease.

**Section 13.2. Mechanic's Liens.** The Tenant shall not do or suffer anything to be done whereby the Project, or any part thereof, is encumbered by any mechanic's or other similar lien. Should any mechanic's or other similar lien ever be filed against the Project, or any part thereof, the Tenant shall discharge the same of record within 30 days after the date of filing. Notice is hereby given that the Issuer does not authorize or

consent to and shall not be liable for any labor or materials furnished to the Tenant or anyone claiming by, through or under the Tenant upon credit, and that no mechanic's or similar liens for any such labor, services or materials shall attach to or affect the reversionary or other estate of the Issuer in and to the Project, or any part thereof.

**Section 13.3. Contest of Liens.** The Tenant, notwithstanding the above, shall have the right to contest any such mechanic's or other similar lien if within the 30-day period stated above it (a) notifies the Issuer and the Trustee in writing of its intention so to do, and if requested by the Trustee or the Issuer, deposits with the Trustee a surety bond issued by a surety company acceptable to the Issuer as surety, in favor of the Issuer, or cash, in the amount of the lien claim so contested, indemnifying and protecting the Issuer from and against any liability, loss, damage, cost and expense of whatever kind or nature growing out of or in any way connected with the asserted lien and the contest thereof, (b) diligently prosecutes such contest, at all times effectively staying or preventing any official or judicial sale of the Project or any part thereof or interest therein, under execution or otherwise, and (c) promptly pays or otherwise satisfies any final judgment adjudging or enforcing such contested lien claim and thereafter promptly procures record release or satisfaction thereof.

**Section 13.4. Utilities.** All utilities and utility services used by the Tenant in, on or about the Project shall be contracted for by the Tenant in the Tenant's own name and the Tenant shall, at its sole cost and expense, procure any and all permits, licenses or authorizations necessary for all operations on the Project.

## ARTICLE XIV

**Section 14.1. Indemnity.** The Tenant agrees, whether or not the transactions contemplated by this Project Lease, the Site Lease, the Bonds or the Trust Indenture are consummated, to indemnify and hold harmless the Issuer and its officers, directors, officials, employees and agents, including the Trustee as assignee of the Issuer's rights under this Project Lease, and the Owner and each of its officers, directors, employees and agents (any or all of the foregoing referred to hereafter as "Indemnified Persons"), from and against all claims, actions, suits, proceedings, expenses, judgments, damages, penalties, fines, assessments, liabilities, charges or other costs (including, without limitation, all attorneys' fees and expenses incurred in connection with enforcing this Project Lease or collecting any sums due hereunder and any claim or proceeding or any investigations undertaken hereunder) relating to, resulting from, or in connection with (a) any cause in connection with the Project, including, without limitation, the acquisition, design, construction, installation, equipping, operating, maintenance or use thereof; (b) any act or omission of the Tenant or any of its agents contractors, servants, employees or licensee in connection with the use or operation of the Project; (c) any cause in connection with the issuance and sale of the Bonds, (d) a misrepresentation or breach of warranty by the Tenant hereunder or under any of the documents executed by the Tenant in connection with this Project Lease, or (e) any violation by the Tenant of any of its covenants hereunder or under any of the other documents executed by the Tenant in connection with the Bonds or this Project Lease. This indemnity is effective only with respect to any loss incurred by any Indemnified Person not due to willful misconduct, gross negligence, or bad faith on part of such Indemnified Person. In case any action or proceeding shall be brought against one or more Indemnified Person and with respect to which such Indemnified Person may seek indemnity as provided herein, such Indemnified Person shall promptly notify the Tenant in writing and the Tenant shall promptly assume the defense thereof, including the employment of counsel reasonable satisfactory to such Indemnified Person or Indemnified Persons, the payment of all expenses and the right to negotiate and consent to settlement; provided, however, the failure to notify the Tenant as provided shall not relieve Tenant from any liability or duty under this Section, so long as Tenant is given reasonable opportunity to defend such claim.

## ARTICLE XV

**Section 15.1. Access to Project.** The Issuer, for itself and its duly authorized representatives and agents, including the Trustee, reserves the right to enter the Project at all reasonable times during usual business hours throughout the Term, upon reasonable notice, for the purpose of (a) examining and inspecting the same, (b) performing such work made necessary by reason of the Tenant's default under any of the provisions of this Project Lease, and (c) after an Event of Default, for the purposes of exhibiting the Project to prospective purchasers, lessees or mortgagees. The Issuer may, during the progress of the work mentioned in (b) above, keep and store on the Project all necessary materials, supplies and equipment and shall not be liable for inconvenience, annoyances, disturbances, loss of business or other damage suffered by reason of the performance of any such work or the storage of such materials, supplies and equipment.

## ARTICLE XVI

**Section 16.1. Option to Extend Basic Term.** The Tenant shall have and is hereby given the right and option to extend the Basic Term of this Project Lease for the Additional Term provided that (a) the Tenant shall give the Issuer written notice of its intention to exercise the option at least 30 days prior to the expiration of the Basic Term and (b) the Tenant is not in Default hereunder at the time it gives the Issuer such notice or at the time the Additional Term commences. In the event the Tenant exercises such option, the terms, covenants, conditions and provisions set forth in this Project Lease shall be in full force and effect and binding upon the Issuer and the Tenant during the Additional Term except that the Basic Rent during any extended term herein provided for shall be the sum of \$100.00 per year, payable in advance on the first Business Day of such Additional Term.

## ARTICLE XVII

**Section 17.1. Option to Purchase Project.** Subject to the provisions of this Article, the Tenant shall have the right and option to purchase the Issuer's interest in the Project at any time during the Term hereof and for 120 days thereafter. The Tenant shall exercise its option by giving the Issuer written notice of the Tenant's election to exercise its option and specifying the date, time and place of closing, which date (the "Release Date") shall neither be earlier than 30 days nor later than 180 days after the notice is given. The Tenant may not, however, exercise such option if the Tenant is in Default hereunder on the Release Date unless all Defaults are cured upon payment of the purchase price specified in *Section 17.2*.

**Section 17.2. Quality of Title and Purchase Price.** If the notice of election to purchase is given, the Issuer shall assign and release all of its interests in the Project to the Tenant on the Release Date free and clear of all liens and encumbrances except (a) Permitted Encumbrances, (b) those to which title was subject on the date of the Site Lease to the Issuer of the Real Property, or to which title became subject with the Issuer's and Tenant's written consent, or which resulted from any failure of the Tenant to perform any of its covenants or obligations under this Project Lease, (c) taxes and assessments, general and special, if any, and (d) the rights of any party having condemned or who is attempting to condemn title to, or the use for a limited period of, all or any part of the Project, for a price determined as follows (which the Tenant agrees to pay in cash at the time of delivery of the Issuer's instruments of release of the Project to the Tenant as hereinafter provided):

(i) The full amount which is required to provide the Issuer and the Trustee with funds sufficient, in accordance with the provisions of the Trust Indenture, to pay at maturity or to redeem and pay in full (A)

the principal of all of the Outstanding Bonds, (B) all interest due thereon to date of maturity or redemption, whichever first occurs, and (C) all costs, expenses and premiums incident to the redemption and payment of the Bonds in full, plus

(ii) \$100.00.

In the event the Tenant owns all of the Outstanding Bonds, the Tenant may surrender the Bonds to the Trustee for cancelation in lieu of paying the full amount set forth in this Section.

Nothing in this Article shall release or discharge the Tenant from its duty or obligation under this Project Lease to make any payment of Basic Rent or Additional Rent which, in accordance with the terms of this Project Lease, becomes due and payable prior to the Release Date, or its duty and obligation to fully perform and observe all covenants and conditions herein stated to be performed and observed by the Tenant prior to the Release Date.

**Section 17.3. Closing of Purchase.** On the Release Date, the Issuer shall deliver to the Tenant its release of leases and/or other appropriate instruments of assignment or release, properly executed and releasing the Project to the Tenant free and clear of all liens and encumbrances except as set forth in the preceding section above, and the Tenant shall pay the full purchase price for the Project as follows: (a) the amount specified in clause (i) of *Section 17.2* shall be paid to the Trustee for deposit in the Debt Service Fund to be used to pay or redeem Bonds and the interest thereon as provided in the Trust Indenture, and (b) the amount specified in clause (ii) of *Section 17.2* shall be paid to the Issuer; provided, however, nothing herein shall require the Issuer to deliver its appropriate instruments of assignment or release to the Tenant until after all duties and obligations of the Tenant under this Project Lease to the date of such delivery have been fully performed and satisfied or adequate provision made for such performance and satisfaction. Upon the recording of the Issuer's instruments of assignment or release, and payment of the purchase price by the Tenant and legal defeasance or cancellation of the Bonds, this Project Lease will terminate, subject to the provisions of *Section 20.2* hereof.

**Section 17.4. Effect of Failure to Complete Purchase.** If, for any reason, the purchase of the Project by the Tenant pursuant to valid notice of election to purchase is not effected on the Release Date, this Project Lease shall be and remain in full force and effect according to its terms as if no notice of election under *Section 17.1* had been given. The Issuer and Tenant agree to use all commercially reasonable efforts to effect the assignment and release as soon as possible.

**Section 17.5. Application of Condemnation Awards if the Tenant Purchases Project.** The right of the Tenant to exercise its option to purchase the Project under the provisions of this Article shall remain unimpaired notwithstanding any condemnation of title to, or the use for a limited period of, all or any part of the Project. If the Tenant shall exercise its option and pay the purchase price as provided in this Article, all of the condemnation awards received by the Issuer after the payment of the purchase price, less all attorneys' fees and other expenses and costs incurred by the Issuer in connection with such condemnation, shall belong and be paid to the Tenant.

**Section 17.6. Option to Purchase Unimproved Portions of Real Property.** The Tenant shall have the option to purchase at any time and from time to time during the Term any vacant part or vacant parts of the unimproved Real Property constituting a part of the Project; provided, however, the Tenant shall furnish the Issuer and the Trustee with a certificate of the Authorized Tenant Representative, dated not more than thirty (30) days prior to the date of the purchase and stating that, in the opinion of the Authorized Tenant Representative, (a) the portion of the Real Property with respect to which the option is exercised is not needed for the operation of the Project, (b) the purchase will not impair the usefulness or operating efficiency or materially impair the value of the Project and will not destroy or materially impair the means of ingress thereto

and egress therefrom, and (c) the purchase will not materially adversely affect compliance of the remaining Real Property and any Improvements with applicable zoning laws or regulations. The Tenant shall exercise this option by giving the Issuer and the Trustee written notice of the Tenant's election to exercise its option and specifying (i) the legal description of the portion of Real Property to be released, and (ii) a certificate signed by the chief executive or chief financial officer of the Tenant stating that no event has occurred and is continuing which, with notice or lapse of time or both, would constitute an Event of Default. The Tenant may not exercise this option if there has occurred and is continuing any event which, with notice or lapse of time or both, would constitute an Event of Default at the time the notice is given and may not purchase the Real Property unless all defaults are cured. The option includes the right to purchase a perpetual easement for right-of-way to and from the public roadway and the right to purchase such land as is necessary to assure that there will always be access between the portion of the Real Property purchased pursuant to these *Sections 17.6 through 17.10* and the public roadway.

**Section 17.7. Quality of Title - Purchase Price.** If the notice of election to purchase is given as provided in *Section 17.6* the Issuer shall release its interest in the real property described in the Tenant's notice to the Tenant on the specified date free and clear of all liens and encumbrances except (a) Permitted Encumbrances, (b) those to which title was subject on the date of the Site Lease to the Issuer of the Real Property, or to which title became subject with the Issuer's and Tenant's written consent, or which resulted from any failure of the Tenant to perform any of its covenants or obligations under this Project Lease, (c) taxes and assessments, general and special, if any, and (d) the interests of any party having condemned or who is attempting to condemn title to, or the use for a limited period of, all or any part of the real property described in the Tenant's notice.

**Section 17.8. Closing of Purchase.** The Issuer shall deliver to the Tenant its release of leases and other appropriate instruments of assignment or release, properly executed and releasing such real property to the Tenant free and clear of all liens and encumbrances except as stated above, and the Tenant shall pay the Trustee the purchase price for such real property, and the Trustee will deposit the purchase price in the Debt Service Fund and use the proceeds to redeem Bonds on any date the Bonds are subject to optional redemption, as provided in the Trust Indenture. Nothing herein shall require the Issuer to deliver its release of leases to the Tenant until after all duties and obligations of the Tenant under this Project Lease to the date of such delivery have been fully performed and satisfied.

**Section 17.9. Effect of Release on Lease.** The exercise by the Tenant of the option granted under these *Sections 17.6 to 17.10* and the purchase and release of a portion of the Real Property constituting a part of the Project pursuant hereto shall in no way whatsoever affect this Project Lease, and all the terms and provisions shall remain in full force and effect, including, without limitation, the Tenant's obligations to pay all Basic Rent and Additional Rent.

**Section 17.10. Effect of Failure to Complete Purchase.** If, for any reason, the purchase by the Tenant of the portion of the real property described in the notice is not effected on the specified date, this Project Lease shall be and remain in full force and effect according to its terms the same as though no notice of election to purchase had been given.

## ARTICLE XVIII

### Section 18.1. Damage and Destruction.

(a) If, during the Term, any Improvements are damaged or destroyed, in whole or in part, by fire or other casualty, the Tenant shall promptly notify the Issuer and the Trustee in writing as to the nature and

extent of such damage or loss and whether it is practicable and desirable to rebuild, repair, restore or replace such damage or loss.

(b) If the Tenant shall determine that such rebuilding, repairing, restoring or replacing is practicable and desirable, the Tenant shall proceed with and complete with reasonable dispatch such rebuilding, repairing, restoring or replacing. In such case, any Net Proceeds of property and/or casualty insurance required by this Project Lease and received with respect to any such damage or loss to the Improvements shall be paid to the Trustee and shall be deposited in the Project Fund and shall be used and applied for the purpose of paying the cost of such rebuilding, repairing, restoring or replacing such damage or loss. Any amount remaining in the Project Fund after such rebuilding, repairing, restoring or replacing shall be paid to the Tenant.

(c) If the Tenant shall reasonably determine that rebuilding, repairing, restoring or replacing the Improvements is not practicable and desirable, any Net Proceeds of property and/or casualty insurance required by this Project Lease and received with respect to any such damage or loss to the Project shall be paid into the Debt Service Fund. Such moneys shall be used to redeem Bonds at their earliest optional redemption date. The Tenant agrees that it shall be reasonable in exercising its judgment pursuant to this subsection (c).

(d) The Tenant shall not, by reason of its inability to use all or any part of the Improvements during any period in which the Improvements are damaged or destroyed, or are being repaired, rebuilt, restored or replaced nor by reason of the payment of the costs of such rebuilding, repairing, restoring or replacing, be entitled to any reimbursement or diminution of the Basic Rent or Additional Rent payable by the Tenant under this Project Lease nor of any other obligations of the Tenant under this Project Lease except as expressly provided in this Section.

## **Section 18.2. Condemnation.**

(a) If, during the Term title to, or the temporary use of, all or any part of the Project shall be condemned by any authority exercising the power of eminent domain (other than the Issuer), the Tenant shall, within 30 days after the date of entry of a final order in any eminent domain proceedings granting condemnation, notify the Issuer and the Trustee in writing as to the nature and extent of such condemnation and whether it is practicable and desirable to acquire substitute land or construct substitute Improvements.

(b) If the Tenant shall determine that such substitution is practicable and desirable, the Tenant shall proceed with and complete with reasonable dispatch the acquisition or construction of such substitute Real Property or Improvements. In such case, any Net Proceeds received from any award or awards with respect to the Project or any part thereof made in such condemnation or eminent domain proceedings shall be paid to the Trustee for the account of the Tenant and shall be deposited in the Project Fund and shall be used and applied for the purpose of paying the cost of such substitution. Any amount remaining in the Project Fund after such acquisition or construction shall be paid to Tenant.

(c) If the Tenant shall reasonably determine that it is not practicable and desirable to acquire or construct substitute Improvements, any Net Proceeds of condemnation awards received by the Tenant shall be paid into the Debt Service Fund. Such moneys shall be used to redeem Bonds at their earliest optional redemption date. The Tenant agrees that it shall be reasonable in exercising its judgment pursuant to this subsection.

(d) The Tenant shall not, by reason of its inability to use all or any part of the Improvements during any such period of restoration or acquisition nor by reason of the payment of the costs of such

restoration or acquisition, be entitled to any reimbursement or any abatement or diminution of the Basic Rent or Additional Rent nor of any other obligations hereunder payable by the Tenant under this Project Lease.

(e) The Issuer shall cooperate fully with the Tenant in the handling and conduct of any prospective or pending condemnation proceedings with respect to the Project or any part thereof so long as the Issuer is not the condemning authority. In no event will the Issuer voluntarily settle or consent to the settlement of any prospective or pending condemnation proceedings with respect to the Project or any part thereof without the written consent of the Tenant and the Trustee.

**Section 18.3. Effect of Tenant's Defaults.** Anything in this Article to the contrary notwithstanding, the Issuer and the Trustee shall have the right at any time and from time to time to withhold payment of all or any part of the Net Proceeds from the Project Fund attributable to damage, destruction or condemnation of the Project to the Tenant or any third party if an Event of Default has occurred and is continuing, or the Issuer or the Trustee has given notice to the Tenant of any Default which, with the passage of time, will become an Event of Default. In the event the Tenant shall cure any Defaults specified herein, the Trustee shall make payments from the Net Proceeds to the Tenant in accordance with the provisions of this Article. However, if this Project Lease is terminated or the Issuer or the Trustee otherwise re-enters and takes possession of the Project without terminating this Project Lease, the Trustee shall pay all the Net Proceeds held by it into the Debt Service Fund and all rights of the Tenant in and to such Net Proceeds shall cease.

## ARTICLE XIX

**Section 19.1. Change of Circumstances.** If at any time during the Term of this Project Lease, a Change of Circumstances occurs, then the Tenant shall have the option to: (a) purchase the Project pursuant to *Article XVII* or (b) terminate this Project Lease by giving the Issuer notice of such termination within 90 days after the Tenant has actual knowledge of the event giving rise to such option. The termination of this Project Lease will become effective when all of the Bonds Outstanding are paid or payment is provided for pursuant to the Trust Indenture.

## ARTICLE XX

**Section 20.1. Remedies on Default.** Whenever any Event of Default shall have happened and be continuing, the Trustee (acting on behalf of the Issuer, as assignee of the Issuer's rights hereunder) may take any legal action, including but not limited to, one or more of the following remedial actions:

(a) By written notice to the Tenant upon acceleration of maturity of the Bonds as provided in the Trust Indenture, the Trustee, acting on behalf of the Issuer may declare the aggregate amount of all unpaid Basic Rent or Additional Rent required to be paid by the Tenant to be immediately due and payable under this Project Lease.

(b) The Trustee, acting on behalf of the Issuer may give the Tenant written notice of intention to terminate this Project Lease on a date not earlier than 30 days after such notice is given and, if all Events of Default have not then been cured on the date specified, the Tenant's rights to possession of the Project shall cease, and this Project Lease shall terminate. The Trustee, acting on behalf of the Issuer may re-enter and take possession of the Project and pursue all its available remedies, including sale of Issuer's interest in the Project and judgment against the Tenant for all Basic Rent and Additional Rent then owing, including costs and attorney fees.

(c) Without terminating this Project Lease, the Trustee, acting on behalf of the Issuer may conduct inspections or an Environmental Assessment of the Project. The Issuer or the Trustee, acting on behalf of the Issuer may refuse to re-enter or take possession of the Project if it has reasonable cause for such refusal. "Reasonable cause" shall include the presence on the Project of conditions which are in violation of any Environmental Law or the existence or threat of a remedial action against the Tenant under any Environmental Law resulting from conditions on the Project.

(d) Without terminating the Term, the Trustee, acting on behalf of the Issuer may relet the Project, or parts thereof, for such term or terms and at such rental and upon such other terms and conditions as are deemed advisable, with the right to make alterations and repairs to the Project, and no such re-entry or taking of possession of the Project shall be construed as an election to terminate this Project Lease, nor relieve the Tenant of its obligation to pay Basic Rent or Additional Rent (at the time or times provided herein), or of any of its other obligations under this Project Lease, all of which shall survive such re-entry or taking of possession. The Tenant shall continue to pay the Basic Rent and Additional Rent provided for in this Project Lease until the end of the Term, whether or not the Project shall have been relet, less the net proceeds, if any, of reletting the Project.

(e) Having elected to reenter or take possession of the Project pursuant to subsection 20.1(c), the Trustee, acting on behalf of the Issuer may by notice to the Tenant given at any time thereafter while the Tenant is in Default in the payment of Basic Rent or Additional Rent or in the performance of any other obligation under this Project Lease, elect to terminate this Project Lease in accordance with subsection 20.1(b) and thereafter proceed to exercise any remedies lawfully available.

(f) If, in accordance with any of the provisions of this Article, the Issuer shall have the right to elect to re-enter and take possession of the Project, the Issuer or the Trustee, acting on behalf of the Issuer, may enter and expel the Tenant and those claiming through or under the Tenant and remove the property and effects of both or either by all lawful means without being guilty of any manner of trespass and without prejudice to any remedies for arrears of Basic Rent or Additional Rent or preceding breach of contract by the Tenant.

(g) Net proceeds of any reletting or sale of the Project shall be deposited in the Debt Service Fund for application to pay the Bonds and interest thereon. "Net proceeds" shall mean the receipts obtained from reletting or sale after deducting all expenses incurred in connection with such reletting or sale, including without limitation, all repossession costs, brokerage commissions, legal fees and expenses, expenses of employees, alteration costs and expenses of preparation of the Project for reletting or sale.

(h) The Issuer or the Trustee, acting on behalf of the Issuer may recover from the Tenant any attorney fees or other expense incurred in exercising any of its remedies under this Project Lease.

**Section 20.2. Survival of Obligations.** The Tenant covenants and agrees with the Issuer, the Trustee and any other Owner that until all Bonds and the interest thereon and redemption premium, if any, are paid in full or provision is made for the payment thereof or cancellation in accordance with the Trust Indenture, its obligations under this Project Lease shall survive the cancellation and termination of this Project Lease for any cause and/or sale of the Project, and that the Tenant shall be obligated to pay Basic Rent and Additional Rent (reduced by any net income the Issuer or the Trustee may receive from the Project after such termination) and perform all other obligations provided for in this Project Lease, all at the time or times provided in this Project Lease. Notwithstanding any provision of this Project Lease or the Trust Indenture, the Tenant's obligations under *Sections 8.2 and 14.1* hereof shall survive any termination, release or assignment of this Project Lease, the Trust Indenture and payment or provision for payment of the Bonds.



**Section 20.3. No Remedy Exclusive.** No remedy herein conferred upon or reserved to the Issuer is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Project Lease or now or hereafter existing at law or in equity or by statute, subject to the provisions of the Trust Indenture. No delay or omission to exercise any right or power accruing upon any Event of Default shall impair any such right or power, or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Issuer to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than notice required herein.

## ARTICLE XXI

**Section 21.1. Performance of the Tenant's Obligations by the Issuer.** If the Tenant shall fail to keep or perform any of its obligations as provided in this Project Lease, then the Issuer may (but shall not be obligated to do so) upon the continuance of such failure on the Tenant's part for 90 days after notice of such failure is given the Tenant by the Issuer or the Trustee and without waiving or releasing the Tenant from any obligation hereunder, as an additional but not exclusive remedy, make any such payment or perform any such obligation, and the Tenant shall reimburse the Issuer for all sums so paid by the Issuer and all necessary or incidental costs and expenses incurred by the Issuer in performing such obligations through payment of Additional Rent. If such Additional Rent is not so paid by the Tenant within 10 days of demand, the Issuer shall have the same rights and remedies provided for in *Article XX* in the case of Default by the Tenant in the payment of Basic Rent.

## ARTICLE XXII

**Section 22.1. Surrender of Possession.** Upon accrual of the Issuer's right of reentry as the result of the Tenant's Default hereunder or upon the cancellation or termination of this Project Lease by lapse of time or otherwise (other than as a result of the Tenant's purchase of the Project), the Tenant shall peacefully surrender possession of the Project to the Trustee, as assignee of the Issuer in good condition and repair, ordinary wear and tear excepted; provided, however, the Tenant shall have the right, prior to or within 30 Business Days after the termination of this Project Lease, to remove from on or about the Project the buildings, improvements, machinery, equipment, personal property, furniture and trade fixtures which the Tenant owns under the provisions of this Project Lease and are not a part of the Project. All repairs to and restorations of the Project required to be made because of such removal shall be made by and at the sole cost and expense of the Tenant. All buildings, improvements, machinery, equipment, personal property, furniture and trade fixtures owned by the Tenant, and which are not so removed from on or about the Project prior to or within 30 Business Days after such termination of this Project Lease shall become the separate and absolute property of the Issuer.

## ARTICLE XXIII

**Section 23.1. Notices.** All notices required or desired to be given hereunder shall be in writing and shall be delivered in person to the Notice Representative or mailed by registered mail to the Notice Address. All notices given by registered mail shall be deemed duly delivered three days after they are mailed. When mailed notices are given, the party giving notice will use reasonable diligence to contact the party being notified by telephone, electronic mail or facsimile on or before the date such notice is mailed.

## ARTICLE XXIV

**Section 24.1. Triple-Net Lease.** The parties hereto agree (a) that this Project Lease is intended to be a triple-net lease, (b) that the payments of Basic Rent and Additional Rent are designed to provide the Issuer and the Trustee with funds adequate in amount to pay all principal of and interest on all Bonds as the same become due and payable and to pay and discharge all of the other duties and requirements set forth herein, and (c) that to the extent that the payments of Basic Rent and Additional Rent are not adequate to provide the Issuer and the Trustee with funds sufficient for the purposes aforesaid, the Tenant shall be obligated to pay, and it does hereby covenant and agree to pay, upon demand therefor, as Additional Rent, such further sums of money as may from time to time be required for such purposes.

