

**AN ORDINANCE AUTHORIZING THE CITY OF NEVADA, MISSOURI TO ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS (MARETH ENTERPRISES, LLC PROJECT), IN A PRINCIPAL AMOUNT NOT TO EXCEED \$960,000, FOR THE PURPOSE OF PROVIDING FUNDS TO PAY THE COSTS OF ACQUIRING AND IMPROVING AN INDUSTRIAL DEVELOPMENT PROJECT; APPROVING A PLAN FOR THE PROJECT; AND AUTHORIZING THE CITY TO ENTER INTO CERTAIN AGREEMENTS AND TAKE CERTAIN OTHER ACTIONS IN CONNECTION WITH THE ISSUANCE OF THE BONDS.**

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

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

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

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

**WHEREAS**, the City Council hereby finds and determines that it is desirable for the improvement of the economic welfare and development of the City and within the public purposes of the Act that the City: (1) approve the Plan pursuant to the Act; (2) issue its Taxable Industrial Revenue Bonds (Mareth Enterprises, LLC Project), in the maximum principal amount of \$960,000 (the "Bonds"), for the purpose of acquiring certain real property and the existing improvements thereon located at 1800 North Industrial Parkway (the "Project Site"), and improving the Project Site and existing improvements thereon (the "Project"), all as more fully described in the Indenture and in the Lease Agreement hereinafter authorized; (3) lease the Project and Project Site to Mareth Enterprises, LLC (the "Company"); and (4) enter into a Performance Agreement with the Company, under which the Company will make certain payments to the City in consideration of the City issuing the Bonds; and

**WHEREAS**, the City Council further finds and determines that it is necessary and desirable in connection with the implementation of the Plan and the issuance of the Bonds that the City enter into certain documents, and 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 NEVADA, MISSOURI, AS FOLLOWS:**

**Section 1. Approval of the Plan.** The City Council hereby approves the Plan for an Industrial Development Project in the form of **Exhibit A**, attached hereto and incorporated herein by reference.

**Section 2. Authorization for the Project.** The City is hereby authorized to provide for the acquisition, construction, installation, equipping, improving, and expansion of the Project, all in the manner and as more particularly described in the Indenture and the Lease Agreement hereinafter authorized.

**Section 3. Authorization of the Bonds.** The City is hereby authorized to issue and sell the Bonds as described in the recitals hereto for the purpose of providing funds to pay the costs of the Project. The Bonds shall be issued and secured pursuant to the Indenture described below and shall have such terms, provisions, covenants and agreements as are set forth in the Indenture.

**Section 4. Limitation on Liability.** The Bonds and the interest thereon shall be limited obligations of the City, payable solely out of certain payments, revenues and receipts derived by the City from the Lease Agreement described below. Such payments, revenues and receipts shall be pledged and assigned to the bond trustee (the "Trustee") named in the Indenture as security for the payment of the Bonds as provided in the Indenture. The Bonds and the interest thereon shall not constitute general obligations of the City, the State of Missouri (the "State") or any political subdivision thereof, and neither the City nor the State shall be liable thereon. The Bonds shall not constitute an indebtedness within the meaning of any constitutional, charter, or statutory debt limitation or restriction, and are not payable in any manner by taxation.

**Section 5. Authorization of Documents.** The City is hereby authorized to enter into the following documents (collectively, the "City Documents"), in substantially the forms presented to and approved by the City Council and attached to this Ordinance, with such changes therein as shall be approved by the officials of the City executing the documents, such officials' signatures thereon being conclusive evidence of their approval thereof:

(a) Trust Indenture (the "Indenture") between the City and the Trustee, in substantially the form attached hereto as **Exhibit B** and incorporated herein by reference, pursuant to which the Bonds will be issued and the City will pledge the Project and Project Site and assign certain of the payments, revenues and receipts received pursuant to the Lease Agreement to the Trustee for the benefit and security of the owners of the Bonds upon the terms and conditions as set forth in the Indenture.

(b) Lease Agreement (the "Lease Agreement") between the City and the Company, in substantially the form attached hereto as **Exhibit C** and incorporated herein by reference, under which the City will lease the Project and Project Site to the Company pursuant to the terms and conditions in the Lease Agreement, in consideration of rental payments by the Company that will be sufficient to pay the principal of and interest on the Bonds.

(c) Bond Purchase Agreement between the City and the Company, in substantially the form attached hereto as **Exhibit D** and incorporated herein by reference.

(d) Performance Agreement between the City and the Company, in substantially the form attached hereto as **Exhibit E** and incorporated herein by reference.

(e) Special Warranty Deed from the Company to the City, in substantially the form attached hereto as **Exhibit F** and incorporated herein by reference.

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

**Section 7. Ratification of Prior Actions.** All prior actions taken by the City staff and consultants in conjunction with the preparation of the Plan and the City Documents are hereby ratified and confirmed.

**Section 8. Further Authority.** The City shall, and the officials, agents and employees of the City are hereby authorized to, take such further action, and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance and to carry out, comply with and perform the duties of the City with respect to the Bonds and the City Documents. The Mayor or the City Manager are hereby authorized, through the term of the Lease Agreement, to execute all documents on behalf of the City (including documents pertaining to the transfer of property or the financing or refinancing of the Project by the Company) as may be required to carry out and comply with the intent of this Ordinance, the Indenture and the Lease Agreement. The Mayor or the City Manager are further authorized, on behalf of the City, to grant such consents, estoppels and waivers relating to the Bonds, the Indenture, the Lease Agreement or the Performance Agreement as may be requested during the term thereof; provided, such consents, estoppels and/or waivers shall not increase the principal amount of the Bonds, increase the term of the Lease Agreement or the tax exemption as provided for therein, waive an event of default or materially change the nature of the transaction. The City Clerk is authorized to attest to and affix the seal of the City to any document authorized by this Section.

**Section 9. Severability.** If any section of this Ordinance is found by a court of competent jurisdiction to be invalid or unconstitutional, the remaining sections of this Ordinance shall remain valid unless otherwise directed by the court.

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

[Remainder of Page Intentionally Left Blank]

**PASSED, APPROVED, and ADOPTED** this 5th day of December, 2017, by the Council of the City of Nevada, Missouri.

**CITY OF NEVADA, MISSOURI**

By: *Brian L. Leonard*  
Name: Brian L. Leonard  
Title: Mayor

[SEAL]

ATTEST:

*Johnna Williams*  
Johnna Williams, Deputy City Clerk

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**TRANSCRIPT OF PROCEEDINGS**

**AUTHORIZING THE ISSUANCE**

**OF**

**\$960,000**  
**(AGGREGATE MAXIMUM PRINCIPAL AMOUNT)**  
**TAXABLE INDUSTRIAL REVENUE BONDS**  
**(MARETH ENTERPRISES, LLC PROJECT)**  
**SERIES 2017**

**OF THE**

**CITY OF NEVADA, MISSOURI**

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**CLOSING MEMORANDUM**

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**CITY OF NEVADA, MISSOURI**

**\$960,000**

**(AGGREGATE MAXIMUM PRINCIPAL AMOUNT)  
TAXABLE INDUSTRIAL REVENUE BONDS  
(MARETH ENTERPRISES, LLC PROJECT)  
SERIES 2017**

**Closing: December 22, 2017**

This Memorandum sets forth the actions to be taken in connection with the issuance, sale and delivery by the City of Nevada, Missouri, of its Taxable Industrial Revenue Bonds (Mareth Enterprises, LLC Project), Series 2017 in the maximum principal amount of \$960,000 (the "Bonds"). The documents and actions described herein and in the Closing List attached hereto are to be delivered and taken as a condition precedent to the issuance of the Bonds. Such delivery of documents and actions shall be deemed to have taken place simultaneously at the closing, and no delivery of documents, payments of moneys or other actions with respect to the foregoing transaction will be considered to have been completed until all such deliveries, payments or other actions have been made or taken.

The closing is scheduled for 9:00 a.m., Central Time, on December 22, 2017, at the offices of Armstrong Teasdale LLP, St. Louis, Missouri, and by telephone. The items set forth on the Closing List will be examined, assembled and incorporated in the transcripts evidencing the authorization and issuance of the Bonds. Copies of the transcript will be prepared and distributed to the following:

1. City of Nevada, Missouri (the "City").
2. BOKF, N.A. (the "Trustee").
3. Mareth Enterprises, LLC (the "Company").
4. McCaffree Law Firm, Counsel to the City.
5. Randall, Masri & Randall, P.C., Counsel to the Company.
6. Armstrong Teasdale LLP, Bond Counsel.

**CITY OF NEVADA, MISSOURI**

**\$960,000**  
**(AGGREGATE MAXIMUM PRINCIPAL AMOUNT)**  
**TAXABLE INDUSTRIAL REVENUE BONDS**  
**(MARETH ENTERPRISES, LLC PROJECT)**  
**SERIES 2017**

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**CLOSING LIST**

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**Document**

**No.**

**BASIC DOCUMENTS**

1. Trust Indenture.
2. Lease Agreement; Recorded Memorandum of Lease Agreement; Recorded First Amendment to Memorandum of Lease Agreement.
3. Bond Purchase Agreement.
4. Copy of Bond.
5. Performance Agreement; Recorded Memorandum of Performance Agreement; Recorded First Amendment to Memorandum of Performance Agreement.
6. Recorded Special Warranty Deed.
7. Recorded Special Warranty Deed (corrective – City to Company).
8. Recorded Special Warranty Deed (corrective – Company to City).

