

AN ORDINANCE AUTHORIZING THE CITY OF GLADSTONE, MISSOURI, TO ISSUE ITS TAXABLE INDUSTRIAL DEVELOPMENT REVENUE BONDS (HOTEL PROJECT), SERIES 2019, IN A PRINCIPAL AMOUNT NOT TO EXCEED \$13,450,800.00 TO FINANCE THE COSTS OF A PROJECT FOR SREH MAG GLADSTONE PARTNERS, LLC; APPROVING A PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT FOR THE PROJECT; AUTHORIZING AND APPROVING CERTAIN DOCUMENTS; AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION WITH THE ISSUANCE OF THE BONDS.

WHEREAS, the City of Gladstone, Missouri (the “City”) is a third class city and political subdivision of the State of Missouri, duly created, organized and existing under and by virtue of the Constitution and laws of the State of Missouri; and

WHEREAS, the City is authorized under the provisions of Article VI, Section 27 of the Missouri Constitution, as amended, and Sections 100.010 to 100.200, inclusive, of the Revised Statutes of Missouri, as amended (collectively, the “Act”), to purchase, construct, extend and improve certain projects (as defined in the Act) for the purposes set forth in the Act and to issue industrial development revenue bonds for the purpose of providing funds to pay the costs of such projects and to lease or otherwise dispose of such projects to private persons or corporations for manufacturing, commercial, warehousing and industrial development purposes upon such terms and conditions as the City shall deem advisable; and

WHEREAS, the City has prepared a plan for industrial development (the “Plan”) for a commercial project consisting of the construction of a hotel with related parking and site improvements (the “Project”); and

WHEREAS, notice of the Project was given to the taxing jurisdictions in accordance with Section 100.059.1 of the Act, and the City now desires to approve the Plan; and

WHEREAS, the City desires to finance the costs of the Project out of the proceeds of industrial development revenue bonds to be issued under the Act (the “Bonds”); and

WHEREAS, the City has and does hereby find and determine that it is desirable for the economic development of the City and within the public purposes of the Act that the City proceed with the issuance of the Bonds for the purpose described above; and

WHEREAS, because the Bonds will be payable solely out of payments, revenues and receipts derived by the City from the lease of the Project to the Company and from no other source, the City has determined that it is appropriate that the Bonds be sold to the Company pursuant to Section 108.170 of Revised Statutes of Missouri, as amended, which provides that

notwithstanding any other provisions of any law or any charter provision to the contrary, industrial development revenue bonds may be sold at private sale; and

WHEREAS, the City further finds and determines that it is necessary and desirable in connection with the approval of the Plan and the issuance of the Bonds that the City enter into certain documents, and that the City take certain other actions and approve the execution of certain other documents as herein provided.

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

Section 1. Public Purpose. The Council hereby finds and determines that the Project will promote the economic welfare and the development of the City, and the issuance of the Bonds by the City to pay the costs of the Project will be in furtherance of the public purposes set forth in the Act.

Section 2. Approval of Plan. The Council hereby approves the Plan for Industrial Development Project attached hereto as **Exhibit A** in accordance with Section 100.050 of the Act.

Section 3. Authorization and Sale of the Bonds. The City is hereby authorized to issue and sell its Taxable Industrial Development Revenue Bonds (Hotel Project), Series 2019, in an aggregate principal amount not to exceed \$13,450,800, for the purpose of providing funds to pay the costs of the Project. The Bonds shall be issued and secured pursuant to the herein authorized Trust Indenture and shall bear such date, shall mature at such time, shall be in such denominations, shall bear interest at such rate (not to exceed 8.00%), shall be in such form, shall be subject to redemption, shall have such other terms and provisions, shall be issued, executed and delivered in such manner and shall be subject to such provisions, covenants and agreements as are specified in the Trust Indenture upon the execution thereof, and the signatures of the officers of the City executing the Trust Indenture shall constitute conclusive evidence of their approval and the City's approval thereof. The sale of the Bonds to the Company at private sale pursuant to the provisions of Section 108.170 of Revised Statutes of Missouri, as amended, at the interest rate and upon the terms set forth in the Trust Indenture is hereby approved.

Section 4. Limited Obligations. The Bonds and the interest thereon shall be limited obligations of the City payable solely out of the payments, revenues and receipts derived by the City from the herein authorized Lease Agreement, and such payments, revenues and receipts shall be pledged and assigned to the Trustee as security for the payment of the Bonds as provided in the Trust Indenture. The Bonds and interest thereon shall not be deemed to constitute a debt or liability of the City within the meaning of any constitutional provision, statutory limitation or City code provision and shall not constitute a pledge of the full faith and credit of the City. The issuance of the Bonds shall not, directly, indirectly or contingently, obligate the City to levy any form of taxation therefore or to make any appropriation for their payment.

Section 5. Approval and Authorization of Documents. The following documents (the "City Documents") are hereby approved in substantially the forms presented to the Council

at this meeting (copies of which documents shall be filed in the records of the City), and the City is hereby authorized to execute and deliver the City Documents with such changes therein as shall be approved by the officials of the City executing such documents, such officials' signatures thereon being conclusive evidence of their approval thereof:

(a) Trust Indenture dated as of the date set forth therein (the "Trust Indenture"), between the City and Security Bank of Kansas City (the "Trustee"), pursuant to which the Bonds shall be issued and the City shall pledge and assign the payments, revenues and receipts received pursuant to the Lease Agreement to the Trustee for the benefit and security of the owners of the Bonds upon the terms and conditions as set forth in the Trust Indenture;

(b) Lease Agreement dated as of the date set forth therein (the "Lease Agreement"), between the City and SREH MAG Gladstone Partners, LLC (the "Company"), under which the City will (i) provide funds for the construction, improvement and equipping of the Project and (ii) lease the Project to the Company pursuant to the terms and conditions in the Lease Agreement, in consideration of rental payments by the Company which will be sufficient to pay the principal of, premium, if any, and interest on the Bonds;

(c) Bond Purchase Agreement dated as of the date set forth therein, between the City and the Company, pursuant to which the Company agrees to purchase the Bonds; and

(d) Performance Agreement dated as of the date set forth therein, between the City and the Company, pursuant to which the City will grant the Company certain rights with respect to the abatement of *ad valorem* real and personal property taxes on the Project in consideration for the Company's agreement to operate each facility comprising the Project as a commercial facility.

Section 6. Execution of Documents. The Mayor or the City Manager of the City 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 City in the manner provided in the Indenture. The Mayor or the City Manager of the City is hereby authorized and directed to execute the City Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance, for and on behalf of and as the act and deed of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City to the Bonds and the City Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

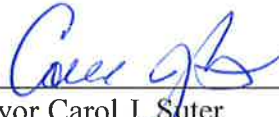
Section 7. Further Authority. The City shall, and the officials, agents and employees of the City are hereby authorized and directed to, take such further action, and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance and to carry out, comply with and perform the duties of the City with respect to the Bonds and the City Documents.

Section 8. Severability. The sections, paragraphs, sentences, clauses and phrases of this Ordinance shall be severable. In the event that any such section, paragraph, sentence, clause or phrase of this Ordinance is found by a court of competent jurisdiction to be invalid, the remaining portions of this Ordinance are valid, unless the court finds the valid portions of the Ordinance are so essential to and inseparably connected with and dependent upon the void portion that it cannot be presumed that the City Council has enacted the valid portions without the void ones, or unless the court finds that the valid portions, standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent.

Section 9. Governing Law. This Ordinance shall be governed exclusively by and construed in accordance with the applicable laws of the State of Missouri.

Section 10. Effective Date. This Ordinance shall take effect and be in full force from and after its passage by the City Council.


INTRODUCED, READ, PASSED, AND ADOPTED BY THE COUNCIL OF THE CITY OF GLADSTONE, MISSOURI, THIS 29th DAY OF JULY 2019.



Mayor Carol J. Suter

(SEAL)

ATTEST:



Ruth E. Bocchino
City Clerk

First Reading: July 29, 2019

Second Reading: July 29, 2019



Request for Council Action

RES ☐ # City Clerk Only

BILL ☒ # 19-29

ORD ☒ # 4.480

Date: 7/24/2019

Department: General Administration

Meeting Date Requested: 07/29/19

Public Hearing: Yes ☒ Date: 07/29/19

Subject: Approval of an Ordinance authorizing the City of Gladstone, Missouri, to issue its taxable Industrial Development Revenue Bonds (Hotel Project) Series 2019, in a principal amount not to exceed \$13,450,800 to finance the costs of a Project for Sreh Mag Gladstone Partners, LLC; approving a plan for an Industrial Development Project for the Project; authorizing and approving certain documents; and authorizing certain other actions in connection with the issuance of the Bonds.

Background: Sreh Mag Gladstone Partners, LLC has agreed to the terms of a development plan with the City of Gladstone for property owned by the City in the 6900 Block of North Oak. This development plan includes the issuance of taxable industrial revenue bonds, authorized under Missouri Sections 100.010 to 100.200, RSMo. The proceeds of these bonds will be used to purchase the property and construct a 5-story, 109-room hotel operated under a nationally recognized brand agreed to by the City of Gladstone.

Budget Discussion: Funds are budgeted in the amount of \$ 0 from the GENERAL fund. Ongoing costs are estimated to be \$ 0 annually. Previous years' funding was \$0

Public/Board/Staff Input: N/A

Provide Original Contracts, Leases, Agreements, etc. to: City Clerk

Bob Baer
Assistant City Manager

PC
City Attorney

SW
City Manager

EXHIBIT A

PLAN FOR INDUSTRIAL DEVELOPMENT PROJECT

[FOLLOWS THIS PAGE]

NOTICE TO TAXING JURISDICTIONS

On behalf of the City of Gladstone, Missouri ("City"), please find enclosed a copy of the proposed Plan for an Industrial Development Project ("Plan") for Gladstone Hotel Partners, LLC, which also contains a Cost Benefit Analysis on the affected taxing jurisdictions.

The City Council will consider an ordinance to approve the Plan during the City Council's meeting on Monday, July 29, 2019, at 7:00 p.m. at Gladstone City Hall, City Council Chambers, 7010 North Holmes, Gladstone, Missouri.

The City invites you to submit comments to the Council on the proposed Plan. All comments will be fairly and duly considered by the City.

A copy of the Plan and Cost Benefit Analysis for the proposed project will be on file in the office of the City Clerk and will be available for public inspection during normal business hours.

Dated: July 9, 2019

Ruth Bocchino
City Clerk
City of Gladstone, Missouri

CITY OF GLADSTONE, MISSOURI

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

FOR

GLADSTONE HOTEL PARTNERS, LLC

CITY OF GLADSTONE, MISSOURI

PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT AND COST-BENEFIT ANALYSIS FOR GLADSTONE HOTEL PARTNERS, LLC

I. PURPOSE OF THIS PLAN

The City Council of the City of Gladstone, Missouri (the "City") will consider the issuance by the City of its industrial development revenue bonds in the aggregate principal amount of approximately \$13,450,800 (the "Bonds"), to finance and refinance the costs of an industrial development project (the "Project") for Gladstone Hotel Partners, LLC (the "Company"). The Bonds will be issued pursuant to the provisions of Sections 100.010 to 100.200 of the Revised Statutes of Missouri, as amended, and Article VI, Section 27(b) of the Missouri Constitution, as amended (collectively, the "Act").

This Plan for an Industrial Development Project and Cost-Benefit Analysis (the "Plan") has been prepared to satisfy the requirements of the Act and to analyze the potential costs and benefits, including the related tax impact on all affected taxing jurisdictions, of using industrial development revenue bonds to finance the Project and to facilitate abatement of ad valorem taxes on the bond-financed property.

II. DESCRIPTION OF CHAPTER 100 FINANCINGS

General. The Act authorizes cities, counties, towns and villages to issue industrial development revenue bonds to finance the purchase, construction, extension and improvement of warehouses, distribution facilities, research and development facilities, office industries, agricultural processing industries, service facilities that provide interstate commerce, industrial plants and other commercial facilities.

Issuance and Sale of Bonds. Revenue bonds issued pursuant to the Act do not require voter approval and are payable solely from revenues received from the project. The municipality issues its bonds and in exchange, the benefited company promises to make payments that are sufficient to pay the principal of and interest on the bonds as they become due. Thus, the municipality merely acts as a conduit for the financing.

Concurrently with the closing of the bonds, the municipality will hold title to the site on which the industrial development project will be located. (The municipality must be the legal owner of the property while the bonds are outstanding for the property to be eligible for tax abatement, as further described below.) At the same time, the municipality will lease the project site and the improvements thereon back to the benefited company pursuant to a lease agreement. The lease agreement will require the company, acting on behalf of the municipality, to use the bond proceeds to finance and refinance the costs or reimburse the costs of purchasing, constructing and installing the project, as applicable.

Under the lease agreement, the company typically: (1) will unconditionally agree to make payments sufficient to pay the principal of and interest on the bonds as they become due; (2) will agree, at its own expense, to maintain the project, to pay all taxes and assessments with respect to the project, and to maintain adequate insurance; (3) has the right, at its own expense, to make certain additions, modifications or improvements to the project; (4) may assign its interests under the lease agreement or sublease the project while remaining responsible for payments under the lease agreement; (5) will covenant to maintain its corporate existence during the term of the bond issue; and (6) will agree to

indemnify the municipality for any liability the municipality might incur as a result of its participation in the transaction.

Property Tax Abatement. Under Article X, Section 6 of the Missouri Constitution and Section 137.100 of the Revised Statutes of Missouri, all property of any political subdivision is exempt from taxation. In a typical transaction, the municipality holds fee title to the project and leases the project to the benefited company. Although the Missouri Supreme Court has held that the leasehold interest is taxable, it is taxable only to the extent that the economic value of the lease is less than the actual market value of the lease. See *Iron County v. State Tax Commission*, 437 S.W.2d 665 (Mo. 1968)(*en banc*) and *St. Louis County v. State Tax Commission*, 406 S.W.2d 644 (Mo. 1966)(*en banc*). If the rental payments under the lease agreement equal the actual debt service payments on the bonds, the leasehold interest should have no “bonus value” and the bond-financed property should be exempt from ad valorem taxation and personal property taxation so long as the bonds are outstanding.

If the municipality and the company determine that partial tax abatement is desirable, the company may agree to make “payments in lieu of taxes.” The amount of payments in lieu of taxes is negotiable. The payments in lieu of taxes are payable by December 31 of each year, and are distributed to the municipality and to each political subdivision within the boundaries of the project in the same manner and in the same proportion as property taxes would otherwise be distributed under Missouri law.

III. DESCRIPTION OF THE PARTIES

Gladstone Hotel Partners, LLC. The Company is a limited liability company organized and existing under the laws of the State of Delaware and is authorized to do business in Missouri.

City of Gladstone, Missouri. The City is a third class city and municipal corporation organized and existing under the laws of the State of Missouri. The City is authorized and empowered pursuant to the provisions of the Act to purchase, construct, extend and improve certain projects (as defined in the Act) and to issue industrial development revenue bonds for the purpose of providing funds to pay the costs of such projects and to lease or otherwise dispose of such projects to private persons or corporations for manufacturing, commercial, warehousing and industrial development purposes upon such terms and conditions as the City deems advisable.

IV. REQUIREMENTS OF THE ACT

Description of the Project. The project to be financed by the Bonds consists of the purchase and development of certain property in the City of Gladstone, Clay County, Missouri, into a hotel with related parking and site improvements. The real property improvements being financed by the Bonds are referred to herein as the “Project Improvements” which are located on certain real estate referred to herein as the “Project Site, and the Project Improvements and Project Site are referred to herein collectively as the “Project.” The Project Site and existing structures on the Project Site are referred to as the “Existing Facilities.” The Project Site consists of approximately 1.56 acres of property, which is a portion of the property bounded on the west by North Oak Trafficway, on the North by NE 70th Street, on the East by N. Locust Street and on the South by NE 69th Street.

Estimate of the Costs of the Project. The cost of design and constructing the Project Improvements is estimated to be \$12,630,000, and the cost of acquisition of the Project Site is estimated to be \$820,800. The Project Improvements are expected to be completed in 2020.

Source of Funds to be Expended for the Project Improvements. The sources of funds to be expended for the Project will be the proceeds of the Bonds in the amount set forth above to be issued by

the City and purchased by the Company (the “Bondholder”) and, if needed, other available funds of the Company. The Bonds will be payable solely from the revenues derived by the City from the lease or other disposition of the Project (as further described below). The Bonds will not be an indebtedness or general obligation, debt or liability of the City or the State of Missouri.

Statement of the Terms Upon Which the Project is to be Leased or Otherwise Disposed of by the City. The Project Site is currently owned and controlled by the City. The City will lease the Project Site and the Project Improvements to the Company pursuant to a lease agreement that will provide for lease payments equal to the principal and interest payments on the Bonds. Under the terms of the lease agreement with the City, the Company will have the option to purchase the Project at any time and will have the obligation to purchase the Project at the termination of the lease. The lease agreement between the City and the Company will terminate in 2039, unless terminated sooner pursuant to the terms of the lease agreement.