**Section 24.2. Funds Held by the Trustee After Payment of Bonds.** If, after the principal of and interest on all Bonds and all costs incident to the payment of Bonds have been paid in full, the Trustee holds unexpended funds received in accordance with the terms hereof, such unexpended funds shall, except as otherwise provided in this Project Lease and the Trust Indenture and after payment therefrom to the Issuer of any sums of money then due and owing by the Tenant under the terms of this Project Lease, be the absolute property of and be paid over to the Tenant.

## ARTICLE XXV

**Section 25.1. Rights and Remedies.** The rights and remedies reserved by the Issuer and the Tenant hereunder and those provided by law shall be construed as cumulative and continuing rights. No one of them shall be exhausted by the exercise thereof on one or more occasions. The Issuer and the Tenant shall each be entitled to specific performance and injunctive or other equitable relief for any breach or threatened breach of any of the provisions of this Project Lease, notwithstanding the availability of an adequate remedy at law, and each party hereby waives the right to raise such defense in any proceeding in equity.

**Section 25.2. Waiver of Breach.** No waiver of any breach of any covenant or agreement herein contained shall operate as a waiver of any subsequent breach of the same covenant or agreement or as a waiver of any breach of any other covenant or agreement, and in case of a breach by either party of any covenant, agreement or undertaking, the non-defaulting party may nevertheless accept from the other any payment or payments or performance hereunder without in any way waiving its right to exercise any of its rights and remedies provided for herein or otherwise with respect to any such Default which was in existence at the time such payment or payments or performance were accepted by it.

**Section 25.3. The Issuer Shall Not Unreasonably Withhold Consents and Approvals.** Wherever in this Project Lease it is provided that the Issuer shall, may or must give its approval or consent, or execute supplemental agreements, exhibits or schedules, the Issuer shall not unreasonably or arbitrarily withhold or refuse to give such approvals or consents or refuse to execute such supplemental agreements, exhibits or schedules.

## ARTICLE XXVI

**Section 26.1. The Issuer May Not Release Interest without Tenant Consent.** The Issuer covenants that unless an Event of Default under this Project Lease has occurred and is continuing, and the remaining Term of this Project Lease has been terminated, it will not, without the Tenant's written consent,

unless required by law, assign, release or encumber its leasehold interest in the Project at any time during the Term of this Project Lease.

**Section 26.2. Quiet Enjoyment and Possession.** The Tenant shall enjoy peaceable and quiet possession of the Project as long as no Event of Default has occurred and is continuing.

**Section 26.3. Intentionally Omitted.**

**Section 26.4. Issuer's Obligations Limited.** Except as otherwise expressly provided in this Project Lease, no recourse upon any obligation or agreement contained in this Project Lease or in any Bond or under any judgment obtained against the Issuer, or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any constitution or statute or otherwise under any circumstances, under or independent of the Trust Indenture, shall be had against the Issuer and its officers, employees and agents.

Notwithstanding anything in this Project Lease to the contrary, it is expressly understood and agreed by the parties hereto that (a) the Issuer may rely conclusively on the truth and accuracy of any certificate, opinion, notice or other instrument furnished to the Issuer by the Tenant, an Owner or the Trustee as to the existence of any fact or state of affairs required to be noticed by the Issuer; (b) the Issuer shall not be under any obligation to perform any record-keeping or to provide any legal services, it being understood that such services shall be performed or provided either by the Tenant, the Trustee or the Owner; and (c) that none of the provisions of this Project Lease shall require the Issuer to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers hereunder, unless it shall have first been adequately indemnified to its satisfaction against the costs, expenses and liability which may be incurred by such action.

Notwithstanding anything in this Project Lease to the contrary, any obligation the Issuer may incur under this Project Lease or under any instrument or document executed by the Issuer in connection with this Project Lease that entails the expenditure of any money by the Issuer shall be only a limited obligation of the Issuer payable solely from the revenues derived by the Issuer under this Project Lease and shall not be, under any circumstances, a general obligation of the Issuer.

## ARTICLE XXVII

**Section 27.1. Investment Tax Credit; Depreciation.** The Tenant shall be entitled to claim the full benefit of (1) any investment credit against federal or state income tax allowable with respect to expenditures of the character contemplated hereby under any federal or state income tax laws now or from time to time hereafter in effect, and (2) any deduction for depreciation with respect to the Project from federal or state income taxes. The Issuer agrees that it will upon the Tenant's request execute all such elections, returns or other documents which may be reasonably necessary or required to more fully assure the availability of such benefits to the Tenant.

## ARTICLE XXVIII

**Section 28.1. Amendments.** This Project Lease may be amended, changed or modified in writing in the following manner:

(a) With respect to an amendment, change or modification which reduces the Basic Rent or Additional Rent, or any amendment which reduces the percentage of Owners whose consent is required for any such amendment, change or modification, by an agreement in writing executed by the Issuer and the

Tenant and consented to in writing by the Trustee and by Owners of at least 90% of the aggregate principal amount of the Bonds then Outstanding;

(b) With respect to any other amendment, change or modification which will materially adversely affect the security or rights of the Owners, by an agreement in writing executed by the Issuer and the Tenant and consented to in writing by the Trustee and by Owners of at least 66-2/3% of the aggregate principal amount of the Bonds then Outstanding; and

(c) With respect to all other amendments, changes, or modifications, by an agreement in writing executed by the Issuer and the Tenant.

At least 30 days prior to the execution of any agreement pursuant to (c) above, the Issuer and the Tenant shall furnish the Trustee and the Owner with a copy of the amendment, change or modification proposed to be made.

**Section 28.2. Granting of Easements.** If no Event of Default under this Project Lease shall have happened and be continuing, the Tenant may, at any time or times, (a) grant easements, licenses and other rights or privileges in the nature of easements with respect to any property included in the Project, free from any rights of the Issuer or the Owner, or (b) release existing easements, licenses, rights-of-way and other rights or privileges, all with or without consideration and upon such terms and conditions as the Tenant shall determine, and the Issuer agrees, to the extent that it may legally do so, that it will execute and deliver any instrument necessary or appropriate to confirm and grant or release any such easement, license, right-of-way or other right or privilege or any such agreement or other arrangement, upon receipt by the Issuer of: (i) a copy of the instrument of grant or release or of the agreement or other arrangement, (ii) a written application signed by the Authorized Tenant Representative requesting such instrument, and (iii) a certificate executed by the Tenant stating (A) that such grant or release is not detrimental to the proper conduct of the business of the Tenant, and (B) that such grant or release will not impair the effective use or interfere with the efficient and economical operation of the Project and will not materially adversely affect the security of the Owner. Any consideration received by the Tenant for the grant or release must be paid to the Trustee to be deposited in the Debt Service Fund and used to redeem Bonds at the earliest practicable date, at their principal amount, plus accrued interest, without premium. If the instrument of grant shall so provide, any such easement or right and the rights of such other parties thereunder shall be superior to the rights of the Issuer and the Owner and shall not be affected by any termination of this Project Lease or default on the part of the Tenant hereunder. If no Event of Default shall have happened and be continuing, any payments or other consideration received by the Tenant for any such grant or with respect to or under any such agreement or other arrangement shall be and remain the property of the Tenant, but, in the event of the termination of this Project Lease because of an Event of Default, all rights then existing of the Tenant with respect to or under such grant shall inure to the benefit of and be exercisable by the Issuer.

### **Section 28.3. Security Interests.**

(a) The Issuer and the Tenant agree to execute and deliver any instruments (including financing statements and statements of continuation thereof) necessary for perfection of and continuance of the security interest of the Issuer in and to the Project. The Tenant hereby authorizes the Issuer to file or cause to be filed all such instruments required to be so filed and the Trustee to continue or cause to be continued the filings or liens of such instruments for so long as the Bonds shall be Outstanding.

(b) Under the Trust Indenture, the Issuer will, as additional security for the Bonds assign, transfer, pledge and grant a security interest in its rights under this Project Lease to the Trustee. The Issuer hereby authorizes the Trustee to file financing statements or any other instruments necessary to perfect its security interest. The Trustee is hereby given the right to enforce, either jointly with the Issuer or separately,

the performance of the obligations of the Tenant, and the Tenant hereby consents to the same and agrees that the Trustee may enforce such rights as provided in the Trust Indenture and the Tenant will make payments required hereunder directly to the Trustee.

**Section 28.4. Reporting.** The Tenant agrees to timely provide the Issuer sufficient information to comply with the economic development incentive reporting requirements enacted by the State of Kansas under Chapter 54 of the 2025 Kansas Session Laws, which became effective on July 1, 2025. Additionally, the Tenant agrees, as a condition to receipt of property tax abatement incentives in connection with the issuance of the Series 2025B Bonds, to provide all information required by Chapter 54 of the 2025 Kansas Session Laws to the Secretary of Commerce of the State of Kansas, at such times and in the form and manner as required by the Secretary, for publication on the department’s database as provided by law.

**Section 28.5. Construction and Enforcement.** This Project Lease shall be construed and enforced in accordance with the laws of the State. The provisions of this Project Lease shall be applied and interpreted in accordance with the rules of interpretation set forth in the Trust Indenture. Wherever in this Project Lease it is provided that either party shall or will make any payment or perform or refrain from performing any act or obligation, each such provision shall, even though not so expressed, be construed as an express covenant to make such payment or to perform, or not to perform, as the case may be, such act or obligation.

**Section 28.6. Invalidity of Provisions of Project Lease.** If, for any reason, any provision hereof shall be determined to be invalid or unenforceable, the validity and effect of the other provisions hereof shall not be affected thereby.

**Section 28.7. Covenants Binding on Successors and Assigns.** The covenants, agreements and conditions herein contained shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

**Section 28.8. Section Headings.** The section headings hereof are for the convenience of reference only and shall not be treated as a part of this Project Lease or as affecting the true meaning of the provisions hereof. The reference to section numbers herein or in the Trust Indenture shall be deemed to refer to the numbers preceding each section.

**Section 28.9. Execution of Counterparts; Electronic Transactions.** This Project Lease may be executed simultaneously in multiple counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one instrument. The transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

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**IN WITNESS WHEREOF**, the Issuer has caused this Project Lease to be signed by an authorized official, such signature to be attested by an authorized officer, and its official seal to be applied, as of the date first above written.

**CITY OF BEL AIRE, KANSAS**

By: \_\_\_\_\_  
Jim Benage, Mayor

(SEAL)

ATTEST:

\_\_\_\_\_  
Melissa Krehbiel, City Clerk

**ACKNOWLEDGMENT**

STATE OF KANSAS                    )  
  ) SS:  
COUNTY OF SEDGWICK            )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of November, 2025 by Jim Benage, Mayor of the City of Bel Aire, Kansas.

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

\_\_\_\_\_  
Typed Name of Notary Public

(SEAL)

My Appointment Expires:

\_\_\_\_\_

**IN WITNESS WHEREOF**, the Tenant has caused this Project Lease to be signed by an authorized officer, as of the date first above written.

**WALTONS 53RD HOLDINGS LLC**

By: \_\_\_\_\_  
 Name: Brett Walton  
 Title: President

“TENANT”

**ACKNOWLEDGMENT**

STATE OF KANSAS                     )  
   ) SS:  
 COUNTY OF SEDGWICK            )

This instrument was acknowledged before me on the \_\_\_\_ day of November, 2025, by Brett Walton, President of Waltons 53rd Holdings LLC, a Kansas limited liability company.

[SEAL]

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

My Appointment Expires:

\_\_\_\_\_

APPENDIX A

FORM OF REQUISITION FOR PAYMENT OF PROJECT COSTS

CITY OF BEL AIRE, KANSAS  
Project Fund  
(Waltons 53rd Holdings LLC)  
Payment Order No. \_\_\_\_\_

Security Bank of Kansas City  
Kansas City, Kansas  
Attn: Corporate Trust Department

I hereby certify that the amounts stated in the attached Payment Schedules have either been advanced by the Tenant or are justly due to contractors, subcontractors, suppliers, vendors, materialmen, engineers, architects or other persons named in the Payment Schedules who have performed necessary and appropriate work in connection with any installation of machinery, equipment or personal property, or have furnished necessary and appropriate materials in the construction or acquisition of land, buildings and improvements constituting a part of the Project. I further certify that the fair value of such work or materials, machinery and equipment, is not exceeded by the amount requested, and such cost is one which may be capitalized for federal income tax purposes.

I further certify that, except for the amounts set forth in the Payment Schedules, there are no outstanding debts now due and payable for labor, wages, materials, supplies or services in connection with the construction of the buildings and improvements or the purchase and/or installation of machinery, equipment and personal property which, if unpaid, might become the basis of a vendor's, mechanic's, laborer's or materialmen's statutory or other similar lien upon the Real Property, the Project or any part thereof.

I further certify that no part of the amounts set forth in the Payment Schedules have been the basis for any previous withdrawal of any moneys from the Project Fund.

I further certify that each of the representations and covenants on the part of the Tenant contained in the Project Lease dated as of November 25, 2025 by and between the City of Bel Aire, Kansas, as the Issuer, and the Tenant are now true and correct in all material respects and are now being materially complied with.

I further certify that the amounts set forth in the Payment Schedules constitute Project Costs, as the term is defined in the Project Lease, and that all insurance policies which are required to be in force as a condition precedent to disbursement of funds from the Project Fund pursuant to the provisions of *Section 6.1* of the Project Lease are in full force and effect.

I acknowledge that the Tenant, as Purchaser of the Bonds, will be receiving such Bonds in compensation for the expenditures set forth in the Payment Schedules to acquire, construct and equip the Project and that the Bond will constitute full payment for these costs.

DATED \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Authorized Tenant Representative



EXHIBIT A - Payment Order No. \_\_\_\_\_

**PAYMENT SCHEDULE  
FOR BUILDINGS, IMPROVEMENTS AND  
MISCELLANEOUS PROJECT COSTS**

I hereby request payment of the amounts specified below to the payees whose names and addresses are stated below, and I certify that the description of the purchase or nature of each payment is reasonable, accurate and complete:

PAYMENT SCHEDULE

<u>Payee Name</u>	<u>Purpose or Nature of Payment</u>	<u>Amount</u>
-------------------	-------------------------------------	---------------

\_\_\_\_\_  
Initials

EXHIBIT B - Payment Order No. \_\_\_\_\_

**PAYMENT SCHEDULE  
FOR MACHINERY AND EQUIPMENT**

I hereby request payment of the amounts specified below to the payees whose names and addresses are stated below. I certify that the description of the purchase or nature of each payment is reasonable, accurate and complete. I further certify that the items described are free and clear of any liens or security interests. I have attached to this schedule a copy of the purchase order or seller's invoice for each item.

PAYMENT SCHEDULE

<u>Payee Name</u>	<u>Description of Equipment</u>	<u>Amount</u>
	(include name of seller, manufacturer, descriptive name, capacity, serial number of model number, if available)	

\_\_\_\_\_  
Initials

APPENDIX B

FORM OF CERTIFICATE OF COMPLETION

CERTIFICATE OF COMPLETION

The undersigned, being the Authorized Tenant Representative for Waltons 53rd Holdings LLC (the "Tenant"), as tenant under a Project Lease dated as of December 4, 2025 (the "Project Lease") between the City of Bel Aire, Kansas (the "Issuer") and the Tenant, and as beneficiary of the Issuer's Taxable Industrial Revenue Bonds, Series 2025B (Waltons 53rd Holdings LLC) issued pursuant to a Trust Indenture dated as of December 4, 2025 (the "Trust Indenture"), hereby certifies as follows. Capitalized terms not otherwise defined herein shall have the meanings set forth in the Trust Indenture and Project Lease.

1. The Improvements have been substantially completed in accordance with the plans and specifications prepared at the Tenant's direction.
2. Such Improvements have been substantially completed in a good and workmanlike manner.
3. There are no mechanic's, materialmen's liens or other statutory liens on file encumbering title to the Real Property; all bills for labor and materials furnished for the Improvements which could form the basis of a mechanic's, materialmen's or other statutory lien against the Real Property have been paid in full, and within the past four months no such labor or materials have been furnished which have not been paid for.
4. All Improvements are located or installed upon the Real Property.
5. All material provisions of applicable building codes have been complied with and, if applicable, a certificate of occupancy has been issued with respect to the Project.
6. All moneys remaining in the Project Fund being held by the Trustee under the Trust Indenture should be transferred to the Debt Service Fund being held by the Trustee under the Trust Indenture as required by *Section 5.04* of the Trust Indenture, to be applied as provided therein.

**IN WITNESS WHEREOF**, the undersigned Authorized Tenant Representative has signed this Certificate, and states, under penalty of perjury, that the statements of fact made in this Certificate are true and correct.

STATE OF [ ] )

) SS:

COUNTY OF [ ] )

Subscribed and sworn to or affirmed before me, a notary public, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

[SEAL]

Notary Public

My Appointment Expires: \_\_\_\_\_

***SCHEDULE I***

SCHEDULE I TO THE PROJECT LEASE, DATED AS OF DECEMBER 4, 2025, BY  
AND BETWEEN CITY OF BEL AIRE, KANSAS AND WALTONS 53RD HOLDINGS  
LLC

**PROPERTY SUBJECT TO PROJECT LEASE**

(A) A leasehold interest in the following described real estate located in Sedgwick County, Kansas:

Lot 8, Block C, Sunflower Commerce Park Addition to the City of Bel Aire, Kansas,  
Sedgwick County, Kansas (087-105-21-0-11-01-004.00)

the real property constituting the “Real Property” as referred to in the Project Lease, subject to Permitted Encumbrances.

(B) The buildings, improvements, equipment, fixtures and personal property now or hereafter acquired, constructed, or installed on the Real Property and financed or refinanced with proceeds of the Bonds.

The property described in paragraphs (A) and (B) of this *Schedule I*, together with any alterations or additional improvements properly deemed a part of the Project pursuant to and in accordance with the provisions of *Section 11.1* of the Project Lease, constitute the “Project” as referred to in both the Project Lease and the Trust Indenture.

GILMORE & BELL, P.C.  
11/11/2025

---

**CITY OF BEL AIRE, KANSAS**

**AS ISSUER**

**AND**

**SECURITY BANK OF KANSAS CITY  
KANSAS CITY, KANSAS**

**AS TRUSTEE**

**TRUST INDENTURE**

**DATED AS OF DECEMBER 4, 2025**

**NOT TO EXCEED \$12,000,000  
TAXABLE INDUSTRIAL REVENUE BONDS  
SERIES 2025B  
(WALTONS 53RD HOLDINGS LLC)**

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TRUST INDENTURE

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TRUST INDENTURE

**THIS TRUST INDENTURE**, dated as of December 4, 2025 (the “Indenture”), between the City of Bel Aire, Kansas (the “Issuer”), and Security Bank of Kansas City, Kansas City, Kansas, as Trustee (the “Trustee”);

**WITNESSETH:**

**WHEREAS**, the Issuer is authorized by K.S.A. 12-1740 *et seq.* (the “Act”), to acquire, construct, improve and equip facilities (as defined in the Act) for commercial, industrial and manufacturing purposes, and to enter into leases and lease-purchase agreements with any person, firm or corporation for the facilities, and to issue revenue bonds for the purpose of paying the cost of any such facilities; and

**WHEREAS**, pursuant to such authorization, the Issuer's governing body has passed an ordinance authorizing the Issuer to issue its Taxable Industrial Revenue Bonds, Series 2025B (Waltons 53rd Holdings LLC), in the principal amount of not to exceed \$12,000,000 (the “Series 2025B Bonds”), for the purpose of providing funds for the acquisition, construction and equipping of a meat processing supply and equipment commercial facility (the “Project” as hereinafter more fully described), and authorizing the Issuer to lease the Project to Waltons 53rd Holdings LLC, a Kansas limited liability company (the “Tenant”); and

**WHEREAS**, pursuant to such ordinance, the Issuer is authorized (i) to execute and deliver this Indenture for the purpose of issuing and securing the Series 2025B Bonds and any Additional Bonds (collectively the “Bonds”), as hereinafter provided, (ii) to enter into a Site Lease of even date herewith (the “Site Lease”), between the Issuer and the Tenant under which the Issuer will receive a leasehold interest in the Real Property, and (iii) to enter into a Project Lease of even date herewith (the “Project Lease”), between the Issuer and the Tenant, pursuant to which Issuer shall lease the Project to the Tenant, in consideration of rentals which are intended to be sufficient to provide for the payment of the principal of, premium, if any, and interest on the Series 2025B Bonds as the same become due; and

**WHEREAS**, all things necessary to make the Series 2025B Bonds, when authenticated by the Trustee and issued as provided in this Indenture, the valid and legally binding limited obligations of the Issuer, and to make this Indenture a valid and legally binding pledge and assignment of the Trust Estate herein made for the security of the payment of the principal of, premium, if any, and interest on the Bonds issued hereunder, have been done and performed, and the execution and delivery of this Indenture and the execution and issuance of the Series 2025B Bonds, subject to the terms hereof, have in all respects been duly authorized;

**NOW, THEREFORE, THIS INDENTURE WITNESSETH:**

**GRANTING CLAUSES**

That the Issuer, in consideration of the premises, the acceptance by the Trustee of the trusts hereby created, the purchase and acceptance of the Series 2025B Bonds by the Original Purchaser thereof, and of other good and valuable consideration, the receipt of which is hereby acknowledged, and in order to secure the payment of the principal of, premium, if any, and interest on all of the Bonds issued and Outstanding under this Indenture from time to time according to their tenor and effect, and to secure the performance and observance by the Issuer of all the covenants, agreements and conditions herein and in the Bonds contained, does hereby pledge and assign unto the Trustee and its successors and assigns, and

grant to the Trustee and its successors and assigns a security interest in the property described in paragraphs (a) and (b) below (the property being herein referred to as the “Trust Estate”), to wit:

(a) All right, title and interest of the Issuer in, to and under the Site Lease and Project Lease (including, but not limited to, the right to enforce any of the terms thereof but excluding the Unassigned Issuer’s Rights), and all rents, revenues and receipts derived by the Issuer from the Project including, without limitation, all Basic Rent derived by the Issuer under and pursuant to and subject to the provisions of the Site Lease and Project Lease; and

(b) All moneys and from time to time held by the Trustee under the terms of this Indenture, and any and all other real or personal property of every kind and nature from time to time hereafter, by delivery or by writing of any kind, pledged, assigned or transferred as and for additional security hereunder by the Issuer, by the Tenant or by anyone in their behalf, or with their written consent, to the Trustee, which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof.

**TO HAVE AND TO HOLD**, all and singular, the Trust Estate with all rights and privileges hereby pledged and assigned, or agreed or intended so to be, to the Trustee and its successors in trust and assigns;

**IN TRUST NEVERTHELESS**, upon the terms and subject to the conditions herein set forth, for the equal and proportionate benefit, protection and security of the Series 2025B Bonds and any Additional Bonds issued and Outstanding under this Indenture, without preference, priority or distinction as to lien or otherwise of any of the Bonds over any other of the Bonds except as expressly provided in or permitted by this Indenture;

**PROVIDED, HOWEVER**, if the Issuer shall pay, or cause to be paid, the principal of, premium, if any, and interest on all the Bonds, at the times and in the manner mentioned in the Bonds according to the true intent and meaning thereof, or shall provide for the payment thereof (as provided in *Article XII* hereof), and shall pay or cause to be paid to the Trustee all other sums of money due or to become due to it in accordance with the terms and provisions hereof, then upon such final payments this Indenture and the rights hereby granted shall cease, determine and be void; otherwise, this Indenture shall be and remain in full force and effect.

**THIS INDENTURE FURTHER WITNESSETH**, and it is hereby expressly declared, covenanted and agreed by and between the parties hereto, that all Bonds issued and secured hereunder are to be issued, authenticated and delivered and that all the Trust Estate is to be held and applied under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed, and the Issuer does hereby agree and covenant with the Trustee and with the respective Owners from time to time of the Bonds, as follows:

**ARTICLE I**

**DEFINITIONS**

**Section 1.01. Definitions of Words and Terms.** In addition to the words and terms defined elsewhere in this Indenture, Site Lease and the Project Lease, the following words and terms as used in this Indenture shall have the following meanings, unless some other meaning is plainly intended:

**“Act”** means K.S.A. 12-1740 *et seq.*

**“Additional Bonds”** means any Bonds issued in addition to the Series 2025B Bonds pursuant to Section 2.09 of this Indenture.

**“Authorized Denomination”** means \$1,000 or any integral multiples thereof, except one Bond in the denomination of \$1 (or such amount added to \$1,000)

**“Authorized Tenant Representative”** means Michael Le, or such other person as is designated to act on behalf of the Tenant as evidenced by written certificate furnished to the Trustee, containing the specimen signature of such person and signed on behalf of the Tenant by its Authorized Tenant Representative or any Member of the Tenant. Such certificate may designate an alternate or alternates, each of whom shall be entitled to perform all duties of the Authorized Tenant Representative.

**“Bond”** or **“Bonds”** means the Series 2025B Bonds and any Additional Bonds.

**“Bond Counsel”** means the firm of Gilmore & Bell, P.C. or any other attorney or firm of attorneys whose expertise in matters relating to the issuance of obligations by states and their political subdivisions is nationally recognized and acceptable to Issuer and Tenant.

**“Bond Purchase Agreement”** means the Bond Purchase Agreement dated December 4, 2025, between the Issuer and the Original Purchaser.

**“Bond Registrar”** means the Trustee.

**“Business Day”** means a day which is not a Saturday, Sunday or any day designated as a holiday by the Congress of the United States or by the legislature of the State and on which banks in the State are not authorized to be closed.