**CITY'S PROCEEDINGS AND CLOSING DOCUMENTS**

9. City's Closing Certificate.
10. Minutes of City Council meeting held on October 17, 2017 showing adoption of Resolution No. 1503 authorizing the preparation of a Plan for an Industrial Development Project.
11. Resolution No. 1503.
12. Minutes of City Council meeting held on November 21, 2017 showing first reading of Bill No. 2017-065 approving a Plan for an Industrial Development Project and authorizing the issuance of the Bonds.
13. Minutes of City Council meeting held on December 5, 2017 showing final approval of Bill No. 2017-065 (Ordinance No. 8193) approving a Plan for an Industrial Development Project and

authorizing the issuance of the Bonds.

14. Ordinance No. 8193.
15. Plan for an Industrial Development Project; Notices to Taxing Districts.
16. Municipality Annual Activity Report pursuant to Section 100.105, RSMo.
17. Certificate as to Closing Price.

#### **COMPANY'S PROCEEDINGS AND CLOSING DOCUMENTS**

18. Company's Closing Certificate, with the following exhibits attached:
  - Exhibit A – Missouri Certificate of Good Standing.
  - Exhibit B – Articles of Organization.
  - Exhibit C – Operating Agreement.
  - Exhibit D – Resolutions.
19. Certificates of Insurance, evidencing compliance with Insurance Requirements.
20. Purchaser's Receipt and Representation Letter.
21. Affidavit and documentation evidencing compliance with Sections 285.525 to 285.550, RSMo.

#### **TRUSTEE'S CLOSING DOCUMENT**

22. Trustee's Closing Certificate.

#### **MISCELLANEOUS CLOSING DOCUMENTS**

23. Preliminary Funding Agreement.
24. Title Insurance Policy.
25. Recording Memorandum.
26. Initial Requisition Certificate.
27. Closing Memorandum.

#### **LEGAL OPINIONS**

28. Approving Opinion of Bond Counsel.
29. Opinion of Counsel to the Company.
30. Opinion of Counsel to the City.

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**CITY OF NEVADA, MISSOURI,**

**AND**

**BOKF, N.A.  
as Trustee**

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**TRUST INDENTURE**

**Dated as of December 1, 2017**

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**Relating to:**

**\$960,000  
(Aggregate Maximum Principal Amount)  
City of Nevada, Missouri  
Taxable Industrial Revenue Bonds  
(Mareth Enterprises, LLC Project)  
Series 2017**

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**TRUST INDENTURE**

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## TRUST INDENTURE

**THIS TRUST INDENTURE**, dated as of December 1, 2017 (the “Indenture”), between the **CITY OF NEVADA, MISSOURI**, a third constitutional charter city organized and existing under the laws of the State of Missouri (the “City”), and **BOKF, N.A.**, a national banking association duly organized and existing and authorized to accept and execute trusts of the character herein set forth under the laws of the United States of America, with a corporate trust office located in St. Louis, Missouri, as Trustee (the “Trustee”);

### RECITALS:

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

2. Pursuant to the Act, the City Council passed an ordinance (the “Ordinance”) on December 5, 2017, authorizing the City to issue its Taxable Industrial Revenue Bonds (Mareth Enterprises, LLC Project), Series 2017, in the maximum principal amount of \$960,000 (the “Bonds”), for the purpose of acquiring certain real property located at 1800 North Industrial Parkway (the “Project Site,” as more fully described on **Exhibit A** attached hereto and incorporated herein by reference), and improving the Project Site and the existing improvements thereon.

3. The Ordinance authorizes the City to lease the Project Site and the improvements thereon (collectively, the “Project”) to Mareth Enterprises, LLC, a Missouri limited liability company (the “Company”).

4. Pursuant to the Ordinance, the City is authorized to execute and deliver this Indenture for the purpose of issuing and securing the Bonds, and to enter into the Lease Agreement of even date herewith (the “Lease”) with the Company, under which the City, as lessor, will, or will cause the Company to, purchase and improve the Project, and will lease the Project to the Company, as lessee, in consideration of rentals that will be sufficient to pay the principal of and interest on the Bonds.

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

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

### GRANTING CLAUSES

That the City, in consideration of the premises, the acceptance by the Trustee of the trusts hereby created, the purchase and acceptance of the Bonds by the Owners (as defined herein) thereof, and of other

good and valuable consideration, the receipt of which is hereby acknowledged, and in order to secure the payment of the principal of and interest on all of the Bonds issued and Outstanding (as defined herein) under this Indenture from time to time according to their tenor and effect, and to secure the performance and observance by the City of all the covenants, agreements and conditions herein and in the Bonds contained, does hereby pledge and assign to the Trustee and its successors and assigns forever, the property described in paragraphs (a), (b) and (c) below (said property being herein referred to as the "Trust Estate"), to-wit:

(a) All right, title and interest of the City in and to the Project together with the tenements, hereditaments, appurtenances, rights, easements, privileges and immunities thereunto belonging or appertaining and, to the extent permissible, all permits, certificates, approvals and authorizations;

(b) All right, title and interest of the City in, to and under the Lease (excluding the Unassigned Rights, as defined herein), and all rents, revenues and receipts derived by the City from the Project including, without limitation, all rentals and other amounts to be received by the City and paid by the Company under and pursuant to and subject to the provisions of the Lease; and

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

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

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

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

**THIS INDENTURE FURTHER WITNESSETH**, and it is hereby expressly declared, covenanted and agreed by and between the parties hereto, that all Bonds issued and secured hereunder are to be issued, authenticated and delivered and that all the Trust Estate is to be held and applied under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as

hereinafter expressed, and the City does hereby agree and covenant with the Trustee and with the respective Owners from time to time, as follows:

## ARTICLE I

### DEFINITIONS

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

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

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

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

“**Acquisition Date**” means the date the Company acquires fee title ownership to the Project Site.

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

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

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

“**Bond**” or “**Bonds**” means the Taxable Industrial Revenue Bonds (Mareth Enterprises, LLC Project), Series 2017, in the maximum aggregate principal amount of \$960,000, issued, authenticated and delivered under and pursuant to this Indenture.

“**Bond Fund**” means the “City of Nevada, Missouri, Bond Fund – Mareth Enterprises, LLC” created in **Section 501**.

“**Bond Purchase Agreement**” means the agreement by that name with respect to the Bonds by and between the City and the Purchaser.

**“Business Day”** means any day other than a Saturday or Sunday or legal holiday or a day on which banks located in the city in which the principal corporate trust office or the principal payment office of the Trustee are required or authorized by law to remain closed.

**“City”** means the City of Nevada, Missouri, a constitutional charter city organized and existing under the laws of the State.

**“Closing Date”** means the date identified in the Bond Purchase Agreement for the initial issuance and delivery of the Bonds.

**“Closing Price”** means the amount specified in writing by the Purchaser and agreed to by the City as the amount required to pay for the initial issuance of the Bonds on the Closing Date, which amount shall be equal to any Project Costs spent by the Company from its own funds on or before the Closing Date (including any funds deposited into the Cost of Issuance Fund pursuant to **Section 505**), and, at the Company’s option, the costs of issuance of the Bonds if such costs are not paid for from Bond proceeds.

**“Company”** means Mareth Enterprises, LLC, a Missouri limited liability company, and its successors or assigns.

**“Completion Date”** means the date of execution of the certificate required by **Section 4.5** of the Lease and **Section 504** hereof, which shall be deemed executed and filed on December 31, 2018 if not actually executed and filed by December 31, 2018, except as otherwise provided in **Section 4.5** of the Lease.

**“Costs of Issuance Fund”** means the “City of Nevada, Missouri, Costs of Issuance Fund – Mareth Enterprises, LLC” created in **Section 501**.

**“Cumulative Outstanding Principal Amount”** means the aggregate principal amount of all Bonds Outstanding under the provisions of this Indenture, not to exceed \$960,000, as reflected in the records maintained by the Trustee as provided in the Bonds and this Indenture.

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

**“Financing Document”** means any loan agreement, credit agreement, security agreement, mortgage, participation agreement, lease agreement, sublease, ground lease, hedging agreement or other document related to the Project and executed by or on behalf of a Financing Party.

**“Financing Party”** means any Person providing debt, lease or equity financing (including equity contributions or commitments) or hedging arrangements, or any renewal, extension or refinancing of any such financing or hedging arrangements, or any guarantee, insurance, letters of credit or credit support for or in connection with such financing or hedging arrangements, in connection with the development, construction, ownership, lease, operation or maintenance of the Project or interests or rights in the Lease, or any part thereof, including any trustee or agent acting on any such Person’s behalf.

**“Full Insurable Value”** means the reasonable replacement cost of the Project less physical depreciation and exclusive of land, excavations, footings, foundation and parking lots as determined at the expense of the Company from time to time.