Affected School District, Community College District, County and City. The North Kansas City School District is the school district affected by the Project. Clay County, Missouri is the county affected by the Project. Metropolitan Community College is the community college district affected by the Project. The City is the city affected by the Project. The Cost-Benefit Analysis attached hereto identifies all other taxing districts affected by the Project (other than those taxing entities solely affected by the Project with respect to receipt of tax revenues from the commercial surcharge tax).

Current Assessed Valuation. The most recent equalized assessed valuation of the Project Site is \$125,824. The estimated total equalized assessed valuation of the Project after the Project Improvements are made (2021) is estimated to be \$3,806,496, which is equal to 32.0% of the estimated property acquisition, design and construction costs set forth in the assumptions in Attachment A. The Project is assumed to be assessed at 50% of its value in 2020 (\$1,903,248), reflecting a partial assessment, with full assessment beginning in the year 2021.

Payments in Lieu of Taxes. If this Plan is approved by the City Council, the City intends to issue the Bonds and to extend tax abatement to the Company. The Project Site is currently owned and controlled by the City and would, consequently, generate no real property tax for 2019. The Project is expected to be fully operational beginning in 2020. The Project will be excluded from the calculation of ad valorem property taxes for a period beginning in 2019 and continuing through 2039

The Company will make PILOT Payments on a fixed schedule as follows:

2020	\$10,000
2021	10,200
2022	10,404
2023	10,612
2024	10,824
2025	11,041
2026	11,262
2027	11,487
2028	11,717
2029	11,951
2030	12,190
2031	12,434
2032	12,682
2033	12,936

2034	13,195
2035	13,459
2036	13,728
2037	14,002
2038	14,282
2039	14,568

Such payments in lieu of taxes would, after reduction for actual costs of the City for distributing such payments, be distributed among the taxing jurisdictions in proportion to the amount of taxes which would have been paid in each year had the Project not been exempt from taxation, pursuant to Section 100.050.3 of the Act.

Sales Tax Exemption. It is anticipated that the construction materials used to construct the Project will be exempt from state and local sales taxes.

Cost-Benefit Analysis and Discussion of Exhibits. In compliance with Section 100.050.2(3) of the Revised Statutes of Missouri, as amended, this Plan has been prepared to show the costs and benefits to the City and to other taxing jurisdictions affected by the tax abatements and exemptions of the Project. The following is a summary of the exhibits attached to this Plan that show the direct tax impact the Project is expected to have on each taxing jurisdiction. This Plan does not attempt to quantify the overall economic impact of the Project.

Project Assumptions. **ATTACHMENT A** presents a list of the assumptions related to the determination of assessed valuations and the tax formulas.

Cost Benefit Analysis. **ATTACHMENT B**, the Cost Benefit Analysis, provides the projected tax revenues that would be generated from the Project Site without tax abatement and prior to the Project Improvements; the projected value of the real property tax abatement to the Company; and the projected PILOT Amounts to be paid for the Project.

V. ASSUMPTIONS AND BASIS OF PLAN

In preparing this Plan, key assumptions have been made to estimate the fiscal impact of the abatement and exemptions proposed for the Project. See **ATTACHMENT A** for a summary of these assumptions.

Information necessary to complete this Plan, has been furnished by representatives of the City, representatives of the Company and its counsel, the Bondholder and other persons deemed appropriate and such information has not been independently verified for accuracy, completeness or fairness.

* * *

ATTACHMENT A

SUMMARY OF KEY ASSUMPTIONS

1. The cost of design and constructing the Project Improvements is estimated to be \$12,630,000, and the cost of acquisition of the Project Site is estimated to be \$820,800.

2. The construction of the Project Improvements will be completed in 2019 and 2020. The Project is assumed to be assessed at 50% of its value in 2020, reflecting a partial assessment, with full assessment beginning in the year 2021.

3. The Project will be owned by the City and leased to the Company with an option to purchase. As long as the Project is owned by the City, it will be exempt from ad valorem taxes.

4. The Project will be excluded from the calculation of ad valorem property taxes for a period beginning in 2019 and continuing through 2039.

5. During the entire term of the Bonds through 2039, the Company will make payments in lieu of taxes in accordance with that portion of Section IV above in the Plan entitled "Payments in Lieu of Taxes."

6. Commercial real property taxes are calculated using the following formula:

$$(\text{Assessed Value} * \text{Tax Rate})/100$$

7. The assessed value of the Project Improvements is calculated using the following formula:

$$\text{Estimated Value} * \text{Assessment Ratio of 32\%}$$

8. After development, the assessed value of the Project Site is subject to growth at an estimated rate of 1% every year an assessment is made (every odd year).

9. The tax rates used in this Plan reflect the rates in effect for the tax year 2018. The tax rates were held constant through the 2039 tax year.

* * *

ATTACHMENT B
COST BENEFIT ANALYSIS

Project Summary

(20-year, Real Property Exemption with Fixed PILOT Payments)

Tax District	Real Property Tax			PILOTS to Taxing Districts	Exemption (Abatement) Value
	Real Property Tax - If No Project Occurs*	Impact - No Exemption/ No Abatement			
Clay County - County Services	5,645	165,922	6,101	159,821	
City of Gladstone	24,459	718,943	26,436	692,507	
Handicap Tax	3,107	91,319	3,358	87,961	
Health Tax	2,591	76,151	2,800	73,351	
KCJC Tax	6,069	178,381	6,559	171,822	
Library Tax	10,434	306,692	11,277	295,415	
Mental Health Tax	2,591	76,151	2,800	73,351	
North Kansas City School District	169,118	4,971,075	182,789	4,788,286	
State of Missouri	790	23,217	854	22,363	
Total	\$ 224,801	\$ 6,607,849	\$ 242,974	\$ 6,364,875	

*based on a projected 2020 assessed valuation of \$125,824. In the event the City continued to own the Project Site through 2039 as is currently the case, these numbers would be \$0.

Hotel Project

TAX IMPACT - NO PROJECT - NO ABATEMENT*

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11
	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029
Taxing Jurisdictions											
Clay County - County Services	\$ -	270	270	272	272	275	275	278	278	281	281
City of Gladstone	\$ -	1,169	1,169	1,181	1,181	1,192	1,192	1,204	1,204	1,216	1,216
Handicap Tax	\$ -	148	148	150	150	151	151	153	153	155	155
Health Tax	\$ -	124	124	125	125	126	126	128	128	129	129
KCC Tax	\$ -	290	290	293	293	296	296	299	299	302	302
Library Tax	\$ -	499	499	504	504	509	509	514	514	519	519
Mental Health Tax	\$ -	124	124	125	125	126	126	128	128	129	129
North Kansas City School District	\$ -	8,082	8,082	8,163	8,163	8,245	8,245	8,327	8,327	8,410	8,410
State of Missouri	\$ -	38	38	38	38	39	39	39	39	39	39
Total	\$ -	10,743	10,743	10,851	10,851	10,959	10,959	11,069	11,069	11,180	11,180

*based on a 2020 projected assessed valuation of \$125,824. In the event the City continued to own the Project Site through 2039, as is currently the case, these numbers would be \$0.

Hotel Project

TAX IMPACT - NO PROJECT - NO ABATEMENT*

	Year 12	Year 13	Year 14	Year 15	Year 16	Year 17	Year 18	Year 19	Year 20	Year 21	Total
	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	
Taxing Jurisdictions											
Clay County - County Services	284	284	286	286	289	289	292	292	295	295	\$ 5,645
City of Gladstone	1,229	1,229	1,241	1,241	1,253	1,253	1,266	1,266	1,278	1,278	\$ 24,459
Handicap Tax	156	156	158	158	159	159	161	161	162	162	\$ 3,107
Health Tax	130	130	131	131	133	133	134	134	135	135	\$ 2,591
KCIC Tax	305	305	308	308	311	311	314	314	317	317	\$ 6,069
Library Tax	524	524	529	529	535	535	540	540	545	545	\$ 10,434
Mental Health Tax	130	130	131	131	133	133	134	134	135	135	\$ 2,591
North Kansas City School District	8,495	8,495	8,580	8,580	8,665	8,665	8,752	8,752	8,839	8,839	\$ 169,118
State of Missouri	40	40	40	40	40	40	41	41	41	41	\$ 790
Total	\$ 11,292	\$ 11,292	\$ 11,404	\$ 11,404	\$ 11,518	\$ 11,518	\$ 11,634	\$ 11,634	\$ 11,750	\$ 11,750	\$ 224,801

*based on a 2020 projected assessed v*based on a projected 2020 assessed valuation of \$125,824. In the event the City continued to own the Project Site through 2039, as is currently the case, these numbers would be \$0.

Hotel Project

Real Property Tax Calculation - Project Value, No Exemption (Abatement)

	Year 1 2019	Year 2 2020	Year 3 2021	Year 4 2022	Year 5 2023	Year 6 2024	Year 7 2025	Year 8 2026	Year 9 2027	Year 10 2028	Year 11 2029
Est. Assessed Value	-	1,903,248	3,806,496	3,806,496	3,844,561	3,844,561	3,883,007	3,883,007	3,921,837	3,921,837	3,961,055
Taxing Jurisdictions											
	Tax Rate										
Clay County - County Services	-	4.081	8.161	8.161	8.243	8.243	8.325	8.325	8.408	8.408	8.493
City of Gladstone	-	17.681	35.362	35.362	35.716	35.716	36.073	36.073	36.434	36.434	36.798
Handicap Tax	-	2.246	4.492	4.492	4.537	4.537	4.582	4.582	4.628	4.628	4.674
Health Tax	-	1.873	3.746	3.746	3.783	3.783	3.821	3.821	3.859	3.859	3.898
KCIC Tax	-	4.387	8.774	8.774	8.862	8.862	8.950	8.950	9.040	9.040	9.130
Library Tax	-	7.543	15.085	15.085	15.236	15.236	15.388	15.388	15.542	15.542	15.698
Mental Health Tax	-	1.873	3.746	3.746	3.783	3.783	3.821	3.821	3.859	3.859	3.898
North Kansas City School District	-	122.255	244.510	244.510	246.955	246.955	249.425	249.425	251.919	251.919	254.438
State of Missouri	-	571	1,142	1,142	1,153	1,153	1,165	1,165	1,177	1,177	1,188
Total	-	\$ 162,509	\$ 325,018	\$ 325,018	\$ 328,268	\$ 328,268	\$ 331,551	\$ 331,551	\$ 334,866	\$ 334,866	\$ 338,215

Real Property Tax Calculation - Project Value, No Exemption (Abatement)

[illegible]

Hotel Project

Real Property Tax Impact - Exemption (Abatement) Value

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11
	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029
Incremental Assessed Value	\$ -	\$ 1,903,248	\$ 3,806,496	\$ 3,806,496	\$ 3,844,561	\$ 3,844,561	\$ 3,883,007	\$ 3,883,007	\$ 3,921,837	\$ 3,921,837	\$ 3,961,055
Taxing Jurisdictions											
Clay County - County Services	0.214400	\$ -	7,905	7,900	7,976	7,971	8,048	8,042	8,120	8,114	8,192
City of Gladstone	0.929000	\$ -	34,253	34,230	34,561	34,538	34,872	34,848	35,184	35,159	35,498
Handicap Tax	0.118000	\$ -	4,351	4,348	4,390	4,387	4,429	4,426	4,469	4,466	4,509
Health Tax	0.056400	\$ -	1,758	1,758	1,758	1,758	1,758	1,758	1,758	1,758	1,758
KCIC Tax	0.230500	\$ -	8,499	8,493	8,575	8,570	8,652	8,646	8,730	8,724	8,808
Library Tax	0.396300	\$ -	14,612	14,602	14,743	14,734	14,876	14,866	15,009	14,998	15,143
Mental Health Tax	0.098400	\$ -	3,628	3,626	3,661	3,658	3,694	3,691	3,727	3,724	3,760
North Kansas City School District	6.423500	\$ -	236,837	236,683	238,972	238,812	241,119	240,953	243,278	243,104	245,448
State of Missouri	0.030000	\$ -	1,106	1,105	1,116	1,115	1,126	1,125	1,136	1,135	1,146
Total	8.538500	\$ -	\$ 314,818	\$ 314,614	\$ 317,656	\$ 317,444	\$ 320,510	\$ 320,289	\$ 323,379	\$ 323,149	\$ 326,264

Hotel Project	Real Property Tax Impact - Exemption (Abatement) Value										
	Year 12	Year 13	Year 14	Year 15	Year 16	Year 17	Year 18	Year 19	Year 20	Year 21	
	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	
Incremental Assessed Value	3,961,055	4,000,666	4,000,666	4,040,672	4,040,672	4,081,079	4,081,079	4,121,890	4,121,890	4,163,109	
Taxing Jurisdictions											TOTALS
Clay County - County Services	8,186	8,265	8,259	8,338	8,332	8,412	8,405	8,486	8,479	8,560	\$ 159,821
City of Gladstone	35,472	35,813	35,786	36,130	36,102	36,449	36,420	36,769	36,738	37,090	\$ 692,507
Handicap Tax	4,506	4,549	4,546	4,589	4,586	4,630	4,626	4,670	4,666	4,711	\$ 87,961
Health Tax	3,757	3,791	3,824	3,827	3,824	3,861	3,858	3,895	3,891	3,929	\$ 73,351
KCIC Tax	8,801	8,886	8,879	8,965	8,958	9,044	9,036	9,123	9,115	9,203	\$ 171,822
Library Tax	15,132	15,278	15,266	15,413	15,401	15,549	15,536	15,685	15,672	15,822	\$ 295,415
Mental Health Tax	3,757	3,793	3,791	3,827	3,824	3,861	3,858	3,895	3,891	3,929	\$ 73,351
North Kansas City School District	245,268	247,629	247,442	249,821	249,626	252,023	251,821	254,236	254,025	256,458	\$ 4,788,286
State of Missouri	1,145	1,157	1,156	1,167	1,166	1,177	1,176	1,187	1,186	1,198	\$ 22,363
Total	\$ 326,025	\$ 329,163	\$ 328,915	\$ 332,077	\$ 331,818	\$ 335,004	\$ 334,735	\$ 337,946	\$ 337,666	\$ 340,899	\$ 6,364,875

Hotel Project

Tax Impact - PILOTS to Taxing Jurisdictions

	Year 0	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11
	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
FIXED PILOT AMOUNT	\$ -	\$ 10,000	\$ 10,200	\$ 10,404	\$ 10,612	\$ 10,824	\$ 11,041	\$ 11,262	\$ 11,487	\$ 11,717	\$ 11,951	\$ 12,190
Taxing Jurisdictions												
Clay County - County Services	\$ -	251	256	261	266	272	277	283	288	294	300	306
City of Gladstone	\$ -	1,088	1,110	1,132	1,155	1,178	1,201	1,225	1,250	1,275	1,300	1,326
Handicap Tax	\$ -	138	141	144	147	150	153	156	159	162	165	168
Health Tax	\$ -	115	118	120	122	125	127	130	132	135	138	140
KCIC Tax	\$ -	270	275	281	286	292	298	304	310	316	323	329
Library Tax	\$ -	464	473	483	493	502	512	523	533	544	555	566
Mental Health Tax	\$ -	115	118	120	122	125	127	130	132	135	138	140
North Kansas City School District	\$ -	7,523	7,673	7,827	7,983	8,143	8,306	8,472	8,642	8,815	8,991	9,171
State of Missouri	\$ -	35	36	37	37	38	39	40	40	41	42	43
Total	\$ -	\$ 10,000	\$ 10,200	\$ 10,404	\$ 10,612	\$ 10,824	\$ 11,041	\$ 11,262	\$ 11,487	\$ 11,717	\$ 11,951	\$ 12,190

Hotel Project

Tax Impact - PILOTS to Taxing Jurisdictions

	Year 12	Year 13	Year 14	Year 15	Year 16	Year 17	Year 18	Year 19	Year 20	Total
	2031	2032	2033	2034	2035	2036	2037	2038	2039	
FIXED PILOT AMOUNT	\$ 12,434	\$ 12,682	\$ 12,936	\$ 13,195	\$ 13,459	\$ 13,728	\$ 14,002	\$ 14,282	\$ 14,568	\$ 242,974
Taxing Jurisdictions										
Clay County - County Services	312	318	325	331	338	345	352	359	366	6,101
City of Gladstone	1,353	1,380	1,407	1,436	1,464	1,494	1,523	1,554	1,585	26,436
Handicap Tax	172	175	179	182	186	190	194	197	201	3,358
Health Tax	143	146	149	152	155	158	161	165	168	2,800
KCJC Tax	336	342	349	356	363	371	378	386	393	6,559
Library Tax	577	589	600	612	625	637	650	663	676	11,277
Mental Health Tax	143	146	149	152	155	158	161	165	168	2,800
North Kansas City School District	9,354	9,541	9,732	9,927	10,125	10,328	10,534	10,744	10,959	182,789
State of Missouri	44	45	45	46	47	48	49	50	51	854
Total	\$ 12,434	\$ 12,682	\$ 12,936	\$ 13,195	\$ 13,459	\$ 13,728	\$ 14,002	\$ 14,282	\$ 14,568	\$ 242,974

BIN 19-29
Ord 4,480

PERFORMANCE AGREEMENT

Dated as of November 1, 2019

BETWEEN

CITY OF GLADSTONE, MISSOURI

AND

SREH MAG GLADSTONE PARTNERS, LLC

Prepared By:

**Armstrong Teasdale LLP
Kansas City, Missouri**

PERFORMANCE AGREEMENT

THIS PERFORMANCE AGREEMENT, dated as of November 1, 2019, as from time to time amended and supplemented in accordance with the provisions hereof (this "Agreement"), is between the **CITY OF GLADSTONE, MISSOURI**, a third class city and political subdivision duly organized and existing under the laws of the State of Missouri (the "City"), and **SREH MAG GLADSTONE PARTNERS, LLC**, a limited liability company organized and existing under the laws of the State of Delaware (the "Company").