**“Change of Circumstances”** means the occurrence of any of the following events:

(a) title to, or the temporary use of, all or any substantial part of the Project shall be condemned by any authority exercising the power of eminent domain;

(b) title to all or any substantial portion of the Real Property is found to be deficient or nonexistent to the extent that the Project is untenable or the efficient utilization of the Project by the Tenant is substantially impaired;

(c) all or a substantial portion of the Improvements are damaged or destroyed by fire or other casualty; or

(d) as a result of: (i) changes in the constitution of the State; or (ii) any legislative or administrative action by the State or any political subdivision thereof, or by the United States; or (iii) any action instituted in any court, the Site Lease and Project Lease shall become void or unenforceable, or impossible of performance without unreasonable delay, or in any other way by reason of such changes of circumstances, unreasonable burdens or excessive liabilities are imposed upon Issuer or Tenant.

**“Construction Period”** means the period from the beginning of acquisition or construction of Improvements to their Completion Date.

**“Costs of Issuance”** means any and all expenses of whatever nature incurred in connection with the issuance and sale of Bonds, including, but not limited to, underwriting fees and expenses,

underwriting discount, initial fees of the Trustee, administrative fees or expenses of the Issuer, bond and other printing expenses and legal fees and expenses of Bond Counsel, Issuer's counsel and counsel for the Tenant.

**“Dated Date”** means December 4, 2025.

**“Debt Service Fund”** means the “City of Bel Aire, Kansas Debt Service Fund (Waltons 53rd Holdings LLC)” authorized and established with the Trustee pursuant to the Indenture.

**“Default Administration Costs”** means the reasonable fees, charges, costs, advances and expenses of the Trustee incurred in anticipation of an Event of Default, or after the occurrence of an Event of Default, including, but not limited to, counsel fees, litigation costs and expenses, the expenses of maintaining and preserving the Project and the expenses of re-letting or selling the Project.

**“Event of Default”** means one of the following events:

- (a) Default in the due and punctual payment of any interest on any Bond;
- (b) Default in the due and punctual payment of the principal of or premium, if any, on any Bond on the Stated Maturity or upon proceedings for redemption thereof, or upon the maturity thereof by declaration;
- (c) Default in the performance or observance of any other of the covenants, agreements or conditions on the part of the Issuer in this Indenture or in any Bonds contained, and the continuance thereof for a period of 30 days after written notice thereof shall have been given to the Issuer and the Tenant by the Trustee, or to the Trustee, the Issuer and the Tenant by Owner(s) of Bonds owning not less than 25% in aggregate principal amount of Bonds then Outstanding; provided, however, if any default shall be such that it cannot be corrected within such 30-day period, it shall not constitute an Event of Default if corrective action is instituted by the Issuer or the Tenant within such period and diligently pursued until such default is corrected; or
- (d) An “Event of Default” as defined in the Project Lease.

**“Funds and Accounts”** means funds and accounts created pursuant to or referred to in *Section 5.01* hereof.

**“Government Securities”** means direct obligations of, or obligations the payment of the principal of and interest on which are unconditionally guaranteed by, the United States of America.

**“Improvements”** means all buildings, building improvements, machinery and equipment purchased in whole or in part from the proceeds of the Bonds.

**“Indenture”** means this Trust Indenture, as from time to time amended and supplemented by Supplemental Indentures in accordance with the provisions of *Article XI* of this Indenture.

**“Interest Payment Date”** means any date on which any interest is payable on any Bond. With respect to the Series 2025B Bonds, it means December 31, 2026 and each December 31 thereafter, until the Series 2025B Bonds have been fully paid.

**“Investment Contract”** means an agreement to deposit all or any portion of the proceeds of the sale of the Bonds with a bank, with the deposits to bear interest at an agreed rate.

**“Investment Securities”** means any of the following securities, and to the extent the same are at the time permitted for investment of funds held by the Trustee pursuant to this Indenture:

- (a) Government Securities;
- (b) obligations of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Financing Bank, the Federal Intermediate Credit Corporation, National Bank for Cooperatives, Federal Land Banks, Federal Home Loan Banks, Farmers Home Administration and Federal Home Loan Mortgage Association;
- (c) savings or other depository accounts or certificates of deposit, whether negotiable or nonnegotiable, issued by any bank or trust company organized under the laws of any state of the United States of America or any national banking association (including the Trustee and its affiliates), provided that such deposits shall be either of a bank, trust company or national banking association continuously and fully insured by the Federal Deposit Insurance Corporation, or continuously and fully secured by excess deposit insurance purchased through a private insurer, or such securities as are described above in clauses (a) or (b), which shall have a market value (exclusive of accrued interest) at all times at least equal to the principal amount of such deposits and shall be lodged with the Trustee, as custodian, by the bank, trust company or national banking association accepting such deposit or issuing such certificate of deposit;
- (d) any Investment Contract or repurchase agreement with any bank or trust company organized under the laws of any state of the United States of America or any national banking association (including the Trustee) or government bond dealer reporting to, trading with, and recognized as a primary dealer by the Federal Reserve Bank of New York, which agreement is secured by any one or more of the securities described in clauses (a) or (b) above;
- (e) any investment in shares or units of a money market fund or trust rated “AAAm” or “AAAm-G” or better by S&P Global Ratings (including one offered, managed or otherwise made available through the Trustee or any affiliate);
- (f) investments in shares or units of a money market fund or trust, the portfolio of which is comprised entirely of securities described in clauses (a), (b) or (c) above.

**“Issue Date”** means the date when the Issuer delivers the Bonds to the Original Purchaser in exchange for the initial payment of all or part of the Purchase Price.

**“Issuer”** means the City of Bel Aire, Kansas, a city of the second class organized under the laws of the State, and its successors and assigns.

**“Maturity”** when used with respect to any Bond means the date on which the principal of such Bond becomes due and payable as therein and herein provided, whether at the Stated Maturity thereof or call for redemption or otherwise.

**“Notice Representative”** means:

- (a) With respect to the Tenant, its President at its Notice Address (as defined in the Project Lease).

(b) With respect to the Issuer, its duly acting clerk at its Notice Address (as defined in the Project Lease).

(c) With respect to the Trustee, any corporate trust officer at its Notice Address (as defined in the Project Lease).

**“Original Proceeds”** means all sale proceeds, including accrued interest, from sale of the Series 2025B Bonds to the Original Purchaser and all investment earnings credited to the Project Fund prior to the Completion Date.

**“Original Purchaser”** means Waltons 53rd Holdings LLC, Wichita, Kansas.

**“Outstanding”** means, as of a particular date all Bonds issued, authenticated and delivered under this Indenture (including any Supplemental Indentures), except:

(a) Bonds canceled by the Trustee or delivered to the Trustee for cancellation pursuant to this Indenture;

(b) Bonds for the payment or redemption of which moneys or investments have been deposited in trust with the Trustee and irrevocably pledged to such payment or redemption in accordance with the provisions of *Section 12.02* of this Indenture; and

(c) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered pursuant to this Indenture.

**“Owner” or “Owners”** means the owner of any Bond as shown on the registration books of the Trustee maintained as provided in this Indenture.

**“Paying Agent”** means the Trustee.

**“Payment Date”** means any Interest Payment Date or any Principal Payment Date.

**“Person”** means any natural person, corporation, partnership, joint venture, association, firm, joint-stock company, trust, unincorporated organization, or government or any agency or political subdivision thereof or other public body.

**“Principal Payment Date”** means any date on which principal on any Bond is due and payable, whether at the Stated Maturity or earlier required redemption thereof. With respect to the Series 2025B Bonds, the Principal Payment Date is December 31, 2035.

**“Project”** means the Real Property and the Improvements.

**“Project Additions”** means any Improvements acquired, constructed or installed from proceeds of any series of Additional Bonds authorized and issued pursuant to this Indenture. It also includes any alterations or additions made to the Project to the extent provided in *Articles XI* and *XII* of the Project Lease.

**“Project Costs”** means those costs incurred in connection with the Real Property, and the construction or installation of any Improvements, including:

(a) all costs and expenses necessary or incident to the acquisition of the Real Property and such of the Improvements as are acquired, constructed or in progress at the date of such issuance of the Series 2025B Bonds;

(b) fees and expenses of architects, appraisers, surveyors, engineers and other professional consultants for estimates, surveys, soil borings and soil tests and other preliminary investigations and items necessary to the commencement of acquisition, construction, preparation of plans, drawings and specifications and supervision of construction and installation, as well as for the performance of all other duties of architects, appraisers, surveyors, engineers and other professional consultants in relation to the acquisition, construction or installation of the Improvements or the issuance of Bonds;

(c) all costs and expenses incurred in constructing, acquiring or installing the Improvements;

(d) payment of interest actually incurred on any interim financing obtained from a lender unrelated to the Tenant for acquisition or performance of work on the Improvements prior to the issuance of the Bonds;

(e) the cost of the title insurance policies and the cost of any insurance and performance and payment bonds maintained during the Construction Period in accordance with *Article VI* of the Project Lease, respectively;

(f) interest accruing on the Series 2025B Bonds prior to the Completion Date, if and to the extent Original Proceeds deposited to the credit of the Debt Service Fund pursuant to *Section 602* of this Indenture are insufficient for payment of such interest; and

(g) Costs of Issuance.

**“Project Fund”** means the “City of Bel Aire, Kansas Project Fund (Waltons 53rd Holdings LLC)” authorized and established with the Trustee pursuant to the Indenture.

**“Project Lease”** means the Project Lease delivered concurrently with this Indenture between the Issuer and the Tenant, as from time to time amended and supplemented in accordance with the provisions thereof and of *Article XI* of this Indenture.

**“Purchase Price”** means the amount set forth in the Bond Purchase Agreement.

**“Real Property”** means the real property (or interests therein) described in *Schedule I* to the Project Lease.

**“Record Date”** means the fifteenth day of the month in which each Interest Payment Date is due, or if such date is not a Business Day, the Business Day immediately preceding such date.

**“Redemption Date”** means, when used with respect to any Bond to be redeemed, the date fixed for the redemption of such Bond pursuant to the terms of this Indenture.

**“Rental Payments”** means the aggregate of the Basic Rent and Additional Rent payments provided for pursuant to *Article III* of the Project Lease.

**“Series 2025B Bonds”** means the City of Bel Aire, Kansas Taxable Industrial Revenue Bonds, Series 2025B (Waltons 53rd Holdings LLC) dated December 4, 2025 in the aggregate principal amount of \$[12,000,000].

**“Site Lease”** means that Site Lease dated as of December 4, 2025, as from time to time amended or supplemented, between the Tenant, as lessor, and the Issuer, as lessee, creating a leasehold interest of the Real Property for the Issuer.

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

**“Stated Maturity”** when used with respect to any Bond or any installment of interest thereon means the date specified in such Bond and this Indenture as the fixed date on which the principal of such Bond or such installment of interest is due and payable.

**“Supplemental Indenture”** means any indenture supplementing or amending this Indenture entered into by the Issuer and the Trustee pursuant to *Article XI* of this Indenture.

**“Tenant”** means Waltons 53rd Holdings LLC, a Kansas limited liability company, its successors and assigns.

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

**“Trustee”** means Security Bank of Kansas City, Kansas City, Kansas, a banking corporation or association incorporated under the laws of the United States or one of the states thereof, in its capacity as trustee, bond registrar and paying agent, and its successor or successors serving as Trustee under this Indenture.

**“Unassigned Issuer’s Rights”** mean the rights of the Issuer pursuant to the Project Lease to indemnification, to consent, to receive notice, to receive purchase option payments, to be insured or to receive money for its own account for payment of fees or expenses advanced by the Issuer in connection with the Project Lease, all in accordance with the terms of the Project Lease.

## **Section 1.02. Rules of Interpretation.**

(a) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, the words importing the singular number shall include the plural and vice versa, and words importing persons shall include firms, associations, trusts and corporations, including public bodies, as well as natural persons.

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

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

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



## ARTICLE II

### THE BONDS

**Section 2.01. Title and Amount of Bonds.** No Bonds may be issued under this Indenture except in accordance with the provisions of this Article. The Bonds authorized to be issued under this Indenture shall be designated as “City of Bel Aire, Kansas Taxable Industrial Revenue Bonds, Series 2025B (Waltons 53rd Holdings LLC),” with such other appropriate particular designation added to or incorporated in such title for the Bonds of any particular series of Additional Bonds as the Issuer may determine. The total principal amount of Bonds that may be issued hereunder is hereby expressly limited to the [\$12,000,000] principal amount of Series 2025B Bonds and any Additional Bonds permitted hereunder.

#### **Section 2.02. Limited Nature of Obligations.**

(a) The Bonds and the interest thereon shall be limited obligations of the Issuer payable solely and only from the net earnings and revenues derived by the Issuer from the Project, including but not limited to the rents, revenues and receipts under the Project Lease (including, in certain circumstances, Bond proceeds and income from the temporary investment thereof and proceeds from sale of the Project or insurance proceeds and condemnation awards, if any, and are secured by a pledge and assignment of the Trust Estate to the Trustee in favor of the Owner(s) of Bonds, as provided in this Indenture. The Bonds and the interest thereon shall not be a debt or general obligation of the Issuer or the State, or any municipal corporation thereof, and neither the Bonds, the interest thereon, nor any judgment thereon or with respect thereto, are payable in any manner from tax revenues of any kind or character. The Bonds shall not constitute an indebtedness or a pledge of the faith and credit of the Issuer, the State or any municipal corporation thereof, within the meaning of any constitutional or statutory limitation or restriction.

(b) No provision, covenant or agreement contained in this Indenture or the Bonds, or any obligation herein or therein imposed upon the Issuer, or the breach thereof, shall constitute or give rise to or impose upon the Issuer a pecuniary liability or a charge upon its general credit or powers of taxation. In making the agreements, provisions and covenants set forth in this Indenture, the Issuer has not obligated itself except with respect to the Project and the application of the payments, revenues and receipts therefrom as hereinabove provided. Neither the officers of the Issuer nor any person executing the Bonds shall be liable personally on the Bonds by reason of the issuance thereof.

#### **Section 2.03. Denomination, Numbering and Dating of Bonds.**

(a) The Bonds shall consist of fully registered Bonds in an Authorized Denomination. The Bonds shall be substantially in the form set forth in *Article IV* of this Indenture. The Bonds of each series of Bonds shall be numbered in such manner as the Trustee shall determine.

(b) The Bonds of each series of Bonds shall be dated as provided in this Indenture or the Supplemental Indenture authorizing the issuance of such series of Bonds. The Bonds shall bear interest from their effective date of registration. The effective date of registration shall be the Interest Payment Date next preceding the date of authentication thereof by the Trustee, unless such date of authentication shall be an Interest Payment Date, in which case the effective date of registration shall be as of such date of authentication, or unless the date of authentication shall be prior to the first Interest Payment Date for such series of Bonds, in which case the effective date of registration shall be the dated date of such series of Bonds; provided, however, if payment of the interest on any Bonds of any series shall be in default at

the time of authentication of any Bond certificates issued in lieu of Bonds surrendered for transfer or exchange, the effective date of registration shall be as of the date to which interest has been paid in full on the Bonds surrendered.

**Section 2.04. Method and Place of Payment of Bonds.** The principal of, redemption premium, if any, and interest on the Bonds shall be payable in any coin or currency which, on the respective dates of payment thereof, is legal tender for the payment of public and private debts.

The interest payable on each Bond on any Interest Payment Date shall be paid to the Owner of such Bond as shown on the Bond Register at the close of business on the Record Date for such interest (a) by check or draft mailed by the Paying Agent to the address of such Owner shown on the Bond Register or at such other address as is furnished to the Paying Agent in writing by such Owner; or (b) in the case of an interest payment to any Owner of \$500,000 or more in aggregate principal amount of Bonds, by electronic transfer to such Owner upon written notice given to the Bond Registrar by such Owner, not less than 15 days prior to the Record Date for such interest, containing the electronic transfer instructions including the bank ABA routing number and account number to which such Owner wishes to have such transfer directed.

Final payment of principal and redemption premium, if any, on all Bonds shall be made by check or draft upon the presentation and surrender of the certificate(s) representing such Bonds at the Maturity thereof at the principal corporate trust office of the Paying Agent.

**Section 2.05. Execution and Authentication of Bonds.**

(a) Bond certificates shall be executed on behalf of the Issuer by the manual or facsimile signature of the Mayor and attested by the manual or facsimile signature of its City Clerk, and shall have the corporate seal of the Issuer affixed thereto or imprinted thereon. In case any officer whose signature or facsimile thereof appears on any Bond certificates shall cease to be such officer before the delivery of such Bonds, such signature or facsimile thereof shall nevertheless be valid and sufficient for all purposes, the same as if such person had remained in office until delivery. Any Bond certificate may be signed by such persons as at the actual time of the execution of such Bond certificate shall be the proper officers to sign although on the date of issuance of such Bond such persons may not have been such officers.

(b) The Bonds shall have endorsed thereon a Certificate of Authentication substantially in the form set forth in *Article IV* hereof, which shall be manually executed by the Trustee. No Bond shall be entitled to any security or benefit under this Indenture or shall be valid or obligatory for any purpose unless and until such Certificate of Authentication shall have been duly executed. Such executed Certificate of Authentication upon any Bond certificate shall be conclusive evidence that the Bonds described in such Bond certificate have been duly authenticated and delivered under this Indenture. The Certificate of Authentication on any Bond certificate shall be deemed to have been duly executed if signed by any authorized officer or employee of the Trustee, but it shall not be necessary that the same officer or employee sign the Certificate of Authentication on all of the Bond certificates that may be delivered hereunder at any one time.

**Section 2.06. Registration, Transfer and Exchange of Bonds.**

(a) The Trustee shall keep books for the registration and for the transfer of the Series 2025B Bonds and any Additional Bonds as provided in this Indenture.

(b) Bonds may be transferred only upon the books maintained by Trustee for the registration and transfer of Bonds upon surrender of the certificate(s) representing such Bonds to the Trustee duly

endorsed for transfer or accompanied by an assignment duly executed by the Owner(s) of Bonds or his attorney or legal representative in such form as shall be satisfactory to the Trustee. Upon any such transfer, the Issuer shall execute and the Trustee shall authenticate and deliver in exchange for such Bonds new Bond certificate(s), registered in the name of the transferee, of any Authorized Denomination in an aggregate principal amount equal to the principal amount of such Bonds, of the same series and maturity and bearing interest at the same rate. In the event that any Owner(s) of Bonds fails to provide a certified taxpayer identification number to the Trustee, the Trustee may make a charge against such Owner(s) of Bonds 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 Paying Agent from amounts otherwise payable to any Owner(s) of Bonds.

(c) In all cases in which Bonds shall be exchanged or transferred hereunder, the Issuer shall execute and the Trustee shall authenticate and deliver at the earliest practicable time Bond certificates in accordance with the provisions of this Indenture. All Bond certificates surrendered in any such exchange or transfer shall forthwith be canceled by the Trustee. The Issuer or the Trustee may make a charge for every such exchange or transfer of Bonds sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer, and such charge shall be paid by the Owner(s) of Bonds before any such new Bond certificate shall be delivered. Neither the Issuer nor the Trustee shall be required to make any such exchange or transfer of Bonds on or after the Record Date preceding a Payment Date on the Bonds or, in the case of any proposed redemption of Bonds, during the 15 days immediately preceding the selection of Bonds for such redemption or after such Bonds or any portion thereof has been selected for redemption.

(d) Any proposed transfer of Series 2025B Bonds shall be made by the Trustee only upon delivery to the Trustee, the Issuer and the Tenant of an opinion of counsel to the proposed transferor either (i) that the proposed transfer is a part of a transaction exempt from the application of the Securities Act of 1933, as amended (the “1933 Act”), or (ii) that the transfer is a part of a transaction that is in compliance with the registration provisions of the 1933 Act, which opinion shall be in form and substance acceptable to both the Trustee, the Issuer and the Tenant.

(e) All of the duties of the Trustee set forth in this *Section 2.06* may be performed by any co-trustee or co-paying agent appointed by the Trustee, to the extent specified in the instrument appointing such co-trustee or co-paying agent.

**Section 2.07. Persons Deemed Owners of Bonds.** The person in whose name any Bond shall be registered as shown on the registration books required to be maintained by the Trustee by this Article shall be deemed and regarded as the absolute owner thereof for all purposes. Payment of, or on account of the principal of and premium, if any, and, interest on any such Bond shall be made only to or upon the order of such registered Owner or a duly constituted legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond, including the interest thereon, to the extent of the sum or sums so paid.

#### **Section 2.08. Authorization of Series 2025B Bonds.**

(a) The Series 2025B Bonds shall be issued by the Issuer in an aggregate principal amount not exceeding \$12,000,000 and shall be purchased by the Original Purchaser thereof at their par principal amount for the purpose of providing the funds to pay, or reimburse the Tenant, for payment of Project Costs. The Series 2025B Bonds shall be in substantially the form attached hereto as *Exhibit A*. The Series 2025B Bonds shall be in the aggregate original principal amount of the amount advanced to the Project Fund by the Original Purchaser of the Series 2025B Bonds on the Issue Date, and each amount subsequently advanced to the Project Fund on each Draw Date, made by presenting to the Trustee a

completed requisition for payment of Project Costs in the form attached as *Exhibit A* to the Project Lease, but not exceeding an aggregate principal amount of \$12,000,000. Advances on the Series 2025B Bonds shall be made on the Issue Date and on each Draw Date; provided, however, all advances of additional principal for the Series 2025B Bonds must occur, if at all, by the Completion Date.

Pending advancement by the Original Purchaser of the entire authorized principal amount of Series 2025B Bonds, or receipt from the Tenant of a Certificate of Completion, whichever comes first, the Trustee shall retain custody of all Series 2025B Bond certificates. The Trustee shall endorse the Schedule of Principal Amounts Advanced attached to the Series 2025B Bond certificate to reflect an increase in principal amount Outstanding each time the Original Purchaser advances money to the Project Fund to pay Project Costs as requested by the Tenant. Each such endorsement reflecting an increase in Outstanding principal amount shall constitute the Trustee's authentication of the issuance of Series 2025B Bonds reflected by such endorsement. The Issuer hereby irrevocably authorizes the Trustee to so endorse each Series 2025B Bond certificate; however, failure by the Trustee to effect any such endorsement or any error in such endorsement shall not limit the Issuer's obligations under the Series 2025B Bond certificate with respect to principal amounts which are in fact Outstanding. The Trustee shall, upon request, send written confirmation to the Tenant and the Issuer of the amount of Series 2025B Bonds Outstanding on any date. The Trustee agrees that immediately upon the making of any endorsement on the Schedule of Principal Amounts Advanced attached to the Series 2025B Bond certificate, the Trustee will forward a copy of such Schedule of Principal Amounts Advanced to Bond Counsel, via fax, email or overnight delivery, to the address set forth below:

Gilmore & Bell, P.C.  
 100 North Main, Suite 800  
 Wichita, Kansas 67202  
 Attention: Kevin M. Cowan, Esq.  
 Fax: (816) 221-1018  
 Email: [kcowan@gilmorebell.com](mailto:kcowan@gilmorebell.com)

The Series 2025B Bonds shall be payable as set forth in *Appendix A* and shall be dated, bear interest, and be subject to redemption and transfer as set forth in such forms. All of the terms and provisions of the Series 2025B Bonds as set forth in *Appendix A* are incorporated into this Indenture by reference. The Series 2025B Bonds and the interest and redemption premium, if any, thereon will not be a general obligation of the Issuer but shall be payable solely out of the revenues derived by the Issuer pursuant to the Project Lease (except to the extent payable from proceeds of sale or re-letting of the Project).

(b) Interest on the Series 2025B Bonds shall be payable to the Owners thereof in accordance with the provisions of *Article II* hereof.

(c) The Trustee is hereby designated as the Issuer's Paying Agent for the payment of the principal of, premium, if any, and interest on the Series 2025B Bonds. The Trustee may appoint one or more financial institutions to act as co-paying agent for the Series 2025B Bonds.

(d) Upon the original issuance and delivery of the Series 2025B Bonds, the effective date of registration thereof shall be their Dated Date.

(e) The Series 2025B Bonds shall be substantially in the form and manner set forth in *Article IV* hereof and delivered to the Trustee for authentication, but prior to or simultaneously with the authentication and delivery of the Bonds by the Trustee, there shall be filed with the Trustee the following:

- (i) An original or certified copy of the Ordinance enacted by the Issuer's governing body authorizing the issuance of the Series 2025B Bonds and the execution of this Indenture and the Project Lease.
- (ii) An original executed counterpart of this Indenture.
- (iii) An original executed counterpart of the Site Lease.
- (iv) An original executed counterpart of the Project Lease.
- (v) An opinion of Bond Counsel to the effect that the Series 2025B Bonds constitute valid and legally binding obligations of the Issuer and exempt from Kansas income taxation, subject to such limitations and restrictions as shall be described therein.
- (vi) Such other certificates, statements, receipts and documents as the Trustee shall reasonably require for the delivery of the Series 2025B Bonds.

(f) When the documents specified in subsection (e) of this Section shall have been filed with the Trustee, and when certificates representing all the Series 2025B Bonds shall have been executed and authenticated as required by this Indenture, the Trustee shall deliver the Series 2025B Bonds to or upon the order of the Original Purchaser thereof, but only upon payment to the Trustee of the Purchase Price of the Series 2025B Bonds. The Original Proceeds, including accrued interest and premium thereon, if any, shall be immediately paid over to the Trustee, and the Trustee shall deposit and apply such proceeds as provided in *Article V* hereof.