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

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

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

- (a) Government Securities;
- (b) obligations of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Financing Bank, the Federal Intermediate Credit Corporation, Federal Banks for Cooperatives, Federal Land Banks, Federal Home Loan Banks, Farmers Home Administration and Federal Home Loan Mortgage Corporation;
- (c) direct and general obligations of any state of the United States of America, to the payment of the principal of and interest on which the full faith and credit of such state is pledged, provided that at the time of their purchase under this Indenture such obligations are rated in either of the two highest rating categories by a nationally-recognized bond rating agency;
- (d) certificates of deposit, whether negotiable or nonnegotiable, issued by any bank or trust company organized under the laws of any state of the United States of America or any national banking association (including the Trustee or any of its affiliates), provided that such certificates of deposit shall be either (1) continuously and fully insured by the Federal Deposit Insurance Corporation, or (2) continuously and fully secured by such securities as are described above in clauses (a) through (c), inclusive, which shall have a market value at all times at least equal to the principal amount of such certificates of deposit and shall be deposited with the Trustee or a custodian bank, trust company or national banking association. The bank, trust company or national banking association holding each such certificate of deposit required to be so secured shall furnish the Trustee written evidence satisfactory to it that the aggregate market value of all such obligations securing each such certificate of deposit will at all times be an amount at least equal to the principal amount of each such certificate of deposit and the Trustee may rely on each such undertaking;
- (e) shares of a fund registered under the Investment Company Act of 1940, as amended, whose shares are registered under the Securities Act of 1933, as amended, having assets of at least \$100,000,000, and which shares, at the time of purchase, are rated by Standard & Poor’s and Moody’s in one of the two highest rating categories (without regard to any refinements or gradation of rating category by numerical modifier or otherwise) assigned by such rating agencies for obligations of that nature; or
- (f) any other investment approved in writing by the Authorized City Representative and the Owners of all of the Outstanding Bonds.

“**Lease**” means the Lease Agreement dated as of December 1, 2017 between the City, as lessor, and the Company, as lessee, as from time to time amended and supplemented by Supplemental Leases in accordance with the provisions thereof and of **Article XII** of this Indenture.

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

“**Leasehold Mortgage**” means any leasehold mortgage, leasehold deed of trust, assignment of rents and leases, security agreement or other agreement relating to the Project permitted pursuant to the provisions of **Section 10.4** of the Lease.

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

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

- (a) Bonds theretofore cancelled by the Trustee or delivered to the Trustee for cancellation;
- (b) Bonds deemed to be paid in accordance with the provisions of **Section 1302**; and
- (c) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered pursuant to this Indenture.

“**Owner**” means the registered owner of any Bond as recorded on the bond registration records maintained by the Trustee.

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

“**Payment Date**” means the date on which principal or interest on any Bond, whether at the stated maturity thereof or the redemption date thereof, is payable, which shall be December 1 of each year that the Bonds are Outstanding.

“**Performance Agreement**” means the Performance Agreement dated as of December 1, 2017 between the City and the Company.

“**Permitted Encumbrances**” means, as of any particular time, as the same may encumber the Project Site, (a) liens for ad valorem taxes and special assessments not then delinquent, (b) the Indenture, the Lease and the Performance Agreement, (c) utility, access and other easements and rights-of-way, mineral rights, restrictions, exceptions and encumbrances that will not materially interfere with or impair the operations being conducted on the Project Site or easements granted to the City, including encumbrances permitted under **Section 10.4** of the Lease, (d) such minor defects, irregularities, encumbrances, easements, mechanic’s liens, rights-of-way and clouds on title as normally exist with respect to properties similar in character to the Project Site and as do not in the aggregate materially impair the property affected thereby for the purpose for which it was acquired or is held by the City, (e)

liens or security interests granted pursuant to any Leasehold Mortgage or any Financing Documents, and (f) such exceptions to title set forth in the Owner's Policy of Title Insurance Policy No. 869803 issued by First American Title Insurance Company on November 6, 2017.

**"Person"** means an individual, partnership, corporation, business trust, joint stock company, limited liability company, bank, insurance company, unincorporated association, joint venture or other entity of whatever nature.

**"Plans and Specifications"** means the plans and specifications prepared for and showing the Project, as amended by the Company from time to time, the same being on file at the principal office of the Company, and which shall be available for reasonable inspection during normal business hours and upon not less than one Business Day's prior notice by the City, the Trustee and their duly appointed representatives.

**"Project"** means the project referred to in the recitals of this Indenture, including the Project Site and any improvements thereon as they may at any time exist.

**"Project Costs"** means all costs of purchase and construction of the Project, including the following:

(a) all costs and expenses necessary or incident to the acquisition, construction and improvement of the Project, which the Company conveys to the City;

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

(c) all costs and expenses of every nature incurred in purchasing and improving the the Project Site, including the actual cost of labor and materials, machinery, and equipment as payable to contractors, builders and materialmen in connection with the purchase and construction of the Project;

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

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

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

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

(h) reimbursement to the Company or those acting for it for any of the above enumerated costs and expenses incurred and paid by them before or after the execution of the Lease.

**“Project Fund”** means the “City of Nevada, Missouri, Project Fund – Mareth Enterprises, LLC” created in **Section 501**.

**“Project Site”** means all of the real estate as described in **Exhibit A** attached hereto and incorporated herein by reference.

**“Purchaser”** means the entity identified in the Bond Purchase Agreement as the purchaser of the Bonds.

**“State”** means the State of Missouri.

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

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

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

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

**“Unassigned Rights”** means the City’s rights under the Lease to receive moneys for its own account and the City’s rights to indemnification or to be protected from liabilities by insurance policies required by the Lease, as provided in the Lease.

## **Section 102. Rules of Interpretation.**

(a) Unless the context shall otherwise indicate, the words importing the singular number shall include the plural and vice versa, and words importing Persons shall include firms, associations and corporations, including public bodies, as well as natural Persons.

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

(c) All references in this instrument to designated “Articles,” “Sections” and other subdivisions are, unless otherwise specified, to the designated Articles, Sections and subdivisions of this

instrument as originally executed. The words “herein,” “hereof,” “hereunder” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or subdivision.

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

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

## ARTICLE II

### THE BONDS

**Section 201. Title and Amount of Bonds.** No Bonds may be issued under this Indenture except in accordance with the provisions of this Article. The Bonds authorized to be issued under this Indenture shall be designated as “City of Nevada, Missouri, Taxable Industrial Revenue Bonds (Mareth Enterprises, LLC Project), Series 2017.” The maximum total principal amount of Bonds that may be issued hereunder is hereby expressly limited to \$960,000.

**Section 202. Nature of Obligation.** The Bonds and the interest thereon shall be special obligations of the City payable solely out of the rents, revenues and receipts derived by the City from the Project and the Lease, and not from any other fund or source of the City. The Bonds are secured by a pledge and assignment of the Trust Estate to the Trustee in favor of the Owners, as provided in this Indenture. The Bonds and the interest thereon shall not constitute general obligations of the City, the State or any political subdivision thereof, and none of the City, the State or related political subdivision thereof shall be liable thereon, and the Bonds shall not constitute an indebtedness within the meaning of any constitutional, charter, or statutory debt limitation or restriction, and are not payable in any manner by taxation.

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

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

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

#### **Section 204. Method and Place of Payment of Bonds.**

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

(b) Payment of the principal of the Bonds shall be made upon the presentation and surrender of such Bonds at the principal payment office of any Paying Agent named in the Bonds. The payment of principal on the Bonds shall be noted on the Bonds on **Schedule I** thereto and the registration books maintained by the Trustee pursuant to **Section 206**. Payment of the interest on the Bonds shall be made

by the Trustee on each Payment Date to the Person appearing on the registration books of the Trustee hereinafter provided for as the Owner thereof on the fifteenth day (whether or not a Business Day) of the calendar month next preceding such Payment Date by check or draft mailed to such Owner at such Owner's address as it appears on such registration books.

(c) The Bonds and the original **Schedule I** thereto shall be held by the Trustee in trust, unless otherwise directed in writing by the Owner. If the Bonds are held by the Trustee, the Trustee shall, on each Payment Date, send a revised copy of **Schedule I** via facsimile or other electronic means to the Owner, the Company (if not the Owner) and the City. Absent manifest error, the amounts shown on **Schedule I** as noted by the Trustee shall be conclusive evidence of the principal amount paid on the Bonds.

(d) If there is one Owner of the Bonds, the Trustee is authorized to make the final or any interim payments of principal on such Bonds by internal bank transfer or by electronic transfer to an account at a commercial bank or savings institution designated in writing by such Owner and located in the continental United States. The Trustee is also authorized to make interest payments on such Bonds by internal bank transfer or by electronic transfer to an account at a commercial bank or savings institution designated by such Owner and located in the continental United States.

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

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

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

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

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

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

(b) The Bonds may be transferred to an Approved Investor only upon the books kept for the registration and transfer of Bonds upon surrender thereof to the Trustee duly endorsed for transfer or accompanied by an assignment duly executed by the Owner or such Owner's attorney or legal representative in such form as shall be satisfactory to the Trustee. In connection with any such transfer of the Bonds, the City and the Trustee shall receive an executed representation letter signed by the proposed assignee in substantially the form of **Exhibit C** attached hereto and incorporated herein by reference. Upon any such transfer, the City shall execute and the Trustee shall authenticate and deliver in exchange for such Bond a new fully registered Bond or Bonds, registered in the name of the transferee, of any denomination or denominations authorized by this Indenture, in an aggregate principal amount equal to the Outstanding principal amount of such Bond, of the same maturity and bearing interest at the same rate.