RECITALS:

1. The City is authorized and empowered pursuant to the provisions of Article VI, Section 27(b) of the Missouri Constitution and Sections 100.010 through 100.200, inclusive, of the Revised Statutes of Missouri, as amended (collectively, the "**Act**"), to purchase, construct, extend and improve certain projects (as defined in Section 100.010 of the Revised Statutes of Missouri, as amended) and to issue industrial development revenue bonds for the purpose of providing funds to pay the costs of such projects and to lease or otherwise dispose of such projects to private persons or corporations for manufacturing, commercial, research and development, warehousing and industrial development purposes upon such terms and conditions as the City shall deem advisable.

2. Following notice to affected taxing jurisdictions in accordance with Section 100.059.1 of the Act, the City Council adopted Ordinance No. 4.480 on July 29, 2019 (the "**Ordinance**"), (i) approving a plan for the Company's commercial project, and (ii) authorizing the issuance of \$13,450,800 principal amount of Taxable Industrial Development Revenue Bonds (Hotel Project), Series 2019, to pay the costs of a portion of the Project consisting of construction of a hotel and related improvements (the "**Project Improvements**"), located on certain real property in the City (the "**Project Site**," as more fully described on **Exhibit A** hereto). The Project Improvements and the Project Site are collectively referred to herein as the "**Project**."

3. Pursuant to the Ordinance the City is authorized to execute and deliver (a) a Trust Indenture of even date herewith (the "**Indenture**"), between the City and Security Bank of Kansas City, Kanas City, Kansas, as trustee (the "**Trustee**"), for the purpose of issuing and securing the City's Taxable Industrial Development Revenue Bonds (Hotel Project), Series 2019 in the maximum principal amount of \$13,450,800 (the "**Bonds**"), (b) a Lease Agreement of even date herewith (the "**Lease**") with the Company, as lessee, under which the City, as lessor, will purchase, construct, improve and equip the Project and will lease the Project to the Company, in consideration of rentals which will be sufficient to pay the principal of and interest on the Bonds, and (c) this Agreement for the purpose of setting forth the terms and conditions of the Project's exemption from *ad valorem* real and personal property taxes and certain payments in lieu of taxes to be made by the Company with respect to the Project.

4. Pursuant to the foregoing, the City desires to enter into this Agreement with the Company in consideration of the Company's desire to purchase, construct, improve and equip the Project 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 City and the Company hereby represent, covenant and agree as follows:

ARTICLE I

DEFINITIONS

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

“Agreement” means this Performance Agreement dated as of November 1, 2019, between the City and the Company, as from time to time amended and supplemented in accordance with the provisions hereof.

“Base PILOT” means the amounts set forth in **Exhibit B**.

“Commercial Facility” means a hotel with a minimum of 95 rooms and commensurate with the quality of a national brand such as a Courtyard, Four Points, Fairfield, Hampton, Cambria, Holiday Inn, or Holiday Inn Express product catering to both families and business travelers, marketed principally for nightly rental, with the national flag selected by the Company and subject to approval by the City, with related parking and site improvements, which is operated for profit by the Company in accordance with this Agreement.

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

“Existing Real Property” means the Project Site and the improvements existing thereon at the date of this Agreement.

“Force Majeure” means an event that is beyond the control of the Company and is of the kind and/or nature of a riot, war, act of enemies (including terrorism within the continental United States), national emergency, fire, flood, act of God, severe weather conditions, material shortage or strike that renders it substantially impossible for the Company to operate the Project.

“Indenture” means the Trust Indenture dated as of November 1, 2019, between the City and First Bank of Missouri, Gladstone, Missouri, as Trustee, relating to the issuance of the Bonds, as amended or supplemented from time to time.

“Leased Property” means, collectively, the Existing Real Property and the Project.

“PILOT Payments” or **“PILOTS”** means the payments in lieu of taxes provided for in **Article III** hereof.

“Project” means, collectively, (i) the Project Improvements to be constructed on the Project Site, excluding the Existing Real Property, and (ii) the Project Equipment, and all additions, modifications, improvements, replacements and substitutions made to the Project pursuant to the Lease as they may at any time exist, the costs of which will be paid in whole or in part, or for which the Company will be reimbursed in whole or in part, from the proceeds of the sale of the Bonds.

“Project Costs” means all costs of purchasing, constructing, improving and installing the Project.

“Project Improvements” shall have the same meaning as provided in **Exhibit B** to the Indenture.

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

ARTICLE II

REPRESENTATIONS

Section 2.1. City’s Representations. The City hereby represents that the Project will significantly benefit the City of Gladstone and the State of Missouri by (i) stimulating economic development in the City and the State through the creation and retention of permanent jobs; and (ii) increasing local and state tax revenues.

Section 2.2. Company’s Representations. The Company hereby represents that the Project will significantly benefit the City of Gladstone and the State of Missouri by (i) stimulating economic development in the City and the State through the creation and retention of permanent jobs; and (ii) increasing local and state tax revenues.

ARTICLE III

PROPERTY TAX EXEMPTION; PILOT PAYMENTS

Section 3.1. Property Tax Exemption. So long as the City owns title to the Leased Property, the City expects that the Leased Property will be exempt from ad valorem taxes on real and personal property. The first year of the exemption period shall begin on January 1, 2019 (with the exception of the payment of the required Base PILOT for 2020 as discussed below). Notwithstanding any other provision of this Agreement to the contrary, the last year of such exemption period shall be 2039. The Company covenants and agrees that, during each year the Leased Property is exempt from ad valorem taxes by reason of the City owning title, the Company will make annual payments in lieu of taxes to the City (each such payment, a **“PILOT Payment”**) as described in this **Article III**. Each PILOT Payment will consist of the Base PILOT set forth in **Exhibit B** plus any additional amounts required by this Article. The City and the Company hereby agree that the tax abatement provided by this Agreement shall only apply to the Project Site and the property financed with the proceeds of the Bonds (i.e., property constituting a part of the Project) and shall not apply to property not financed with proceeds of the Bonds.

Section 3.2. Payments in Lieu of Taxes. The Company covenants and agrees to make PILOT Payments to the City on or before each December 31, commencing December 31, 2020. Because the Project Site was owned and controlled by the City in 2019, the real property is not subject to ad valorem taxation for 2019.

Section 3.3. Termination for Failure to Operate the Project as a Commercial Facility. If the Company fails to operate the Project as a Commercial Facility in a manner consistent with industry standards as historically operated, and such failure continues beyond the applicable notice and cure periods described below, then in addition to any other remedies that may be available to the City under the Lease or hereunder, the PILOT Payments shall be an amount equal to 100% of the ad valorem real property taxes that would otherwise have been due on the Project during each year following such failure, including the year in which the failure occurs, and during which the Project is exempt from ad valorem real and personal property taxes as provided herein.

Section 3.4. Distribution of PILOTS. Within 30 days of the date of receipt of each PILOT Payment, the City or designated billing/collection agent shall distribute the PILOT Payment among the taxing jurisdictions in accordance with the Act. However, upon a termination under **Section 3.3**, the City or its designated billing/collection agent shall distribute each PILOT Payment among the taxing jurisdictions in proportion to the amount of taxes which would have been paid in each year had the Project not been exempt from taxation pursuant to this Agreement.

Section 3.5. Obligation of City to Effect Tax Abatement. The City agrees to take all actions within its control to obtain and/or maintain in effect the exemption referred to in **Section 3.1** above, including any filing required with any governmental authorities; provided, however, the City shall not be liable for any failure of Clay County, Missouri or any other governmental taxing authority to recognize the exemption provided herein. The City covenants that it will not voluntarily take any action that may cause or induce the levy or assessment of ad valorem taxes on the Leased Property. In the event such a levy or assessment should occur, the City shall, at the Company's request and at the Company's expense, fully cooperate with the Company in all reasonable ways to prevent and/or remove any such levy or assessment against the Leased Property.

Section 3.6. Administration Costs. Under Section 100.050 of the Act, the City may require the Company to reimburse the City for its actual costs of issuing the Bonds and administering the plan including costs associated with this Agreement, in an amount of no greater than \$1,000 per year. The City will provide a statement for such costs to the Company not later than November 15th of each year and the Company will reimburse the City for its costs on or before December 31 of each year continuing until December 31 of the year in which this Agreement expires or is terminated.

Section 3.7. Other Property Taxes In Connection with the Leased Property. The real and personal property tax exemption provided by the City's ownership of the Leased Property is expected to apply to all interests in the Leased Property during the period it is owned by the City. If any ad valorem property taxes are levied by or on behalf of any taxing jurisdiction against any interest in the Leased Property during the period the City owns the Leased Property (including, without limitation, any ad valorem taxes levied against the Company's rights in the Lease), the amount of ad valorem tax payments related to such levy or levies which are paid by the Company and received by the City and other taxing jurisdictions shall be credited against and reduce on a *pro rata* basis the amount of the PILOT Payments the Company is obligated to pay pursuant to this Agreement. The Company shall be responsible for any taxes related to any interest in the Leased Property which the Company owns in its own name or granted to the Company other than pursuant to the Lease.

Section 3.8. Sales Tax Exemption. The City shall issue the Company a sales tax exemption certificate for the purpose of providing sales tax exemption on materials used in the construction of the Project Improvements. It is the City and the Company's expectation that the purchase of any and all such materials shall be exempt from taxation pursuant to Article III, Section 39(10) of the Missouri Constitution and Section 144.062, RSMo. The Company shall account for all purchases for which the sales tax exemption is used and shall provide such accounting to the City at least quarterly. The Company shall reimburse the City and/or the other recipients of sales tax if it is determined that such exemption was improperly used or that the City did not have the legal authority to issue such certificate for such purposes.

Section 3.9. Credits for Certain Tax Payments. Nothing in this Agreement shall be construed to require the Company to make duplicate tax payments. The Company shall receive a credit hereunder to such extent it has made any payment for ad valorem property taxes on the Leased Property to Clay County, Missouri.

Section 3.10. Company's Right To Protest Taxes. Notwithstanding any other provision of this Agreement to the contrary, nothing in this Agreement shall be construed to limit or in any way restrict the availability of any provision of Missouri law which confers upon the Company the right to appeal, protest or otherwise contest any property tax valuation, assessment, classification or similar action.

Section 3.11. Cessation of Operations at the Project Site. If for any reason the Company ceases operations of the Project during the term of this Agreement, the percentage of PILOTS set forth in **Section 3.2** shall be increased to 100% of the ad valorem real and personal property taxes that would otherwise have been due on the Leased Property for each year following such cessation of operations including the year of cessation of operations. "Ceases operations" or "cessation of operations" for the purpose of this paragraph means the Company completely vacates, abandons and permanently ceases operations and fails to occupy a portion of the Project Site for a period of 90 consecutive days during the term of this Agreement.

Notwithstanding the foregoing, the Company shall not be deemed to have abandoned, vacated or ceased operations at the Project Site if (i) the abandonment, vacation or cessation of operations is the result of a Force Majeure and (ii) the Company shall have taken substantial steps to repair, restore or rebuild the Leased Property or otherwise resolve the effect of the Force Majeure within 180 days after the occurrence thereof (and provide written evidence of such substantial steps to the City as may reasonably be requested).

Section 3.12. No Abatement on Special Assessments, Licenses or Fees. The City and the Company hereby agree that the property tax exemptions described in this Agreement shall not apply to special assessments and shall not serve to reduce or eliminate any other licenses or fees owing to the City or any other taxing jurisdiction with respect to the Leased Property. The Company hereby agrees to make payments with respect to all special assessments, licenses and fees which would otherwise be due with respect to the Leased Property if such Leased Property was not owned by the City.

ARTICLE IV

COVENANTS, REPRESENTATIONS AND AGREEMENTS

Section 4.1. Inspection. The Company agrees that the City and its duly authorized agents shall have the right at reasonable times (during business hours), subject to at least 48 hours advance notice and to the Company's usual business proprietary, safety and security requirements, to enter upon the Project Site to examine and inspect the Leased Property and the records of the Company which demonstrate compliance with this Agreement.

Section 4.2. Compliance with Laws. The Project will comply in all material respects with all applicable building and zoning, health, environmental and safety ordinances and laws and all other applicable laws, rules and regulations.

Section 4.3. Purchase, Construction, Improvement, Installation and Operation. The Project will be purchased, constructed, improved, installed and operated in a manner that is consistent with the description of the Project herein and in the Lease. In the event the Project purchased, constructed, improved and installed is materially inconsistent with the description of the Project contained herein and in the presentation to the City Council of the City, the City reserves the right to declare an Event of Default in accordance with **Section 6.1** hereof.

Section 4.4. Representations and Warranties.

(a) The Company represents, warrants and covenants that as of the date of this Agreement and during the term of this Agreement, or such shorter period as may be expressly provided for below:

(1) The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of Missouri;

(2) The Company has the right, power and authority to enter into, execute, deliver and perform this Agreement;

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

(4) To the best of the Company's knowledge, there are no actions or proceedings by or before any court, governmental commission, board, bureau or any other administrative agency pending, threatened or affecting the Company that would impair its ability to perform under this Agreement; and

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

(b) The City represents, warrants and covenants that as of the date of this Agreement and during the term of this Agreement, or such shorter period as may be expressly provided for below:

(1) The City is a third class city and political subdivision duly organized and validly existing under the laws of the State of Missouri;

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

(3) The City has the right, power and authority to enter into, execute, deliver and perform this Agreement; and

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

Section 4.5. Survival of Covenants. All warranties, representations, covenants and agreements of the Company and the City contained herein shall survive termination of this Agreement for any reason.

Section 4.6. Indemnification. The Company shall indemnify and defend the City to insure that the City and the Trustee are held harmless from and against all claims, demands, costs, liabilities,

damages or expenses, including attorneys' fees, by or on behalf of any person, firm or corporation arising from the conduct or management of, or from any work or thing done in, on or about, the Leased Property during the term of the Lease, and against and from all claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, arising during the term of the Lease from any event described in **Section 10.5** of the Lease to the extent and subject to the limitations provided therein. The Company hereby grants such warranties regarding environmental matters as set forth in **Section 10.9** of the Lease. This section shall not apply to the negligence or willful misconduct of the City or its officers, employees or agents.

Section 4.7. Costs of Issuance of the Bonds. The Company agrees to pay on the date of the initial issuance of the Bonds, all costs of issuance incurred in connection therewith as mutually approved by the City and the Company.

ARTICLE V

SALE AND ASSIGNMENT

The benefits granted by the City to the Company pursuant to this Agreement shall belong solely to the Company, and such benefits shall not be transferred (other than to an affiliate of the Company), assigned, pledged or in any other manner hypothecated without the express written consent of the City, except that the Company shall have the right to assign or transfer its interest hereunder, including the benefits hereunder, in connection with any assignment or transfer of its interest in the Leased Property that is permitted pursuant to the Lease; but nothing herein shall preclude the Company from assigning or pledging its interest in the Leased Property so long as the Company continues to occupy the Leased Property and otherwise remains responsible for its undertakings herein.

ARTICLE VI

DEFAULT AND REMEDIES

Section 6.1. 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 hereunder:

(a) the Company fails to make the Base PILOT or any PILOT Payments required to be paid hereunder within 10 days after written notice and demand by the City;

(b) the Company shall fail to perform any of its obligations hereunder for (i) a period of 60 days (or such longer period as the City and the Company may agree in writing) following written notice to the Company from the City of such failure which notice shall include a specific description of the Company's failure hereunder), or (ii) if such failure is not subject to cure within such 60 days, Company shall have failed to initiate action to cure such default and shall pursue such action diligently;

(c) any representation of the Company contained herein proves to be materially false or erroneous and is not corrected or brought into compliance within 30 days (or such longer period as the City and the Company may agree in writing) after the City has given written notice to the Company specifying the false or erroneous representation and requiring it to be remedied; provided, that if such matter is not subject to cure within such 30 days (or such longer period as

the City and Company agree in writing) after such notice, the Company fails to initiate action to cure the default within such 30 days after such notice and fails to pursue such action diligently; or

(d) the Company fails to operate the Project as a Commercial Facility.