## **Section 2.09. Authorization of Additional Bonds.**

(a) Additional Bonds may be issued under and equally and ratably secured by this Indenture on a parity with the Series 2025B Bonds and any other Additional Bonds Outstanding at any time and from time to time, upon compliance with the conditions hereinafter provided in this Section, for any of the following purposes:

- (i) To provide funds to pay the costs of completing the Improvements, the total of such costs to be evidenced by a certificate signed by the Authorized Tenant Representative.
- (ii) To provide funds to pay all or any part of the costs of repairing, replacing or restoring Improvements in the event of damage, destruction or condemnation thereto or thereof.
- (iii) To provide funds to pay all or any part of the costs of acquisition, purchase or construction of such additions, improvements, extensions, alterations, expansions or modifications of the Project (including additional Real Property or Improvements) or any part thereof as the Tenant may deem necessary or desirable and as will not impair the nature of the Project as a "facility" within the meaning and purposes of the Act.
- (iv) To provide funds for refunding all or any part of the Bonds of any series then Outstanding, including the payment of any premium thereon and interest to accrue to the designated Redemption Date and any expenses in connection with such refunding.

(b) Before any Additional Bonds shall be issued under the provisions of this Section, the Original Purchaser shall be given written notice thereof by Issuer or Tenant, and the Issuer's governing body shall enact an Ordinance (i) authorizing the issuance of such Additional Bonds, fixing the amount and terms thereof and describing the purpose or purposes for which such Additional Bonds are being issued or describing the Bonds to be refunded, (ii) authorizing the Issuer to enter into a Supplemental Indenture for the purpose of providing for the issuance of and securing such Additional Bonds and, if required, (iii) authorizing the Issuer to enter into a supplemental lease with the Tenant to provide for rental payments at least sufficient to pay the principal of, premium, if any, and interest on the Bonds then to be Outstanding (including the Additional Bonds to be issued) as the same become due, for the acquisition, purchase, construction or installation of additional Improvements, for the inclusion of any such addition, expansion or modification as a part of the Project, and for such other matters as are appropriate because of the issuance of the Additional Bonds proposed to be issued which, in the judgment of the Issuer, is not to the prejudice of the Issuer or the owners of the Bonds previously issued.

(c) Such Additional Bonds shall have the same designation as the Series 2025B Bonds, except for an identifying series letter or date and the addition of the word "Refunding" when applicable, shall be dated, shall be stated to mature on Principal Payment Dates in such year or years, shall bear interest at such rate or rates not exceeding the maximum rate then permitted by law, and shall be redeemable at such times and prices (subject to the provisions of *Article III* of this Indenture), all as may be provided by the Supplemental Indenture authorizing the issuance of such Additional Bonds. Except as to any difference in the date, the maturity or maturities, the rate or rates of interest or the provisions for redemption, such Additional Bonds shall be on a parity with and shall be entitled to the same benefit and security of this Indenture as the Series 2025B Bonds and any other Additional Bonds Outstanding at the time of the issuance of such Additional Bonds.

(d) Such Additional Bonds shall be substantially in the form and executed in the manner set forth in this Article and *Article IV* hereof and certificates representing such Bonds shall be deposited with the Trustee for authentication, but prior to or simultaneously with the authentication and delivery of such Bond certificates by the Trustee, there shall be filed with the Trustee the following:

(i) An original or certified copy of the ordinance enacted by the Issuer's governing body authorizing the issuance of such Additional Bonds and the execution of such Supplemental Indenture and the appropriate amendments or supplements to the Project Lease.

(ii) An original executed counterpart of the Supplemental Indenture providing for the issuance of the Additional Bonds.

(iii) An original executed counterpart of the amendment or supplement to the Project Lease, if required.

(iv) An opinion of Bond Counsel to the effect that the Additional Bonds constitute valid and legally binding obligations of the Issuer.

(v) In the case of Additional Bonds being issued to refund Outstanding Bonds, such additional documents as shall be reasonably required by the Trustee to establish that provision has been duly made for the payment of all of the Bonds to be refunded in accordance with the provisions of *Article XII* of this Indenture.

(vi) A copy of the written notice to the Original Purchaser.

(vii) Such other instructions, certificates, statements, receipts and documents as the Trustee shall reasonably require for the delivery of such Additional Bonds.

(e) When the documents mentioned in subsection (d) of this Section shall have been filed with the Trustee, and when such Additional Bonds shall have been executed and authenticated as required by this Indenture, the Trustee shall deliver such Additional Bonds to or upon the order of the purchasers thereof, but only upon payment to the Trustee of the purchase price of such Additional Bonds. The proceeds of the sale of such Additional Bonds (except Additional Bonds issued to refund Outstanding Bonds), including accrued interest and premium thereon, if any, shall be immediately paid over to the Trustee and shall be deposited and applied by the Trustee as provided in *Article V* hereof and in the Supplemental Indenture authorizing the issuance of such Additional Bonds. The proceeds (excluding accrued interest and premium, if any, which shall be deposited in the Debt Service Fund) of all Additional Bonds issued to refund Outstanding Bonds shall be deposited by the Trustee, after payment or making provision for payment of all expenses incident to such financing, to the credit of a special trust fund, appropriately designated, to be held in trust for the sole and exclusive purpose of paying the principal of, premium, if any, and interest on the Bonds to be refunded, as provided in *Section 12.02* hereof and in the Supplemental Indenture authorizing the issuance of such refunding Bonds.

(f) Except as provided in this Section, the Issuer will not otherwise issue any obligations ratably secured and on a parity with the Bonds, but the Issuer may issue other obligations specifically subordinate and junior to the Bonds with the express written consent of the Tenant.

#### **Section 2.10. Temporary Bonds.**

(a) Until definitive Bonds of any series are available for delivery, the Issuer may execute, and upon request of the Issuer, the Trustee shall authenticate and deliver, in lieu of definitive Bonds, but subject to the same limitations and conditions as definitive Bonds, temporary printed, engraved, lithographed or typewritten Bonds, in the form of fully registered Bonds in denominations of \$5,000 or any integral multiple thereof, substantially of the tenor hereinabove set forth and with such appropriate omissions, insertions and variations as may be required with respect to such temporary Bonds.

(b) If temporary Bonds shall be issued, the Issuer shall cause the definitive Bonds to be prepared and to be executed and delivered to the Trustee, and the Trustee, upon presentation to it at its principal office of any temporary Bond shall cancel the same and authenticate and deliver in exchange therefor, without charge to the Owner thereof, a definitive Bond or Bonds of an equal aggregate principal amount, of the same series and maturity and bearing interest at the same rate as the temporary Bond surrendered. Until so exchanged the temporary Bonds shall in all respects be entitled to the same benefit and security of this Indenture as the definitive Bonds to be issued and authenticated hereunder.

**Section 2.11. Mutilated, Lost, Stolen or Destroyed Bonds.** In the event any Bond certificate shall become mutilated, or be lost, stolen or destroyed, the Issuer shall execute and the Trustee shall authenticate and deliver a new Bond certificate of like series, date and tenor as the Bond certificate mutilated, lost, stolen or destroyed. In the case of any mutilated Bond certificate, such mutilated Bond shall first be surrendered to the Trustee; and in the case of any lost, stolen or destroyed Bond certificate, there shall be first furnished to the Issuer and the Trustee evidence of such loss, theft or destruction satisfactory to the Issuer and the Trustee, together with indemnity satisfactory to them. In the event any such Bond shall have matured, instead of issuing a substitute Bond certificate the Issuer may pay or authorize the payment of the same without surrender thereof. Upon the issuance of any substitute Bond certificate, the Issuer and the Trustee may require the payment of an amount sufficient to reimburse the Issuer and the Trustee for any tax or other governmental charge that may be imposed in relation thereto and any other reasonable fees and expenses incurred in connection therewith.

**Section 2.12. Cancellation and Destruction of Bonds Upon Payment.**

(a) All Bonds which have been paid or redeemed or which the Trustee has purchased or the certificates of which have otherwise been surrendered to the Trustee under this Indenture, either at or before Maturity, shall be canceled by the Trustee immediately upon the payment, redemption or purchase of such Bonds and the surrender of the certificates thereof to the Trustee.

(b) All Bonds canceled under any of the provisions of this Indenture shall be delivered by the Trustee to the Issuer, or, upon request of the Issuer, shall be destroyed by the Trustee.

**Section 2.13. Payments Due on Saturdays, Sundays and Holidays.** In any case where the Maturity of any Bonds shall not be a Business Day, then payment of principal, premium, if any, or interest 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, and no interest shall accrue for the period after such date.

**Section 2.14. Nonpresentment of Bonds.** In the event that any Bond shall not be presented for payment when the principal thereof becomes due, either at its Stated Maturity or Redemption Date, or the Trustee is unable to locate the Owner for the payment of accrued interest or an accrued interest check remains uncashed, if funds sufficient to pay such Bond and accrued interest shall have been made available to the Trustee, all liability of the Issuer to the Owner(s) of Bonds for the payment of such Bond and accrued interest shall cease and be completely discharged, and the Trustee shall hold such funds, without interest, for the benefit of such Owner(s) of Bonds, who shall thereafter be restricted exclusively to such funds for any claim on, or with respect to, such Bond and interest. If any Bond shall not be presented for payment within four years following the date when it becomes due, whether by Maturity or otherwise, or the accrued interest cannot be paid as set out above, the Trustee shall repay to the Tenant the funds theretofore held by it for payment of such Bond and interest, and such Bond and interest shall thereafter be an unsecured obligation of the Tenant, subject to the defense of any applicable statute of limitation, and the Owner thereof shall be entitled to look only to the Tenant for payment, and then only to the extent of the amount so repaid, and the Tenant shall not be liable for any additional interest thereon.

## **ARTICLE III**

### **REDEMPTION OF BONDS**

**Section 3.01. Redemption of Bonds Generally.** The Series 2025B Bonds shall be subject to redemption prior to Stated Maturity in accordance with the terms and provisions of this Article. Additional Bonds shall be subject to redemption prior to Stated Maturity in accordance with the terms and provisions contained in this Article and as may be specified in the Supplemental Indenture authorizing such Additional Bonds.

**Section 3.02. Redemption of Series 2025B Bonds.** The Series 2025B Bonds shall be subject to redemption and payment prior to Stated Maturity, at the option of the Issuer, upon instructions from the Tenant, on and after December 4, 2025, as a whole or in part on any date, at the redemption price of the par value of the principal amount thereof, without premium.



### **Section 3.03. Selection of Bonds to be Redeemed.**

(a) Bonds shall be redeemed only in Authorized Denominations. If less than all of the Outstanding Bonds of any series are to be redeemed and paid prior to Stated Maturity, such Bonds shall be redeemed as directed in writing by the Tenant. Bonds of less than a full Stated Maturity are to be selected by the Trustee in such equitable manner as it may determine.

(b) In the case of a partial redemption of Bonds by lot when Bonds of denominations greater than a minimum Authorized Denomination are then Outstanding, then for all purposes in connection with such redemption each minimum Authorized Denomination of face value shall be treated as though it was a separate Bond of the minimum Authorized Denomination. If it is determined that one or more, but not all, of the minimum Authorized Denomination units of face value represented by any fully registered Bond is selected for redemption, then the Owner of such Bond or his attorney or legal representative shall forthwith present and surrender such Bond to the Trustee (i) for payment of the redemption price (including the premium, if any, and interest to the Redemption Date) of the minimum Authorized Denomination unit or units of face value called for redemption, and (ii) for exchange, without charge to the Owner thereof, for a new Bond or Bonds of the aggregate principal amount of the unredeemed portion of the principal amount of such Bond. If the owner of any such Bond of a denomination greater than a minimum Authorized Denomination shall fail to present such Bond to the Trustee for payment and exchange, such Bond shall, nevertheless, become due and payable on the Redemption Date to the extent of the principal amount thereof called for redemption (and to that extent only).

**Section 3.04. Trustee's Duty to Redeem Bonds.** Upon receipt by the Trustee of such written advice, if required, and upon its own initiative if not required, the Trustee shall give at least 30 days' written notice of redemption to the Owner(s) of Bonds as provided herein. The Trustee shall call Bonds for redemption and payment as herein provided and shall give notice of redemption as provided in *Section 3.05* hereof upon receipt by the Trustee at least 45 days prior to the proposed Redemption Date (unless waived) of a written request of the Issuer together with a copy of the redemption instructions of the Tenant. Such instructions shall specify the principal amount and the respective maturities of Bonds to be called for redemption, the applicable redemption price or prices and the provision or provisions of this Indenture pursuant to which such Bonds are to be called for redemption. Such instructions may direct that the redemption be conditioned upon the availability of funds therefore from the proceeds of refunding bonds issued by the Issuer.

**Section 3.05. Notice of Redemption.** Notice of the call for any redemption identifying the Bonds or portions thereof to be redeemed shall be given by the Trustee, in the name of the Issuer, by mailing by first class mail, postage prepaid, a copy of the redemption notice at least 30 days prior to the date fixed for redemption to the Owner of each Bond to be redeemed at the address shown on the registration books maintained by the Trustee; provided, however, failure to give such notice by mailing, or any defect therein, shall not affect the validity of any proceedings for the redemption of the Bonds. Any notice of redemption shall state the Redemption Date, the place or places at which such Bonds shall be presented for payment, the series, maturities and numbers of the Bonds or portions of Bonds to be redeemed (and in the case of the redemption of a portion of any Bond the principal amount thereof being redeemed), the redemption price and shall state that interest on the Bonds described in such notice will cease to accrue from and after the Redemption Date. Any notice of redemption may be conditioned upon the availability of funds therefore from the proceeds of refunding bonds to be issued by the Issuer, if so instructed by the Tenant. A copy of each such notice of redemption shall be provided to any authorized co-paying agent appointed by the Trustee.

**Section 3.06. Effect of Call for Redemption.** Prior to the date fixed for redemption, funds or Government Securities maturing on or before the date fixed for redemption shall be deposited with the Trustee in amounts sufficient to provide for payment of the Bonds called for redemption, accrued interest thereon to the Redemption Date and the redemption premium, if any. Upon the deposit of such funds or Government Securities, and notice having been given as provided in *Section 3.05* hereof, the Bonds or the portions of the principal amount of Bonds thus called for redemption shall cease to bear interest on the specified Redemption Date, and shall no longer be entitled to the protection, benefit or security of this Indenture and shall not be deemed to be Outstanding under the provisions of this Indenture.

ARTICLE IV

FORM OF BONDS

**Section 4.01. Forms Generally.** The Series 2025B Bonds, and the Trustee's certificate of authentication to be endorsed thereon shall be, respectively, in substantially the form set forth in *Appendix A*. Any Additional Bonds, and the Trustee's Certificate of Authentication to be endorsed thereon shall also be in substantially such form, with such necessary or appropriate variations, omissions and insertions as are permitted or required by this Indenture or any Supplemental Indenture. The Bonds may have endorsed thereon such legends or text as may be necessary or appropriate to conform to any applicable rules and regulations of any governmental authority or any custom, usage or requirement of law with respect thereto.

**Section 4.02. Bond Counsel's Approving Opinion.** If printed on the Bond certificates, Bond Counsel's approving opinion with respect to the authorization and issuance of the Bonds shall be preceded by the following certificate:

I, the undersigned, City Clerk of the City of Bel Aire, Kansas hereby certify that the following is a true and correct copy of the complete final legal opinion of Gilmore & Bell, P.C., Bond Counsel, on the within Bond and the series of which the Bond is a part, except that it omits the date of such opinion, that the legal opinion was manually executed and was dated and issued as of the date of delivery of and payment for such Bonds, and is on file with Security Bank of Kansas City, Kansas City, Kansas.

(facsimile signature)  
City Clerk of the  
City of Bel Aire, Kansas

ARTICLE V

CUSTODY AND APPLICATION OF BOND PROCEEDS

**Section 5.01. Creation of Funds and Accounts.** There are hereby authorized to be established in the custody of the Trustee the following Funds and Accounts:

- (a) “City of Bel Aire, Kansas Project Fund (Waltons 53rd Holdings LLC)”
- (b) “City of Bel Aire, Kansas Debt Service Fund (Waltons 53rd Holdings LLC)”

The Trustee may create separate subaccounts in any Fund or Account for each series of Bonds issued pursuant to the Indenture.

**Section 5.02. Deposit of Bond Proceeds.** Except as otherwise provided in *Section 4.1* of the Project Lease, the net proceeds received from the sale of the Series 2025B Bonds shall be deposited simultaneously with the delivery of the Series 2025B Bonds as follows:

(a) All accrued interest and premium, if any, received from the sale of the Series 2025B Bonds shall be deposited in the Debt Service Fund.

(b) The remaining balance of proceeds derived from the sale of the Series 2025B Bonds shall be deposited in the Project Fund.

## ARTICLE VI

### REVENUES AND FUNDS

**Section 6.01. Deposits into the Project Fund.** In addition to the amounts required to be paid into the Project Fund pursuant to *Section 5.02* hereof, the following funds shall be paid over to and deposited by the Trustee into the Project Fund, as and when received:

(a) The earnings accrued on the investment of moneys in the Project Fund and required to be deposited into the Project Fund pursuant to *Section 7.02* hereof.

(b) If required by a Supplemental Indenture authorizing the issuance of Additional Bonds, additional amounts from the proceeds of such Additional Bonds required to acquire, construct and install the Project Additions.

(c) The Net Proceeds of casualty insurance, condemnation awards or title insurance required to be deposited into the Project Fund pursuant to the Project Lease.

(d) Any and all payments from any contractors or other suppliers by way of breach of contract, refunds or adjustments required to be deposited into the Project Fund pursuant to the Project Lease.

(e) Except as otherwise provided herein or in the Project Lease, any other money received by or to be paid to the Trustee from any other source for the purchase or construction of the Improvements, when accompanied by directions by the Tenant that such moneys are to be deposited into the Project Fund.

### **Section 6.02. Disbursements from the Project Fund.**

(a) The moneys in the Project Fund shall be disbursed by the Trustee for the payment of Project Costs (other than Costs of Issuance) in accordance with the provisions of *Article V* of the Project Lease. The Trustee hereby covenants and agrees to disburse such moneys in accordance with such provisions. If the Issuer so requests, a copy of each requisition certificate submitted to the Trustee for payment under this Section shall be promptly provided by the Trustee to the Issuer.

(b) The Trustee shall keep and maintain adequate records pertaining to the Project Fund and all disbursements therefrom, and after the Improvements have been completed the Trustee, if requested, shall file a statement of receipts and disbursements with respect thereto with the Issuer and the Tenant.

(c) The completion of the Improvements and payment of all costs and expenses incident thereto shall be evidenced by the filing with the Trustee by the Tenant of the Certificate of Completion required by *Section 5.5* of the Project Lease. Any balance remaining in the Project Fund shall without further authorization be deposited in the Debt Service Fund and applied by the Trustee solely to the payment of principal of the Bonds through the payment on a Stated Maturity or redemption thereof on any Redemption Date specified in the optional redemption provisions of *Section 3.02* hereof, or as otherwise permissible in the opinion of Bond Counsel.

**Section 6.03. Disposition Upon Acceleration.** If the principal of the Bonds shall have become due and payable pursuant to *Section 9.01* of this Indenture, upon the date of payment by the Trustee of any moneys due as hereinafter provided in *Article IX*, any balance remaining in the Project Fund shall, without further authorization, be deposited in the Debt Service Fund by the Trustee.

**Section 6.04. Deposits into the Debt Service Fund.** In addition to the amounts required to be paid into the Debt Service Fund pursuant to *Section 5.02* hereof, the Trustee shall deposit into the Debt Service Fund, as and when received, the following:

(a) If required by a Supplemental Indenture authorizing the issuance of Additional Bonds, proceeds of such Additional Bonds in an amount not to exceed the sum which, when added to the accrued interest and premium, if any, received from the sale of such Additional Bonds, will be sufficient to pay the interest accruing on such Additional Bonds during the estimated period of construction of the Project Additions financed through the issuance of such Additional Bonds.

(b) All Basic Rent payable by the Tenant to the Issuer specified in *Section 3.1* of the Project Lease.

(c) Any amount in the Project Fund to be transferred to the Debt Service Fund pursuant to the provisions of this Indenture

(d) All interest and other income derived from investments of Debt Service Fund moneys as provided in *Section 7.02* hereof.

(e) All other moneys received by the Trustee under and pursuant to any of the provisions of the Project Lease, except Additional Rent, or when accompanied by directions from the person depositing such moneys that such moneys are to be paid into the Debt Service Fund.

**Section 6.05. Application of Moneys in the Debt Service Fund.**

(a) Except as provided in subsection (d) of this Section, moneys in the Debt Service Fund shall be expended solely for the payment of the principal of, premium, if any, and interest on the Outstanding Bonds as the same mature and become due or upon the redemption thereof prior to maturity.

(b) The Issuer hereby authorizes and directs the Trustee to withdraw sufficient funds from the Debt Service Fund to pay the principal of, premium, if any, and interest on the Bonds as the same become due and payable and to make the funds so withdrawn available to the Paying Agent for the purpose of paying the principal, premium, if any, and interest.

(c) The Trustee, upon written direction of the Issuer and the Tenant, shall use any excess moneys in the Debt Service Fund (other than investment earnings credited to such account) and any moneys paid to the Trustee for deposit in the Debt Service Fund pursuant to the Project Lease to redeem Outstanding Bonds, interest accruing thereon prior to such redemption, and redemption premium, if any, in accordance with and to the extent permitted by *Article III* hereof so long as the Tenant is not in default with respect to payments of Basic Rent under the Project Lease and to the extent the moneys are in excess of amounts required for payment of Bonds theretofore matured or called for redemption and past due interest in all cases when such Bonds have not been presented for payment. The Tenant may also direct such excess moneys in the Debt Service Fund or such part thereof or other moneys of the Tenant, as the Tenant may direct, to be applied by the Trustee for the purchase of Bonds in the open market for the purpose of cancellation.

(d) Any amount remaining in the Debt Service Fund after the principal of, premium, if any, and interest on the Bonds shall have been paid in full or provision made therefor in accordance with *Article XII* hereof, shall be paid to the Tenant by the Trustee.

## ARTICLE VII

### SECURITY FOR DEPOSITS AND INVESTMENT OF FUNDS

**Section 7.01. Moneys to be Held in Trust.** All moneys deposited with or paid to the Trustee for the account of any fund or account under any provision of this Indenture, and all moneys deposited with or paid to the Paying Agent under any provision of this Indenture, shall be held by the Trustee or Paying Agent in trust and shall be applied only in accordance with the provisions of this Indenture and the Project Lease and, until used or applied as so provided, shall constitute part of the Trust Estate and be subject to the lien hereof. Neither the Trustee nor any Paying Agent shall be under any liability for interest on any moneys received hereunder except such as may be agreed upon in writing.

**Section 7.02. Investment of Moneys in Funds.** Moneys held in each of the Funds and Accounts shall be separately invested and reinvested by the Trustee in accordance with the provisions hereof, at the written direction of the Authorized Tenant Representative (or in the absence of such written direction, as provided in *subsection (e)* of the definition of Investment Securities) in Investment Securities which mature or are subject to redemption by the owner prior to the date such funds will be needed. The Trustee may make any investments permitted by this Section through its own bond department or short-term investment department and may pool moneys for investment purposes, except moneys held in the yield restricted portion of any fund or account, which shall be invested separately. Any such Permitted Investments shall be held by or under the control of the Trustee and shall be deemed at all times a part of the fund or account in which such moneys are originally held. The interest earned on and any profit realized from Investment Securities held in any Fund or Account under this Indenture shall be deposited into the Debt Service Fund. Any loss resulting from such Investment Securities shall be charged to such Fund or Account in which such Investment Securities generating the loss are held. The Bond Trustee shall sell and reduce to cash a sufficient amount of such Investment Securities whenever the cash balance in such Fund or Account is insufficient for the purposes of such Fund or Account.

**Section 7.03. Record Keeping.** The Trustee shall maintain records demonstrating compliance with the provisions of this Article and with the provisions of *Article VI* for at least six years after the payment of all of the Outstanding Bonds.

## ARTICLE VIII

### GENERAL COVENANTS AND PROVISIONS

**Section 8.01. Payment of Principal of, Premium, if any, and Interest on the Bonds.** The Issuer covenants and agrees that it will, but solely from the rents, revenues and receipts derived from the Project (as well as moneys held for such purposes hereunder) as described herein, promptly pay or cause to be paid the principal of, premium, if any, and interest on the Bonds as the same become due and payable at the place, on the dates and in the manner provided herein and in the Bonds according to the true intent and meaning thereof, and to this end the Issuer covenants and agrees that it will use its best efforts to cause the Project to be continuously leased as a revenue and income producing undertaking, and that, should there be a default under the Project Lease with the result that the right of possession of the Project is returned to the Issuer, the Issuer shall fully cooperate with the Trustee and with the Owner(s) of Bonds to protect the rights and security of the Owner(s) of Bonds and shall diligently proceed in good faith and use its best efforts to secure another tenant for the Project to the end that at all times sufficient rents, revenues and receipts will be derived by Issuer from the Project to provide for payment of the principal of, premium, if any, and interest on the Bonds as the same become due and payable. Nothing herein shall be construed as requiring the Issuer to operate the Project as a business other than as lessor or to use any funds or revenues from any source other than funds and revenues derived from the Project.

**Section 8.02. Authority to Execute Indenture and Issue Bonds.** The Issuer covenants, to the best of its knowledge and belief, that: (i) it is duly authorized under the constitution and laws of the State to execute this Indenture, to issue the Bonds and to pledge and assign the Trust Estate in the manner and to the extent herein set forth (including the creation of a security interest therein); (ii) all action on its part for the execution and delivery of this Indenture and the issuance of the Bonds has been duly and effectively taken; and (iii) the Bonds in the hands of the Owners thereof are and will be valid and enforceable limited obligations of the Issuer according to the import thereof.

**Section 8.03. Performance of Covenants.** The Issuer covenants that it will endeavor to faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Indenture, in the Bonds and in all proceedings of its governing body pertaining thereto.