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

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

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

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

(a) The Bonds are authorized in the aggregate maximum principal amount of \$960,000 for the purpose of providing funds to pay the costs of the Project, which Bonds shall be designated "City of Nevada, Missouri, Taxable Industrial Revenue Bonds (Mareth Enterprises, LLC Project) Series 2017." The Bonds shall be dated as provided in **Section 203(b)** hereof, shall become due on December 1 of the tenth (10th) calendar year following the Acquisition Date (subject to prior redemption as provided in

**Article III**) and shall bear interest as specified in **Section 208(f)** hereof, payable on the dates specified in **Section 208(f)** hereof.

(b) The Trustee is hereby designated as the Paying Agent. The Owners of a majority of Bonds then Outstanding may designate a different Paying Agent upon written notice to the City and the Trustee.

(c) The Bonds shall be executed without material variance from the form and in the manner set forth in **Exhibit B** hereto and delivered to the Trustee for authentication. Prior to or simultaneously with the authentication and delivery of the Bonds by the Trustee, there shall be filed with the Trustee the following:

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

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

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

(4) A request and authorization to the Trustee on behalf of the City, executed by the Authorized City Representative, to authenticate the Bonds and deliver the same to or at the written direction of the Purchaser upon payment to the Trustee, for the account of the City, of the purchase price thereof specified in the Bond Purchase Agreement. The Trustee may conclusively rely upon such request and authorization as to names of the purchaser and the amount of such purchase price;

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

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

(d) When the documents specified in subsection (c) of this Section have been filed with the Trustee, and when the Bonds have been executed and authenticated as required by this Indenture, either:

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

(2) The Company shall submit a requisition certificate in accordance with **Section 4.4** of the Lease, in an amount equal to the Closing Price, and the Trustee shall authenticate and endorse the Bonds in an amount equal to the Closing Price and then either hold the Bonds in trust or if so directed in writing deliver the Bonds to the Company (or another purchaser designated by the Company).

In either case, the Purchaser shall be deemed to have paid over to the Trustee, and the Trustee shall be deemed to have deposited into the Project Fund, an amount equal to the Closing Price.

(e) Following the initial issuance and delivery of the Bonds, the Company may submit additional requisition certificates in accordance with **Section 4.4** of the Lease. If the Purchaser does not pay to the Trustee the amount set forth in the requisition certificate, the Purchaser will be deemed to have advanced an amount equal to the amount set forth in the requisition certificate and the Trustee shall endorse the Bonds in an amount equal to the amount set forth in each requisition certificate. The date of endorsement of each Principal Amount Advanced as set forth on **Schedule I** to the Bonds shall be the date of the City's approval of each requisition certificate. The Trustee shall keep a record of the total requisitions submitted for the Project, and shall notify the City if the requisitions submitted exceed the maximum principal amount of the Bonds.

(f) The Bonds shall bear interest at the rate of 5.0% per annum on the Cumulative Outstanding Principal Amount of the Bonds. Such interest shall be payable in arrears on each December 1, commencing on December 1, 2018, and continuing thereafter until the Cumulative Outstanding Principal Amount is paid in full, but not later than December 1 of the tenth (10th) calendar year following the Acquisition Date. Interest shall be calculated on the basis of a year of three hundred sixty (360) days consisting of twelve (12) months of thirty (30) days each.

(g) The Trustee shall keep and maintain a record of the amount deposited or deemed to be deposited into the Project Fund pursuant to the terms of this Indenture as "Principal Amount Advanced" and shall enter the aggregate principal amount of the Bonds then Outstanding on its records as the "Cumulative Outstanding Principal Amount" on **Schedule I** to the Bonds. On each date upon which a portion of the Cumulative Outstanding Principal Amount is paid to the Owners, pursuant to the redemption provisions of this Indenture, the Trustee shall enter on its records and **Schedule I** to the Bonds the principal amount paid on the Bonds as "Principal Amount Redeemed," and shall enter the then Outstanding principal amount of the Bonds as "Cumulative Outstanding Principal Amount." The records maintained by the Trustee as to amounts deposited into the Project Fund or principal amounts paid on the Bonds shall be the official records of the Cumulative Outstanding Principal Amount for all purposes, absent manifest error, and shall be in substantially the form of the Table of Cumulative Outstanding Principal Amount as set out in the form of Bonds in **Exhibit B** hereto. If any moneys are deposited by the Trustee into the Project Fund, then the Trustee shall provide a statement of receipts and disbursements with respect thereto to the City and the Company on a monthly basis. After the Project has been completed and the certificate of payment of all costs is filed as provided in **Section 504** hereof, the Trustee, to the extent it has not already done so pursuant to this Section or **Section 1012** hereof, shall file a final statement of receipts and disbursements with respect thereto with the City and the Company.

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

**Section 210. Cancellation and Destruction of Bonds Upon Payment.**

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

(b) All Bonds cancelled under any of the provisions of this Indenture shall be destroyed by the Trustee in accordance with applicable laws and regulations and the Trustee's policies and practices. The Trustee shall execute a certificate describing the Bonds so destroyed, and shall file executed counterparts of such certificate with the City and the Company.

**ARTICLE III**

**REDEMPTION OF BONDS**

**Section 301. Redemption of Bonds.**

(a) The Bonds are subject to redemption and payment at any time before the stated maturity thereof, at the option of the City, upon written instructions from the Company, (1) in whole, if the Company exercises its option to purchase the Project and deposits an amount sufficient to effect such purchase pursuant to the Lease on the applicable redemption date, or (2) in part, if the Company prepays additional Basic Rent pursuant to the Lease. If only a portion of the Bonds are to be redeemed, (1) Bonds aggregating at least 10% of the maximum aggregate principal amount of Bonds authorized hereunder shall not be subject to redemption and payment before the stated maturity thereof, and (2) the Trustee shall keep a record of the amount of Bonds to remain Outstanding following such redemption. Any redemption of Bonds pursuant to this paragraph shall be at a redemption price equal to the par value thereof being redeemed, plus accrued interest thereon, without premium or penalty, to the redemption date.

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

(c) At its option, the Company may deliver to the Trustee for cancellation any Bonds owned by the Company and not previously paid, and the Company shall receive a credit against the amounts payable by the Company for the redemption of such Bonds in an amount equal to the principal amount of the Bonds so tendered for cancellation, plus accrued interest.

**Section 302. Effect of Call for Redemption.** Before or on the date fixed for redemption, funds, Government Securities, or a combination thereof, shall be placed with the Trustee which are sufficient to pay the Bonds called for redemption and accrued interest thereon, if any, to the redemption

date. Upon the happening of the above conditions and appropriate written notice having been given, the Bonds or the portions of the principal amount of Bonds thus called for redemption shall cease to bear interest on the specified redemption date, and shall no longer be entitled to the protection, benefit or security of this Indenture and shall not be deemed to be Outstanding under the provisions of this Indenture. If the Bonds are fully redeemed before maturity and an amount of money equal to the Trustee's and the Paying Agent's agreed to fees and expenses hereunder accrued and to accrue in connection with such redemption is paid or provided for, the City shall, at the Company's direction, deliver to the Company the items described in **Section 11.2** of the Lease.

**Section 303. Notice of Redemption.** If the Bonds are to be called for redemption as provided in **Section 301(a)** hereof, the Company shall deliver written notice to the City and the Trustee that it has elected to redeem all or a portion of the Bonds at least forty (40) days (ten (10) days if there is one Owner) before the scheduled redemption date. The Trustee shall then deliver written notice to the Owners at least thirty (30) days (five (5) days if there is one Owner) before the scheduled redemption date by first-class mail (or facsimile, if there is one Owner) stating the date upon which the Bonds will be redeemed and paid, unless such notice period is waived by the Owners in writing.

#### ARTICLE IV

##### FORM OF BONDS

**Section 401. Form Generally.** The Bonds and the Trustee's Certificate of Authentication to be endorsed thereon shall be issued in substantially the forms set forth in **Exhibit B** attached hereto and incorporated herein by reference. The Bonds may have endorsed thereon such legends or text as may be necessary or appropriate to conform to any applicable rules and regulations of any governmental authority or any custom, usage or requirements of law with respect thereto.

#### ARTICLE V

##### CUSTODY AND APPLICATION OF BOND PROCEEDS

**Section 501. Creation of Funds.** There are hereby created and ordered to be established in the custody of the Trustee the following special trust funds in the name of the City:

(a) "City of Nevada, Missouri, Project Fund – Mareth Enterprises, LLC" (herein called the "Project Fund").

(b) "City of Nevada, Missouri, Costs of Issuance Fund – Mareth Enterprises, LLC" (herein called the "Costs of Issuance Fund").

(c) "City of Nevada, Missouri, Bond Fund – Mareth Enterprises, LLC" (herein called the "Bond Fund").

**Section 502. Deposits into the Project Fund.** The proceeds of the sale of the Bonds (whether actually paid or deemed paid under **Section 208(d)** hereof), including Additional Payments as defined in the Bond Purchase Agreement, when received, excluding such amounts required to be paid into the Bond Fund pursuant to **Section 601** hereof, shall be deposited by the Trustee into the Project Fund. Any money

received by the Trustee from any other source for the purpose of purchasing, constructing and installing the Project shall pursuant to any directions from the Person depositing such moneys also be deposited into the Project Fund.

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

(a) The moneys in the Project Fund shall be disbursed by the Trustee for the payment of, or reimbursement to the Company (or any other party that has made payment on behalf of the Company) for payment of, Project Costs upon receipt of requisition certificates signed by the Company in accordance with the provisions of **Article IV** of the Lease. The Trustee hereby covenants and agrees to disburse such moneys in accordance with such provisions.