Section 6.2. Remedies on Default. Upon an Event of Default hereunder this Agreement may be terminated by written notice to the Company from the City. Within thirty days of such termination and upon written notice of the dollar amounts due, the Company shall make a PILOT to the City equal to (i) the pro rata amount payable pursuant to **Section 3.3** hereof from January 1 of the year in question through the effective date of termination, plus (ii) the pro rata amount of taxes that would be due for the remaining portion of the year assuming the Project was placed on the tax rolls effective on the date of termination through December 31; provided, however, the payment of PILOTS following cessation of operations shall be governed by **Section 3.12**.

Upon any termination of this Agreement the Company agrees to pay interest and penalties on all amounts due hereunder to the same extent as if such payments were taxes under Missouri law.

Section 6.3. Payments on Defaulted Amounts. Any amounts due hereunder which are not paid when due shall bear interest at the interest rate imposed by Missouri law on overdue ad valorem real estate taxes from the date such payment was first due. In addition, amounts payable hereunder in lieu of ad valorem real personal property taxes which are not paid when due shall be subject to penalties imposed by Missouri law on overdue ad valorem real estate taxes.

Section 6.4. Enforcement. In addition to the remedies specified in **Section 6.2**, upon the occurrence of an Event of Default, the City or any taxing jurisdictions that would benefit from the Base PILOT and the PILOT Payments due and owing under this Agreement may bring an action for specific performance to enforce such payments. In the event of litigation pertaining to the enforcement of this Agreement, the losing party shall pay all costs of litigation, including reasonable attorneys' fees.

Section 6.5. Failure of the City to Perform its Obligations. In the event the City shall fail to perform any of its obligations hereunder for (i) a period of 60 days (or such longer period as the Company and the City may agree in writing) following written notice to the City from the Company of such failure which notice shall include a specific description of the City's failure hereunder), or (ii) if such failure is not subject to cure within such 60 days, the City shall have failed to initiate action to cure such default and shall pursue such action diligently; the Company may declare that the City is in default under this Agreement and may pursue any legal remedy available to it to enforce this Agreement.

ARTICLE VII

TERM OF AGREEMENT

This Agreement shall become effective upon execution, and subject to earlier termination pursuant to the provisions of this Agreement (including particularly **Article VI** hereof), shall have an initial term commencing as of the date of this Agreement and terminating on December 1, 2039 (the "**Stated Expiration Date**"). This Agreement shall automatically terminate prior to the Stated Expiration Date in the event the Bonds (or any Bonds issued to refund the Bonds) are no longer outstanding.

ARTICLE VIII

MISCELLANEOUS PROVISIONS

Section 8.1. Severability. If for any reason any provision of this Agreement shall be determined to be invalid or unenforceable, the validity and enforceability of the other provisions hereof shall not be affected thereby.

Section 8.2. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Missouri.

Section 8.3. Execution in Counterparts. This Agreement may be executed simultaneously in several counterparts, each of which shall be deemed to be an original and all of which shall constitute but one and the same instrument.

Section 8.4. Waiver. The City and the Company acknowledge and agree that the amounts payable hereunder shall constitute payments due the City under the Lease executed in connection with the Bonds. The Company shall not be entitled to any extension of payment of such amounts as a result of a filing by or against the Company in any bankruptcy court.

Section 8.5. Entire Agreement. This Agreement constitutes the entire agreement relating to the subject matter contained herein and supersedes all prior agreements and understandings, both written and oral, between the City and the Company with respect to the subject matter hereof.

Section 8.6. Electronic Storage of Documents. The City and the Company agree that the transaction described herein may be conducted and related documents may be stored by electronic means.

Section 8.7. Notices. All notices, certificates or other communications required or desired to be given hereunder shall be given in the manner specified in the Indenture.

Section 8.8. Employee Verification. The Company will comply with and satisfy the requirements of Section 285.530.2, RSMo., as amended, which requires (1) any business entity receiving tax abatement to, by sworn affidavit and provision of documentation, annually affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the business entity receiving tax abatement, and (2) every such business entity to annually sign an affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the entity receiving tax abatement. The Company shall provide such affidavits and documentation to the City on or before November 15 of each year during the term of this Agreement, beginning November 15, 2020, and also upon execution of this Agreement.

Section 8.9. Complete Agreement. The Company and the City understand that oral or unexecuted agreements or commitments to loan money, extend credit or to forbear from enforcing repayment of a debt including promises to extend or renew such debt are not enforceable. To protect the Company and the City from misunderstanding or disappointment, any agreements the Company and the City reach covering such matters are contained in this Performance Agreement and in the Lease, which are the complete and exclusive statements of the agreement between the Company and the City, except as the Company and the City may later agree in writing to modify this Performance Agreement and the Lease.

[Remainder of this page intentionally left blank]

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

CITY OF GLADSTONE, MISSOURI

[SEAL]

ATTEST:



By: Scott Wingerson

Name: Scott Wingerson

Title: City Manager

By: Ruth E Bocchino 11/18/19
Name: Ruth Bocchino
Title: City Clerk

SREH MAG Gladstone Partners, LLC, a Delaware limited liability company

By: SREH MAG Gladstone Manager, LLC, a Delaware limited liability company, its Manager

By: ZAR Capital Partners, LLC, a Delaware limited liability company, its Manager

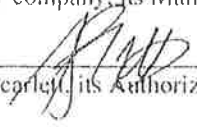
By: _____
Andrew Scapellato, its Authorized Signatory

EXHIBIT A

DESCRIPTION OF PROJECT SITE

The following described property in the City of Gladstone, Clay County, Missouri:

Parcel 1:

All of Lots Four (4) and Five (5), Block Twenty-five (25), LINDEN, a subdivision in Gladstone, Clay County, Missouri.

Parcel 2:

A portion of Lots 1, 2 and 3, Block 25, LINDEN, a subdivision in Gladstone, Clay County, Missouri, being more particularly described as follows:

Commencing at the Northwest corner of said Lot 1; thence South 89 degrees 37 minutes 44 Seconds East along the North line of said Lot 1, a distance of 80.00 feet to the point of beginning of said tract of land; thence continuing along said North line South 89 degrees 37 minutes 44 seconds East, a distance of 43.91 feet to the Northeast corner of said Lot 1; thence along the East line of said Lots 1, 2 and 3 South 00 degrees 25 minutes 15 seconds West, a distance of 160.38 feet to the Southwest corner of said Lot 3; thence along the South line of said Lot 3 North 89 degrees 50 minutes 09 seconds West, a distance of 124.17 feet to the Southwest corner of said Lot 3; thence on the West line of said Lots 2 and 3 North 00 degrees 30 minutes 41 seconds East, a distance of 80.83 feet; thence parallel with the North line of said Lot 1 South 89 degrees 37 minutes 44 seconds East, a distance of 80.00 feet; thence parallel with the West line of said Lot 1, 2 and 3 North 00 degrees 30 minutes 41 seconds East, a distance of 80.00 feet to the point of beginning, being Tract 2 as shown on the Certificate of Survey recorded December 7, 2016 as Document No. 2016043750 in Book H at Page 177.

Parcel 3:

All of Lots 8 & 9, Block 25, LINDEN, a subdivision in Gladstone, Clay County, Missouri.

Parcel 4:

Lots 10, 11, and 12, except the North 39.28 feet of Lot 12, Block 25 LINDEN, an addition to the City of Gladstone, Clay County, Missouri.

Parcel 5:

Lots 6 and 7, Block 25, LINDEN, a subdivision in Gladstone, Clay County, Missouri, according to the recorded plat thereof.

EXHIBIT B
BASE PILOT SCHEDULE

2020	\$10,000*
2021	10,200
2022	10,404
2023	10,612
2024	10,824
2025	11,041
2026	11,262
2027	11,487
2028	11,717
2029	11,951
2030	12,190
2031	12,434
2032	12,682
2033	12,936
2034	13,195
2035	13,459
2036	13,728
2037	14,002
2038	14,282
2039	14,568

*Unless previously paid by the Company or an affiliate.

**CITY OF GLADSTONE, MISSOURI,
As Lessor,**

AND

**SREH MAG GLADSTONE PARTNERS, LLC,
As Company**

LEASE AGREEMENT

Dated as of November 1, 2019

Relating to:

**\$13,450,800
(AGGREGATE MAXIMUM PRINCIPAL AMOUNT)
CITY OF GLADSTONE, MISSOURI
TAXABLE INDUSTRIAL DEVELOPMENT REVENUE BONDS
(HOTEL PROJECT)
SERIES 2019**

Certain rights of the City of Gladstone, Missouri (the "City"), in this Lease Agreement have been pledged and assigned to Security Bank of Kansas City, Kansas City, Kansas, as Trustee under the Trust Indenture dated as of November 1, 2019, between the City and the Trustee.

LEASE AGREEMENT

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LEASE AGREEMENT

THIS LEASE AGREEMENT, dated as of November 1, 2019 (the "**Lease**"), is between the **CITY OF GLADSTONE, MISSOURI**, a third class city and political subdivision duly organized and existing under the laws of the State of Missouri, as lessor (the "**City**"), and **SREH MAG GLADSTONE PARTNERS, LLC**, a limited liability company organized and existing under the laws of the State of Delaware, as lessee (the "**Company**");

RECITALS:

1. The City is authorized under Article VI, Section 27(b) of the Missouri Constitution and Sections 100.010 through 100.200 of the Revised Statutes of Missouri, as amended (the "**Act**"), to purchase, construct, extend and improve certain "projects" (as defined in Section 100.010 of the Act) and to issue industrial development revenue bonds for the purpose of providing funds to pay the costs of such projects and to lease or otherwise dispose of such projects to private persons or corporations for manufacturing, commercial, warehousing and industrial development purposes upon such terms and conditions as the City shall deem advisable.

2. [Reserved].

3. Following notice to affected taxing jurisdictions in accordance with Section 100.059.1 of the Act, the City Council adopted Ordinance No. 4.480 on July 29, 2019 (the "**Ordinance**"), (i) approving a plan for the Company's commercial project, and (ii) authorizing the issuance of \$13,450,800 principal amount of Taxable Industrial Development Revenue Bonds (Hotel Project), Series 2019, to pay the costs of a portion of the Project consisting of construction of a hotel and related improvements (collectively, the "**Project Improvements**" as more fully described on **Exhibit B** hereto), located on certain real property in the City (the "**Project Site**," as more fully described on **Exhibit A** hereto). The Project Improvements and the Project Site are collectively referred to herein as the "**Project**" as further defined herein.

4. Pursuant to the Ordinance, the City is authorized to execute and deliver (a) the Trust Indenture dated as of even date herewith (the "**Indenture**"), between the City and Security Bank of Kansas City, Kansas City, Kansas, as bond trustee (the "**Trustee**"), for the purpose of issuing and securing the Bonds, (b) this Lease with the Company, as lessee, under which the City, as lessor, will purchase, construct, improve and equip the Project and will lease the Project to the Company, in consideration of rental payments by the Company that will be sufficient to pay the principal of and interest on the Bonds, and (c) the Performance Agreement dated as of even date herewith (the "**Performance Agreement**"), between the City and the Company, for the purpose of setting forth the terms and conditions of the Project's exemption from *ad valorem* real and personal property taxes and certain payments in lieu of taxes to be made by the Company with respect to the Project.

5. Pursuant to the foregoing, the City desires to lease the Project to the Company and the Company desires to lease the Project from the City, for the rentals and upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the premises and the mutual representations, covenants and agreements herein contained, the receipt and sufficiency of which are hereby acknowledged, the City and the Company do hereby represent, covenant and agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1. Definitions of Words and Terms. In addition to any words and terms defined elsewhere in this Lease 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 shall have the following meanings:

"Additional Rent" means, collectively, the Additional Lease Payments and City Lease Payments described in **Section 5.2** of this Lease.

"Additional Lease Payments" has the meaning set forth in **Section 5.2** of this Lease.

"Basic Rent" means the rental described in **Section 5.1** of this Lease.

"City Lease Payment(s)" has the meaning set forth in **Section 5.2** of this Lease.

"Environmental Law" means and includes the Comprehensive Environmental Response, Compensation and Liability Act of 1980, the Resource Conservation and Recovery Act, the Superfund Amendments and Reauthorization Act of 1986, any other "Superfund" or "Superlien" law, or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning any Hazardous Materials, as now or at any time hereafter in effect.

"Full Insurable Value" means the reasonable replacement cost of the Project less physical depreciation and exclusive of land, excavations, footings, foundation and parking lots as determined at the expense of the Company from time to time and in accordance with **Section 7.1(a)** hereof.

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

"Net Proceeds" means, when used with respect to any insurance or condemnation award with respect to the Project, the gross proceeds from the insurance or condemnation award 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 City and the Trustee) incurred in the collection of such gross proceeds.

"Plans and Specifications" means the plans and specifications prepared for and showing the Project, as amended by the Company from time to time prior to the Completion Date, the same being duly certified by the Company, and on file with the Company in Gladstone, Missouri, or with the architect/engineers retained by the Company for the Project, and which shall be available for reasonable inspection by the City, the Trustee and their duly appointed representatives.

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

"Project Site" means the real property upon which the property comprising the Project is located as more fully described in **Exhibit A**.

Section 1.2. Rules of Interpretation.

(a) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders.

(b) Unless the context shall otherwise indicate, words importing the singular number shall include the plural and vice versa, and words importing persons shall include firms, associations and corporations, including governmental entities, as well as natural persons.

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

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

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

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

Section 1.3. Acceptance of Indenture. The Company acknowledges that it has received an executed copy of the Indenture and that it is familiar with the terms and conditions of the Indenture. The Company further covenants that it will comply with all the conditions and covenants contained in the Indenture relating to the Company and the Project, and that it will not take any action which would cause a default thereunder or jeopardize the rights of the Trustee, the City or the Bondholders.

ARTICLE II

REPRESENTATIONS

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

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

(b) As of the date of delivery hereof, the City has acquired the Project Site, subject to Permitted Encumbrances, and agrees to purchase, construct, improve and equip or cause to be

purchased, constructed, improved and equipped thereon the Project Improvements. The City agrees to lease the Project to the Company and sell the Project to the Company if the Company exercises its option to purchase the Project or upon termination of this Lease as provided for herein, all for the purpose of furthering the public purposes of the Act;

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

(d) The Bonds are to be issued under and secured by the Indenture, pursuant to which the Project and the net earnings therefrom, consisting of all rents, revenues and receipts to be derived by the City from the leasing or sale of the Project except for City Lease Payments, will be pledged and assigned to the Trustee as security for payment of the principal of and interest on the Bonds and amounts owing pursuant to the Lease;

(e) The City will not knowingly take any affirmative action that would permit a lien to be placed on the Project or pledge the revenues derived therefrom for any bonds or other obligations, other than the Bonds, except with the written consent of the Authorized Company Representative and the Commercial Lending Bank;

(f) The City will not operate the Project as a business or in any other manner except as the lessor thereof except subsequent to an Event of Default hereunder;

(g) The purchase, construction, improvement and equipping of the Project and the leasing of the Project by the City to the Company will further the public purposes of the Act; and

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

Section 2.2. Representations by the Company. The Company makes the following representations as the basis for the undertakings on its part herein contained:

(a) The Company is a limited liability company duly incorporated, validly existing and in good standing under the laws of the State of Delaware and authorized to do business in Missouri;

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

(c) The execution and delivery of this Lease, the consummation of the transactions contemplated hereby, and the performance of or compliance with the terms and conditions of this Lease by the Company will not, to the best of the Company's knowledge, conflict with or result in a breach of any of the terms, conditions or provisions of, or constitute a default under, any mortgage, deed of trust, lease or any other restrictions or any agreement or instrument to which the Company is a party or by which it or any of its property is bound, or the Company's organizational documents, or any order, rule or regulation applicable to the Company or any of its property of any court or governmental body, or constitute a default under any of the foregoing, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Company under the terms of any instrument or agreement to which the Company is a party;

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

(e) The Project will comply in all material respects with all presently applicable building and zoning, health, environmental and safety orders and laws and all other applicable laws, rules and regulations; and

(f) The Project is located wholly within the corporate limits of the City of Gladstone, Missouri.

ARTICLE III

GRANTING PROVISIONS

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

Section 3.2. Lease Term. This Lease shall become effective upon its execution and delivery. Subject to earlier termination pursuant to the provisions of this Lease, the lease of the Project shall commence as of the date of this Lease and terminate on December 1, 2039.

Section 3.3. Possession and Use of the Project.

(a) The City covenants and agrees that as long as neither the City nor the Trustee has exercised any of the remedies set forth in **Section 12.2** hereof following the occurrence and continuance of an Event of Default, as defined in **Section 12.1** hereof, the Company shall have sole and exclusive possession of the Project (subject to Permitted Encumbrances and the City's and the Trustee's right of access pursuant to **Section 10.3** hereof) and shall and may peaceably and quietly have, hold and enjoy the Project during the Lease Term. The City covenants and agrees that it will not take any action, other than expressly pursuant to **Article XII** hereof, to prevent the Company from having quiet and peaceable possession and enjoyment of the Project during the Lease Term and will, at the request and expense of the Company, cooperate with the Company to defend the Company's quiet and peaceable possession and enjoyment of the Project.