**Section 8.04. Instruments of Further Assurance.** The Issuer covenants that it will do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, such Supplemental Indentures and such further acts, instruments, financing statements and other documents as the Trustee may reasonably require for the better pledging and assigning unto the Trustee the property and revenues herein described to secure the payment of the principal of, premium, if any, and interest on the Bonds. The Issuer covenants and agrees that, except as herein and in the Project Lease provided, it will not sell, convey, lease, encumber or otherwise dispose of any part of the Project or the rents, revenues and receipts derived therefrom or from the Project Lease, or of its rights under the Project Lease.

**Section 8.05. Recording and Filing.** The Issuer shall cause the Project Lease and all amendments to the Project Lease or appropriate memoranda thereof and all appropriate financing statements and other security instruments to be recorded and filed in such manner and in such places as may be required by law in order to fully preserve and protect the security of the Owner(s) of Bonds and the rights of the Trustee hereunder. The Issuer hereby authorizes the Trustee to make any such filings for it. The Trustee shall cause all appropriate continuation statements of financing statements initially recorded to be recorded and filed in such manner and in such places as may be required by law to continue the effectiveness of such financing statements.

**Section 8.06. Maintenance, Taxes and Insurance.** The Issuer represents that pursuant to the provisions of *Articles VI, VII and X* of the Project Lease, the Tenant has agreed to cause the Project to be maintained and kept in good condition, repair and working order, to pay, as the same respectively become due, all taxes, assessments and other governmental charges at any time lawfully levied or assessed upon or against the Project or any part thereof, and to keep the Project constantly insured to the extent provided for therein, all at the sole expense of Tenant.

**Section 8.07. Inspection of Project Books.** The Issuer covenants and agrees that all books and documents in its possession relating to the Project and the rents, revenues and receipts derived from the Project shall, at all reasonable times during regular business hours, be open to inspection by such accountants or other agencies as the Trustee may from time to time designate.

**Section 8.08. Enforcement of Rights Under the Site Lease and Project Lease.** The Site Lease and Project Lease, duly executed counterparts of which has been filed with the Trustee, sets forth the covenants and obligations of the Issuer and the Tenant, including provisions that subsequent to the issuance of the Bonds and prior to their payment in full or provision for payment thereof in accordance with the provisions hereof, the Site Lease and Project Lease may not be effectively amended, changed, modified, altered or terminated without the written consent of the Trustee, and reference is hereby made to the Site Lease and Project Lease for a detailed statement of the covenants and obligations of the Tenant thereunder, and the Issuer agrees that the Trustee in its name or in the name of the Issuer may enforce all rights of the Issuer and all obligations of the Tenant under and pursuant to the Site Lease and Project Lease for and on behalf of the Owners, whether or not an Event of Default exists hereunder.

**Section 8.09. Possession and Use of Project.** So long as not otherwise provided in this Indenture, the Tenant shall be suffered and permitted to possess, use and enjoy the Project and appurtenances so as to carry out its obligations under the Project Lease.

## ARTICLE IX

### REMEDIES ON DEFAULT

#### Section 9.01. Acceleration of Maturity in Event of Default.

(a) If an Event of Default shall have occurred and be continuing, the Trustee may, and upon the written request of Owner(s) of Bonds owning not less than 25% in aggregate principal amount of Bonds then Outstanding shall, by notice in writing delivered to the Issuer and the Tenant, declare the principal of all Bonds then Outstanding and the interest accrued thereon immediately due and payable, and such principal and interest shall thereupon become and be immediately due and payable.

(b) If, at any time after such declaration, but before the Bonds shall have matured by their terms, all overdue installments of principal and interest on the Bonds, together with all Default Administration Costs, all overdue installments of Basic Rent and Additional Rent under the Project Lease and all other sums then payable by the Issuer under this Indenture shall either be paid or provision satisfactory to the Trustee shall be made for such payment, then and in every such case the Trustee may in its discretion, and shall upon the written consent of Owner(s) of Bonds owning at least 51% in aggregate principal amount of the Bonds Outstanding, rescind such declaration and annul such default in its entirety.

(c) In case of any rescission, then and in every such case the Issuer, the Trustee and the Owner(s) of Bonds shall be restored to their former position and rights hereunder respectively, but no

such rescission shall extend to any subsequent or other default or Event of Default or impair any right consequent thereon.

### **Section 9.02. Exercise of Remedies by the Trustee.**

(a) If an Event of Default shall have occurred and be continuing, the Trustee may, and if requested to do so in writing by Owner(s) of Bonds owning not less than 25% of the aggregate principal amount of Bonds Outstanding, and if indemnified to its satisfaction and satisfactory provision has been offered as to payment of Default Administration Costs and third-party liability, shall pursue and exercise any available remedy at law or in equity by suit, action, mandamus or other proceeding or exercise such one or more of the rights and powers conferred by this Article as the Trustee, being advised by counsel, shall deem most expedient in the interests of the Owner(s) of Bonds to enforce the payment of the principal of, premium, if any, and interest on the Bonds then Outstanding, and to enforce and compel the performance of the duties and obligations of the Issuer as herein set forth.

(b) All rights of action under this Indenture or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceedings relating thereto, and any such suit or proceeding instituted by the Trustee shall be brought in its name as Trustee without necessity of joining as plaintiffs or defendants any Owner(s) of Bonds, and any recovery of judgment shall be for the equal benefit of all Outstanding Bonds.

(c) In any litigation with the Tenant, after an Event of Default, the Trustee may, after obtaining the written approval of Owner(s) of Bonds owning at least 51% of the aggregate principal amount of Bonds Outstanding, enter into an agreement to settle the litigation upon such terms as the Trustee in its sole discretion determines to be in the best interest of the Owner(s) of Bonds, even if such settlement involves selling the Real Property and Improvements for less than the amount needed to pay the Owners of the Bonds Outstanding the full amounts of the principal and accrued interest on the Bonds.

**Section 9.03. Surrender of Possession of Trust Estate; Rights and Duties of Trustee in Possession.** If an Event of Default shall have occurred and be continuing, the Issuer, upon demand of the Trustee, shall forthwith surrender the possession of, and the Trustee, by such officer or agent as it may appoint, may take possession of all or any part of the Trust Estate, together with the books, papers and accounts of the Issuer pertaining thereto, and including the rights and the position of the Issuer under the Site Lease and Project Lease, and to hold, operate and manage the same, and from time to time make all needful repairs and improvements; and the Trustee may lease the Project or any part thereof, in the name and for account of the Issuer, and collect, receive and sequester the rents, revenues and receipts therefrom, and out of the same and any moneys received from any receiver of any part thereof pay, and set up proper reserves for the payment of all proper costs and expenses of so taking, holding and managing the same, including (i) reasonable compensation to the Trustee, its agents and counsel, (ii) any charges of the Trustee hereunder, (iii) any taxes and assessments and other charges prior to the lien of this Indenture, (iv) any costs and expenses of the Issuer in connection with the Project and (v) all expenses of such repairs and improvements, and the Trustee shall apply the remainder of the moneys so received in accordance with *Section 9.10*. Whenever all that is due upon the Bonds shall have been paid and all defaults made good, the Trustee shall surrender possession of the Trust Estate to the Issuer, its successors and assigns, the same right of entry, however, to exist upon any subsequent Event of Default.

While in possession of such property, the Trustee shall render annually to the Issuer and the Tenant a summarized statement of receipts and expenditures in connection therewith

**Section 9.04. Sale in Event of Default.** If an Event of Default shall have occurred and be continuing, the Trustee, as assignee of the Issuer, may (but shall not be required to) sell the Issuer's



interest in the Project on behalf of the Issuer in accordance with the provisions of the Site Lease and Project Lease, and the Trustee or the Owner or Owners of any of the Bonds then Outstanding, whether or not then in default in the payment of principal or interest, may become the purchaser at any such sale to the highest bidder.

In the event of such a sale, the Issuer and the Trustee shall execute and deliver any necessary or appropriate instrument of conveyance of the Issuer's interest in the Project to the purchaser or purchasers thereof, and any statement or recital of fact in such deed in relation to the nonpayment of the Bonds, default, existence of the Bonds, notice of advertisement, sale, receipt of money, and the happening of any event whereby a prima facie evidence of the truth of such statement or recital. The Bond Trustee shall receive the proceeds of sale and pay the same in accordance with *Section 9.10(b)*.

**Section 9.05. Appointment of Receivers.** Upon the occurrence of an Event of Default, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Trustee and of the Owners under this Indenture, the Trustee shall be entitled, as a matter of right, to the appointment of a receiver or receivers of the Trust Estate and of the revenues, earnings, income, products and profits thereof, pending such proceedings, with such powers as the court making such appointment shall confer.

**Section 9.06. Limitation on Exercise of Remedies by Owner(s) of Bonds.** No Owner(s) of Bonds shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of this Indenture or for the execution of any trust hereunder or for the appointment of a receiver or any other remedy hereunder, unless (i) a default has occurred of which the Trustee has knowledge, (ii) such default shall have become an Event of Default, (iii) Owner(s) of Bonds owning at least 25% in aggregate principal amount of Bonds then Outstanding shall have made written request to the Trustee, shall have offered it reasonable opportunity either to proceed to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name, and (iv) satisfactory indemnity and provision for payment of Default Administration Costs and third-party liability shall have been offered to the Trustee and (v) the Trustee shall thereafter fail or refuse to exercise the powers granted in this section to institute such action, suit or proceeding in its own name; and such knowledge and request are hereby declared in every case, at the option of the Trustee, to be conditions precedent to the execution of the powers and trusts of this Indenture, and to any action or cause of action for the enforcement of this Indenture, or for the appointment of a receiver or for any other remedy hereunder, it being understood and intended that no one or more Owner(s) of Bonds shall have any right in any manner whatsoever to affect, disturb or prejudice this Indenture by its, his or their action or to enforce any right hereunder except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the equal benefit of all Bonds then Outstanding.

**Section 9.07. Right of Owner(s) of Bonds to Direct Proceedings.** Anything in this Indenture to the contrary notwithstanding, Owner(s) of Bonds owning at least 51% in aggregate principal amount of Bonds then Outstanding shall have the right, at any time, by an instrument or instruments in writing executed and delivered to the Trustee, and upon providing the Trustee indemnification satisfactory to it as provided above, to direct the time, method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture, or for the appointment of a receiver or any other proceedings hereunder; provided that such direction shall not be otherwise than in accordance with the provisions of law and of this Indenture, and Trustee shall have the right to decline to follow such direction if the Trustee shall in good faith, and upon the advice of counsel, determine that proceedings so directed would expose the Trustee to personal liability.

**Section 9.08. Remedies Cumulative.** No remedy by the terms of this Indenture conferred upon or reserved to the Trustee or to the Owner(s) of Bonds is intended to be exclusive of any other

remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Trustee or to the Owner(s) of Bonds hereunder or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right, power or remedy accruing upon any Event of Default shall impair any such right, power or remedy or shall be construed to be a waiver of any such Event of Default or acquiescence therein; and every such right, power or remedy may be exercised from time to time and as often as may be deemed expedient. No waiver of any Event of Default hereunder, whether by the Trustee or by the Owner(s) of Bonds, shall extend to or shall affect any subsequent Event of Default or shall impair any rights or remedies consequent thereon.

**Section 9.09. Waivers of Events of Default.** The Trustee may in its discretion waive any Event of Default hereunder and its consequences and rescind any declaration of maturity of principal of and interest on Bonds, and shall do so upon the written request of Owner(s) of Bonds owning at least 51% in aggregate principal amount of all the Bonds then Outstanding and satisfaction of the conditions set forth in *Section 9.01(b)*. In case of any such waiver or rescission, or in case any proceedings taken by the Trustee under this Indenture on account of any such default shall have been discontinued or abandoned for any reason, or shall have been determined adversely, then and in every such case the Issuer, the Trustee and the Owner(s) of Bonds shall be restored to their former positions, rights and obligations hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other default, or impair any right consequent thereon, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

**Section 9.10. Application of Money Received after Event of Default.**

(a) If the principal of all Bonds shall have become due and payable after the occurrence of an Event of Default, all moneys thereafter received from the Tenant, from sale or reletting of the Project shall be deposited in the Debt Service Fund and all moneys in the Debt Service Fund shall be applied as follows:

*first:* To the payment of Default Administration Costs

*second:* To the payment of the whole amount then due and unpaid upon the Outstanding Bonds for principal and premium, if any, and interest, in respect of which or for the benefit of which such money has been collected, with interest (to the extent that such interest has been collected by the Trustee or a sum sufficient therefor has been so collected and payment thereof is legally enforceable at the respective rate or rates prescribed therefor in the Bonds) on overdue principal and premium, if any, and on overdue installments of interest; and in case such proceeds shall be insufficient to pay in full the whole amount so due and unpaid upon the Bonds, then to the payment of such principal, premium and interest, without any preference or priority, ratably according to the aggregate amount so due; and

*third:* To the payment of any other amounts required to be paid under this Indenture or the Project Lease; and

*fourth:* To the payment of the remainder, if any, to the Tenant or to whosoever may be lawfully entitled to receive the same or as a court of competent jurisdiction may direct.

(b) Whenever moneys are to be applied by the Issuer or the Trustee pursuant to the provisions of this Section, such moneys shall be applied at such times, and from time to time, as the Trustee in its sole discretion determines, having due regard to the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future; the deposit of such moneys with the Trustee in trust for the proper purpose shall constitute proper

application by the Issuer; and the Issuer shall incur no liability to any Owner(s) of Bonds or to any other person for any delay in applying any such moneys, so long as the Issuer acts with reasonable diligence, having due regard to the circumstances, and moneys are applied in accordance with such provisions of this Indenture. Whenever the Trustee exercises such discretion in applying such moneys, it shall fix the date (which shall be an Interest Payment Date unless the Trustee shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such date shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the fixing of any such date, and shall not be required to make payment to any Owner(s) of Bonds of any unpaid Bond until the Bond certificate(s) representing Bonds owned are surrendered to the Trustee as Bond Registrar for appropriate endorsement, or for cancellation if fully paid.

(c) Whenever the principal of and premium, if any, and interest on all Bonds have been paid under the provisions of this Section and all expenses and charges of the Trustee have been paid, any balance remaining in the Debt Service Fund shall be paid to the Tenant as provided in *Section 6.07(d)*.

## ARTICLE X

### THE TRUSTEE

**Section 10.01. Acceptance of the Trusts.** The Trustee hereby accepts the trusts imposed upon it by this Indenture, and agrees to perform the trusts in the manner in which a corporate trustee ordinarily would perform the trusts under a corporate indenture, and the Trustee shall exercise such of the rights and powers vested in it by this Indenture and shall use the same degree of care and skill in its exercise as a prudent corporate trust officer would exercise or use under the circumstances, but only upon and subject to the following express terms and conditions, and no implied covenants or obligations shall be read into this Indenture against the Trustee:

(a) Prior to the occurrence of an Event of Default and after the cure of all Events of Default which may have occurred, the Trustee's duties and responsibilities shall include only those expressly set forth in this Trust Indenture and those rights, duties, responsibilities, and obligations which are reserved to or imposed upon the Issuer under this Trust Indenture, the Site Lease and the Project Lease, excepting only such of those rights, duties, responsibilities, and obligations as may only be properly and lawfully exercised by or imposed upon the Issuer.

(b) Upon the occurrence of an Event of Default the Trustee shall be and is hereby authorized to bring appropriate action for judgment or such other relief as may be appropriate and such action may be in the name of the Trustee or in the name of the Issuer and Trustee jointly; but in such case, neither the Issuer nor the Trustee shall have any obligation for any fees and expenses of such action except out of any funds available by reason of the ownership of the Project and moneys available under this Trust Indenture and the Project Lease. In addition, the Trustee may file such proof of claim and such other documents as may be necessary and advisable in order to have the claims of the Trustee and the Owner(s) of Bonds relative to the Bonds or the obligations relating thereto allowed in any judicial proceeding.

(c) The Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or through agents, attorneys or receivers. The Trustee shall be entitled to rely upon the opinion or advice of counsel, who may be counsel to the Trustee, Issuer or the Tenant, concerning all matters of trust hereof and the duties hereunder, and may in all cases pay such reasonable compensation to all such agents, attorneys and receivers as may reasonably be employed in connection with the trusts hereof.

(d) The Trustee, in its individual or any other capacity, may become the owner or pledgee of Bonds with the same rights which it would have if it were not Trustee.

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

(f) As to the existence or nonexistence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, or whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee shall be entitled to rely upon a certificate signed by the mayor of the Issuer or the Authorized Tenant Representative as sufficient evidence of the facts therein contained, the Trustee shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient, but may at its discretion secure such further evidence deemed necessary or advisable, but shall in no case be bound to secure the same.

(g) The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty, and the Trustee shall not be answerable for other than its negligence or willful misconduct.

(h) At any and all reasonable times and upon reasonable prior notification to the Tenant, the Trustee and its duly authorized agents, attorneys, experts, engineers, accountants and representatives shall have the right to inspect any and all of the Project and all books, papers and records of the Issuer and Tenant pertaining to the Project and the Bonds, and to make such notes and copies as may be desired.

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

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

(k) The Trustee shall not be required to take notice of, or be deemed to have notice of, any default hereunder or under the Site Lease or Project Lease, except the failure by the Issuer to cause to be made any of the payments required to be made under the Project Lease or in accordance with *Article VI* hereof, or the failure by the Issuer to cause compliance by the Tenant with the insurance provisions of *Article VI* of the Project Lease, unless the Trustee shall have been specifically notified in writing of such default by the Issuer or by Owner(s) of Bonds owning at least 25% in aggregate principal amount of all Bonds then Outstanding.

(l) The Trustee may inform the Owner(s) of Bonds of environmental hazards that the Trustee has reason to believe exist with respect to the Project, the Real Property or the Improvements, and the Trustee shall have the right to take no further action with respect thereto, and, in such event, no fiduciary duty shall exist which imposes any obligation for further action by the Trustee with respect to the Project, the Real Property, the Improvements, the enforcement of any remedies hereunder or under the Project Lease, the Trust Estate, or any portion thereof, if, in the reasonable opinion of the Trustee, such action would subject the Trustee to environmental or other liability for which the Trustee has not received indemnity satisfactory to it.

**Section 10.02. Fees, Charges and Expenses of the Trustee; Lien for Fees and Costs and Additional Rent.** The Trustee shall be entitled to payment of or reimbursement for reasonable fees for its ordinary services rendered hereunder and all advances, agent and counsel fees and other ordinary costs, charges and expenses reasonably and necessarily made or incurred by the Trustee in connection with such ordinary services and, in the event that it should become necessary that the Trustee perform extraordinary services, it shall be entitled to reasonable compensation therefor and to reimbursement for reasonable and necessary extraordinary expenses in connection therewith; provided that if such extraordinary services or extraordinary expenses are occasioned by the neglect or misconduct of the Trustee it shall not be entitled to compensation or reimbursement therefor. The Trustee shall be entitled to payment and reimbursement for the reasonable fees, costs, expenses and charges of the Trustee as Paying Agent for the Bonds. The Trustee agrees that the Issuer shall have no liability for any fees, charges and expenses of the Trustee, and the Trustee agrees to look only to the Tenant for the payment of all fees, charges and expenses of the Trustee and any Paying Agents as provided in the Project Lease. Upon the occurrence of an Event of Default and during its continuance, the Trustee shall have a lien with right of payment prior to payment of principal of, redemption premium, if any, or interest on any Bond, upon all moneys in its possession under any provisions hereof for the foregoing advances, fees, costs and expenses incurred, for Default Administration Costs and for any unpaid Additional Rent owing under the Project Lease.

**Section 10.03. Notice to Owner(s) of Bonds if Default Occurs.** If an Event of Default occurs, of which the Trustee is aware and of which it is required to take notice, the Trustee shall give written notice thereof to the Owner(s) of Bonds, as shown by the bond registration books required to be maintained by the Trustee and kept at the principal office of the Trustee.

**Section 10.04. Intervention by the Trustee.** In any judicial proceeding to which the Issuer is a party and which, in the opinion of the Trustee and its counsel, has a substantial bearing on the interests of the Owner(s) of Bonds, the Trustee may intervene on behalf of the Owner(s) of Bonds and shall do so if requested in writing by Owner(s) of Bonds owning at least 25% of the aggregate principal amount of Bonds then Outstanding and if provided with indemnity satisfactory to the Trustee.

**Section 10.05. Successor Trustee Upon Merger, Consolidation or Sale.** Any corporation or association into which the Trustee may be merged or converted or with or into which it may be consolidated, or to which it may sell or transfer its corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any merger, conversion, sale, consolidation or transfer to which it is a party, shall be and become successor Trustee hereunder without the execution or filing of any instrument or any further act on the part of any of the parties hereto.

**Section 10.06. Resignation of Trustee.** The Trustee may resign by an instrument in writing delivered by registered or certified mail to the Issuer and the Tenant to take effect not sooner than 90 days after its delivery, whereupon the Issuer, with the consent of the Tenant, shall immediately, in writing, designate a successor Trustee; provided, however, the Trustee's resignation shall not become effective unless and until a successor Trustee is approved and qualified. In the event the Issuer and the Tenant do

not promptly designate a successor trustee, then the Trustee shall have the right to petition a court of competent jurisdiction for the appointment of a successor.

**Section 10.07. Removal of Trustee.** As long as no Default or Event of Default shall have occurred and be continuing, the Trustee may be removed at any time by the Issuer or the Tenant; provided, that such removal shall not be effective unless and until a successor trustee is appointed and qualified, and provided further that such removal shall not become effective until after 60 days from the date written notice of such proposed removal is given to the Trustee by first class mail. The Issuer or the Tenant, concurrently with giving notice to the Trustee, shall give notice by first class mail of the proposed removal of the Trustee to all Owner(s) of Bonds. Unless Owner(s) of Bonds owning at least 51% in principal amount of Bonds then Outstanding object in writing to the proposed removal of the Trustee, such removal shall become effective from the date specified in the notices, provided that the successor trustee shall have been qualified and have accepted the duties and responsibilities of the Trustee as of such date. The Trustee may be removed at any time by the written direction of Owner(s) of Bonds owning at least 51% in aggregate principal amount of Bonds then Outstanding.

**Section 10.08. Qualifications of Successor Trustee.** Every successor Trustee appointed pursuant to the provisions of this Article shall be a trust company or bank in good standing, qualified to accept such trust and acceptable to the Issuer and the Tenant.

**Section 10.09. Vesting of Trusts in Successor Trustee.** Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the Issuer and the Tenant an instrument in writing accepting such appointment hereunder, and thereupon such successor shall, without any further act, deed or conveyance, become fully vested with all the trusts, powers, rights, obligations, duties, remedies, immunities and privileges of its predecessor; but such predecessor shall, nevertheless, on the written request of the Issuer, execute and deliver an instrument transferring to such successor Trustee all the trusts, powers, rights, obligations, duties, remedies, immunities and privileges of such predecessor hereunder; and every predecessor Trustee shall deliver all securities and moneys held by it as Trustee hereunder to its successor. Should any instrument in writing from the Issuer be required by any successor Trustee for more fully and certainly vesting in such successor the trusts, powers, rights, obligations, duties, remedies, immunities and privileges hereby vested in the predecessor, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Issuer.

**Section 10.10. Right of Trustee to Pay Taxes and Other Charges.** In case any tax, assessment or governmental or other charge upon, or insurance premium with respect to, any part of the Project is not paid as required herein or in the Project Lease, and the Tenant has failed after 30 days written notice to make such payment the Trustee may pay such tax, assessment or governmental charge or insurance premium or rebate amount, without prejudice, however, to any rights of the Trustee or the Owner(s) of Bonds hereunder arising in consequence of such failure; and any amount at any time so paid under this Section, with interest thereon from the date of payment at a rate per annum equal to the Trustee's published prime rate in effect at the time, shall become an additional obligation secured by this Indenture, and the same shall be given a preference in payment over any payment of principal of, premium, if any, or interest on the Bonds, and shall be paid out of the proceeds of rents, revenues and receipts collected from the Project, if not otherwise caused to be paid; but the Trustee shall be under no obligation to make any such payment unless it shall have been requested to do so by Owner(s) of Bonds owning at least 25% of the aggregate principal amount of Bonds then Outstanding and shall have been provided adequate funds for the purpose of such payment.

### **Section 10.11. Trust Estate May Be Vested in Co-trustee.**

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

(b) In the event that the Trustee appoints an additional individual or institution as a co-trustee or separate trustee, each and every remedy, power, right, claim, demand, cause of action, immunity, title, interest and lien expressed or intended by this Indenture to be exercised by the Trustee with respect thereto shall be exercisable by such co-trustee or separate trustee but only to the extent necessary to enable such co-trustee or separate trustee to exercise such powers, rights and remedies, and every covenant and obligation necessary to the exercise thereof by such co-trustee or separate trustee shall run to and be enforceable by either of them.

(c) Should any deed, conveyance or instrument in writing from the Issuer be required by the co-trustee or separate trustee so appointed by the Trustee for more fully and certainly vesting in and confirming to him or it such properties, rights, powers, trusts, duties and obligations, then any and all such deeds, conveyances and instruments in writing shall, on request, be executed, acknowledged and delivered by the Issuer.

(d) In case any co-trustee or separate trustee shall die, become incapable of acting, resign or be removed, all the properties, rights, powers, trusts, duties and obligations of such co-trustee or separate trustee, so far as permitted by law, shall vest in and be exercised by the Trustee until the appointment of a successor to such co-trustee or separate trustee.

**Section 10.12. Annual Accounting.** The Trustee shall render an annual accounting to the Tenant, to the Issuer upon request, and to any Owner(s) of Bonds requesting the same in writing and remitting reasonable charges for preparing such copies, showing in reasonable detail all financial transactions relating to the Trust Estate during the accounting period and the balance in any funds or accounts created by this Indenture as of the beginning and close of such accounting period.