(b) If, pursuant to **Section 208(d)**, the Trustee is deemed to have deposited into the Project Fund the amount specified in the requisition certificates submitted by the Company, the Trustee shall upon endorsement of the Bonds in an equal amount be deemed to have disbursed such funds from the Project Fund to the Company (or such other purchaser designated by the Company) in satisfaction of the requisition certificate.

(c) In paying any requisition under this Section, the Trustee may rely as to the completeness and accuracy of all statements in such requisition certificate if such requisition certificate is signed by the Authorized Company Representative. If the City so requests in writing, a copy of each requisition certificate submitted to the Trustee for payment under this Section shall be promptly provided by the Trustee to the City. The City hereby authorizes and directs the Trustee to make disbursements in the manner and as provided for by the aforesaid provisions of the Lease.

**Section 504. Completion of the Project.** The completion of the purchase, construction and installation of the Project and payment of all costs and expenses incident thereto shall be evidenced by the filing with the Trustee of the certificate required by the provisions of **Section 4.5** of the Lease. As soon as practicable after the Acquisition Date any balance remaining in the Project Fund shall without further authorization be transferred by the Trustee to the Bond Fund and applied as provided in **Section 4.6** of the Lease.

**Section 505. Deposits to and Disbursements by the City.** Any money deposited by the Company with the City in accordance with the Preliminary Funding Agreement dated October 27, 2017, shall be used solely to pay costs of issuing the Bonds or refunded to the Company as thereafter provided. The City shall without further authorization disburse money sufficient to pay the amounts shown in a closing memorandum provided to the City on or before the date of delivery of the Bonds, which shall have attached thereto the statements, invoices and related items described in said closing memorandum. The City may rely conclusively on the amounts due as shown in the closing memorandum and will not be required to make any independent inspection or investigation in connection therewith. Any of such money not used to pay costs of issuance within ninety (90) days of the Closing Date shall be refunded to the Company.

**Section 506. Disposition Upon Acceleration.** If the principal of the Bonds has become due and payable pursuant to **Section 902** hereof, upon the date of payment by the Trustee of any moneys due as hereinafter provided in **Article IX**, any balance remaining in the Project Fund shall without further authorization be deposited in the Bond Fund by the Trustee, with advice to the City and to the Company of such action.

## ARTICLE VI

### REVENUES AND FUNDS

#### **Section 601. Deposits Into the Bond Fund.**

(a) The Trustee shall deposit into the Bond Fund, as and when received, (1) all accrued interest on the Bonds, if any, paid by the Purchaser; (2) all Basic Rent payable by the Company to the City specified in **Section 5.1** of the Lease; (3) any Additional Rent payable by the Company specified in **Section 5.2** of the Lease; (4) any amount in the Project Fund to be transferred to the Bond Fund pursuant to **Section 504** hereof upon completion of the Project or pursuant to **Section 506** hereof upon acceleration of the Bonds; (5) the balance of any Net Proceeds of condemnation awards or insurance received by the Trustee pursuant to **Article IX** of the Lease; (6) the amounts to be deposited in the Bond Fund pursuant to **Sections 9.1(f)** and **9.2(c)** of the Lease; (7) all interest and other income derived from investments of Bond Fund moneys as provided in **Section 702** hereof; and (8) all other moneys received by the Trustee under and pursuant to any of the provisions of the Lease when accompanied by directions from the Person depositing such moneys that such moneys are to be paid into the Bond Fund.

(b) The Trustee shall notify the Company in writing, at least fifteen (15) days before each date on which a payment is due under **Section 5.1** of the Lease, of the amount that is payable by the Company pursuant to such Section.

#### **Section 602. Application of Moneys in the Bond Fund.**

(a) Except as provided in **Section 604** and **Section 908** hereof or in **Section 4.6** of the Lease, moneys in the Bond Fund shall be expended solely for the payment of the principal of and the interest on the Bonds as the same mature and become due or upon the redemption thereof before maturity; provided, however, that any amounts received by the Trustee as Additional Rent under **Section 5.2** of the Lease and deposited to the Bond Fund as provided in **Section 601** above, shall be expended by the Trustee for such items of Additional Rent as they are received or due without further authorization from the City.

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

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

(d) After payment in full of the principal of and interest, if any, on the Bonds (or provision has been made for the payment thereof as provided in this Indenture), and the fees, charges and expenses

of the Trustee, the City and any Paying Agent and any other amounts required to be paid under this Indenture, the Lease and the Performance Agreement, all amounts remaining in the Bond Fund shall be paid to the Company upon the expiration or sooner termination of the Lease.

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

**Section 604. Nonpresentment of Bonds.** If any Bond is not presented for payment when the principal thereof becomes due, either at maturity or otherwise, or at the date fixed for redemption thereof, if funds sufficient to pay such Bond shall have been made available to the Trustee, all liability of the City to the Owner thereof for the payment of such Bond shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Trustee to hold such fund or funds, without liability for interest thereon, for the benefit of the Owner of such Bond who shall thereafter be restricted exclusively to such fund or funds for any claim of whatever nature on his part under this Indenture or on, or with respect to, said Bond. If any Bond is not presented for payment within one (1) year following the date when such Bond becomes due, whether by maturity or otherwise, the Trustee shall without liability for interest thereon repay to the Company the funds theretofore held by it for payment of such Bond, and such Bond shall, subject to the defense of any applicable statute of limitation, thereafter be an unsecured obligation of the Company, and the Owner thereof may look only to the Company for payment, and then only to the extent of the amount so repaid, and the Company shall not be liable for any interest thereon and shall not be regarded as a trustee of such money.

## ARTICLE VII

### SECURITY FOR DEPOSITS AND INVESTMENT OF FUNDS

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

**Section 702. Investment of Moneys in Project Fund and Bond Fund.** Moneys held in the Project Fund and the Bond Fund shall, pursuant to written direction of the Company, signed by the Authorized Company Representative, be separately invested and reinvested by the Trustee in Investment Securities which mature or are subject to redemption by the Owner before the date such funds will be needed. If the Company fails to provide written directions concerning investment of moneys held in the Project Fund and the Bond Fund, the Trustee is authorized to invest in such Investment Securities specified in paragraph (e) of the definition of Investment Securities, provided they mature or are subject to redemption before the date such funds will be needed. The Trustee is specifically authorized to implement its automated cash investment system to assure that cash on hand is invested and to charge its normal cash management fees and cash sweep account fees, which may be deducted from income earned

on investments; provided that any such fees shall not exceed the interest income on the investment. Any such Investment Securities shall be held by or under the control of the Trustee and shall be deemed at all times a part of the fund in which such moneys are originally held, and the interest accruing thereon and any profit realized from such Investment Securities shall be credited to such fund, and any loss resulting from such Investment Securities shall be charged to such fund. After the Trustee has notice pursuant to **Section 1001(h)** hereof of the existence of an Event of Default, the Trustee shall direct the investment of moneys in the Bond Fund and the Project Fund. The Trustee shall sell and reduce to cash a sufficient amount of such Investment Securities whenever the cash balance in any Fund is insufficient for the purposes of such Fund. In determining the balance in any Fund, investments in such Fund shall be valued at the lower of their original cost or their fair market value as of the most recent Payment Date. The Trustee may make any and all investments permitted by the provisions of this Section through its own bond department or any affiliate or short-term investment department.

**Section 703. Record Keeping.** The Trustee shall maintain records designed to show compliance with the provisions of this Article and with the provisions of **Article VI** hereof for at least six (6) years after the payment of all of the Outstanding Bonds.

## ARTICLE VIII

### GENERAL COVENANTS AND PROVISIONS

**Section 801. Payment of Principal and Interest.** The City covenants and agrees that it will, but solely from the rents, revenues and receipts derived from the Project and the Lease as described herein, deposit or cause to be deposited in the Bond Fund sufficient sums payable under the Lease promptly to meet and pay the principal of and the interest on the Bonds as they become due and payable at the place, on the dates and in the manner provided herein and in the Bonds according to the true intent and meaning thereof. Nothing herein shall be construed as requiring the City to operate the Project as a business other than as lessor or to use any funds or revenues from any source other than funds and revenues derived from the Project.

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

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

**Section 804. Instruments of Further Assurance.** The City covenants that it will do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, such Supplemental Indentures and such further acts, instruments, financing statements and other documents as the Trustee may reasonably require for the better pledging and assigning unto the Trustee the property and revenues herein described to the payment of the principal of and interest, if any, on the Bonds. The City covenants

and agrees that, except as herein and in the Lease provided, it will not sell, convey, mortgage, encumber or otherwise dispose of any part of the Project or the rents, revenues and receipts derived therefrom or from the Lease, or of its rights under the Lease.

**Section 805. Recordings and Filings.** The City shall file or cause to be kept and filed all financing statements, and hereby authorizes the Trustee to file or cause to be kept and filed continuation statements with respect to such originally filed financing statements related to this Indenture and all supplements hereto and such other documents as 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 hereunder. The City will cooperate in causing this Indenture and all Supplemental Indentures, the Lease and all Supplemental Leases and all other security instruments to be recorded and filed in such manner and in such places as may be required by law in order to fully preserve and protect the security of the Owners and the rights of the Trustee hereunder.