(b) Subject to the provisions of this Section, the Company shall have the exclusive right to use the Project for any lawful purpose contemplated by the Act and consistent with the terms of the Performance Agreement. The Company shall use its best efforts to comply in all material respects with all statutes, laws, ordinances, orders, judgments, decrees, regulations, directions and requirements of all federal, state, local and other governments or governmental authorities, now or hereafter applicable to the Project, as to the manner of use or the condition of the Project. The Company 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 Company shall pay all costs, expenses, claims, fines, penalties and damages that may in any manner arise out of, or be imposed as a result of, the failure of the Company to comply with the provisions of this Section. Notwithstanding any provision contained in this Section, however, the Company may, at its own cost and expense, contest or review by legal or other appropriate procedures the validity or legality of any such governmental statute, law, ordinance, order, judgment, decree, regulation, direction or requirement, or any such requirement, rule or regulation of an insurer, and during such contest or review the Company may refrain from complying therewith.

ARTICLE IV

PURCHASE, CONSTRUCTION AND EQUIPPING OF THE PROJECT

Section 4.1. Issuance of the Bonds. To provide funds for the payment of Project Costs, the City agrees that, upon request of the Company, it will issue, sell and cause to be delivered the Bonds to the purchaser thereof in accordance with the provisions of the Indenture and the Bond Purchase Agreement. The proceeds of the sale of the Bonds, when received, shall be paid over to the Trustee for the account of the City. The Trustee shall promptly deposit such proceeds, when received, as provided in the Indenture, to be used and applied as hereinafter provided in this Lease and in the Indenture. Alternatively, the Trustee may, (pursuant to **Section 208(d)** of the Indenture) endorse the Bonds in an amount equal to the requisition certificates submitted pursuant to **Section 4.4** below. In that event, the purchaser of the Bonds shall be deemed to have deposited funds with the Trustee in an amount equal to the amount stated in the requisition certificate.

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

(a) The City has acquired the Project Site as of the execution hereof. ;

(b) On behalf of the City, the Company will improve and construct the Project Improvements on the Project Site and otherwise improve the Project Site in accordance with the Plans and Specifications. The Company may revise the Plans and Specifications from time to time as it deems necessary to carry out the Project, but revisions that would alter the intended purpose of the Project may be made only with the prior written approval of the City. The Company agrees that the aforesaid construction and improvement will, with such changes and additions as may be made hereunder, result in facilities suitable for use by the Company for its purposes, and that all real and personal property described in the Plans and Specifications, with such changes and additions as may be made hereunder, is desirable and appropriate in connection with the Project. The provisions of this paragraph are in addition to and do not supersede the provisions of **Section 8.3**;

(c) [reserved];

(d) The Company will comply with the provisions of Section 107.170 of the Revised Statutes of Missouri, as amended, to the extent applicable to the construction of the Project; and

(e) The Company agrees that it will use reasonable efforts to cause the purchase, construction, improvement and equipping of the Project to be completed as soon as practicable with all reasonable dispatch. In the event such purchase, construction, improvement and equipping commences prior to the receipt of proceeds from the sale of the Bonds, the Company agrees to advance all funds necessary for such purpose.

Section 4.3. Project Costs. The City hereby agrees to pay for, but solely from the Project Fund, and hereby authorizes and directs the Trustee to pay for, but solely from the Project Fund, all Project Costs upon receipt by the Trustee of a certificate pursuant to **Section 4.4** hereof.

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, and the City 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 Company Representative, which disbursements may be recorded via a transaction entry on the trust records held by the Trustee. The Trustee may rely conclusively on any such certificate and shall not be required to make any independent investigation in connection therewith. The submission of any requisition certificate by an Authorized Company Representative shall constitute unto the Trustee an irrevocable determination that all conditions precedent to the payments requested have been satisfied.

Section 4.5. Establishment of Completion Date. The Completion Date shall be evidenced to the Trustee by a certificate signed by the Authorized Company Representative stating (a) the purchase, construction, improvement and installation of the Project has been completed in accordance with the Plans and Specifications, (b) that all costs and expenses incurred in the purchase, construction, improvement and installation of the Project 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 Company, 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 Company and the City 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 Company 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 Company, to the purchase of Bonds at such earlier date or dates as the Company may elect. Any amount so deposited in the Bond Fund may be invested as permitted by **Section 702** of the Indenture.

(b) If the Project Fund shall be insufficient to pay fully all Project Costs and to complete the Project free of liens and encumbrances other than Permitted Encumbrances, the Company 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 Company shall save the City and the Trustee whole and harmless from any obligation to pay such deficiency.

Section 4.7. Project Property of City. The Project Site and the Project Improvements, including all work and materials on the Project Improvements as such work progresses, and all additions or enlargements thereto or thereof, the Project as fully completed, anything under this Lease which becomes, is deemed to be, or constitutes a part of the Project, and the Project as repaired, rebuilt, rearranged, restored or replaced by the Company under the provisions of this Lease, except as otherwise specifically provided herein, shall immediately when erected or installed become the absolute property of the City, subject only to this Lease, the Indenture, Permitted Encumbrances and the Leasehold Mortgage, if any.

Section 4.8. Non-Project Improvements, Machinery and Equipment Property of the Company. Any improvements or items of machinery or equipment which do not constitute part of the Project Improvements shall be the property of the Company and shall not constitute a part of the Project for purposes of **Section 6.4** hereof and therefore are subject to taxation, to the extent otherwise provided by law.

ARTICLE V

RENT PROVISIONS

Section 5.1. Basic Rent. The Company covenants and agrees to pay to the Trustee in same day funds for the account of the City during this Lease Term, on or before 11:00 a.m., Trustee's local time, on each Payment Date, as Basic Rent for the Project, an amount which, when added to any collected funds then on deposit in the Bond Fund and available for the payment of principal on the Bonds and the interest thereon on such Payment Date, shall be equal to the amount payable on such Payment Date as principal of the Bonds and the interest thereon as provided in the Indenture. Except as offset pursuant to the right of the Company set forth below, all payments of Basic Rent provided for in this Section shall be paid directly to the Trustee and shall be deposited in accordance with the provisions of the Indenture into the Bond Fund and shall be used and applied by the Trustee in the manner and for the purposes set forth in this Lease and the Indenture. In furtherance of the foregoing, and notwithstanding any other provision in this Lease, the Indenture, the Bond Purchase Agreement or the Performance Agreement to the contrary, and provided that the Company is the sole holder of the Bonds, the Company may set-off the then-current Basic Rent payment against the City's obligation to the Company as Bondholder under the Indenture in

lieu of delivery of the Basic Rent on any Payment Date, without providing notice of such set-off to the Trustee. The Trustee may conclusively rely on the absence of any notice from the Company to the contrary as evidence that such set-off has occurred. On the final Payment Date, the Company will (a) if the Trustee holds the Bonds, notify the Trustee of the Bonds not previously paid that are to be cancelled or (b) if an entity other than the Trustee holds the Bonds, deliver or cause to be delivered to the Trustee for cancellation Bonds not previously paid. The Company shall receive a credit against the Basic Rent payable by the Company in an amount equal to the principal amount of the Bonds so tendered for cancellation plus accrued interest thereon.

Section 5.2. Additional Rent. Additional Rent shall be composed of the City Lease Payments and Additional Lease Payments, which are defined below and payable as described below:

(a) The Company shall be required to make a monthly cash lease payment directly to the City (the "City Lease Payments"). The City Lease Payments shall be the greater of (i) \$3,600 month or (ii) the amount calculated using the following equation and table, which deals with the level of occupancy of the hotel that is a part of the Project:

(Total room nights in the month/Occupied room nights in the month)x100=Monthly Occupancy Percentage)

<u>Monthly Occupancy Percentage</u>	<u>Resulting Monthly Lease Payment</u>
36-44%	\$4,600
45-54%	\$5,600
55-64%	\$6,600
65-82%	\$7,600
Over 82%	\$8,600

By way of illustration, for a 30 day month, if the hotel contains 95 rooms, the total room nights would be 2,850. If the number of occupied room nights (e.g. the nights that rooms are rented) for the month equal 1,425, the City Lease Payments for that month would be \$5,600. If the hotel is not open or the Monthly Occupancy Percentage is less than 36%, the City Lease Payments would be \$3,600.

The City Lease Payments shall be due on the 15th day of each month (or the next business day thereafter if the 15th day is not a business day) and, to the extent applicable, shall be based on the prior month's Monthly Occupancy Percentage as set forth above. The first City Lease Payment shall be payable the earlier of (i) the 15th day of the second month following the month of issuance of the certificate of occupancy for the hotel that is a part of the Project (for example, if the certificate of occupancy is issued on December 10, 2019, the first City Lease Payment will be due February 15, 2020, and will be based on the Monthly Occupancy Percentage for January, 2020), or (ii) October 15, 2020.

Within one-hundred twenty (120) days after the end of each calendar year, the City shall have the right to audit the books and records of the hotel to verify the accuracy of the City Lease Payments made for the prior calendar year. If the City intends to perform such an audit, it shall provide 30 days prior written notice to the Company.

(b) The Company shall pay, within 30 days after receiving an itemized invoice therefor, the following amounts ("Additional Lease Payments"):

(i) all fees, charges and expenses, including agent and counsel fees and expenses, of the City, the Trustee and the Paying Agent (the annual recurring fees of the Trustee and Paying

Agent shall be as set forth in the Indenture) incurred under or arising from the Indenture, this Lease or the Performance Agreement as and when the same become due;

(ii) all costs incident to the issuance of the Bonds (which are to be paid on the Closing Date) and the payment of the principal of and interest on the Bonds as the same become due and payable, including all costs and expenses in connection with the call, redemption and payment of all Outstanding Bonds;

(iii) all fees, charges and expenses incurred in connection with the enforcement of any rights under this Lease, the Indenture or the Performance Agreement by the City, the Trustee or the Owners, including counsel fees and expenses; and

(iv) all other payments of whatever nature which the Company has agreed in writing to pay or assume under the provisions of this Lease, the Performance Agreement or the Indenture.

Section 5.3. Obligations of Company Absolute and Unconditional.

(a) The obligations of the Company under this Lease to make payments of Basic Rent and Additional Rent on or before the date the same become due, and to perform all of its other obligations, covenants and agreements hereunder shall be absolute and unconditional, without notice or demand, and without abatement, deduction, set-off, counterclaim, recoupment or defense or any right of termination or cancellation arising from any circumstance whatsoever, whether now existing or hereafter arising, and irrespective of whether the Project has been started or completed, or whether the City's title thereto or to any part thereof is defective or nonexistent, and notwithstanding any damage to, loss, theft or destruction of, the Project or any part thereof, any failure of consideration or frustration of commercial purpose, the taking by eminent domain of title to or of the right of temporary use of all or any part of the Project, legal curtailment of the Company's use thereof, the eviction or constructive eviction of the Company, any change in the tax or other laws of the United States of America, the State of Missouri or any political subdivision thereof, any change in the City's legal organization or status, or any default of the City hereunder, and regardless of the invalidity of any action of the City; provided, however, that nothing in this **Section 5.3(a)** or **Section 5.3(b)** is intended or shall be deemed to affect or impair in anyway the rights of the Company to tender Bonds for redemption in satisfaction of Basic Rent as provided in **Section 5.1** and **Section 5.4** hereof, nor the right of the Company to terminate this Lease and repurchase the Project as provided in **Article XI** hereof.

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

Section 5.4. Prepayment of Basic Rent. The Company may at any time and from time to time prepay a portion of the Basic Rent provided for hereunder (subject to the limitations of **Section 301(a)** of the Indenture relating to the redemption of the Bonds. During such times as the amount held by the Trustee in the Bond Fund shall be sufficient to pay, at the time required, the principal of and interest on all the Bonds then remaining unpaid, the Company shall not be obligated to make payments of Basic Rent under the provisions of this Lease.

Subject to **Section 301(a)** of the Indenture relating to the redemption of Bonds, the Company, at its option, may deliver to the Trustee for cancellation Bonds owned by the Company and not previously paid, and the Company shall receive a credit against amounts payable by the Company for the redemption of Bonds in an amount equal to the principal amount of the Bonds so tendered for cancellation, plus accrued interest thereon.

ARTICLE VI

MAINTENANCE, TAXES AND UTILITIES

Section 6.1. Maintenance and Repairs. Throughout the Lease Term the Company shall, at its own expense, keep the Project in reasonably safe operating condition and keep the Project in good repair, reasonable wear, tear, depreciation and obsolescence excepted, making from time to time all repairs thereto and renewals and replacements thereof it determines to be necessary. Without limiting the generality of the foregoing, the Company shall at all times remain in compliance with all provisions of the City's code relating to maintenance and appearance.

Section 6.2. Taxes, Assessments and Other Governmental Charges.

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

(b) The Company may, in its own name or in the City's name, contest the validity or amount of any tax, assessment or other governmental charge which the Company is required to bear, pay and discharge pursuant to the terms of this Article by appropriate legal proceedings instituted at least 10 days before the tax, assessment or other governmental charge complained of becomes delinquent if and provided (1) the Company, before instituting any such contest, gives the City and the Trustee written notice of its intention to do so, (2) the Company diligently prosecutes any such contest, at all times effectively stays or prevents any official or judicial sale therefor, under execution or otherwise, and (3) the Company promptly pays any final judgment enforcing the tax, assessment or other governmental

charge so contested and thereafter promptly procures record release or satisfaction thereof. The City agrees to cooperate fully with the Company in connection with any and all administrative or judicial proceedings related to any tax, assessment or other governmental charge. The Company shall save and hold harmless the City and the Trustee from any costs and expenses the City and the Trustee may incur related to any of the above.

(c) Nothing in this Lease shall be construed to require the Company to make duplicate tax payments. The Company shall receive a credit against any payments in lieu of taxes due under the Performance Agreement to the extent of any *ad valorem* taxes imposed and paid by the Company with respect to the Project paid pursuant to this Section.

Section 6.3. Utilities. All utilities and utility services used by the Company in, on or about the Project shall be paid by the Company and shall be contracted by the Company in the Company's own name, and the Company shall, at its sole cost and expense, procure any and all permits, licenses or authorizations necessary in connection therewith.

Section 6.4. Property Tax Exemption. The City and the Company expect that while the Project is owned by the City and is subject to the Lease, the Project will be exempt from all *ad valorem* real and personal property taxes by reason of such ownership, and the City agrees that it will (at the expense of the Company) cooperate with the Company to defend such exemption against all parties. The City and the Company further acknowledge and agree that the City's obligations hereunder are contingent upon the Company making the payments and otherwise complying with the terms of the Performance Agreement during the term of this Lease. The terms and conditions of the Performance Agreement (attached hereto as **Appendix I**) are incorporated herein as if fully set forth herein.

ARTICLE VII

INSURANCE

Section 7.1. Title Commitment or Report. Before conveying title to any real property to the City, the Company will purchase, from a title insurance company reasonably acceptable to the City, a commitment for title insurance or provide such other report in a form reasonably acceptable to the City showing the ownership of and encumbrances on the Project Site. Copies of such report shall be provided to the City and the Trustee. The Trustee has no duty to review or analyze the sufficiency of such commitment or report and shall hold such documents solely as a repository.

Section 7.2. Casualty Insurance.

(a) The Company shall at its sole cost and expense obtain and shall maintain throughout the Lease Term a policy or policies of insurance (including, if appropriate, builder's risk insurance) to keep the Project constantly insured against loss or damage by fire, lightning and all other risks covered by the extended coverage insurance endorsement then in use in the State of Missouri in an amount equal to the Full Insurable Value thereof (subject to reasonable loss deductible provisions). The insurance required pursuant to this Section shall be maintained with a generally recognized responsible insurance company or companies authorized to do business in the State of Missouri or generally recognized international insurers or reinsurers with an A.M. Best rating of not less than "A-" or the equivalent thereof as may be selected by the Company. The Company shall deliver certificates of insurance for such policies to the City and the Trustee on the date of execution of this Lease and upon renewal of each insurance policy. All such policies of insurance pursuant to this Section, and all renewals thereof, shall name the City and

the Company as insureds, as their respective interests may appear, shall name the Trustee as loss payee and shall contain a provision that such insurance may not be canceled by the issuer thereof without at least 10 days' advance written notice to the City, the Company and the Trustee.

(b) In the event of loss or damage to the Project, the Net Proceeds of casualty insurance carried pursuant to this Section shall be (i) paid over to the Trustee and shall be applied as provided in **Article IX** of this Lease, or (ii) if otherwise directed by, or on behalf of, the Owners of 100% in principal amount of the Bonds Outstanding, as so directed. Insurance monies in an amount less than \$1,000,000 may be paid to or retained by the Company to be held in trust and used as provided herein as provided in **Section 9.1(a)** hereof.

Section 7.3. Public Liability Insurance.