**Section 10.13. Performance of Duties under the Site Lease and Project Lease.** The Trustee hereby accepts and agrees to perform, in such manner as is consistent with the terms of those instruments and this Indenture, all duties and obligations assigned to it under the Site Lease and Project Lease.

## **ARTICLE XI**

### **SUPPLEMENTAL INDENTURES**

**Section 11.01. Supplemental Indentures Not Requiring Consent of Owner(s) of Bonds.** The Issuer and the Trustee may from time to time, without the consent of any of the Owner(s) of Bonds, enter into such Supplemental Indenture or Supplemental Indentures as shall not be inconsistent with the terms and provisions hereof, for any one or more of the following purposes:

- (a) To cure any ambiguity or formal defect or omission in this Indenture or to make any other change not prejudicial to the Owner(s) of Bonds;
- (b) To grant to or confer upon the Trustee for the benefit of the Owner(s) of Bonds any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Owner(s) of Bonds;
- (c) To more precisely identify the Project or to add additional property thereto;
- (d) To subject to this Indenture additional revenues, properties or collateral; and
- (e) To issue Additional Bonds as provided in *Section 2.09* hereof.

**Section 11.02. Supplemental Indentures Requiring Consent of Owner(s) of Bonds.**

(a) Exclusive of Supplemental Indentures described in *Section 11.01* hereof and subject to the terms and provisions contained in this Section, and not otherwise, the Owner(s) of Bonds owning not less than 66-2/3% in aggregate principal amount of the Bonds then Outstanding shall have the right, from time to time, anything contained in this Indenture to the contrary notwithstanding, to consent to and approve the execution by the Issuer and the Trustee of such other Supplemental Indenture or Supplemental Indentures as shall be deemed necessary and desirable by the Issuer for the purpose of modifying, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Indenture or in any Supplemental Indenture; provided, however, except as provided in subparagraph (b) of this *Section 11.02*, nothing in this Section contained shall permit or be construed as permitting (i) an extension of the maturity of the principal of or the accrual of, or dates of payment of, interest on any Bond issued hereunder, or (ii) a reduction in the principal amount of any Bond or the rate of interest thereon, or (iii) a privilege or priority of any Bond or Bonds over any other Bond or Bonds, or (iv) a reduction in the aggregate principal amount of Bonds the Owners of which are required for consent to any such Supplemental Indenture.

(b) Any provision of this Indenture or the Bonds may be amended with the written consent of the Owners owning 100% in aggregate principal amount then Outstanding.

**Section 11.03. Tenant's Consent to Supplemental Indentures.** Anything herein to the contrary notwithstanding, a Supplemental Indenture under this Article which affects any rights of the Tenant shall not become effective unless and until the Tenant shall have consented in writing to the execution and delivery of such Supplemental Indenture, provided that receipt by the Trustee of an amendment to the Project Lease executed by the Tenant in connection with the issuance of Additional Bonds under *Section 2.09* hereof shall be deemed to constitute consent of the Tenant to the execution of a Supplemental Indenture pursuant to *Section 2.09* hereof. In this regard, the Trustee shall cause notice of the proposed execution and delivery of any such Supplemental Indenture (other than a Supplemental Indenture proposed to be executed and delivered pursuant to *Section 2.09* hereof) together with a copy of the proposed Supplemental Indenture to be mailed to the Tenant at least 15 days prior to the proposed date of execution and delivery of any such Supplemental Indenture.



## ARTICLE XII

### SATISFACTION AND DISCHARGE OF INDENTURE

#### Section 12.01. Satisfaction and Discharge of the Indenture.

(a) When the principal of, premium, if any, and interest on all Bonds shall have been paid in accordance with their terms or provision has been made for such payment, as provided in *Section 12.02* hereof, and provision shall also have been made for paying all other sums payable hereunder, including the fees and expenses of the Trustee and the Paying Agent to the date of retirement of the Bonds, then the duties of the Trustee under this Indenture shall cease. Thereupon the Trustee shall discharge and release this Indenture and shall execute, acknowledge and deliver to the Issuer such instruments of satisfaction and discharge or release as shall be requisite to evidence such release and the satisfaction and discharge of this Indenture, and shall assign and deliver to the Issuer any property at the time subject to this Indenture which may then be in its possession, except amounts in the Debt Service Fund required to be paid to the Tenant under *Section 6.07(d)* hereof and except funds or securities in which such funds are invested and held by the Trustee for the payment of the principal of, and interest accrued on, the Bonds. Notwithstanding anything otherwise provided herein, the provisions of this Indenture relating to compensation and indemnification of the Trustee shall survive satisfaction and discharge of the Indenture.

(b) The Issuer is hereby authorized to accept a certificate by the Trustee that the principal of, premium, if any, and interest due and payable upon all of the Bonds then Outstanding and all amounts required to be paid to the United States have been paid or such payment provided for in accordance with *Section 12.02* hereof as evidence of satisfaction of this Indenture, and upon receipt thereof shall deem this Indenture discharged.

#### Section 12.02. Bonds Deemed to be Paid.

(a) Bonds shall be deemed to be paid within the meaning of this Indenture when payment of the principal of and the applicable premium, if any, on such Bonds, plus interest thereon to the due date thereof (whether such due date be by reason of maturity or upon redemption as provided in this Indenture, or otherwise), either (i) shall have been made or caused to be made in accordance with the terms thereof, or (ii) shall have been provided for by depositing with the Trustee, in trust and irrevocably set aside exclusively for such payment (A) moneys sufficient to make such payment or (B) non-callable Government Securities maturing as to principal and interest in such amount and at such times as will insure the availability of sufficient moneys to make such payment. Bonds shall also be deemed paid if the Bond certificate(s) are surrendered to the Bank as paying agent, accompanied by a written communication from the registered Owner waiving payment and directing that they be cancelled without actual payment. At such time as a Bond shall be deemed to be paid hereunder, it shall no longer be secured by or entitled to the benefits of this Indenture, except for the purposes of any such payment from such moneys or Government Securities. As a condition to the Bonds being deemed paid, the Trustee shall have received an opinion of Bond Counsel to the effect that the conditions of this Section have been satisfied.

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

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

## ARTICLE XIII

### MISCELLANEOUS PROVISIONS

#### **Section 13.01. Consents and Other Instruments by Owner(s) of Bonds.**

(a) Any consent, request, direction, approval, objection or other instrument required by this Indenture to be signed and executed by the Owner(s) of Bonds may be in any number of concurrent writings of similar tenor and may be signed or executed by such Owner(s) of Bonds in person or by agent appointed in writing. Proof of the execution of any such instrument or of the writing appointing any such agent and of the ownership of Bonds, if made in the following manner, shall be sufficient for any of the purposes of this Indenture, and shall be conclusive in favor of the Trustee with regard to any action taken, suffered or omitted under any such instrument, namely:

(i) The fact and date of the execution by any person of any such instrument may be proved by the certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the person signing such instrument acknowledged before him the execution thereof, or by affidavit of any witness to such execution.

(ii) The fact of ownership of Bonds and the amount or amounts, number and other identification of such Bonds, and the date of holding the same shall be proved by the registration books of the Issuer maintained by the Trustee.

(b) In determining whether the Owner(s) of Bonds owning the requisite principal amount of Bonds Outstanding have given any request, demand, authorization, direction, notice, consent or waiver under this Indenture, Bonds owned by the Tenant or any affiliate of the Tenant shall be disregarded and deemed not to be Outstanding under this Indenture, except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Bonds which the Trustee knows to be so owned shall be so disregarded. For purposes of this paragraph, the word “affiliate” means any person directly or indirectly controlling or controlled by or under direct or indirect common control with the Tenant; and for the purposes of this definition, “control” means the power to direct the management and policies of such person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise. Notwithstanding the foregoing, Bonds so owned which have been pledged in good faith shall not be disregarded if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Bonds and that the pledgee is not the Tenant or any affiliate of the Tenant.

**Section 13.02. Limitation of Rights Under the Indenture.** With the exception of rights herein expressly conferred, nothing expressed or mentioned in or to be inferred from this Indenture or the Bonds is intended or shall be construed to give any person other than the parties hereto, and the Owner(s) of Bonds, any right, remedy or claim under or with respect to this Indenture, and all of the covenants,

conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the parties hereto, the Tenant and the Owner(s) of Bonds as herein provided.

**Section 13.03. Notices.** Any notice, request, complaint, demand or other communication required or desired to be given or filed under this Indenture shall be in writing and shall be deemed duly given or filed if the same shall be duly mailed by registered or certified mail, postage prepaid, to the Notice Representative.

All notices given by certified or registered mail shall be deemed duly given as of the date they are so mailed. A duplicate copy of each notice, certificate or other communication given hereunder by either the Issuer or the Tenant to the other shall also be given to the Trustee. The Issuer, the Trustee and the Tenant may from time to time designate, by notice given hereunder to the others of such parties, such other address to which subsequent notices, certificates or other communications shall be sent.

**Section 13.04. Suspension of Mail Service.** If, because of the temporary or permanent suspension of regular mail service or for any other reason, it is impossible or impractical to mail any notice in the manner herein provided, then such other form of notice as shall be made with the approval of the Trustee shall constitute a sufficient notice.

**Section 13.05. Severability.** If any provision of this Indenture shall be held or deemed to be invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever.

**Section 13.06. Execution in Counterparts.** This Indenture may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**Section 13.07. Governing Law.** This Indenture shall be governed exclusively by and construed in accordance with the applicable laws of the State.

**Section 13.08. Electronic Transactions.** The transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

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**IN WITNESS WHEREOF**, the Issuer has caused this Indenture to be signed by an authorized official, such signature to be attested by an authorized officer and its official seal to be applied.

**CITY OF BEL AIRE, KANSAS**

[SEAL]

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

ATTEST:

\_\_\_\_\_  
City Clerk

“ISSUER”

**ACKNOWLEDGMENT**

STATE OF KANSAS            )  
  ) SS:  
COUNTY OF SEDGWICK    )

This instrument was acknowledged before me on the \_\_\_\_\_ day of November, 2025 by Jim Benage as Mayor of the City of Bel Aire, Kansas, a municipal corporation of the State of Kansas.

[SEAL]

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

My Appointment Expires:

\_\_\_\_\_

**IN WITNESS WHEREOF**, and to evidence its acceptance of the trusts hereby created, the Trustee has caused this Indenture to be signed in its name and behalf and such signature to be attested by its duly authorized officers, and its corporate seal to be applied, all as of the date first above written.

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

By: \_\_\_\_\_  
 Name: Bonnie Mosher  
 Title: Vice President

“TRUSTEE”

### ACKNOWLEDGMENT

STATE OF KANSAS                    )  
   ) SS.  
 COUNTY OF SEDGWICK        )

This instrument was acknowledged before me on the \_\_\_\_ day of November, 2025, by Bonnie Mosher, Vice President and Trust Officer of Security Bank of Kansas City, a banking corporation or association organized under the laws of the United States of America or one of the states thereof.

[SEAL]

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

My Appointment Expires:

\_\_\_\_\_

**APPENDIX A**  
**FORM OF BONDS**

THIS BOND HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 OR THE SECURITIES LAWS OF ANY STATE. NO TRANSFER, SALE, ASSIGNMENT OR HYPOTHECATION OF THIS SECURITY SHALL BE MADE. THE TRUSTEE SHALL BE CONSIDERED UNDER “STOP TRANSFER” ORDERS FOR ALL TRANSFERS OF BONDS UNLESS: (i) THERE SHALL HAVE BEEN DELIVERED TO THE ISSUER, THE TENANT AND THE TRUSTEE PRIOR TO THE TRANSFER, SALE ASSIGNMENT OR HYPOTHECATION AN OPINION OF NATIONALLY RECOGNIZED BOND OR SECURITIES COUNSEL, SATISFACTORY TO THE ISSUER, THE TENANT AND THE BANK, TO THE EFFECT THAT REGISTRATION UNDER THE SECURITIES ACT OF 1933 AND REGISTRATION UNDER ANY APPLICABLE STATE SECURITIES LAWS IS NOT REQUIRED; OR (ii) THERE SHALL BE A REGISTRATION STATEMENT IN EFFECT UNDER THE SECURITIES ACT OF 1933 AND UNDER ANY APPLICABLE STATE SECURITIES LAWS REQUIRING A STATE-LEVEL REGISTRATION STATEMENT WITH RESPECT TO THE TRANSFER, ASSIGNMENT, SALE OR HYPOTHECATION, AND, IN THE CASE OF BOTH (i) AND (ii), THERE SHALL HAVE BEEN COMPLIANCE WITH ALL APPLICABLE STATE AND FEDERAL SECURITIES LAWS AND ALL APPLICABLE RULES AND REGULATIONS THEREUNDER. THE TRUSTEE SHALL NOT TRANSFER THIS BOND EXCEPT IN ACCORDANCE WITH THIS LEGEND AND THE CORRELATIVE PROVISIONS OF THE INDENTURE.

THIS SERIES 2025B BOND IS NOT AN OBLIGATION ON WHICH THE INTEREST IS EXCLUDABLE FROM GROSS INCOME UNDER SECTION 103 OF THE INTERNAL REVENUE CODE OF THE UNITED STATES OF AMERICA, AS AMENDED. THE OWNER OF THIS SERIES 2025B BOND SHOULD NOT REGARD THE INTEREST HEREON AS BEING EXEMPT FROM FEDERAL INCOME TAXATION.

No. \_\_\_\_\_ \$ \_\_\_\_\_

**UNITED STATES OF AMERICA**  
**STATE OF KANSAS**  
**COUNTY OF SEDGWICK**  
**CITY OF BEL AIRE, KANSAS**  
**TAXABLE INDUSTRIAL REVENUE BOND**  
**SERIES 2025B**  
**(WALTONS 53RD HOLDINGS LLC)**

Interest	Maturity	Dated
Rate:	Date:	Date:

Registered Owner: \_\_\_\_\_

Principal Amount: \_\_\_\_\_ Dollars

The City of Bel Aire, Kansas, a body politic and corporate, incorporated as a city of second class of the State of Kansas (the “Issuer”), for value received, promises to pay, but solely from the sources hereinafter referred to, to the Registered Owner identified above, or registered assigns, the principal sum identified above on the Maturity Date shown above, unless called for redemption prior to the Maturity Date and to pay interest thereon at the Interest Rate per annum shown above (computed on the basis of a 360-day year of twelve 30-day months), from the Dated Date shown above, or from the most recent date to which interest has been paid or duly provided for, payable December 31, 2026 and each December 31 thereafter (the “Interest Payment Dates”), until the Principal Amount has been paid.

The principal or redemption price of this Bond shall be paid at maturity or upon earlier redemption to the person in whose name this Bond is registered at the maturity or redemption date thereof, upon presentation and surrender of this Bond at the principal corporate trust office or other designated office of Security Bank of Kansas City in Kansas City, Kansas (the “Paying Agent” and “Trustee”). The interest payable on this Bond on any Interest Payment Date shall be paid to the person in whose name this Bond is registered on the registration books maintained by the Trustee at the close of business on the Record Date(s) for such interest, which shall be the 15th day (whether or not a business day) of the calendar month of the Interest Payment Date. Such interest shall be payable (a) by check or draft mailed by the Paying Agent to the address of such Registered Owner shown on the Bond Register or at such other address as is furnished to the Paying Agent in writing by such Registered Owner; or (b) in the case of an interest payment to any Owner of \$500,000 or more in aggregate principal amount of Bonds by electronic transfer to such Owner upon written notice given to the Bond Registrar by such Registered Owner, not less than 15 days prior to the Record Date for such interest, containing the electronic transfer instructions including the bank, ABA routing number and account number to which such Registered Owner wishes to have such transfer directed. The principal or redemption price of and interest on the Bonds shall be payable in any coin or currency that, on the respective dates of payment thereof, is legal tender for the payment of public and private debts. Interest not punctually paid will be paid in the manner established in the within defined Indenture.

Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the hereinafter defined Indenture.

This Bond certificate evidences ownership of a part of a duly authorized series of Bonds of the Issuer designated “City of Bel Aire, Kansas Taxable Industrial Revenue Bonds, Series 2025B (Waltons 53rd Holdings LLC),” in the aggregate original principal amount not to exceed [\$12,000,000] (the “Series 2025B Bonds”), issued for the purpose of providing funds to pay the costs of the acquisition, construction and equipping of a meat processing supply and equipment commercial facility (the “Project”), to be leased by the Issuer to Waltons 53rd Holdings LLC, a Kansas limited liability company (the “Tenant”), under the terms of a Project Lease dated as of December 4, 2025, between the Issuer and the Tenant (the Project Lease, as amended and supplemented from time to time in accordance with the provisions thereof, being herein called the “Project Lease”), all pursuant to the authority of and in conformity with the provisions, restrictions and limitations of the constitution and statutes of the State of Kansas, including particularly K.S.A. 12-1740 *et seq.* and pursuant to proceedings duly had by the governing body of the Issuer.

The Series 2025B Bonds are issued under and are equally and ratably secured and entitled to the protection of the Trust Indenture, dated as of December 4, 2025 (the Trust Indenture, as amended and supplemented from time to time in accordance with the provisions thereof, being herein called the “Indenture”), between the Issuer and the Trustee. Subject to the terms and conditions set forth therein, the Indenture permits the Issuer to issue Additional Bonds (as defined therein) secured by the Indenture ratably and on a parity with the Series 2025B Bonds (the Series 2025B Bonds together with such Additional Bonds being herein referred to collectively as the “Bonds”). Reference is hereby made to the Indenture for a description of the provisions, among others, with respect to the nature and extent of the security for the Bonds, the rights, duties and obligations of the Issuer, the Trustee and the Owner(s) of Bonds, and the terms upon which the Bonds are issued and secured.

The Series 2025B Bonds are subject to redemption and payment prior to Stated Maturity, at the option of the Issuer, upon instructions from the Tenant, on and after December 4, 2025, as a whole or in part on any date, at the redemption price of the par value of the principal amount thereof, without premium.

When any Bonds are called for redemption, notice thereof identifying the Bonds to be redeemed will be given by mailing a copy of the redemption notice at least 30 days prior to the date fixed for redemption to the Owner of each Bond to be redeemed at the address shown on the registration books maintained by the Trustee; provided, however, failure to give such notice by mailing, or any defect therein, shall not affect the validity of any proceedings for the redemption of Bonds. If less than all of the Outstanding Bonds of this series are called for redemption, Bonds shall be redeemed as directed in writing by the Tenant. Bonds of less than a full maturity shall be selected by the Trustee in such equitable manner as it may determine. All Bonds so called for redemption will cease to bear interest on the specified Redemption Date and shall no longer be secured by the Indenture and shall not be deemed to be Outstanding under the provisions of the Indenture.

The Bonds and the interest thereon are limited obligations of the Issuer payable exclusively out of the Trust Estate under the Indenture, including but not limited to the rents, revenues and receipts under the Project Lease, and are secured by a pledge of the Project (including any Project Additions) as described in the Project Lease and a pledge and assignment of the Trust Estate, including all rentals and other amounts to be received by the Issuer under and pursuant to the Project Lease, all as provided in the Indenture. The Bonds and the interest thereon do not constitute a debt or general obligation of the Issuer, the State of Kansas or any municipal corporation thereof, and are not payable in any manner by taxation. The Bonds do not constitute an indebtedness within the meaning of constitutional or statutory debt limitations or restrictions. Pursuant to the provisions of the Project Lease, Basic Rent is to be paid by the Tenant directly to the Trustee for the account of the Issuer and deposited in a special trust account created by the Issuer and designated “City of Bel Aire, Kansas Debt Service Fund (Waltons 53rd Holdings LLC).”

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

This Bond certificate is transferable, as provided in the Indenture, only upon the registration books of the Issuer kept for that purpose at the above mentioned office of the Bond Registrar and Paying Agent by the Owner hereof in person or by his duly authorized attorney, upon surrender of this Bond together with a written instrument of transfer satisfactory to the Trustee duly executed by the Owner or such Owner's duly authorized attorney, and thereupon a new Bond certificate in the same aggregate principal amount, shall be issued to the transferee in exchange therefor as provided in the Indenture, and upon payment of the charges therein prescribed. The Tenant has agreed to pay as Additional Rent under the Project Lease all costs incurred in connection with the issuance, transfer, exchange, registration, redemption or payment of the Bonds except (a) the reasonable fees and expenses in connection with the replacement of certificates mutilated, stolen, lost or destroyed or (b) any tax or other governmental charge imposed in relation to the transfer, exchange, registration, redemption or payment of the Bonds. The Issuer, the Trustee and any Paying Agent may deem and treat the person in whose name this Bond certificate is registered as the absolute Owner hereof for the purpose of receiving payment of, or on account of, the principal or redemption price hereof and interest due hereon and for all other purposes.

This Bond certificate shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Indenture until the Certificate of Authentication hereon shall have been executed by the Trustee.



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

**IN WITNESS WHEREOF**, Issuer has caused this Bond certificate to be executed in its name by the manual or facsimile signature of its Mayor and attested by the manual or facsimile signature of its City Clerk and its official seal to be affixed hereto or imprinted hereon and has caused the Bonds to be dated as of December 4, 2025.

**CITY OF BEL AIRE, KANSAS**

(Facsimile Seal)

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

ATTEST:

\_\_\_\_\_  
City Clerk

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**(FORM OF TRUSTEE'S CERTIFICATE OF AUTHENTICATION)**

This Bond certificate evidences ownership of the City of Bel Aire, Kansas Taxable Industrial Revenue Bonds, Series 2025B (Waltons 53rd Holdings LLC), as described herein and in the within-mentioned Trust Indenture. The date of authentication of this Bond is \_\_\_\_\_.

**Security Bank of Kansas City**  
Kansas City, Kansas,  
Trustee

By: \_\_\_\_\_  
Authorized Signature

**(FORM OF ASSIGNMENT)**

For value received, the undersigned hereby sells, assigns and transfers unto

\_\_\_\_\_  
Print or Type Name and Address of Transferee

the Bonds represented by this certificate and all rights thereunder, and hereby authorizes the transfer of the within Bond on the books kept by the Bond Registrar and Paying Agent for the registration and transfer of Bonds.

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

\_\_\_\_\_  
NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular.

Signature Guaranteed By:

[Seal of Bank]

\_\_\_\_\_  
(Name of Eligible Guarantor Institution)

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

Signature must be guaranteed by an eligible guarantor institution as defined by S.E.C. Rule 17 Ad-15 (17 C.F.R. 240. 17-Ad-15) or any similar rule which the Trustee deems applicable.

**THIS BOND MAY NOT BE TRANSFERRED EXCEPT IN COMPLIANCE WITH THE APPLICABLE PROVISIONS OF THE SECURITIES ACT OF 1933, AS AMENDED, AND APPLICABLE STATE SECURITIES LAWS, OR IN A TRANSACTION EXEMPT FROM THE APPLICATION OF FEDERAL AND STATE SECURITIES LAWS.**

\_\_\_\_\_



DATE: August 7, 2025  
TO: City Council  
FROM: Ted Henry, City Manager  
SUBJECT: Chamber of Commerce

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Summary

The Bel Aire Area Chamber of Commerce, established in 2009, has continually supported the local business community. An active chamber provides important benefits, including business advocacy, networking opportunities, training, and mentorship. The Chamber also organizes community events that enhance resident engagement and draw visitors to Bel Aire.

To support these efforts, the Bel Aire City Council entered into an agreement in 2022 providing \$20,000 for operations and community events. Funding levels since then have been \$20,000 in 2023, \$15,000 in 2024, and \$15,000 in 2025. The approved 2026 budget includes \$12,000.

At the August Council workshop, Chamber President Greg Dane and member Gary O’Neal reported that the Chamber continues to face challenges, particularly in membership recruitment, and requested additional support to strengthen the organization’s capacity.

Through a series of meetings with City staff, several opportunities were identified to assist the Chamber, including information sharing, promotional support, and aid with membership recruitment. Additionally, the Chamber can increase membership and sponsorships to help offset the reduced funding.

The 2026 agreement continues the City’s partnership with the Chamber at the \$12,000 funding level. This maintains City support while encouraging the Chamber to diversify and expand its revenue sources.

Example Budget (Based on FY25 Actuals)

\$3,000	2025 Ending Account Balance
Income	
\$12,000	City of Bel Aire
\$ 4,000	Memberships
\$ 6,000	Event Sponsorships
<hr/>	
\$22,000	Total Income
Expense	
\$12,000	3 City Events
\$ 2,500	3 Chamber Mixers
\$ 200	Unpaid Lunches
\$ 8,000	Employee Wages & Mileage (Kim)
<hr/>	
\$22,700	Total Expenses

## Area Comparisons

Council requested a review of what nearby cities contribute to their respective chambers. While each community differs in size, structure, and economic environment, the following figures provide context:

Goddard – \$10,000  
Mulvane – \$40,000  
Cheney – \$100  
Derby – \$0  
Maize – \$10,000  
Haysville – \$5,000  
Kechi – \$0  
Park City – \$0  
Valley Center – \$5,225  
Andover – \$10,000

## Conclusion

Continued support at \$12,000 preserves the City's longstanding partnership with the Chamber, maintains essential business and community programming, and reflects prudent fiscal management. Strengthening collaboration on membership recruitment and event sponsorships will position the Chamber for greater sustainability and impact in 2026 and beyond.