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

**Section 807. Enforcement of Rights Under the Lease.** The City covenants and agrees that it will enforce all of its rights and all of the obligations of the Company (at the expense of the Company) under the Lease to the extent necessary to preserve the Project in good repair and reasonably safe operating condition, and to protect the rights of the Trustee and the Owners hereunder with respect to the pledge and assignment of the rents, revenues and receipts coming due under the Lease; provided that, the City and the Trustee, as its assignee, shall refrain from enforcing any such right or obligation (except for the rights of the City or the Trustee to receive payments owing to either of them for their own account under the Indenture, the Lease, the Performance Agreement or any other agreement related to the Bonds or for their rights of indemnification or to be protected from liabilities by insurance policies required by the Lease) if so directed in writing by the Owners of 100% of the Outstanding Bonds. The City agrees that the Trustee, as assignee of the rentals and other amounts to be received by the City and paid by the Company under the Lease, or in its name or in the name of the City, may enforce all rights of the City to receive such rentals and other amounts and all obligations of the Company to pay such rentals and other amounts under and pursuant to the Lease for and on behalf of the Owners, whether or not the City is in default hereunder. So long as not otherwise provided in this Indenture, the Company shall be permitted to possess, use and enjoy the Project and appurtenances so as to carry out its obligations under the Lease.

## ARTICLE IX

### DEFAULT AND REMEDIES

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

- (a) Default in the due and punctual payment of the principal on any Bond, whether at the stated maturity or accelerated maturity thereof, or at any date fixed for redemption thereof;
- (b) Default in the due and punctual payment of the interest on any Bond, whether at the stated maturity or accelerated maturity thereof, or at any date fixed for redemption thereof;

- (c) Default as specified in **Section 12.1** of the Lease has occurred; or
- (d) Default in the performance, or breach, of any other covenant or agreement under this Indenture.

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

**Section 902. Acceleration of Maturity in Event of Default.**

(a) If an Event of Default has occurred and is continuing after the notice and cure period described in **Section 901** elapses, the Trustee may, and upon the written request of the Owners of not less than 25% in aggregate principal amount of Bonds then Outstanding, shall, by notice in writing delivered to the City and the Company, declare the principal of all Bonds then Outstanding and the interest accrued thereon immediately due and payable, and such principal and interest and all other amounts due hereunder shall thereupon become and be immediately due and payable.

(b) If, at any time after such declaration, but before the Bonds have matured by their terms, all overdue installments of principal and interest upon the Bonds, together with the reasonable and proper expenses of the Trustee, and all other sums then payable by the City under this Indenture are either paid or provisions satisfactory to the Trustee are made for such payment, then and in every such case the Trustee shall, but only with the approval of a majority of the Owners of the Bonds then Outstanding, rescind such declaration and annul such default in its entirety. In such event, the Trustee shall rescind any declaration of acceleration of installments of rent payments on the Bonds as provided in **Section 12.2** of the Lease.

(c) In case of any rescission, then and in every such case the City, the Trustee, the Company and the Owners shall be restored to their former position and rights hereunder respectively, but no such rescission shall extend to any subsequent or other default or Event of Default or impair any right consequent thereon.

**Section 903. Surrender of Possession of Trust Estate; Rights and Duties of Trustee in Possession.** If an Event of Default has occurred and is continuing after the notice and cure period described in **Section 901** elapses, the City, upon demand of the Trustee, shall forthwith surrender the possession of, and it shall be lawful for the Trustee, by such officer or agent as it may appoint, to take possession of all or any part of the Trust Estate, together with the books, papers and accounts of the City pertaining thereto, and including the rights and the position of the City under the Lease, and to hold, operate and manage the same, and from time to time make all needful repairs and improvements. The Trustee may lease the Project or any part thereof, in the name and for account of the City, and collect, receive and sequester the rents, revenues and receipts therefrom, and out of the same and any moneys received from any receiver of any part thereof pay, and set up proper reserves for the payment of all proper costs and expenses of so taking, holding and managing the same, including without limitation

(a) reasonable compensation to the Trustee, its agents and counsel, (b) any reasonable charges of the Trustee hereunder, (c) any taxes and assessments and other charges before the lien of this Indenture, (d) all expenses of such repairs and improvements and (e) any amounts payable under the Performance Agreement. The Trustee shall apply the remainder of the moneys so received in accordance with the provisions of **Section 908** hereof. Whenever all that is due upon the Bonds has been paid and all defaults cured, the Trustee shall surrender possession of the Trust Estate to the City, its successors or assigns, the same right of entry, however, to exist upon any subsequent Event of Default. While in possession of such property, the Trustee shall render annually to the City and the Company a summarized statement of receipts and expenditures in connection therewith.

**Section 904. Appointment of Receivers in Event of Default.** If an Event of Default has occurred and is continuing after the notice and cure period described in **Section 901** elapses, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Trustee and of the Owners under this Indenture, the Trustee shall be entitled, as a matter of right, to the appointment of a receiver or receivers of the Trust Estate or any part thereof, pending such proceedings, with such powers as the court making such appointment shall confer.

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

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

(b) If an Event of Default has occurred and is continuing after the notice and cure period described in **Section 901** elapses, and if requested in writing to do so by (1) the City (in the case of an Event of Default pursuant to **Sections 12.1(a)** (but only as it relates to Additional Rent), **(b)** (but only as it relates to Unassigned Rights), **(c)** or **(d)** of the Lease), or (2) the Owners of 25% in aggregate principal amount of Bonds then Outstanding and indemnified as provided in subsection (l) of **Section 1001** hereof, the Trustee shall be obligated to exercise such one or more of the rights and powers conferred by this Article as the Trustee, being advised by counsel, shall deem most expedient and in the interests of the City or the Owners, as the case may be.

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

**Section 906. Limitation on Exercise of Remedies by Owners.** No Owner shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of this Indenture or for the execution of any trust hereunder or for the appointment of a receiver or any other remedy hereunder, unless (a) a default has occurred of which the Trustee has been notified as provided in **Section 1001(h)** or of which by said subsection the Trustee is deemed to have notice, (b) such default has become an Event of Default, (c) the Owners of 25% in aggregate principal amount of Bonds then Outstanding have made written request to the Trustee, have offered it reasonable opportunity either to proceed for such reasonable period not to exceed sixty (60) days following such notice and to exercise the

powers hereinbefore granted or to institute such action, suit or proceeding in its own name, and have offered to the Trustee indemnity as provided in **Section 1001(I)**, and (d) the Trustee thereafter fails or refuses to exercise the powers herein granted or to institute such action, suit or proceeding in its own name; such notification, request and offer of indemnity are hereby declared in every case, at the option of the Trustee, to be conditions precedent to the execution of the powers and trusts of this Indenture, and to any action or cause of action for the enforcement of this Indenture, or for the appointment of a receiver or for any other remedy hereunder, it being understood and intended that no one or more Owners shall have any right in any manner whatsoever to affect, disturb or prejudice this Indenture by their action or to enforce any right hereunder except in the manner herein provided, and that all proceedings at law or equity shall be instituted, had and maintained in the manner herein provided and for the equal benefit of the Owners of all Bonds then Outstanding. Nothing in this Indenture contained shall, however, affect or impair the right of any Owner to payment of the principal of and interest on any Bond at and after the maturity thereof or the obligation of the City to pay the principal of and interest on each of the Bonds issued hereunder to the respective Owners thereof at the time, place, from the source and in the manner herein and in the Bonds expressed.

**Section 907. Right of Owners to Direct Proceedings.**

(a) The Owners of a majority in aggregate principal amount of Bonds then Outstanding may, at any time, by an instrument or instruments in writing executed and delivered to the Trustee, direct the time, method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture, or for the appointment of a receiver or any other proceedings hereunder; provided that such direction shall not be otherwise than in accordance with the provisions of law and of this Indenture, including **Section 1001(I)** hereof.

(b) Notwithstanding any provision in this Indenture to the contrary, including paragraph (a) of this Section, the Owners shall not have the right to control or direct any remedies hereunder upon an Event of Default under **Sections 12.1(a)** (but only as it relates to Additional Rent), **(b)** (but only as it relates to Unassigned Rights), **(c)** or **(d)** of the Lease.

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

(a) All moneys received by the Trustee pursuant to any right given or action taken under the provisions of this Article shall first be applied to the costs and expenses of the proceedings resulting in the collection of such moneys and of the fees, expenses, liabilities and advances incurred or made by the Trustee (including any attorneys' fees and expenses) or amounts to be paid pursuant to **Section 903** and second be applied to the obligations outstanding under the Lease and the Performance Agreement. Any remaining moneys shall be deposited in the Bond Fund and applied as follows:

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

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

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

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

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

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

(c) Whenever all of the Bonds and interest thereon, if any, have been paid under the provisions of this Section, and all fees, expenses and charges of the City and the Trustee and any other amounts required to be paid under this Indenture and the Lease have been paid (including any amounts payable under the Performance Agreement), any balance remaining in the Bond Fund shall be paid to the Company as provided in **Section 602** hereof.