(a) The Company shall at its sole cost and expense maintain or cause to be maintained at all times during the Lease Term commercial general liability insurance (including but not limited to coverage for operations, contingent liability, operations of subcontractors, completed operations and contractual liability), under which the City, the Company and the Trustee shall be named as insureds, properly protecting and indemnifying the City and the Trustee, in an amount not less than the limits of liability set by Section 537.610 of the Revised Statutes of Missouri, as amended (subject to reasonable loss deductible clauses not to exceed the amounts normally or generally carried by the Company). The policies of said insurance shall contain a provision that such insurance may not be canceled by the issuer thereof without at least 10 days' advance written notice to the City, the Company and the Trustee. Certificates of such policies shall be furnished to the Trustee on the date of execution of this Lease and not less than 30 days before the expiration date of each insurance policy.

(b) In the event of a general liability occurrence, the Net Proceeds of liability insurance carried pursuant to this Section shall be applied toward the extinguishment or satisfaction of the liability with respect to which such proceeds have been paid.

Section 7.4. Blanket Insurance Policies; Self Insurance. The Company may satisfy any of the insurance requirements set forth in this Article by using blanket policies of insurance, provided each and all of the requirements and specifications of this Article respecting insurance are complied with. The Company may satisfy any of the insurance requirements set forth in this Article using self-insurance or insurance through a subsidiary or affiliate; so long as (i) the insurance is underwritten by a subsidiary or other affiliate of the Company with a separate net worth of at least \$150,000,000, or (ii) the Company funds such self-insurance by appropriate reserves in the amounts recommended by independent actuarial reports obtained not less than every three (3) years for the term of this Lease. The Company shall provide to the City and the Trustee copies of financial statements or similar evidence of net worth of such affiliate on the date hereof and every three (3) years, or, in the case of actuarial reports, on the date of delivery of this Lease and, thereafter, not less than 30 days after receipt of such reports.

Section 7.5. Worker's Compensation. The Company agrees throughout the Lease Term to maintain or cause to be maintained the worker's compensation coverage required by the laws of the State of Missouri.

ARTICLE VIII

ALTERATION OF THE PROJECT

Section 8.1. Additions, Modifications and Improvements to the Project.

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

(b) The Company shall, following the Completion Date, notify the City in writing of any improvements to the portion of the Project Site that in the aggregate are reasonably expected to exceed \$1,000,000 during any calendar year. If such improvements constitute personal property, any such improvements shall remain the property of the Company, shall not become part of the Project, and shall be subject to *ad valorem* taxes.

Section 8.2. [reserved].

Section 8.3. Additional Improvements on the Project Site. The Company may, at its sole cost and expense, construct on portions of the Project Site not theretofore occupied by buildings or improvements such additional buildings and improvements as the Company from time to time may deem necessary or desirable for its business purposes. All additional buildings and improvements constructed on the Project Site by the Company, and not paid for with Bond proceeds, pursuant to the authority of this Section shall not be included as Project Improvements and, during the life of this Lease, shall remain the property of the Company and may be added to, altered or razed and removed by the Company at any time. All additional buildings and improvements shall be made in a good and workmanlike manner and in strict compliance with all material laws, orders and ordinances applicable thereto and when commenced shall be prosecuted to completion with due diligence. The Company covenants and agrees (a) to make any repairs and restorations required to be made to the Project because of the construction of, addition to, alteration or removal of said additional buildings or improvements, and (b) to promptly and with due diligence either raze and remove or repair, replace or restore any of said additional buildings and improvements as may from time to time be damaged by fire or other casualty. The Company shall pay all *ad valorem* taxes and assessments payable with respect to such additional buildings and improvements which remain the property of the Company. If for any reason the County Assessor determines that such additional buildings and improvements are not subject to *ad valorem* taxes, the Company shall make payments in lieu of taxes in an amount equal to the taxes that would otherwise be due under this Section.

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

Section 8.5. Mechanics' Liens.

(a) The Company will not directly or indirectly create, incur, assume or suffer to exist any lien on or with respect to the Project, except Permitted Encumbrances, and the Company shall promptly notify the City of the imposition of such lien of which the Company is aware and shall promptly, at its own expense, take such action as may be necessary to fully discharge or release any such lien. Whenever and as often as any mechanics' or other similar lien is filed against the Project, or any part thereof, purporting to be for or on account of any labor done or materials or services furnished in connection with any work in or about the Project, the Company shall discharge the same of record. Notice is hereby given that the City shall not be liable for any labor or materials furnished the Company or anyone claiming by, through or under the Company upon credit, and that no mechanics' or other similar lien for any such labor, services or materials shall attach to or affect the reversionary or other estate of the City in and to the Project or any part thereof.

(b) Notwithstanding paragraph (a) above, the Company may contest any such mechanics' or other similar lien if the Company (1) within 60 days after the Company becomes aware of any such lien notifies the City and the Trustee in writing of its intention so to do, (2) diligently prosecutes such contest, (3) at all times effectively stays or prevents any official or judicial sale of the Project, or any part thereof or interest therein, under execution or otherwise, (4) promptly pays or otherwise satisfies any final judgment adjudging or enforcing such contested lien claim and (5) thereafter promptly procures record release or satisfaction thereof. The Company may permit the lien so contested to remain unpaid during the period of such contest and any appeal therefrom unless the Company is notified by the City that, in the opinion of counsel, by nonpayment of any such items, the interest of the City in the Project will be subject to loss or forfeiture. In that event, the Company shall promptly, at its own expense, take such action as may be reasonably necessary to duly discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim if the same shall arise at any time. The Company shall save and hold harmless the City from any loss, costs or expenses the City may incur related to any such contest. The Company shall reimburse the City for any expense incurred by it in connection with the imposition of any such lien or in order to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim. The City shall cooperate fully with the Company in any such contest.

ARTICLE IX

DAMAGE, DESTRUCTION AND CONDEMNATION

Section 9.1. Damage or Destruction.

(a) If the Project is damaged or destroyed by fire or any other casualty, whether or not covered by insurance, the Company, as promptly as practicable, shall either (i) make the determination described in subsection (f) below, or (ii) repair, restore, replace or rebuild the same so that upon completion of such repairs, restoration, replacement or rebuilding the Project is of a value not less than the value thereof immediately before the occurrence of such damage or destruction or, at the Company's option, construct upon the Project Site new buildings and improvements thereafter together with all new machinery, equipment and fixtures which are either to be attached to or are to be used in connection with the operation or maintenance thereof, provided that (A) the value thereof shall not be less than the value of such destroyed or damaged Project Improvements immediately before the occurrence of such damage or destruction and (B) the nature of such new buildings, improvements, machinery, equipment and fixtures will not impair the character of the Project as an enterprise permitted by the Act.

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

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

(b) If any of the insurance monies paid by the insurance company as hereinabove provided remain after the completion of such repairs, restoration, replacement or rebuilding, and this Lease has not been terminated, the excess shall be deposited in the Bond Fund, subject to the rights of any leasehold mortgagee or Financing Party. Completion of such repairs, restoration, replacement or rebuilding shall be evidenced by a certificate of completion in accordance with the provisions of **Section 4.5** hereof. If the Net Proceeds are insufficient to pay the entire cost of such repairs, restoration, replacement or rebuilding, the Company shall pay the deficiency.

(c) Except as otherwise provided in this Lease, in the event of any such damage by fire or any other casualty, the provisions of this Lease shall be unaffected and the Company shall remain and continue liable for the payment of all Basic Rent and Additional Rent and all other charges required hereunder to be paid by the Company, as though no damage by fire or any other casualty has occurred.

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

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

(f) If the Company determines that rebuilding, repairing, restoring or replacing the Project is not practicable or desirable, or if the Company does not have the right under any Leasehold Mortgage to use any Net Proceeds for repair or restoration of the Project, any Net Proceeds of casualty insurance required by **Article VII** hereof received with respect to such damage or loss shall, after payment of all Additional Rent then due and payable, be paid into the Bond Fund and shall be used to redeem Bonds on the earliest practicable redemption date or to pay the principal of any Bonds as the same become due, all subject to rights of the mortgagee under the Leasehold Mortgage (if any) and the Financing Party under the Financing Documents (if any). The Company agrees to be reasonable in exercising its judgment pursuant to this subsection (f). Alternatively, if the Company is the sole owner of the Bonds and it has determined that rebuilding, repairing, restoring or replacing the Project is not practicable or desirable, it

may tender Bonds to the Trustee for cancellation in a principal amount equal to the Net Proceeds of the casualty insurance, and retain such proceeds for its own account.

(g) The Company shall not, by reason of its inability to use all or any part of the Project during any period in which the Project is damaged or destroyed or is being repaired, rebuilt, restored or replaced, nor by reason of the payment of the costs of such rebuilding, repairing, restoring or replacing, be entitled to any reimbursement from the City, the Trustee or the Owners or to any abatement or diminution of the rentals payable by the Company under this Lease or of any other obligations of the Company under this Lease except as expressly provided in this Section.

Section 9.2. Condemnation.

(a) If during the Lease Term, title to, or the temporary use of, all or any part of the Project is condemned by or sold under threat of condemnation to any authority possessing the power of eminent domain, to such extent that the claim or loss resulting from such condemnation is greater than \$1,000,000, the Company shall, within 90 days after the date of entry of a final order in any eminent domain proceedings granting condemnation or the date of sale under threat of condemnation, notify the City, the Trustee, the mortgagee under the Leasehold Mortgage (if any) and the Financing Party under the Financing Documents (if any) in writing as to the nature and extent of such condemnation or loss of title and whether it is practicable and desirable to acquire or construct substitute improvements.

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

(c) If the Company determines that it is not practicable or desirable to acquire or construct substitute improvements, any Net Proceeds of condemnation awards received by the Company shall, after payment of all Additional Rent then due and payable, be paid into the Bond Fund and shall be used to redeem Bonds on the earliest practicable redemption date or to pay the principal of any Bonds as the same becomes due and payable, provided that if the Company is the sole owner of the Bonds and it has determined that acquiring and constructing substitute improvements is not practicable or desirable, it may tender Bonds to the Trustee for cancellation in a principal amount equal to the Net Proceeds of the condemnation awards, and retain such proceeds for its own account, all subject to the rights of the mortgagee under the Leasehold Mortgage (if any) and Financing Party under the Financing Documents (if any).

(d) The Company shall not, by reason of its inability to use all or any part of the Project during any such period of restoration or acquisition nor by reason of the payment of the costs of such

restoration or acquisition, be entitled to any reimbursement from the City, the Trustee or the Owners or to any abatement or diminution of the rentals payable by the Company under this Lease nor of any other obligations hereunder except as expressly provided in this Section.

(e) The City shall cooperate fully with the Company in the handling and conduct of any prospective or pending condemnation proceedings with respect to the Project or any part thereof, and shall, to the extent it may lawfully do so, permit the Company to litigate in any such proceeding in the name and on behalf of the City. In no event will the City voluntarily settle or consent to the settlement of any prospective or pending condemnation proceedings with respect to the Project or any part thereof without the prior written consent of the Company and the Commercial Lending Bank.

Section 9.3. Bondowner Approval. Notwithstanding anything to the contrary contained in this **Article IX**, the proceeds of any insurance received subsequent to a casualty or of any condemnation proceedings (or threats thereof) shall before the application thereof by the City or the Trustee be applied as directed by the Owners or pledgees of 100% of the principal amount of Bonds Outstanding, subject and subordinate to (a) the rights of the City and the Trustee to be paid all their expenses (including attorneys' fees, trustee's fees and any extraordinary expenses of the City and the Trustee) incurred in the collection of such gross proceeds and (b) the rights of the City to any amounts then due and payable under the Performance Agreement. For purposes of this paragraph, the Commercial Lending Bank shall be deemed a pledgee of the Bonds.

ARTICLE X

SPECIAL COVENANTS

Section 10.1. No Warranty of Condition or Suitability by the City; Exculpation and Indemnification. The City makes no warranty, either express or implied, as to the condition of the Project or that it will be suitable for the Company's purposes or needs. The Company releases the City and the Trustee from, agrees that the City and the Trustee shall not be liable for and agrees to hold the City and the Trustee harmless against, any loss or damage to property or any injury to or death of any person that may be occasioned by any cause whatsoever pertaining to the Project or the Company's use thereof; unless such loss is the result of the City's or the Trustee's gross negligence or willful misconduct. This provision shall survive termination of this Lease.

Section 10.2. Surrender of Possession. Upon accrual of the City's right of re-entry to the extent provided in **Section 12.2(b)** hereof, the Company shall peacefully surrender possession of the Project to the City in good condition and repair; provided, however, the Company may within 90 days (or such later date as the City may agree to) after the termination of this Lease remove from the Project Site any buildings, improvements, furniture, trade fixtures, machinery and equipment owned by the Company and not constituting part of the Project. All repairs to and restorations of the Project required to be made because of such removal shall be made by and at the sole cost and expense of the Company, and during said 90-day (or extended) period the Company shall bear the sole responsibility for and bear the sole risk of loss for said buildings, improvements, furniture, trade fixtures, machinery and equipment owned by the Company and not constituting part of the Project. All buildings, improvements, furniture, trade fixtures, machinery and equipment owned by the Company and which are not so removed from the Project before the expiration of said period shall be the separate and absolute property of the City.

Section 10.3. Right of Access to the Project. The City may conduct such periodic inspections of the Project as may be generally provided in the City's municipal code. In addition, the Company agrees that the City and the Trustee and their duly authorized agents may, at reasonable times during normal business hours and, except in the event of emergencies, upon not less than two Business Days' prior notice, subject to the Company's usual business propriety, safety, confidentiality and security requirements, enter upon the Project Site (a) to examine and inspect the Project without interference or prejudice to the Company's operations, (b) to monitor the acquisition, construction and installation provided for in **Section 4.2** hereof as may be reasonably necessary, (c) to examine all files, records, books and other materials in the Company's possession pertaining to the acquisition, installation or maintenance of the Project, (d) upon either (i) the occurrence and continuance of an Event of Default or (ii) the Company's failure to purchase the Project at the end of the Lease Term, to exhibit the Project to prospective purchasers, lessees or trustees.

Section 10.4. Granting of Easements; Leasehold Mortgages and Financing Arrangements.

(a) Subject to **Sections 10.4(c)** and **(d)**, if no Event of Default under this Lease has happened and is continuing, the Company may at any time or times (i) grant subleases (as permitted in **Section 13.1(b)** hereof), easements, licenses, rights-of-way (including the dedication of public highways) and other rights or privileges in the nature of easements that are for the direct use of the Project, or part thereof, by the grantee, (ii) release or terminate existing subleases, easements, licenses, rights-of-way and other rights or privileges, all with or without consideration and upon such terms and conditions as the Company shall determine, or (iii) incur Permitted Encumbrances. The Company may take such actions and may execute any applicable documents in the Company's own name. No separate signature of or authorization from the City shall be required for the execution and delivery of any such document, although the City agrees to execute and deliver such confirming documents as are described below, under the procedures described below, if the Company chooses to make such a request. All third parties entering into agreements with the Company or receiving delivery of or the benefit of such agreements or documents shall be entitled to rely upon the same as having been executed and delivered by the City, unless such third party has actual or constructive notice, expressly in writing, that the agency herein granted by the City to the Company has been terminated by the City because of an uncured Event of Default hereunder. The City 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, release or terminate any such sublease, easement, license, right-of-way or other right or privilege or any such agreement or other arrangement, upon receipt by the City and the Trustee of: (i) a copy of the instrument of grant, release or termination or of the agreement or other arrangement, (ii) a written application signed by an Authorized Company Representative requesting such instrument, and (iii) a certificate executed by an Authorized Company Representative stating that such grant or release is not detrimental to the proper conduct of the business of the Company, will not impair the effective use or interfere with the efficient and economical operation of the Project, will not materially adversely affect the security intended to be given by or under the Indenture and will be a Permitted Encumbrance. If no Event of Default has happened and is continuing beyond any applicable grace period, any payments or other consideration received by the Company for any such grant or with respect to or under any such agreement or other arrangement shall be and remain the property of the Company; but, subject to **Sections 10.4(c)** and **(d)**, upon (i) termination of this Lease for any reason other than the redemption of the Bonds and/or the purchase of the Project by the Company or (ii) the occurrence and continuance of an Event of Default by the Company, all rights then existing of the Company with respect to or under such grant shall inure to the benefit of and be exercisable by the City and the Trustee.

(b) The Company may mortgage or grant a deed of trust against the leasehold estate created by this Lease, with prior notice to but without the consent of the City, provided and upon condition that a duplicate original or certified copy or photostatic copy of each such mortgage or deed of trust, and the note or other obligation secured thereby, is delivered to the City within thirty (30) days after the execution thereof. The sale of the Company's leasehold estate at a foreclosure sale or trustee's sale under the Leasehold Mortgage or any assignment in lieu thereof shall not require the consent of the City, if (i) written notice of the proposed sale or assignment is provided to the City at least fifteen (15) days prior thereto, and (ii) before such sale or assignment, all payments then owing to the City under the Performance Agreement are paid.