**BEL AIRE AREA CHAMBER OF COMMERCE, INC.**

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- E. The Chamber shall create and maintain its own communication platforms. The Chamber Director shall manage all related content. The City will provide links on its website and may assist by sharing posts on social media.
  - F. The Chamber Board or Director, shall assist the Bel Aire Recreation Department with three (3) community events as outlined below.
    - i. The three (3) community events shall be the Spring Easter Egg Hunt, Fall Festival, and Christmas Event.
    - ii. The Chamber will provide at least four (4) volunteers for each event.
    - iii. The Chamber will raise funds to cover expenses for each event, with each event's budget to be mutually agreed upon by the Bel Aire Recreation Department and Chamber.
    - iv. The Chamber may plan other events for fundraising but will receive no assistance from the Bel Aire Recreation Department.
4. City Funding
- A. In exchange for Chamber's performance of programs and services, City agrees to provide the following funding to Chamber in 2026: **TWELVE THOUSAND DOLLARS AND NO CENTS (\$12,000.00).**
  - B. Funding shall be distributed in one (1) payment in the first quarter of 2025. Such payment is contingent upon City's receipt of an invoice.
  - C. The City will reevaluate this funding for the 2027 budget and determine whether to continue funding.
  - D. The City will remain responsible for paying its annual Chamber membership fee.
  - E. In the event the Chamber voluntarily or involuntarily dissolves, ceases operations, merges with another entity, or otherwise becomes unable to fulfill the purposes of this Agreement, all unexpended municipal funds, and any municipal funds or assets purchased in whole or in part with municipal funds, shall immediately revert to the City. The Chamber shall provide the City with a final accounting of all municipal funds within thirty (30) days of dissolution or cessation of operations. The City reserves the right to recover any such funds or property through appropriate legal means if not returned voluntarily.

General Terms and Conditions

5. Contractual Relationship. The legal relationship between Chamber and City is of a contractual nature. The parties assert and believe that Chamber is acting as an independent contractor in providing the services and programs required by City hereunder. Chamber is at all times acting as an independent contractor and not as an officer, agent, or employee of City. As an independent contractor, Chamber, or employees of Chamber, will not be within the protection or coverage of City's worker's compensation insurance, nor shall Chamber, or employees of Chamber, be entitled to any current or future benefits provided to employees of City. Further, City shall not be responsible for the withholding of social

security, federal, and/or state income tax, or unemployment compensation from payments made by City to Chamber.

6. Authority to Contract. Chamber assures it possesses legal authority to contract under this Agreement; that resolution, motion or similar action has been duly adopted or passed as an official act of Chamber’s governing body, authorizing the signing of this Agreement, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of Chamber to act in connection with the application and to provide such additional information as may be required.

7. Termination.

A. For Cause. In the event of any breach of the terms or conditions of this Agreement by Chamber, or in the event of any proceedings by or against Chamber in bankruptcy or insolvency or for appointment of receiver or trustee or any general assignment for the benefit of creditors, City may, in addition to any other remedy provided it by law or in equity or other right reserved to it elsewhere in this Agreement, without any liability to Chamber on account thereof, by written notice, terminate immediately all or any part of this Agreement and Chamber shall be liable to pay to City any excess cost or other damages caused by Chamber as a result thereof.

B. For Convenience. City shall have the right to terminate this Agreement for convenience in whole, or from time to time, in part, upon thirty (30) days’ written notice. Upon receipt of such termination notice, Chamber shall not incur any new obligations and shall cancel as many outstanding obligations as reasonably possible. In such event, City shall allow full credit to Chamber for the grant share of the non-cancelable obligations properly incurred by Chamber prior to termination.

C. Due to Reduction in Funds. It is understood that funding may cease or be reduced at any time. In the event that adequate funds are not available to meet the obligations hereunder, either party reserves the right to terminate this Agreement upon thirty (30) days written notice.

8. Complete Agreement. This Agreement and the documents incorporated herein contain all the terms and conditions agreed upon by both parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto. Any agreement not contained herein shall not be binding on either party, nor shall it be of any force or effect.

9. Assignment. Neither this Agreement nor any rights or obligations created by it shall be assigned or otherwise transferred by either party without the prior written consent of the other. Any attempted assignment without such consent shall be null and void.

10. Amendments. Neither this Agreement nor any rights or obligations created by it shall be amended by either party without the prior written consent of the other. Any attempted amendment without such consent shall be null and void.

11. Severability Clause. In the event that any provision of this Agreement is held to be unenforceable, the remaining provisions shall continue in full force and effect.
12. Nondiscrimination and Workplace Safety. Chamber agrees to abide by all federal, state and local laws, rules and regulations prohibiting discrimination in employment and controlling workplace safety. Any violation of applicable laws, rules or regulations may result in termination of this Agreement.
13. Retention of Records. Unless otherwise specified in this Agreement, Chamber agrees to preserve and make available to City at reasonable times all of its books, documents, papers, records and other evidence involving transactions related to this Agreement for a period of five (5) years from the date of expiration or termination of this Agreement.
- A. Matters involving litigation shall be kept for one (1) year following termination of litigation, including all appeals, if the litigation exceeds five (5) years.
14. Inspection/Audit of Facilities and Records of Chamber. City shall have the right of inspection of Chamber’s facilities and records at any time during Chamber’s regular business hours, and at any other time provided that City gives Chamber twenty-four (24) hours’ notice of its intent to inspect. This right of inspection shall include the right to monitor and inspect Chamber’s programs as well as the right to inspect all books containing any type of participant data or financial documentation relating to funding provided by City.

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APPROVED by the Governing Body of the City of Bel Aire, Kansas, on the 18<sup>th</sup> day of November, 2025.

SIGNED by the Mayor on the \_\_\_\_\_ day of November, 2025.

CITY OF BEL AIRE, KANSAS



\_\_\_\_\_  
Jim Benage, Mayor

ATTEST:

APPROVED AS TO FORM ONLY:

\_\_\_\_\_  
Melissa Krehbiel, City Clerk

\_\_\_\_\_  
Maria A. Schrock, City Attorney

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SIGNED by the Chamber on the \_\_\_\_\_ day of November, 2025.

**CENTRAL EQUIPMENT, LLC..**

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(Authorized Signature: Name, Title)  
Aaron Maxwell, Chamber President

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DATE: November 12, 2025  
TO: Bel Aire City Council  
FROM: Ted Henry, City Manager  
SUBJECT: Updated SEH Agreement for Engineering Services (Sunflower Commerce Park Phase 2)

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### Summary

You will see two actions on the agenda related to an agreement with SEH. On August 18th, the City Council considered and approved a contract with SEH for engineering services for Sunflower Commerce Park Phase 2. The first action rescinds the contract approved on August 18th, and the second action approves an updated contract.

In this case, the contract approved on August 18th was premature and negotiations were still ongoing. To prevent similar miscommunications in the future, I have implemented an updated process and instructed all Department Heads to ensure that a contract is fully signed before it is added to the agenda. I apologize for the oversight and appreciate your understanding as we continue to refine our contracting and internal agenda submission processes.

The contract before you tonight has been fully vetted by both Bel Aire and SEH and is now ready for approval. The City Manager is available to answer questions regarding the process, and the City Attorney is available to address any questions regarding changes within the contract.

(Published at [www.belaireks.gov](http://www.belaireks.gov) on November, \_\_\_\_\_, 2025.)

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF BEL AIRE, KANSAS, RESCINDING THE PRIOR ACTION OF THE GOVERNING BODY APPROVING A CONTRACT BETWEEN THE CITY OF BEL AIRE AND SHORT ELLIOTT HENDRICKSON, INC., FOR ENGINEERING SERVICES RELATED TO CONSTRUCTION ON SUNFLOWER COMMERCE PARK PHASE 2, FOR THE REASON THAT NEGOTIATIONS WERE STILL ONGOING WITH SHORT ELLIOTT HENDRICKSON, INC.**

WHEREAS, on August 19, 2025, the Governing Body of the City of Bel Aire approved a contract (hereinafter called “Contract”) with Short Elliott Hendrickson, Inc., (hereinafter called “Consultant”) to provide engineering services related to construction on Sunflower Commerce Park Phase 2, for \$245,500.00; and

WHEREAS, the contract approved on August 19, 2025, was premature and negotiations were still ongoing. City staff and Consultant desire the City of Bel Aire (hereinafter City) to rescind the Contract so Consultant may submit a contract vetted by their legal department; and

WHEREAS, under Kansas law, the governing body has the authority to rescind prior actions, including agreements, when such actions are deemed appropriate and in the public interest.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF BEL AIRE, KANSAS, AS FOLLOWS:

Section 1. Rescission of Prior Action. Based upon the circumstances of this specific Contract, the City hereby rescinds its prior action of approving the Contract on August 19, 2025.

Section 2. Effective Date. This resolution shall be in full force and effect from and after its adoption by the Governing Body of the City of Bel Aire.

Section 3. Publication. The City Clerk shall cause this resolution, as soon as practicable after it has been adopted and signed, to be published on the City’s website as the designated official city newspaper.

*[Remainder of this page intentionally left blank]*

ADOPTED by the Governing Body of the City of Bel Aire, Kansas on the 18<sup>th</sup> day of November, 2025.

SIGNED by the Mayor on the \_\_\_\_\_ day of November, 2025.

CITY OF BEL AIRE, KANSAS

\_\_\_\_\_  
Jim Benage, Mayor

ATTEST:

\_\_\_\_\_  
Melissa Krehbiel, City Clerk

APPROVED AS TO FORM ONLY:

\_\_\_\_\_  
Maria A. Schrock, City Attorney

1 CONTRACT  
2 FOR  
3 DESIGN SERVICES

4 (Sunflower Commerce Park 3<sup>rd</sup> Addition, Phase II Infrastructure)

5 This Agreement, made and entered into this 19<sup>th</sup> day of August, 2025, by and between the  
6 City of Bel Aire, Kansas, a Municipal Corporation, (hereinafter called “City”) and Short Elliott  
7 Hendrickson, Inc., whose principal office is at 15750 West Dodge Road, Suite 304, Omaha,  
8 Nebraska, 68118, Telephone Number (402) 830-5855, (hereinafter called “Consultant”).

9 WHEREAS, the City is authorized by law to employ consulting architects and engineers  
10 to perform all necessary studies and associated services required to provide estimated budget of  
11 costs of work for the Sunflower Commerce Park 3<sup>rd</sup> Addition, Phase II Infrastructure (hereinafter  
12 called “Project”); and

13 WHEREAS, Consultant has submitted a quote beneficial to City and is ready, willing, and  
14 able to provide the goods, commodities and/or services required by City.

15 NOW, THEREFORE, the parties hereto agree as follows:

16 1. PURPOSE

17  
18 A. The City will employ the Consultant to perform all necessary professional services  
19 described in Exhibit A (Project Description and Scope, 2 pages) in connection with the  
20 Design and Construction Documents included in the Project.

21  
22 2. THE CONSULTANT AGREES

23  
24 A. To provide the various technical and professional services, materials, equipment and  
25 transportation to perform the tasks as outlined in Exhibit A .

26  
27 B. To attend meetings with the City and other local stakeholders as necessitated in Exhibit  
28 A.

29  
30 C. To make available during regular office hours; calculations, sketches, documents and  
31 drawings related to the Project that the City may reasonably need to examine during  
32 performance of this Agreement.

33  
34 D. To the extent allowed by law, to indemnify, keep and save harmless the City, its officials  
35 and employees against damages and judgments that may result from the Consultant’s  
36 or its agents’, officers’ or employees’ willful or negligent acts, errors or omissions in

37 connection with professional services performed under this Agreement arising out of  
38 or resulting from injury to persons, damage to property or other liability loss. from  
39 injury to persons, damage to property or other liability loss. The Consultant shall  
40 require all sub-consultants to indemnify, keep and save harmless the City in the same  
41 manner as is required of the Consultant in this Agreement. The Consultant shall require  
42 all sub-consultants to provide similar indemnification for professional services they  
43 perform under this Agreement.  
44

45 E. To maintain books, documents, papers, accounting records and other evidence  
46 pertaining to costs incurred by Consultant and, where relevant to method of payment,  
47 to make such material available at its office at reasonable times during the Agreement  
48 period and for three (3) years from the date of final payment under the Agreement for  
49 inspection by the City of its representatives.  
50

51 F. To comply with the requirements of Exhibits B and C, which are attached hereto and  
52 adopted by reference as though fully set forth herein.  
53

54 G. To accept compensation for the work herein described in such amounts and at such  
55 periods as hereinafter provided and that such compensation shall be satisfactory and  
56 sufficient payment for all work performed, equipment or materials used, and services  
57 rendered in connection with such work and as outlined in Exhibit A.  
58

59 H. To complete the services to be performed by Consultant within the time allotted in the  
60 attached schedule for the Project jointly developed by City and Consultant; except that  
61 the Consultant shall not be responsible or held liable for delays occasioned by the  
62 actions or inactions of the City, or for other unavoidable delays beyond the control of  
63 the Consultant, including the delays of the General Contractor during the Construction  
64 Phase.  
65

66 I. To represent and be responsible for the professional and technical accuracy and the  
67 coordination of all designs, drawings, specifications, plans and/or other work or  
68 material furnished by the Consultant under this Agreement. Consultant shall perform  
69 its professional services consistent with the standard of care set forth in this Agreement  
70 furnished by Consultant, its agents, employees and subcontractors under this  
71 Agreement. The standard of care for all professional services performed or furnished  
72 by Consultant under this Agreement will be the care and skill ordinarily used by  
73 members of the subject profession practicing under similar circumstances at the same  
74 time and in the same locality. City shall not be responsible for discovering deficiencies  
75 in the technical accuracy of Consultant's services. Consultant shall correct deficiencies

76 in technical accuracy without additional compensation, unless such corrective action is  
77 directly attributable to deficiencies in City furnished information.

78  
79  
80 J. Consultant shall procure and maintain such insurance as will protect the Consultant  
81 from damages resulting from the negligent acts of the Consultant, its officers and  
82 employees in the performance of the professional services rendered under this  
83 Agreement. Such professional liability insurance policy shall be in an amount not less  
84 than \$1,000,000 per occurrence. In addition, Consultant will procure and maintain a  
85 Workers' Compensation and Employer's Liability Policy that covers claims for injury,  
86 disease or death of employees arising out of and in the course of their employment  
87 which, for any reason, may not fall within the provisions of the Workers' Compensation  
88 Law. The liability limit shall be not less than:

89  
90 Workers' Compensation: Statutory  
91 Employer's Liability: \$1,000,000 each occurrence  
92

93 Further, a Commercial General Liability policy shall be procured and maintained by  
94 the Consultant that shall be written in a comprehensive form and shall protect  
95 Consultant against all claims arising from injuries to persons (other than Consultant's  
96 employees), damage to property of the City or third parties or other liability loss arising  
97 out of any negligent act or omission of Consultant, its agents, officers, employees or  
98 subcontractors in the performance of the services under this Agreement. The liability  
99 limit shall not be less than \$1,000,000.00 per occurrence for bodily injury, death,  
100 property damage and other liability loss. Consultant shall file satisfactory certificates  
101 of insurance with the City before the time Consultant starts any work under this  
102 Agreement. In addition, insurance policies applicable hereto shall contain a provision  
103 that provides that the City shall be given thirty (30) days' written notice by the  
104 insurance company before such policy is canceled.

105  
106 K. Any claims, disputes or controversies arising out of or relating to this Agreement shall  
107 first be submitted to mediation. If mediation is unsuccessful, the parties may pursue  
108 their legal remedies in a court of competent jurisdiction.

109  
110 L. To designate a Project Manager for the coordination of the work that this Agreement  
111 requires to be performed. The Consultant agrees to advise the City, in writing, of the  
112 person designated as Project Manager not later than five (5) days following issuance of  
113 the notice to proceed on the work required by this Agreement. The designated Project  
114 Manager shall be the person identified for that role by Consultant in its response for  
115 the Request for Proposals unless otherwise approved by City, which approval shall not



116 be unreasonably denied. Written notification shall be provided to the City for any  
117 changes exceeding one week in length of time.

118  
119 The designated Project Manager will coordinate all aspects of this Project through the  
120 City's Project Manager. Any requests from any other staff that would affect the Project  
121 schedule must be approved by the City's Project Manager. No request from any party,  
122 including the Project Manager, shall affect the Project's identified not-to-exceed cost,  
123 unless approved in advance by the City's governing body.

124  
125 3. THE CITY AGREES

126  
127 A. To furnish all available data pertaining to the Project now in the City's files at no cost  
128 to the Consultant. Confidential material so furnished will be kept confidential by the  
129 Consultant.

130  
131 B. To provide standards as required for the Project.

132  
133 C. To pay the Consultant for its services in accordance with the requirements of this  
134 Agreement.

135  
136 D. To provide reasonable right of entry for Consultant's personnel in performing field  
137 surveys and observations.

138  
139 E. To designate a Project Manager for the coordination of the work that this Agreement  
140 requires to be performed. The City agrees to advise the Consultant, in writing, of the  
141 person designated as Project Manager with the issuance of the notice to proceed on the  
142 work required by this Agreement. The City shall also advise the Consultant of any  
143 changes in the person designated as Project Manager.

144  
145 F. To examine all studies, reports, sketches, drawings, specifications, proposals and other  
146 documents presented by Consultant in a timely fashion.

147  
148 G. To the extent allowed by law, to indemnify, keep and save harmless Consultant against  
149 damages and judgments that may result from the City, its agents, servants, or  
150 employees' willful or negligent acts, errors or omissions in connection with the  
151 performance of its obligations under this Agreement.

152  
153 4. PAYMENT PROVISIONS

The City agrees to pay the Consultant for services rendered under this Agreement and as specifically detained in Exhibit A, a total fee established as follows:

- A. Payments to the Consultant for the performance of Architectural and Engineering services required by this Agreement shall be as defined in Exhibit A and is limited to a fixed Project fee (including reimbursable expenses and supplemental agreements) of **two hundred forty five thousand five hundred dollars (\$245,500.00)**, to be paid on scope of work received July 21, 2025, and which shall constitute complete compensation for the services.
- B. Payments are payable to the Consultant for undisputed work within thirty (30) days from the date of receipt of invoice. If any invoice for undisputed amounts is outstanding for more than thirty (30) days from the date due, the Consultant shall have the right, in addition to any and all other rights provided, to refuse to render further services to the City and such act or acts shall not be deemed a breach of this Agreement. Continued performance and/or completion of work by the Consultant under this Agreement are contingent upon payment of fees by the City. This provision shall be interpreted in conformity with the Kansas Fairness in Public Construction Contract Act.
- C. When requested by the City, the Consultant will enter into a Supplemental Agreement for additional services related to the Project such as, but not limited to:
  - a. Consultant serving as a witness for the City in any litigation, administrative hearing, and other legal proceedings related to the Project.
  - b. Additional design services not covered by the scope of this Agreement that City requires to be added to the project due to significant modifications to scope or design by Consultant and City will mutually agree upon the change in scope and an equitable adjustment in design services fee, identified within the executed Supplemental Agreement.
- D. If additional work should be necessary, the Consultant will be given written notice by the City, along with a request for an estimate of the increase necessary in the not-to-exceed fee, for performance of such additions. No additional work shall be performed, nor shall additional compensation be paid, except as authorized in a Supplemental Agreement between the parties and approved by the City's governing body. Upon receipt of such approval and subsequent completion of additional work, payment will be made as stated in Paragraph IV. B. above.

194 E. If services are rendered by the Consultant for the Project but the City elects to terminate  
195 the Project or portions thereof at any time, the Consultant shall be compensated at an  
196 amount in proportion to the services rendered as stated in Paragraph A above, and as  
197 scheduled in Exhibit A.

198  
199 5. TIME OF COMPLETION

200  
201 The Consultant agrees to complete all Design Phases of this Project as follows:

- 202
- 203 A. The Consultant agrees to complete the phases of this Project as indicated on Exhibit A,  
204 subject to reasonable availability of City resources and circumstances of force majeure.
- 205
- 206 B. The City agrees to cooperate with the Consultant in reviewing drawings and data  
207 submitted and to make necessary decisions promptly to facilitate completion in the  
208 scheduled time, and the City agrees to furnish promptly to the Consultant, upon written  
209 request, any approvals and instructions required to be given by the City to the  
210 Consultant under the terms of the Agreement.

211  
212 6. TERMINATION OF AGREEMENT

- 213
- 214 A. The City may terminate this Agreement any time for any cause by a notice in writing  
215 to the Consultant. Upon receipt of such notice, the Consultant shall, unless the notice  
216 directs otherwise, immediately discontinue all services and work and the placing of all  
217 orders or the entering into contracts for supplies, assistance, equipment and materials  
218 in connection with the performance of this Agreement and shall proceed to cancel  
219 promptly all existing orders and contracts insofar as such orders or contracts are  
220 chargeable to this Agreement.
- 221
- 222 B. In the event of termination, Consultant shall be compensated for Services performed  
223 prior to termination date, including charges for expenses and equipment costs then due.
- 224
- 225 C. Upon full payment of all undisputed amounts due under this Agreement, Consultant  
226 grants the City a non-exclusive, non-transferable license to use the final drawings and  
227 all other instruments of service associated with the Project. All instruments of service,  
228 including but not limited to reports, drawings, specifications, and electronic data, shall  
229 remain the property of Consultant and Consultant shall retain all intellectual property  
230 rights, including but not limited to copyrights, patents, trade secrets, and know-how the  
231 final deliverables were prepared specifically for the City under this Agreement.  
232 Consultant shall retain ownership of all preliminary materials, working documents, and  
233 any pre-existing intellectual property, methodologies, or proprietary information.

234 Consultant shall retain an unrestricted right to use, reuse and modify any documents or  
235 work product created under this Agreement.

236  
237 D. Dissolution of the firm of Short Elliott Hendrickson, Inc. for any reason whatsoever,  
238 shall give the City the option of terminating this Agreement in accordance with the  
239 terms of Paragraph B above, provided said dissolution materially affects the Agreement  
240 as determined by City, and such termination shall be deemed to be due to the fault of  
241 Consultant.

242  
243 7. THE PARTIES MUTUALLY AGREE  
244

245 A. Consultant grants the City a non-exclusive, non-transferable license to use the final  
246 drawings and all other instruments of service associated with the Project upon  
247 completion or termination of the Consultant’s services and payment in full of  
248 undisputed charges due the Consultant, in accordance with this Agreement. The  
249 Consultant shall not be responsible for any re-use or modification of the plans and  
250 specifications once they are used by City. The City agrees to hold the Consultant  
251 harmless from all claims, liability or cost, including reasonable attorney fees and  
252 defense costs which arise out of such further use without the participation of the  
253 Consultant.

254  
255 B. In the event of unavoidable delays in the progress of the work contemplated by this  
256 Agreement, reasonable extensions in the time allotted for the work will be granted by  
257 the City; provided, however, that the Consultant shall request extensions, in writing,  
258 giving the reasons therefore. Such time extensions shall not justify an increase in the  
259 Project cost.

260  
261 C. It is further agreed that this Agreement and any modifications to it shall be binding  
262 upon the parties hereto and their successors and assigns.

263  
264 D. Neither the City’s review, approval or acceptance of, nor payment for any of the work  
265 or services required to be performed by the Consultant under this Agreement shall  
266 constitute a waiver of any rights under this Agreement or any cause of action arising  
267 out of the performance of this Agreement and the Consultant shall be and remain liable  
268 to the City for all costs of any kind which are incurred by the City as a result of the  
269 Consultant’s breach of any condition contained in the Agreement.

270  
271 E. The rights and remedies of each party provided for under this Agreement are in addition  
272 to any other rights and remedies provided by law and the City may assert its right of  
273 recovery by any appropriate means, including, but not limited to, set offs; suit;

274 withholding; recoupment; or counterclaim, either during or after performance of this  
275 Agreement.  
276

277 F. The Consultant agrees to employ structural, mechanical and electrical engineers, if  
278 necessary, as reasonably determined by the Consultant in consultation with the City,  
279 for design and analysis and to pay the fees as contracted for with the individual  
280 engineers for such services. These fees are included in the Project fee unless otherwise  
281 specified in Exhibit A.  
282

283 G. If a firm or firms are separately engaged by the City to work under the general direction  
284 of the Consultant, the Consultant shall have no responsibility or liability for the  
285 accuracy, completeness, quality, timeliness, or technical sufficiency of the services of  
286 such separately engaged firms.  
287

288 H. Neither Party shall be liable to the other Party for failure or delay in performance of  
289 this Agreement due to acts of God, acts of governmental authorities, extraordinary  
290 weather conditions, pandemics, epidemics, quarantines, other natural catastrophes,  
291 strikes, labor disputes, supply chain disruptions, cyber attacks, telecommunications or  
292 power failures, or any other cause beyond the reasonable control or contemplation of  
293 either Party (“Force Majeure Event”), provided the delayed Party:  
294

- 295 (a) shall make commercially reasonable efforts to avoid or mitigate such delay;  
296
- 297 (b) shall promptly notify the other Party in writing of the cause and expected  
298 duration of the delay; and  
299
- 300 (c) resumes performance as soon as reasonably practicable after the Force Majeure  
301 Event has ended.  
302

303 [Remainder of this Page Intentionally Left Blank]  
304

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APPROVED by the Governing Body of the City of Bel Aire, Kansas, on the 18<sup>th</sup> day of November, 2025.

SIGNED by the Mayor on the \_\_\_\_\_ day of November, 2025.

**CITY OF BEL AIRE, KANSAS**

\_\_\_\_\_  
Jim Benage, Mayor

ATTEST:

APPROVED AS TO FORM ONLY:

\_\_\_\_\_  
Melissa Krehbiel, City Clerk

\_\_\_\_\_  
Maria A. Schrock, City Attorney

**(Exhibits A, and B are attached.)**

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SIGNED by Consultant on the \_\_\_\_\_ day of November, 2025.