**Section 909. Remedies Cumulative.** No remedy by the terms of this Indenture conferred upon or reserved to the Trustee or to the Owners is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Trustee or to the Owners hereunder or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right, power or remedy accruing upon any Event of Default shall impair any such right, power or remedy or shall be construed to be a waiver of any such Event of Default or acquiescence therein; every such right, power or remedy may be exercised from time to time and as often as may be deemed expedient. If the Trustee has proceeded to enforce any right under this Indenture by the appointment of a receiver, by entry, or otherwise, and such proceedings have been discontinued or abandoned for any reason, or have been determined adversely, then and in every such case the City, the Company, the Trustee and the Owners shall be restored to their former positions and rights hereunder, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

**Section 910. Waivers of Events of Default.** The Trustee shall waive any Event of Default hereunder and its consequences and rescind any declaration of maturity of principal of and interest, if any, on the Bonds, but only upon the written request of the Owners of at least 50% in aggregate principal amount of all the Bonds then Outstanding, provided, however, that (a) there shall not be waived without the consent of the City an Event of Default hereunder arising from an Event of Default under **Sections 12.1(a)** (but only as it relates to Additional Rent), **(b)** (but only as it relates to Unassigned Rights), **(c)** or **(d)** of the Lease, and (b) there shall not be waived without the consent of the Owners of all the Bonds Outstanding (1) any Event of Default in the payment of the principal of any Outstanding Bonds when due (whether at the date of maturity or redemption specified therein), or (2) any Event of Default in the payment when due of the interest on any such Bonds, unless before such waiver or rescission, all arrears of interest, or all arrears of payments of principal when due, as the case may be, and all reasonable expenses of the Trustee and the City (including reasonable attorneys' fees and expenses), in connection with such default, shall have been paid or provided for. In case of any such waiver or rescission, or in case any proceeding taken by the Trustee on account of any such default shall have been discontinued or abandoned or determined adversely, then and in every such case the City, the Company, the Trustee and the Owners shall be restored to their former positions, rights and obligations hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other default, or impair any right consequent thereon and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

## ARTICLE X

### THE TRUSTEE

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

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

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

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

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

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

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

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

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

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

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

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

(l) Notwithstanding anything in the Indenture or the Lease to the contrary, before taking any action under this Indenture other than the payments from moneys on deposit in the Project Fund or the Bond Fund, as provided herein, the Trustee may require that satisfactory indemnity be furnished to it for the reimbursement of all costs and expenses to which it may be put and to protect it against all liability which it may incur in or by reason of such action, except liability which is adjudicated to have resulted from its negligence or willful misconduct by reason of any action so taken.

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

**Section 1002. Fees, Charges and Expenses of the Trustee.** The Trustee shall be entitled to payment of and/or reimbursement for reasonable fees for its ordinary services rendered hereunder and all advances, agent and counsel fees and other ordinary expenses reasonably made or incurred by the Trustee in connection with such ordinary services. If it becomes necessary for the Trustee to perform extraordinary services, it shall be entitled to reasonable extra compensation therefor and to reimbursement for reasonable extraordinary expenses in connection therewith; provided that if such extraordinary services or extraordinary expenses are occasioned by the neglect or willful misconduct of the Trustee, it shall not be entitled to compensation or reimbursement therefor. The Trustee shall be entitled to payment and reimbursement for the reasonable fees and charges of the Trustee as Paying Agent for the Bonds. Pursuant to the provisions of **Section 5.2** of the Lease, the Company has agreed to pay to the Trustee all reasonable fees, charges and expenses of the Trustee under this Indenture. The Trustee agrees that the City shall have no liability for any reasonable fees, charges and expenses of the Trustee, and the Trustee agrees to look only to the Company for the payment of all reasonable fees, charges and expenses of the Trustee and any Paying Agent as provided in the Lease. Upon the occurrence of an Event of Default and during its continuance, the Trustee shall have a lien with right of payment before payment on account of principal of or interest on any Bond, upon all moneys in its possession under any provisions hereof for the foregoing reasonable advances, fees, costs and expenses incurred.

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

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

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

**Section 1006. Resignation of Trustee.** The Trustee and any successor Trustee may at any time resign from the trusts hereby created by giving thirty (30) days' written notice to the City, the Company and the Owners, and such resignation shall take effect at the end of such thirty (30) days, or upon the earlier appointment of a successor Trustee by the Owners or by the City; provided, however, that in no event shall the resignation of the Trustee or any successor trustee become effective until such time as a successor trustee has been appointed and has accepted the appointment. If no successor has been appointed and accepted the appointment within thirty (30) days after the giving of such notice of resignation, the Trustee may, at the Company's expense, petition any court of competent jurisdiction for the appointment of a successor Trustee.

**Section 1007. Removal of Trustee.** The Trustee may be removed at any time, with or without cause, by an instrument or concurrent instruments in writing (a) delivered to the Trustee, the City and the Company and signed by the Owners of a majority in aggregate principal amount of Bonds then Outstanding, or (b) so long as no Event of Default under this Indenture or the Lease shall have occurred and be continuing, delivered to the Trustee, the City and the Owners and signed by the Company.

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

Trustee appointed pursuant to the provisions of this Section shall be a trust company or bank in good standing and qualified to accept such trust with a corporate trust office in the State, and having, or whose obligations are guaranteed by a financial institution having, a reported capital, surplus and undivided profits of not less than \$50,000,000. If no successor Trustee has been so appointed and accepted appointment in the manner herein provided, the Trustee, at the Company's expense, or any Owner may petition any court of competent jurisdiction for the appointment of a successor Trustee, until a successor shall have been appointed as above provided.

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

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

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

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

(b) If the Trustee appoints an additional individual or institution as a co-trustee or separate trustee (which appointment shall be subject to the approval of the Company), each and every remedy, power, right, claim, demand, cause of action, immunity, title, interest and lien expressed or intended by this Indenture to be exercised by the Trustee with respect thereto shall be exercisable by such co-trustee or separate trustee but only to the extent necessary to enable such co-trustee or separate trustee to exercise such powers, rights and remedies, and every covenant and obligation necessary to the exercise thereof by such co-trustee or separate trustee shall run to and be enforceable by either of them.

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

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

**Section 1012. Accounting.** The Trustee shall render an annual accounting for the period ending December 31 of each year to the City, the Company and to any Owner requesting the same and, upon the request of the Company or any Owner, at such Owner's expense, a monthly accounting to the Company and the Owner, showing in reasonable detail all financial transactions relating to the Trust Estate during the accounting period and the balance in any funds or accounts created by this Indenture as of the beginning and close of such accounting period.

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

## ARTICLE XI

### SUPPLEMENTAL INDENTURES

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

(a) To cure any ambiguity or formal defect or omission in this Indenture, or to make any other change which, in the judgment of the Trustee, is not to the material prejudice of the Trustee or the Owners;

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

(c) To more precisely identify any portion of the Project or to add additional property thereto;

(d) To conform the Indenture to amendments to the Lease made by the City and the Company; or

(e) To subject to this Indenture additional revenues, properties or collateral.

**Section 1102. Supplemental Indentures Requiring Consent of Owners.**

(a) Exclusive of Supplemental Indentures covered by **Section 1101** hereof and subject to the terms and provisions contained in this Section, and not otherwise, the Owners of not less than a majority in aggregate principal amount of the Bonds then Outstanding may, from time to time, anything contained in this Indenture to the contrary notwithstanding, consent to and approve the execution by the City and the Trustee of such other Supplemental Indenture or Supplemental Indentures as shall be deemed necessary and desirable by the City for the purpose of modifying, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Indenture or in any Supplemental Indenture; provided, however, that without the consent of the Owners of 100% of the principal amount of the Bonds then Outstanding, nothing in this Section contained shall permit or be construed as permitting (1) an extension of the maturity or a shortening of the redemption date of the principal of or the interest, if any, on any Bond issued hereunder, or (2) a reduction in the principal amount of any Bond or the rate of interest thereon, if any, or (3) a privilege or priority of any Bond or Bonds over any other Bond or Bonds, or (4) a reduction in the aggregate principal amount of Bonds the Owners of which are required for consent to any such Supplemental Indenture.

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

**Section 1103. Company's Consent to Supplemental Indentures.** Anything herein to the contrary notwithstanding, a Supplemental Indenture under this Article shall not become effective unless and until the Company has consented in writing to the execution and delivery of such Supplemental Indenture. The Trustee shall cause notice of the proposed execution and delivery of any Supplemental Indenture (regardless of whether it affects the Company's rights) together with a copy of the proposed Supplemental Indenture to be mailed to the Company and any Financing Party at least fifteen (15) days before the proposed date of execution and delivery of the Supplemental Indenture.

**Section 1104. Opinion of Counsel.** In executing, or accepting the additional trusts created by, any Supplemental Indenture permitted by this Article or the modification thereby of the trusts created by this Indenture, the Trustee and the City shall receive, and, shall be fully protected in relying upon, an opinion of counsel addressed and delivered to the Trustee and the City stating that the execution of such Supplemental Indenture is permitted by and in compliance with this Indenture and will, upon the

execution and delivery thereof, be a valid and binding obligation of the City. The Trustee may, but shall not be obligated to, enter into any such Supplemental Indenture which affects the Trustee's rights, duties or immunities under this Indenture or otherwise.

## ARTICLE XII

### SUPPLEMENTAL LEASES

**Section 1201. Supplemental Leases Not Requiring Consent of Owners.** The City and the Trustee shall, without the consent of or notice to the Owners, consent to the execution of any Supplemental Lease or Supplemental Leases by the City and the Company as may be required (a) by the provisions of the Lease and this Indenture, (b) for the purpose of curing any ambiguity or formal defect or omission in the Lease, (c) so as to more precisely identify the Project or add additional property thereto or (d) in connection with any other change therein which, in the judgment of the Trustee, does not materially and adversely affect the Trustee or security for the Owners.