(c) The City acknowledges and agrees that the Company may finance and refinance its rights and interests in the Project, this Lease and the leasehold estate created hereby and, in connection therewith, the Company may execute Financing Documents with one or more Financing Parties. Notwithstanding anything contained to the contrary in this Lease, the Company may, at any time and from time to time, with prior notice to but without the consent of the City (i) execute one or more Financing Documents upon the terms contained in this **Section 10.4** and (ii) sublease or assign this Lease, the leasehold estate, any sublease and rights in connection therewith, and/or grant liens or security interests therein, to any Financing Party. Any further sublease or assignment by any Financing Party shall be subject to the provisions of **Section 13.1(c)** hereof.

(d) Upon notice by the Company to the City in writing that the Company has executed one or more Financing Documents under which it has granted rights in this Lease to a Financing Party, which includes the name and address of such Financing Party, then the following provisions shall apply in respect of each such Financing Party:

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

(2) the City shall serve upon each such Financing Party at the address, if any, provided to the City, a copy of each notice of the occurrence of an Event of Default and each notice of termination given to the Company under this Lease, at the same time as such notice is served upon the Company. No such notice to the Company shall be effective unless a copy thereof is thus served upon each Financing Party, provided that the sole responsibility of the City with respect to such notices is to deliver notices to the Financing Parties at those addresses supplied to the City pursuant hereto;

(3) each Financing Party shall have the same period of time which the Company has, after the service of any required notice upon it, within which to remedy or cause to be remedied any payment default under this Lease which is the basis of the notice plus thirty (30) days, and the City shall accept performance by such Financing Party as timely performance by the Company;

(4) the City may exercise any of its rights or remedies with respect to any other Event of Default by the Company, subject to the rights of the Financing Parties under this **Section 10.4(d)** as to such other events of default. Without limiting the generality of the foregoing, the holder of the Leasehold Mortgage may cause the sale of the leasehold interest of the Company to be sold at foreclosure sale conducted in accordance with applicable law and the terms of the Leasehold Mortgage, to accept assignment of this Lease in lieu of foreclosure and to

appoint a receiver for the Project, all without obtaining the prior written consent of the City but subject to the provisions of **Section 10.4(b)**;

(5) upon the occurrence and continuance of an Event of Default by the Company under this Lease, other than a default in the payment of money, the City shall take no action to effect a termination of this Lease by service of a notice or otherwise, without first giving notice thereof to each such Financing Party and permitting such Financing Party (or its designee, nominee, assignee or transferee) a reasonable time within which to remedy such default in the case of an Event of Default which is susceptible of being cured (provided that the period to remedy such Event of Default shall continue beyond any period set forth in the Lease to effect said cure so long as the Financing Party (or its designee, nominee, assignee or transferee) is diligently prosecuting such cure); provided that the Financing Party (or its designee, nominee, assignee or transferee) shall pay or cause to be paid to the City and the Trustee all expenses, including reasonable counsel fees, court costs and disbursements incurred by the City or the Trustee in connection with any such default;

(6) the Financing Parties (and their designees, nominees, assignees or transferees) may enter, possess and use the Project at such reasonable times and manner as are necessary or desirable to effectuate the remedies and enforce their respective rights under the Financing Documents; and

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

(e) In connection with the execution of one or more Financing Documents, upon the request of the Company, the City agrees to execute such documents as shall be reasonably requested by a Financing Party and which are usual and customary in connection with the closing of the financing or refinancing pursuant to the Financing Documents. The Company agrees to reimburse the City for any and all costs and expenses incurred by the City pursuant to this Section, including reasonable attorneys' fees and expenses, in complying with such request.

(f) Notwithstanding the foregoing, the City may agree to other provisions and documents requested by the Company or any Financing Party not contemplated by this **Section 10.4**, subject to approval by the City Council.

Section 10.5. Indemnification of City and Trustee. The Company shall indemnify and save and hold harmless the City and the Trustee and their governing body members, officers, agents and employees from and against all claims, demands, costs, liabilities, damages or expenses, including reasonable attorneys' fees, by or on behalf of any Person, firm or corporation arising from the issuance of the Bonds and the execution of the Performance Agreement, this Lease or the Indenture and from the conduct or management of, or from any work or thing done in or on the Project during the Lease Term, and against and from all claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, arising during the Lease Term from (a) any condition of the Project, (b) any breach or default on the part of the Company in the performance of any of its obligations under the Performance Agreement, this Lease or any related document, (c) any contract entered into in connection with the construction and improvement of the Project, (d) any act of negligence of the Company or of any of its agents, contractors, servants, employees or licensees, (e) unless the Company has been released from liability pursuant to **Section 13.1(c)** hereof, any act of negligence of any assignee or sublessee of the Company, or of any agents, contractors, servants, employees or licensees of any assignee or sublessee of the Company, (f) obtaining any applicable state and local sales and use tax exemptions for materials or goods that become

part of the Project, and (g) any violation of Section 107.170 of the Revised Statutes of Missouri, as amended; provided, however, the indemnification contained in this **Section 10.5** shall not extend to the City or Trustee to the extent that such claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, are (i) the result of work being performed at the Project by employees or agents of the City, or (ii) the result of gross negligence or willful misconduct by the City, its employees or agents, or the Trustee. Upon written notice from the City or the Trustee of any such claims or demand, the Company shall defend them or either of them in any such action or proceeding; provided, that the City shall cooperate with the Company and provide reasonable assistance in such defense. All costs related to the defense of the City or the Trustee shall be paid by the Company. This **Section 10.5** shall survive any termination of the Performance Agreement and this Lease or the satisfaction and discharge of the Indenture.

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

Section 10.7. Company to Maintain its Existence. The Company agrees that until the Bonds are paid or payment is provided for in accordance with the terms of the Indenture, it will maintain its existence, and will not dissolve or otherwise dispose of all or substantially all of its assets; provided, however, the Company may, without violating the agreement contained in this Section, consolidate with or merge into another Person or permit one or more other Persons to consolidate with or merge into it, or may sell or otherwise transfer to another Person all or substantially all of its assets as an entirety and thereafter dissolve or convert into a different type of legal entity, if the surviving, resulting or transferee Person expressly assumes in writing all the obligations of the Company contained in this Lease, and further provided that the provisions of **Section 13.1** hereof are complied with.

Section 10.8. Security Interests. The City and the Company hereby authorize the Trustee to file all appropriate financing and continuation statements as may be required under the Uniform Commercial Code in order to fully preserve and protect the security of the Owners and the rights of the Trustee under the Indenture. Upon the written instructions of the Owners or pledgees of 100% of the Bonds then Outstanding, the Trustee shall file all instruments the Owners deem necessary to be filed and shall continue or cause to be continued such instruments for so long as the Bonds are Outstanding. The City and the Company shall cooperate with the Trustee in this regard by providing such information as the Trustee may require to file or to renew such statements.

Section 10.9. Environmental Matters, Warranties, Covenants and Indemnities Regarding Environmental Matters.

(a) As used in this Section, the following terms have the following meanings:

"Environmental Laws" means any now-existing or hereafter enacted or promulgated federal, state, local, or other law, statute, ordinance, order, rule, regulation or court order pertaining to (i) environmental protection, regulation, contamination or clean-up, (ii) toxic waste, (iii) underground storage tanks, (iv) asbestos or asbestos-containing materials, or (v) the handling, treatment, storage, use or disposal of Hazardous Substances, including without limitation the Comprehensive Environmental Response, Compensation and Liability Act and the Resource Conservation and Recovery Act, all as amended from time to time.

"Hazardous Substances" means all (i) "hazardous substances" (as defined in 42 U.S.C. §9601(14)), (ii) "chemicals" subject to regulation under Title III of the Superfund Amendments and Reauthorization Act of 1986, as amended from time to time (iii) natural gas liquids, liquefied natural gas or synthetic gas, (iv) any petroleum, petroleum-based products or crude oil, or (v) any other hazardous or toxic substances, wastes or materials, pollutants, contaminants or any other substances or materials which are included under or regulated by any Environmental Law.

(b) The Company warrants and represents to the City and the Trustee that, to the knowledge of the Company, and qualified by the information and data known by the City or in its possession, there are no conditions on the Project Site which materially violate any applicable Environmental Laws and no claims or demands have been asserted or made in writing by any third parties arising out of, relating to or in connection with any Hazardous Substances on, or allegedly on, the Project Site for any injuries suffered or incurred, or allegedly suffered or incurred, by reason of the foregoing.

(c) The Company will provide the City and the Trustee with copies of any notifications of releases of Hazardous Substances or of any environmental hazards or potential hazards in material violation of Environmental Laws which are given by or on behalf of the Company to any federal, state or local or other agencies or authorities or which are received by the Company from any federal, state or local or other agencies or authorities with respect to the Project Site. Such copies shall be sent to the City and the Trustee concurrently with their being mailed or delivered to the governmental agencies or authorities or within ten days after they are made or received by the Company. The Company will provide to the City for review only, any environmental assessment ("Assessments") and reports regarding the correction or remediation of material environmental issues required by Environmental Laws to be addressed in the Assessment ("Reports") concerning the Project Site and the Project Improvements; upon the completion of the City's review of the Assessments and the Reports, the City shall immediately return to the Company all originals and copies of the Assessments and Reports.

(d) The Company warrants and represents that it will provide the City and the Trustee with copies of all emergency and hazardous chemical inventory forms (hereinafter "Environmental Notices") concerning Hazardous Substances on the Project Site sent to any such governmental authority or agency as required pursuant to the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C.A. §11001 *et seq.*, or any other applicable Environmental Laws. Such copies of Environmental Notices shall be sent to the City and the Trustee concurrently with their being mailed to any such governmental authority or agency.

(e) The Company will use its reasonable best efforts to comply with and operate and at all times use, keep and maintain the Project and every part thereof (whether or not such property constitutes a facility, as defined in 42 U.S.C. § 9601 *et. seq.*) in material conformance with all applicable Environmental Laws. Without limiting the generality of the foregoing, the Company will not use, generate, treat, store, dispose of or otherwise introduce any Hazardous Substance into or on the Project or any part thereof nor cause, suffer, allow or permit anyone else to do so except in the ordinary course of the operation of the Company's business and in material compliance with all applicable Environmental Laws.

(f) The Company agrees to indemnify, protect and hold harmless the City and the Trustee and their directors, officers, shareholders, officials or employees from and against any and all claims, demands, costs, liabilities, damages or expenses, including reasonable attorneys' fees, arising from (i) any release (as defined in 42 U.S.C. § 9601 (22)), actual or alleged, of any Hazardous Substances, upon the Project or respecting any products or materials previously, now or thereafter located upon the Project, regardless of whether such release or alleged release has occurred before the date hereof or hereafter

occurs and regardless of whether such release or alleged release occurs as a result of any act, omission, negligence or misconduct of the Company or any third party or otherwise (except to the extent such release occurs as a result of any negligent omission or misconduct of the City), (ii) (A) any violation now existing or hereafter arising (actual or alleged) of, or any other liability under or in connection with, any applicable Environmental Laws relating to or affecting the Project, or (B) any violation now existing or hereafter arising, or any other liability, under or in connection with, any applicable Environmental Laws relating to any products or materials previously, now or hereafter located upon the Project, regardless of whether such violation or alleged violation or other liability is asserted or has occurred or arisen before the date hereof or hereafter is asserted or occurs or arises and regardless of whether such violation or alleged violation or other liability occurs or arises, as the result of any act, omission, negligence or misconduct of the Company or any third party or otherwise (except to the extent such release occurs as a result of any act, negligent omission or misconduct of the City), (iii) any assertion by any third party of any claims or demands for any loss or injury arising out of, relating to or in connection with any Hazardous Substances on or allegedly on the Project Site, or (iv) any material breach, falsity or failure of any of the representations, warranties, covenants and agreements contained in this Section; provided, however, that the Company's obligations under this **Section 10.9(f)** shall not apply to the extent such claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, are the result of (A) work being performed at the Project by employees or agents of the City or activity that occurred prior to the effective date of this Lease, (B) negligence or willful misconduct by the City, its employees or agents or the Trustee, or (C) breach of this Lease, the Performance Agreement or the Bond Purchase Agreement by the City. The City shall cooperate with the Company in the defense of any matters included within the foregoing indemnity without any obligation to expend money. This **Section 10.9(f)** shall survive any termination of this Lease.

ARTICLE XI

OPTION AND OBLIGATION TO PURCHASE THE PROJECT

Section 11.1. Option to Purchase the Project. Subsequent to the City granting a certificate of occupancy for the Project pursuant to its adopted codes and ordinances, the Company shall have, and is hereby granted, the option to purchase all or any portion of the Project, upon payment in full or redemption of the Outstanding Bonds to be redeemed or provision for their payment or redemption having been made pursuant to **Article XIII** of the Indenture. To exercise such option, the Company shall give written notice to the City and to the Trustee, and shall specify therein the requested date of closing of such purchase, which date shall be not less than 15 nor more than 90 days from the date such notice is mailed, and, in case of a redemption of the Bonds in accordance with the provisions of the Indenture, the Company shall make arrangements satisfactory to the Trustee for the giving of the required notice of redemption. The purchase price payable by the Company in the event of its exercise of the option granted in this Section shall be the sum of the following:

- (a) an amount of money which, when added to the amount then on deposit in the Bond Fund, will be sufficient to redeem all or a portion of the then-Outstanding Bonds on the earliest redemption date next succeeding the closing date, including, without limitation, principal and interest to accrue to said redemption date and redemption expense; plus
- (b) an amount of money equal to the Trustee's and the Paying Agent's agreed to and reasonable fees, charges and expenses expressly specified under the Indenture accrued and to accrue until such redemption of the Bonds; plus

(c) an amount of money equal to the City's reasonable charges and expenses incurred in connection with the Company exercising its option to purchase all or a portion of the Project, provided that such amount shall not exceed \$2,000; plus

(d) an amount of money equal to all payments due and payable pursuant to the Performance Agreement through the end of the calendar year in which the date of purchase occurs; plus

(e) the sum of \$1,000.00, provided that if this Lease terminates prior to its full term identified in **Section 3.2** hereof, the price to exercise the purchase option will be \$1,000 plus an amount equal to the aggregate of all remaining City Lease Payments that would have been paid had this Lease remained in effect through the end of the lease term identified in **Section 3.2** hereof, calculated on the basis of \$3,600 per month.

At its option, to be exercised at least 5 days before the date of closing such purchase, the Company may deliver to the Trustee for cancellation Bonds not previously paid, and the Company shall receive a credit against the purchase price payable by the Company in an amount equal to 100% of the principal amount of the Bonds so delivered for cancellation, plus the accrued interest thereon.

Section 11.2. Conveyance of the Project. At the closing of the purchase of the Project pursuant to this Article, the City will upon receipt of the purchase price deliver to the Company the following:

(a) a release from the Trustee of the Project from the lien and/or security interest of the Indenture and this Lease and appropriate termination of financing statements as required under the Uniform Commercial Code; and

(b) documents, including without limitation a special warranty deed as to the Project Site, conveying to the Company legal title to the Project, as it then exists, in recordable form, subject to the following: (i) those liens and encumbrances, if any, to which title to the Project was subject as of the date of this Lease; (ii) those liens and encumbrances created by the Company or to the creation or suffering of which the Company consented; (iii) those liens and encumbrances resulting from the failure of the Company to perform or observe any of the agreement on its part contained in this Lease; (iv) Permitted Encumbrances other than the Indenture and this Lease; and (v) if the Project or any part thereof is being condemned, the rights and title of any condemning authority.

Section 11.3. Relative Position of Option and Indenture. The option to purchase the Project granted to the Company in this Article shall be and remain prior and superior to the Indenture; provided that such option will not result in nonfulfillment of any condition to the exercise of such option (including the payment of all amounts specified in **Section 11.1** hereof) and further provided that all options herein granted shall terminate upon the termination of this Lease.

Section 11.4. Obligation to Purchase the Project. The Company hereby agrees to purchase, and, the City hereby agrees to sell, the Project upon the occurrence of the following: (a) full payment of the Bonds or provision for payment thereof having been made in accordance with the provisions of the Indenture, (b) the final payment due under the Performance Agreement, and (c) payment of the amounts set forth in **Section 11.1**. The amount of the purchase price under this Section shall be an amount sufficient to redeem all the then Outstanding Bonds, plus accrued interest and the reasonable fees and

expenses of the City and the Trustee and other amounts due hereunder. Notwithstanding the foregoing, the Company may deliver to the Trustee for cancellation Bonds not previously paid, and the Company shall receive a credit against the purchase price payable by the Company in an amount equal to 100% of the principal amount of the Bonds so delivered for cancellation, plus the accrued interest thereon. The City's obligation to sell the Project pursuant to this section shall be conditioned upon the City having granted a certificate of occupancy for the Project pursuant to its adopted codes and ordinances.