**SHORT ELLIOTT HENDRICKSON, INC.**

\_\_\_\_\_  
(Authorized Signature: Name, Title)  
Matt Bolf, Principal and Professional Engineer

**(Exhibits A, and B are attached.)**

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404  
405

## EXHIBIT A (CONSULTANT QUOTE & DESCRIPTION)

**Project Manager:** Samantha Ghareeb

**Address:** 15750 West Dodge Road, Suite 304, Omaha, Nebraska 68118

**Telephone:** 402.830.5855

**email:** sghareeb@sehinc.com

**Project Description:** The project area is Phase II of the improvements to Sunflower Commerce Park 3<sup>rd</sup> Addition, including 5 Industrial Lots, and will begin at the north end of Sunflower Court in the City of Bel Aire, Kansas. The proposed industrial development design will include; grading, paving, water main, sanitary sewer main, Lift station and force main, and drainage. A bid package will be developed for the entire scope of work (1 contract).

**Scope:** The Basic Services to be provided by Consultant as set forth herein are provided subject to the attached General Conditions of the Agreement for Professional Services (General Conditions Rev. 05.15.22), which is incorporated by reference herein and subject to Exhibits attached to this Agreement.

### **Task 1: Construction Documents (Phase 2 – Improvements for Lots 2 - 5, & 6)**

- Develop roadway alignment and typical sections
- Develop storm sewer routing and design
- Provide water main plans and connections to the existing water system
- Develop sanitary sewer routing and design
- Determine Lift Station Size, power requirements, control panel, and force main routing
- Submit Final Plans for City staff review, which shall include the following:
  - Title sheet
  - Notes sheet
  - Typical section sheet
  - Details sheet
  - Control sheet
  - Site Grading Plans
  - Site Grading Heat map
  - Site Erosion Control & Stabilization plans
  - Sanitary Sewer Plan & Profile sheets
  - Water Main Plan & Profile sheets
  - Roadway Plan & Profile sheets
  - Storm Sewer Plan & Profile sheets
  - Lift Station Structure and Detail
  - Force Main Plan & Profile sheets
  - Roadway Cross-sections sheets
- Provide project specifications & bid documents
- Send plans to local utility companies for review and relocation coordination, as necessary
- Send plans to City of Bel Aire for review and comment, and make revisions as necessary
- Send plans to Kansas Dept. of Health and Environmental (KDHE) for review and permitting
- Provide Final Opinion of Cost for Sanitary, Water, Street, and Drainage for Special Assessment Petitions
- Make final revisions and incorporate comments from City staff and KDHE from Final Plans review

406



Not included:

- Construction Administration
- Landscape plan
- Construction Staking

Schedule: Design is anticipated to take up to 12 weeks for the Construction Documents submittal to the city for review, and reviews and resubmittals can take another 3 weeks. Once approved by the City, permitting will begin and within 3 weeks the project can solicit bids.

Not: The consultant can adjust the schedule to meet critical deadlines that are mutually agreed upon. Overall schedule may be impacted by regulatory approval processes beyond the control of the Consultant.

Payment: The lump sum fee is **\$245,500** including expenses and equipment.

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**EXHIBIT B****CITY OF BEL AIRE, KANSAS  
MANDATORY INDEPENDENT CONSULTANT ADDENDUM**

1. The parties agree Consultant shall satisfy all tax and other governmentally imposed responsibilities including, but not limited to payment of state, federal, and social security taxes; unemployment taxes; workers' compensation and self-employment taxes. No federal, state, or local taxes of any kind shall be withheld or paid by City and Consultant's shall indemnify City for its failure to comply with Contractor's responsibilities under this paragraph.
2. The parties agree that as an independent contractor, Consultant is not entitled to any benefits from City, including but not limited to:

- (a) unemployment insurance benefits;
- (b) workers' compensation coverage; or
- (c) health insurance coverage.

Consultant may only receive such coverages if provided by Consultant or an entity other than City. Subject to the foregoing, Consultant hereby waives and discharges any claim, demand, or action against City's workers' compensation insurance and/or health insurance and further agrees to indemnify City for any such claims related to Contractor's operations or the performance of services by Consultant hereunder.

3. The parties hereby acknowledge and agree that City will not:
  - (a) require Consultant to work exclusively for City;
  - (b) establish means or methods of work for Consultant, except that City may provide plans and specifications regarding the work, but will not oversee the actual work. City may establish performance standards for the contracted outcomes;
  - (c) pay to Consultant a salary or hourly rate, but rather will pay Consultant a fixed or contract rate;
  - (d) provide training for Consultant on performance of the services to be done; City may provide informational briefing on known conditions.
  - (e) provide tools or benefits to Consultant (materials and equipment may be supplied if negotiated);
  - (f) dictate the time of Contractor's performance; and

(g) pay Consultant personally; instead, City will make all checks payable to the trade or business name under which Consultant does business.

4. Consultant does not have the authority to act for City, to bind City in any respect whatsoever, or to incur debts or liabilities in the name of or on behalf of City.
5. Unless given express written consent by City, Consultant agrees not to bring any other party (including but not limited to employees, agents, subcontractors, sub-subcontractors, and vendors) onto the project site.
6. If Consultant is given written permission to have other parties on the site, and Consultant engages any other party which may be deemed to be an employee of Consultant, Consultant will be required to provide the appropriate workers' compensation insurance coverage as required by this Agreement.
7. Consultant has and hereby retains control of and supervision over the performance of Consultant's obligations hereunder. Consultant agrees to retain control over any allowed parties employed or contracted by Consultant for performing the services hereunder and take full and complete responsibility for any liability created by or from any actions or individuals brought to the project by Consultant.
8. Consultant represents that it is engaged in providing similar services to the public and not required to work exclusively for City.
9. All services are to be performed solely at the risk of Consultant and Consultant shall take all precautions necessary for the safety of its and the City's employees, agents, subcontractors, sub-subcontractors, vendors, along with members of the public it encounters while performing the work.
10. Consultant will not combine its business operations in any way with City's business operations and each party shall maintain their operations as separate and distinct.

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*City of Bel Aire, Kansas*



## STAFF REPORT

DATE: November 7, 2025  
TO: Ted Henry, City Manager  
FROM: Anne Stephens, PE, City Engineer  
RE: Bel Aire Boundary Resolution (PEC Work Order 25-11)

### **Current Situation:**

After the annexation at the November 4<sup>th</sup> City Council meeting, the City needs a new boundary description that encapsulates the new City boundaries.

### **Discussion:**

PEC assisted the City with the most recent boundary description. During the process of writing the description, it was discovered that the existing boundary description did not accurately reflect the existing City boundaries.

With the recent annexation, a new boundary description is needed. While we are in the process of creating a new boundary description, this is the best time to review the current one and ensure that it is reasonably correct. PEC will take the current description and trace it out on a map to see where the description differs from the known boundaries of the City and revise the description accordingly. This not-to-exceed fee also includes research time if it becomes necessary for PEC to look up any specific locations.

### **Financials:**

The cost of the boundary description will be paid for from the General Fund.

### **Recommendation:**

Staff recommends that the City Council accept Work Order 25-11 from PEC in the amount of \$15,000.00 for updating the written boundary description for the Bel Aire city limits to be used in the boundary resolution.

The City Attorney has reviewed and approved the agreement as presented.

## WORK ORDER NO. 25-11

This Work Order No. 25-11 is made as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, under the terms and conditions established in the Master Agreement between Client and Professional Consultant dated February 08, 2024 (the “Master Services Agreement” between City of Bel Aire, Kansas (Client) and Professional Engineering Consultants, P.A. (PEC). Per the Master Services Agreement, this Work Order shall be incorporated into the Master Services Agreement by reference. Except to the extent modified herein for this specific project, all terms and conditions of the Master Services Agreement shall continue in full force and effect.

### SECTION A – SERVICES

**A.1** PEC shall perform the following services (collectively, the “Services”):

1. See attached Exhibit A, Section C.

### SECTION B – SCHEDULE

PEC shall perform the Services and deliver the above documents according to the following:

1. See attached Exhibit A, Section B.

### SECTION C – COMPENSATION

In return for the proper performance by Consultant of its Services, Client shall pay to PEC on a standard hourly basis not to exceed Fifteen Thousand Dollars (**\$15,000.00**), payable according to the following terms:

1. See attached Exhibit A, Section E.

### SECTION D – OTHER PROVISIONS

The parties agree to the following additional provisions with respect to this Work Order:

1. See attached Exhibit A, Section D.

*[Remainder of this page intentionally left blank]*

**CITY OF BEL AIRE, KANSAS**

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

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

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

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

**ATTEST:**

\_\_\_\_\_  
Melissa Krehbiel, City Clerk

**PROFESSIONAL ENGINEERING  
CONSULTANTS, P.A.**

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

Printed Name: Benjamin M. Mabry, P.E.

Title: SVP | Government Markets

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

**APPROVED AS TO FORM ONLY:**

\_\_\_\_\_  
Maria A. Schrock, City Attorney



## EXHIBIT A

### A. Project Description

1. The Project shall consist of updating the written description for the City of Bel Aire city limits to be utilized in the boundary resolution.

### B. Anticipated Project Schedule

1. The fully executed copy of the contract will serve as PEC's notice to proceed with the services.
2. PEC shall commence its services on the Project within 7 days after receiving CLIENT's notice to proceed.
3. PEC and CLIENT agree that the project will be completed within a mutually agreed upon schedule.
4. CLIENT acknowledges that directed changes, unforeseen conditions, and other delays may affect the completion of PEC's services. PEC will not have control over or responsibility for any CLIENT, Authority Having Jurisdiction, contractor or vendor's performance schedule.

### C. Scope of Services

1. City Boundary Update:
  - a) Obtain parcel and city limit shape files from Sedgwick County GIS.
  - b) Meet with City Staff to review City Boundary Limits and annexation descriptions.
  - c) Edit current boundary description to include the provided annexations.
  - d) Prepare base map in AutoCAD format from Sedgwick County shape files, encompassing entire City boundaries as described in the annexation description(s).
  - e) Prepare City Boundary Map and provide to the City in AutoCAD and PDF format.
  - f) Prepare final revised City Boundary description in Microsoft Word format.

### D. Additional Responsibilities of CLIENT

The CLIENT agrees to provide the following pursuant to PEC accomplishing the Scope of Services outlined herein.

1. Provide current City boundary description.
2. Provide annexation description(s).
3. Meet with PEC to review City Boundary Limits and annexation description.

### E. PEC's Fees & Reimbursable Expenses

1. PEC's Fee for its Scope of Services will be on a standard hourly basis, at the rates established on the attached Rate Schedule plus Reimbursable Expenses not-to-exceed **\$15,000.00**.
2. Taxes are not included in PEC's Fees. CLIENT shall reimburse PEC for any sales, use, and value added taxes which apply to these services.

## 2025 RATE SCHEDULE A\*\*



<u>TITLE</u>	<u>HOURLY RATE *</u>
Principal Engineer .....	\$250
Senior Project Manager .....	\$225
Project Manager .....	\$200
Senior Engineer II.....	\$225
Senior Engineer I.....	\$200
Project Engineer .....	\$175
Senior Landscape Architect.....	\$180
Landscape Architect .....	\$130
Senior Planner .....	\$175
Planner.....	\$155
Design Engineer .....	\$145
Senior Piping Designer.....	\$160
Piping Designer .....	\$125
Senior Technician .....	\$150
Design Technician .....	\$115
Senior Commissioning Agent.....	\$160
Commissioning Agent .....	\$135
GIS Specialist .....	\$150
GIS Analyst .....	\$120
Project Coordinator.....	\$100
Project Assistant .....	\$90
Senior Field Project Manager .....	\$200
Field Project Manager .....	\$155
Senior Inspector.....	\$160
Inspector .....	\$125
Senior Field Technician.....	\$105
Field Technician .....	\$85
Senior Driller .....	\$130
Driller .....	\$95
Land Surveyor .....	\$140
Crew Chief.....	\$120
Survey Technician.....	\$100
*Premium time for all non-salaried personnel or as noted in the contract	1.5 multiplier

REIMBURSABLES:

Infrared Camera.....	\$50/Hour
Structural Testing Equipment .....	\$50/Hour
Subconsultants .....	Cost plus 10%
Vehicle Mileage.....	IRS Rate/Mile
Truck Mileage .....	\$0.75/Mile
ATV .....	\$20/Hour
GPS.....	\$50/Hour
3D Laser Scanner.....	\$150/Hour
Robotic Total Station.....	\$50/Hour
UAS.....	\$150/Hour
Mobile Lidar Unit.....	\$4,000/Day
Drill Rig Use.....	\$75/Hour
Concrete Testing Equipment .....	\$10/Each
Nuclear Gauge Equipment.....	\$20/Each
Compressive Strength of Cylinders .....	\$15/Each
Ultra Sonic Testing Equipment .....	\$50/Each
Semi-Trailer Mileage.....	\$3/Mile
Other Reimbursables .....	Cost plus 10%

\*\*The rates shown above are effective for services through December 31, 2025 and are subject to revision thereafter.





DATE: November 18, 2025  
TO: Bel Aire City Council  
FROM: City Attorney  
SUBJECT: Adoption of Airport Zoning Commission Ordinance

---

**Background:** Obstructions to aircraft during landing or takeoff that exist in areas near airports can create hazards posing risks to lives and property. These hazards can impact current and future flight paths, maneuvering space, and overall airport operations. To address this problem, Kansas statute allows local governments to adopt and enforce airport zoning regulations which can prevent hazard development.

Wichita and Sedwick County have shared a joint Airport Hazard Zoning Code since 1995. Properties within the city limits of Bel Aire are not subject to this Code, as the Sedwick County jurisdiction only extends to unincorporated areas of the county. This situation presents a gap in airport safety coverage for Colonel James Jabara Airport (Jabara), as a portion of its footprint is adjacent to and located within the city limits of Bel Aire.

Jabara is a rapidly growing general aviation airport which is home base to approximately 150 jet and propeller-driven aircraft. It is also home to the National Center for Aviation Training and WSU Tech, which is currently building a \$30 million expansion. It is located approximately a mile south of the Sunflower Commerce Park.

**Analysis:** In accordance with K.S.A. 3-705, a city planning commission may be appointed as the city airport zoning commission. No airport zoning regulations shall be adopted by the governing body prior to the appointment of the airport zoning commission. Such commission shall make a preliminary report and send a final report to the governing body, with a recommendation.

**Financial Considerations:** Adoption of this ordinance will not create any financial obligations for the City.

**Legal Considerations:** The City Attorney has drafted and approved the proposed ordinance amending the City's Zoning Code. It requires a majority vote for approval.

**Recommended Action:** It is recommended that City Council adopt the proposed ordinance modifying the City's Zoning Code, authorize the necessary signatures, and instruct the City Clerk to publish the ordinance as required by law.

**Attachments:**  
Proposed ordinance

(Published at [www.belaireks.gov](http://www.belaireks.gov) on November, \_\_\_\_\_ 2025.)

**ORDINANCE No. \_\_\_\_\_**

AN ORDINANCE APPOINTING THE PLANNING COMMISSION AS THE  
AIRPORT ZONING COMMISSION AND CREATING CHAPTER 18, ARTICLE  
12, SECTIONS 18.12.1, 18.12.2, AND 18.12.3, OF THE BEL AIRE CITY CODE.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF BEL AIRE, KANSAS:

SECTION 1. “The Code of the City of Bel Aire is hereby amended by adding Chapter 18, Article 12, and Sections 18.12.1, 18.12.2, and 18.12.3, which read as follows:

Article 12. Airport Zoning Commission

18.12.1. Created.

In accordance with K.S.A. 3-705(2), the City of Bel Aire, does hereby appoint the Bel Aire Planning Commission (hereinafter “Commission”) as the Bel Aire Airport Zoning Commission (hereinafter “AZC”).

18.12.2. Membership.

The AZC shall consist of all of the members of the Commission. Appointment to the Commission shall automatically constitute appointment to the AZC. The term of service for both appointments shall run coterminous with the individual’s term on the Commission. No additional appointment or oath of office shall be required for service on the AZC.

18.12.3. Duties.

Pursuant to Chapter 3, Article 7, of the Kansas Statutes Annotated and amendments thereto, the AZC shall have such duties and powers as specified and provided for, in the Airport Zoning Act of the State of Kansas.”

SECTION 2. Severability.

37 If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be  
38 invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the  
39 validity of the remaining portions of this ordinance.

40  
41 SECTION 3. Effective Date.  
42  
43 This ordinance shall take effect and be in force from and after its adoption by the Governing Body  
44 of the City, approval by the Mayor, and publication once in the official city newspaper.

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48 *[Remainder of this page intentionally left blank]*  
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50 ADOPTED by the Governing Body of the City of Bel Aire, Kansas on this 18<sup>th</sup> day of November,  
51 2025.

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53 SIGNED by the Mayor on this \_\_\_\_\_ day of November, 2025.

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56 CITY OF BEL AIRE, KANSAS

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Jim Benage, Mayor

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63 ATTEST:

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68 Melissa Krehbiel, City Clerk

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71 APPROVED AS TO FORM:

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76 Maria A. Schrock, City Attorney

City of Bel Aire, Kansas

## STAFF REPORT

DATE: November 18, 2025

TO: Ted Henry, City Manager

FROM: Barry Smith, Finance Director

RE: 2025 Budget Amendment



### SUMMARY:

Per state legislation, local units of government are allowed to amend their annual budget if needed. The amended budget must balance any proposed increase in spending with new revenue from sources other than property taxes. Some common reasons for budget amendments include:

- Increases in unexpected expenditures in the current fiscal year, for example, street maintenance.
- Additional approved projects or grants that were not in the current fiscal year budget.
- To record transfers from one fund to another that were not originally budgeted.
- Grant programs that were awarded after the current fiscal year budget was adopted.

### LEGAL IMPLICATIONS:

K.S.A. 79-2929a outlines the process a city must follow if a budget amendment is needed. The process is like the annual budget process cities follow every year. Additional property taxes cannot be levied during the amendment process. The revenue neutral rate requirements do not apply but the public notice, hearing, adoption, submission, and filing requirements do apply.

### FINANCIAL CONSIDERATION:

The budget amendment process will balance all increased spending with new revenue from sources other than property taxes. In the City's case, all additional revenue sources will come from unencumbered fund balances and transfers from other funds. The proposed amendment timeline is as follows:

- **Nov 18th** – staff will review the 2025 budget amendment process during the Discussion and Future Issues portion of the agenda.
- **Dec 2nd** – Staff will present the proposed 2025 budget amendment to City Council and request to set the public hearing for the 2025 budget amendment on Dec 16th, 2025.
- **Dec 4th** - The 2025 budget amendment Notice of Hearing will be published in the Ark Valley News. The publication date must be at least 10 days before the scheduled hearing.
  - *To meet the public notice requirement.*
- **Dec 16th** – Hold the 2025 budget amendment public hearing, close the public hearing, and adopt the 2025 budget amendment.
  - *To meet the hearing and adoption requirements.*
- **Dec 17th** – Staff will submit the approved budget amendment to Sedgwick County who will subsequently submit the budget amendment to the State of Kansas.
  - *To meet the submission and filing requirements.*

# MANAGER'S REPORT

**DATE:** November 13, 2025  
**TO:** Mayor Benage and City Council  
**FROM:** Ted Henry, City Manager  
**RE:** November 18, 2025 Agenda



## **Consent Agenda (Item VI)**

The consent agenda contains the Minutes of the November 4<sup>th</sup> City Council meeting and the November 10<sup>th</sup> special City Council meeting.

## **Appropriations Ordinance (Item VII)**

This appropriation ordinance encompasses 10/29/2025 through 11/11/2025 expenses and one payroll cycle. Expenditures amounted to \$3,968,829.91. Of the reported expenses, \$295,260.59 are infrastructure costs for new developments. These costs are paid through special assessments.

## **Special Presentation (Item VIII)**

Councilmembers John Welch and Tom Schmitz will be recognized for their service.

## **Ordinance to Issue IRB, Aspen Funds (Item A)**

On April 16, 2024, the City Council held a public hearing, adopted a resolution, and signed a letter of intent authorizing up to \$105,000,000 in Industrial Revenue Bonds (IRBs) for the development of land near 53rd Street and Webb Road. The developer, Aspen Funds, proposes constructing approximately five buildings totaling about 200,000 square feet each for use as warehouse or manufacturing facilities, with full build-out expected by the end of 2034. The first building has now been completed, and Aspen Funds is requesting that the City issue IRBs in the principal amount of \$18,000,000 for that building. Kevin Cowan with Gilmore & Bell will attend the meeting to present this item and answer any questions.

## **Ordinance to Issue IRB, Waltons (Item B)**

On March 19, 2024, the City Council held a public hearing, adopted a resolution, and signed a letter of intent authorizing up to \$12,000,000 in Industrial Revenue Bonds (IRBs) for the development of land on 53rd Street between Webb Road and Greenwich Road. Walton's proposed constructing a new headquarters building of approximately 100,000 square feet. The building has now been completed, and Walton's is requesting that the City issue IRBs in the principal amount of \$12,000,000 for the project. Kevin Cowan with Gilmore & Bell will attend the meeting to present this item and answer any questions.

### **Funding Agreement for Chamber Of Commerce (Item C)**

The Bel Aire Area Chamber of Commerce, established in 2009, has continually supported the local business community. An active chamber provides important benefits, including business advocacy, networking opportunities, training, and mentorship. The Chamber also organizes community events that enhance resident engagement and draw visitors to Bel Aire. To support these efforts, the Bel Aire City Council entered into an agreement in 2022 providing \$20,000 for operations and community events. Funding levels since then have been \$20,000 in 2023, \$15,000 in 2024, and \$15,000 in 2025. The approved 2026 budget includes \$12,000. At the August Council workshop, Chamber President Greg Dane and member Gary O'Neal reported that the Chamber continues to face challenges, particularly in membership recruitment, and requested additional support to strengthen the organization's capacity. Through a series of meetings with City staff, several opportunities were identified to assist the Chamber, including information sharing, promotional support, and aid with membership recruitment. Additionally, the Chamber can increase membership and sponsorships to help offset the reduced funding. The 2026 agreement continues the City's partnership with the Chamber at the \$12,000 funding level. This maintains City support while encouraging the Chamber to diversify and expand its revenue sources. Continued support at \$12,000 preserves the City's longstanding partnership with the Chamber, maintains essential business and community programming, and reflects prudent fiscal management. Strengthening collaboration on membership recruitment and event sponsorships will position the Chamber for greater sustainability and impact in 2026 and beyond.

### **Resolution and Contract with SEH, Sunflower Commerce Park Phase 2 (Items D&E)**

You will see two actions on the agenda related to an agreement with SEH. On August 18th, the City Council considered and approved a contract with SEH for engineering services for Sunflower Commerce Park Phase 2. The first action rescinds the contract approved on August 18th, and the second action approves an updated contract. In this case, the contract approved on August 18th was premature and negotiations were still ongoing. To prevent similar miscommunications in the future, I have implemented an updated process and instructed all Department Heads to ensure that a contract is fully signed before it is added to the agenda. I apologize for the oversight and appreciate your understanding as we continue to refine our contracting and internal agenda submission processes. The contract before you tonight has been fully vetted by both Bel Aire and SEH and is now ready for approval. The City Manager is available to answer questions regarding the process, and the City Attorney is available to address any questions regarding changes within the contract.

### **PEC Work Order No 25-11, City Boundary description (Item F)**

After the annexation at the November 4th City Council meeting, the City needs a new boundary description that encapsulates the new City boundaries. PEC assisted the City with the most recent boundary description. During the process of writing the description, it was discovered that the existing boundary description did not accurately reflect the existing City boundaries. With the recent annexation, a new boundary description is needed. While we are in the process of creating a new boundary description, this is the best time to review the current one and ensure that it is reasonably correct. PEC will take the current description and trace it out on a map to see where the description differs from the known boundaries of the City and revise the description accordingly. This not-to-exceed fee also includes research time if it becomes necessary for PEC to look up any specific locations. The cost of the boundary description will be paid for from the General Fund. Staff recommends that the City Council accept Work Order 25-11 from PEC in the amount of

\$15,000.00 for updating the written boundary description for the Bel Aire city limits to be used in the boundary resolution.

### **Ordinance regarding Airport Zoning Commission (Item G)**

The City Attorney has reviewed and approved the agreement as presented. Obstructions to aircraft during landing or takeoff that exist in areas near airports can create hazards posing risks to lives and property. These hazards can impact current and future flight paths, maneuvering space, and overall airport operations. To address this problem, Kansas statute allows local governments to adopt and enforce airport zoning regulations which can prevent hazard development. Wichita and Sedwick County have shared a joint Airport Hazard Zoning Code since 1995. Properties within the city limits of Bel Aire are not subject to this Code, as the Sedwick County jurisdiction only extends to unincorporated areas of the county. This situation presents a gap in airport safety coverage for Colonel James Jabara Airport (Jabara), as a portion of its footprint is adjacent to and located within the city limits of Bel Aire. Jabara is a rapidly growing general aviation airport which is home base to approximately 150 jet and propeller-driven aircraft. It is also home to the National Center for Aviation Training and WSU Tech, which is currently building a \$30 million expansion. It is located approximately a mile south of the Sunflower Commerce Park. In accordance with K.S.A. 3-705, a city planning commission may be appointed as the city airport zoning commission. No airport zoning regulations shall be adopted by the governing body prior to the appointment of the airport zoning commission. Such commission shall make a preliminary report and send a final report to the governing body, with a recommendation. The City Attorney has drafted and approved the proposed ordinance amending the City's Zoning Code. It requires a majority vote for approval. It is recommended that City Council adopt the proposed ordinance modifying the City's Zoning Code, authorize the necessary signatures, and instruct the City Clerk to publish the ordinance as required by law.

### **Executive Session (Item XII)**

There is one executive session on the agenda.

### **Discussion and Future Issues (Item XIII)**

Barry Smith, Director of Finance, will provide a brief overview of the upcoming budget amendment.