ARTICLE XII

DEFAULTS AND REMEDIES

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

(a) default in the due and punctual payment of Basic Rent or Additional Rent within 10 days after written notice thereof from the City to the Company; or

(b) default in the due observance or performance of any other covenant, agreement, obligation or provision of this Lease on the Company's part to be observed or performed, and such default continues for 60 days after the City or the Trustee has given the Company written notice specifying such default (or such longer period as is reasonably required to cure such default, provided that (i) the Company has commenced such cure within said 60-day period, and (ii) the Company diligently prosecutes such cure to completion); or

(c) the Company: (i) admits in writing its inability to pay its debts as they become due; or (ii) files a petition in bankruptcy or for reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the Bankruptcy Code as now or in the future amended or any other similar present or future federal or state statute or regulation, or files a pleading asking for such relief; or (iii) makes an assignment for the benefit of creditors; or (iv) consents to the appointment of a trustee, receiver or liquidator for all or a major portion of its property or fails to have the appointment of any trustee, receiver or liquidator made without the Company's consent or acquiescence, vacated or set aside; or (v) is finally adjudicated as bankrupt or insolvent under any federal or state law; or (vi) is subject to any proceeding, or suffers the entry of a final and non-appealable court order, under any federal or state law appointing a trustee, receiver or liquidator for all or a major part of its property or ordering the winding-up or liquidation of its affairs, or approving a petition filed against it under the Bankruptcy Code, as now or in the future amended, which order or proceeding, if not consented to by it, is not dismissed, vacated, denied, set aside or stayed within 90 days after the day of entry or commencement; or (vii) suffers a writ or warrant of attachment or any similar process to be issued by any court against all or any substantial portion of its property, and such writ or warrant of attachment or any similar process is not contested, stayed, or is not released within 60 days after the final entry, or levy or after any contest is finally adjudicated or any stay is vacated or set aside; or

(d) The occurrence and continuance of an Event of Default by the Company under the Performance Agreement, as defined in **Section 6.1** thereof.

Section 12.2. Remedies on Default. If any Event of Default referred to in **Section 12.1** hereof has occurred and continues beyond the period provided to cure, then the City may at the City's election (subject, however, to any restrictions against acceleration of the maturity of the Bonds or termination of this Lease in the Indenture), then or at any time thereafter, and while such default continues, take any one or more of the following actions, in addition to the remedies provided in **Section 12.5** hereof:

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

(b) give the Company written notice of intention to terminate this Lease on a date specified therein, which date shall not be earlier than 60 days after such notice is given, and if all defaults have not then been cured, on the date so specified, the Owners shall tender or be deemed to have tendered the Outstanding principal amount of the Bonds for cancellation with instruction that such tender is in lieu of payment in accordance with **Section 11.1** hereof, the Company's rights to possession of the Project shall cease and this Lease shall thereupon be terminated, and the City may re-enter and take possession of the Project. Notwithstanding the foregoing, the City agrees that the Company shall not be in default under this Lease unless written notice specifying such default is given to each mortgagee under a Leasehold Mortgage, if any, and each Financing Party under the Financing Documents (if any) identified to the City by the Company (collectively, the "Additional Notice Parties"). The City agrees that each of the Additional Notice Parties shall have the right to cure or commence to cure such default on behalf of the Company within 30 days after the receipt of such notice.

Section 12.3. Survival of Obligations. The Company covenants and agrees with the City and Owners that its obligations under this Lease shall survive the cancellation and termination of this Lease, for any cause, and that the Company shall continue to pay the Basic Rent and Additional Rent (to the extent the Bonds remain Outstanding) and perform all other obligations provided for in this Lease, all at the time or times provided in this Lease; provided, however, that except for the indemnification contained in **Section 10.5** hereof, upon the payment of all Basic Rent and Additional Rent required under **Article V** hereof, and upon the satisfaction and discharge of the Indenture under **Section 1301** thereof, and upon the Company's exercise of the purchase option contained in **Article XI** hereof and payment of amounts related thereto, the Company's obligation under this Lease shall thereupon cease and terminate in full, except that obligations with respect to compensation and indemnification of the City and the Trustee shall not so terminate.

Section 12.4. Performance of the Company's Obligations by the City. Upon an Event of Default, the City, or the Trustee in the City's name, may (but shall not be obligated so to do) upon the continuance of such failure on the Company's part for 60 days after written notice of such failure is given the Company by the City or the Trustee, and without waiving or releasing the Company from any obligation hereunder, as an additional but not exclusive remedy, make any such payment or perform any such obligation, and all reasonable sums so paid by the City or the Trustee and all necessary incidental reasonable costs and expenses incurred by the City or the Trustee (including, without limitation, attorney's fees and expenses) in performing such obligations shall be deemed Additional Rent and shall be paid to the City or the Trustee on demand, and if not so paid by the Company, the City or the Trustee shall have the same rights and remedies provided for in **Section 12.2** hereof in the case of default by the Company in the payment of Basic Rent.

Section 12.5. Rights and Remedies Cumulative. The rights and remedies reserved by the City and the Company hereunder are in addition to those otherwise provided by law and shall be

construed as cumulative and continuing rights. No one of them shall be exhausted by the exercise thereof on one or more occasions. The City and the Company shall each be entitled to specific performance and injunctive or other equitable relief for any breach or threatened breach of any of the provisions of this Lease, notwithstanding the availability of an adequate remedy at law, and each party hereby waives the right to raise such defense in any proceeding in equity. Notwithstanding anything in this Section 12.5 or elsewhere in the Lease to the contrary, however, the Company's option to purchase the Project provided in Article XI hereof shall not be terminated upon an Event of Default unless and until this Lease is terminated to the extent permitted pursuant to Section 12.2(b) hereof.

Section 12.6. Waiver of Breach. No waiver of any breach of any covenant or agreement herein contained shall operate as a waiver of any subsequent breach of the same covenant or agreement or as a waiver of any breach of any other covenant or agreement, and in case of a breach by the Company of any covenant, agreement or undertaking by the Company, the City may nevertheless accept from the Company any payment or payments hereunder without in any way waiving City's right to exercise any of its rights and remedies provided for herein with respect to any such default or defaults of the Company which were in existence at the time such payment or payments were accepted by the City.

Section 12.7. Trustee's Exercise of the City's Remedies. Whenever any Event of Default has occurred and is continuing, the Trustee may, but except as otherwise provided in the Indenture shall not be obliged to, exercise any or all of the rights of the City under this Article, upon notice as required of the City unless the City has already given the required notice. In addition, the Trustee shall have available to it all of the remedies prescribed by the Indenture.

ARTICLE XIII

ASSIGNMENT AND SUBLEASE

Section 13.1. Assignment; Sublease.

(a) The Company may assign, transfer, encumber or dispose of this Lease or any interest herein or part hereof for any lawful purpose under the Act. Prior to the City granting a certificate of occupancy for the Project, the Company must obtain the City's prior written consent by the City Council to any such disposition. Subsequent to the granting of a certificate of occupancy, the Company must provide written notice to the City prior to any such disposition, unless such disposition is to an entity controlled by or under common control with or controlling the Company. The City and the Company acknowledge that the provisions of the Performance Agreement will remain in full force and effect subsequent to any such disposition.

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

- (i) The Company shall notify the City of the assignment in writing;
- (ii) Such assignment shall be in writing, duly executed and acknowledged by the assignor and in proper form for recording;
- (iii) Such assignment shall include the entire then unexpired term of this Lease; and

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

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

(d) The Company shall have the right to sublet all or any part of the Project to a single entity for any lawful purpose under the Act. The Company shall, within 10 days after the delivery thereof, furnish or cause to be furnished to the City and the Trustee a true and correct copy of each such sublease that has a term of one year or longer. Any sublease may provide, at the Company's option, that the City'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.

Section 13.2. Assignment of Revenues by City. The City shall assign and pledge any rents, revenues and receipts receivable under this Lease except for City Lease Payments, to the Trustee pursuant to the Indenture as security for payment of the principal of, interest and premium, if any, on the Bonds and the Company hereby consents to such pledge and assignment. The City and the Company recognize that the Trustee is a third party creditor-beneficiary of this Lease.

Section 13.3. Prohibition Against Fee Mortgage of Project. The City shall not mortgage its fee interest in the Project, but may assign its interest in and pledge any moneys receivable under this Lease to the Trustee pursuant to the Indenture as security for payment of the principal of and interest on the Bonds.

Section 13.4. Restrictions on Sale or Encumbrance of Project by City. During the Lease Term, the City agrees that, except to secure the Bonds to be issued pursuant to the Indenture and except to enforce its rights under **Section 12.2(b)** hereof, it will not sell, assign, encumber, mortgage, transfer or convey the Project or any interest therein, except that the City may sublease any portion of the Project subleased to it by the Company or an entity related to the Company.

ARTICLE XIV

AMENDMENTS, CHANGES AND MODIFICATIONS

Section 14.1. Amendments, Changes and Modifications. Except as otherwise provided in this Lease or in the Indenture, subsequent to the issuance of Bonds and before the payment in full of the Bonds (or provision for the payment thereof having been made in accordance with the provisions of the Indenture), this Lease may not be effectively amended, changed, modified, altered or terminated without the prior written consent of the Trustee, given in accordance with the provisions of the Indenture, which consent, however, shall not be unreasonably withheld, and the written consent of all of the Bondowners and the written consent of any mortgagee under any Leasehold Mortgage (if any) and Financing Party under the Financing Documents (if any).

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 governed by **Section 1403** of the Indenture.

Section 15.2. City Shall Not Unreasonably Withhold Consents and Approvals. Wherever in this Lease it is provided that the City shall, may or must give its approval or consent, or execute supplemental agreements or schedules, the City shall not unreasonably, arbitrarily or unnecessarily withhold or refuse to give such approvals or consents or refuse to execute such supplemental agreements or schedules; provided, however, that nothing in this Lease shall be interpreted to affect the City's rights to approve or deny any additional project or matter unrelated to the Project subject to zoning, building permit or other regulatory approvals by the City.

Section 15.3. Net Lease. The parties hereto agree (a) that this Lease shall be deemed and construed to be a net lease, (b) that the payments of Basic Rent are designed to provide the City and the Trustee funds adequate in amount to pay all principal of and interest accruing on the Bonds as the same become due and payable, (c) that to the extent that the payments of Basic Rent are not sufficient to provide the City and the Trustee with funds sufficient for the purposes aforesaid, the Company shall be obligated to pay, and it does hereby covenant and agree to pay, upon demand therefor, as Additional Rent, such further sums of money, in cash, as may from time to time be required for such purposes, and (d) that if after the principal of and interest on the Bonds and all costs incident to the payment of the Bonds (including the fees and expenses of the City and the Trustee) have been paid in full the Trustee or the City holds unexpended funds received in accordance with the terms hereof such unexpended funds shall, after payment therefrom of all sums then due and owing by the Company under the terms of this Lease, and except as otherwise provided in this Lease and the Indenture, become the absolute property of and be paid over forthwith to the Company.

Section 15.4. Limitation on Liability of City. No provision, covenant or agreement contained in this Lease, the Indenture or the Bonds, or any obligation herein or therein imposed upon the City, or the breach thereof, shall constitute or give rise to or impose upon the City a pecuniary liability or a charge upon the general credit or taxing powers of the City or the State of Missouri.

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

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

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

Section 15.8. Electronic Storage. The parties hereto agree that the transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be

authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

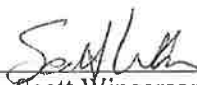
Section 15.9. Execution in Counterparts. This Lease may be executed simultaneously in several counterparts, each of which shall be deemed to be an original and all of which shall constitute but one and the same instrument.

Section 15.10 Complete Agreement. THE COMPANY AND THE CITY UNDERSTAND THAT ORAL OR UNEXECUTED AGREEMENTS OR COMMITMENTS TO LOAN MONEY, EXTEND CREDIT OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT INCLUDING PROMISES TO EXTEND OR RENEW SUCH DEBT ARE NOT ENFORCEABLE. TO PROTECT THE COMPANY AND THE CITY FROM MISUNDERSTANDING OR DISAPPOINTMENT, ANY AGREEMENTS THE COMPANY AND THE CITY REACH COVERING SUCH MATTERS ARE CONTAINED IN THIS LEASE AND IN THE PERFORMANCE AGREEMENT, WHICH ARE THE COMPLETE AND EXCLUSIVE STATEMENTS OF THE AGREEMENT BETWEEN THE COMPANY AND THE CITY, EXCEPT AS THE COMPANY AND THE CITY MAY LATER AGREE IN WRITING TO MODIFY THIS LEASE AND THE PERFORMANCE AGREEMENT.

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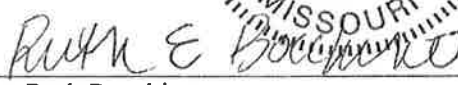
IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed in their respective names by their duly authorized signatories, all as of the date first above written.

CITY OF GLADSTONE, MISSOURI

By: 
Name: Scott Wingerson
Title: City Manager

[SEAL]

ATTEST:

By: 
Name: Ruth Bocchino
Title: City Clerk



SREH MAG Gladstone Partners, LLC, a Delaware limited liability company

By: SREH MAG Gladstone Manager, LLC, a Delaware limited liability company, its Manager

By: ZAR Capital Partners, LLC, a Delaware limited liability company, its Manager

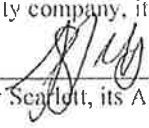
By: _____
Andrew Scarlett, its Authorized Signatory

EXHIBIT A
PROJECT SITE

The real property more specifically described below:

Legal Description

The following described property in the City of Gladstone, Clay County, Missouri:

Parcel 1:

All of Lots Four (4) and Five (5), Block Twenty-five (25), LINDEN, a subdivision in Gladstone, Clay County, Missouri.

Parcel 2:

A portion of Lots 1, 2 and 3, Block 25, LINDEN, a subdivision in Gladstone, Clay County, Missouri, being more particularly described as follows:

Commencing at the Northwest corner of said Lot 1; thence South 89 degrees 37 minutes 44 Seconds East along the North line of said Lot 1, a distance of 80.00 feet to the point of beginning of said tract of land; thence continuing along said North line South 89 degrees 37 minutes 44 seconds East, a distance of 43.91 feet to the Northeast corner of said Lot 1; thence along the East line of said Lots 1, 2 and 3 South 00 degrees 25 minutes 15 seconds West, a distance of 160.38 feet to the Southwest corner of said Lot 3; thence along the South line of said Lot 3 North 89 degrees 50 minutes 09 seconds West, a distance of 124.17 feet to the Southwest corner of said Lot 3; thence on the West line of said Lots 2 and 3 North 00 degrees 30 minutes 41 seconds East, a distance of 80.83 feet; thence parallel with the North line of said Lot 1 South 89 degrees 37 minutes 44 seconds East, a distance of 80.00 feet; thence parallel with the West line of said Lot 1, 2 and 3 North 00 degrees 30 minutes 41 seconds East, a distance of 80.00 feet to the point of beginning, being Tract 2 as shown on the Certificate of Survey recorded December 7, 2016 as Document No. 2016043750 in Book H at Page 177.

Parcel 3:

All of Lots 8 & 9, Block 25, LINDEN, a subdivision in Gladstone, Clay County, Missouri.

Parcel 4:

Lots 10, 11, and 12, except the North 39.28 feet of Lot 12, Block 25 LINDEN, an addition to the City of Gladstone, Clay County, Missouri.

Parcel 5:

Lots 6 and 7, Block 25, LINDEN, a subdivision in Gladstone, Clay County, Missouri, according to the recorded plat thereof.

EXHIBIT B

PROJECT IMPROVEMENTS

The Project Improvements consist of all improvements made to the Project Site and paid for with Bond proceeds.

EXHIBIT C

[reserved]

EXHIBIT D

FORM OF REQUISITION CERTIFICATE

Requisition No. _____
Date: _____

REQUISITION CERTIFICATE

TO: FIRST BANK OF MISSOURI, AS TRUSTEE UNDER A TRUST INDENTURE DATED AS OF NOVEMBER 1, 2019, BETWEEN THE CITY OF GLADSTONE, MISSOURI, AND THE TRUSTEE, AND LEASE AGREEMENT DATED AS OF NOVEMBER 1, 2019, BETWEEN THE CITY OF GLADSTONE, MISSOURI, AND SREH MAG GLADSTONE PARTNERS, 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.

We hereby state and certify that: (i) the amounts requested are or were necessary and appropriate in connection with the acquisition, installation and equipping of the Project, have been properly incurred and are a proper charge against the Project Fund, and have been paid by the Company for the assets listed on **Schedule 1**, 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 our knowledge, outstanding statements which are due and payable for labor, wages, materials, supplies or services in connection with the acquisition, installation and equipping of the Project which, if unpaid, might become the basis of a vendors', mechanics', laborers' or materialmen's statutory or similar lien upon the Project or any part thereof; 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.

SREH MAG Gladstone Partners, LLC, a Delaware limited liability company

By: SREH MAG Gladstone Manager, LLC, a Delaware limited liability company, its Manager

By: ZAR Capital Partners, LLC, a Delaware limited liability company, its Manager

By: _____
Andrew Scarlett, its Principal

SCHEDULE 1 TO REQUISITION CERTIFICATE

PROJECT COSTS

<u>Payee and Address</u>	<u>Description</u>	<u>Amount</u>
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APPENDIX I

Form of Performance Agreement

See Document No. 4 In Closing Transcript