**Section 1202. Supplemental Leases Requiring Consent of Owners.** Except for Supplemental Leases as provided for in **Section 1201** hereof, neither the City nor the Trustee shall consent to the execution of any Supplemental Lease or Supplemental Leases by the City or the Company without the mailing of notice and the obtaining of the written approval or consent of the Owners of not less than a majority in aggregate principal amount of the Bonds at the time Outstanding given and obtained as provided in **Section 1102** hereof. If at any time the City and the Company shall request the consent of the Trustee to any such proposed Supplemental Lease, the Trustee shall cause notice of such proposed Supplemental Lease to be mailed in the same manner as provided in **Section 1102** hereof with respect to Supplemental Indentures. Such notice shall briefly set forth the nature of such proposed Supplemental Lease and shall state that copies of the same are on file in the corporate trust office of the Trustee for inspection by all Owners. If within sixty (60) days or such longer period as may be prescribed by the City following the mailing of such notice, the Owners of not less than 50% in aggregate principal amount of the Bonds Outstanding at the time of the execution of any such Supplemental Lease shall have consented to and approved the execution thereof as herein provided, no Owner shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the City from executing the same or from taking any action pursuant to the provisions thereof.

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

## ARTICLE XIII

### SATISFACTION AND DISCHARGE OF INDENTURE

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

(a) When the principal of and interest on all the Bonds have been paid in accordance with their terms or provision has been made for such payment, as provided in **Section 1302** hereof, and provision also made for paying all other sums payable hereunder and under the Lease and the Performance Agreement, including the reasonable fees and expenses of the Trustee, the City and Paying Agent to the date of retirement of the Bonds, then the right, title and interest of the Trustee in respect hereof shall thereupon cease, determine and be void. Thereupon, the Trustee shall cancel, discharge and release this Indenture and shall upon the written request of the City or the Company execute, acknowledge and deliver to the City such instruments of satisfaction and discharge or release as shall be required to evidence such release and the satisfaction and discharge of this Indenture, and shall assign and deliver to the City (subject to the City's obligations under **Section 11.2** of the Lease) any property at the time subject to this Indenture which may then be in its possession, except amounts in the Bond Fund required to be paid to the Company under **Section 602** hereof and except funds or securities in which such funds are invested held by the Trustee for the payment of the principal of and interest on the Bonds.

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

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

(a) Bonds shall be deemed to be paid within the meaning of this Article when payment of the principal of and interest thereon to the due date thereof (whether such due date be by reason of maturity or upon redemption as provided in this Indenture, or otherwise), either (1) have been made or caused to be made in accordance with the terms thereof, or (2) have been provided for by depositing with the Trustee or other commercial bank or trust company having full trust powers and authorized to accept trusts in the State in trust and irrevocably set aside exclusively for such payment (i) moneys sufficient to make such payment or (ii) Government Securities maturing as to principal and interest in such amount and at such times as will insure the availability of sufficient moneys to make such payment, or (3) have been provided for by surrendering the Bonds to the Trustee for cancellation. At such time as Bonds are deemed to be paid hereunder, as aforesaid, they shall no longer be secured by or entitled to the benefits of this Indenture, except for the purposes of such payment from such moneys or Government Securities.

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

(c) Notwithstanding any provision of any other section of this Indenture which may be contrary to the provisions of this Section, all moneys or Government Securities set aside and held in trust

pursuant to the provisions of this Section for the payment of Bonds shall be applied to and used solely for the payment of the particular Bonds, with respect to which such moneys and Government Securities have been so set aside in trust.

## ARTICLE XIV

### MISCELLANEOUS PROVISIONS

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

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

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

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

(b) In determining whether the Owners of the requisite principal amount of Bonds Outstanding have given any request, demand, authorization, direction, notice, consent or waiver under this Indenture, Bonds owned by the Company shall be disregarded and deemed not to be Outstanding under this Indenture, except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Bonds which the Trustee knows to be so owned shall be so disregarded; provided, the foregoing provisions shall not be applicable if the Company is the only Owner of the Bonds. Notwithstanding the foregoing, Bonds so owned which have been pledged in good faith shall not be disregarded as aforesaid if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Bonds and the pledgee is not the Company or any affiliate thereof.

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

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

(a) To the City:

City of Nevada, Missouri  
110 S. Ash St.  
Nevada, Missouri 64772  
ATTN: City Manager

with a copy to:

McCaffree Law Firm  
128 1/2 W. Walnut  
Nevada, Missouri 64772  
ATTN: William McCaffree

(b) To the Trustee:

BOKF, N.A.  
200 N. Broadway, Suite 1710  
St. Louis, Missouri 63102  
ATTN: Corporate Trust Department

(c) To the Company:

Mareth Enterprises, LLC  
P.O. Box 416  
Purdy, Missouri 65734  
ATTN: Lewis Gray, Chief Operations Officer

with a copy to:

Randall, Masri & Randall, P.C.  
405 E. Broadway Street  
Monett, Missouri 65708  
ATTN: Jim Randall

(d) To the Owners if the same is duly mailed by first class, registered or certified mail addressed to each of the Owners of Bonds at the time Outstanding as shown by the bond registration books required by **Section 206** hereof to be kept at the corporate trust office of the Trustee.

All notices given by certified or registered mail as aforesaid shall be deemed fully given as of the date they are so mailed, provided that any of the foregoing given to the Trustee shall be effective only upon receipt. All notices given by overnight delivery or other delivery service shall be deemed fully given as of the date when received. A duplicate copy of each notice, certificate or other communication given hereunder by either the City or the Trustee to the other shall also be given to the Company. The City, the Company and the Trustee may from time to time designate, by notice given hereunder to the others of such parties, such other address to which subsequent notices, certificates or other communications shall be sent.

**Section 1404. Severability.** If any provision of this Indenture is held or deemed to be invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever.

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

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

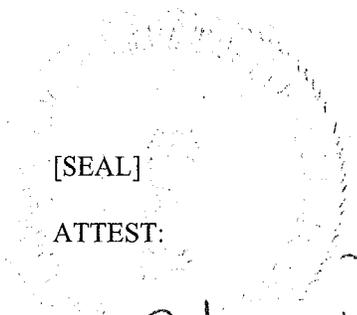
**Section 1407. Electronic Storage.** The parties agree that the transaction described herein may be conducted and related documents may be sent, received or stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed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

**Section 1408. City Consent.** Pursuant to the Ordinance, the Mayor and the City Manager are authorized to execute all documents on behalf of the City (including documents pertaining to the transfer of property or the financing and refinancing of the Project or any portion thereof) as may be required to carry out and comply with the intent of the Ordinance. The Mayor and the City Manager are also authorized, unless expressly provided herein, to grant on behalf of the City such consents, estoppels and waivers relating to the Bonds, the Lease, the Performance Agreement or this Indenture as may be requested during the term thereof; provided, such consents, estoppels and/or waivers shall not increase the principal amount of the Bonds, increase the term of the Lease or the tax exemption as provided for herein, waive an Event of Default or materially change the nature of the transaction unless otherwise approved by the City Council.

[Remainder of Page Intentionally Left Blank.]

**IN WITNESS WHEREOF**, City of Nevada, Missouri, has caused this Indenture to be signed in its name and behalf by its Mayor and the seal of the City to be hereunto affixed and attested by the Deputy City Clerk, and to evidence its acceptance of the trusts hereby created, BOKF, N.A. has caused this Indenture to be signed in its name and behalf by a duly authorized officer, all as of the date first above written.

**CITY OF NEVADA, MISSOURI**



[SEAL]

ATTEST:

By:

*Johanna Williams*  
Deputy City Clerk

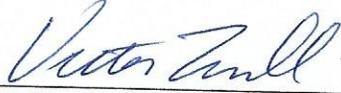
By:

Name: JD Kehrman

Title: City Manager

[Trust Indenture]

**BOKF, N.A., as Trustee**

By:   
Name: Victor Zarrilli  
Title: Senior Vice President

[Trust Indenture]

**EXHIBIT A**

**PROJECT SITE**

**TRACT 1:**

ALL THAT PART OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION THIRTY-FOUR (34), TOWNSHIP THIRTY-SIX (36) NORTH, RANGE THIRTY-ONE (31) WEST, LYING WEST OF THE MISSOURI PACIFIC RAILROAD RIGHT-OF-WAY AND EAST OF THE RIGHT-OF-WAY OF U. S. HIGHWAY 71 AND U.S. HIGHWAY 71 PROPOSED BY-PASS (AS SET FORTH BY RIGHT-OF-WAY DEED RECORDED IN BOOK 290 AT PAGE 147 IN THE RECORDER'S OFFICE, VERNON COUNTY, MISSOURI), EXCEPT THE NORTH 424 FEET THEREOF.

**TRACT 2:**

THE EAST 227 FEET OF THE NORTH 424 FEET OF THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 36 NORTH, RANGE 31 WEST, VERNON COUNTY, MISSOURI, LYING WEST OF THE RIGHT-OF-WAY OF THE MISSOURI PACIFIC RAILROAD, EXCEPT THE NORTH 30 FEET, AND EXCEPT A TRACT DESCRIBED AS: BEGINNING IN THE WEST RIGHT-OF-WAY LINE OF THE MISSOURI PACIFIC RAILROAD AT A POINT 30 FEET SOUTH OF THE NORTH LINE OF THE SOUTHWEST QUARTER OF SECTION 34; RUN SOUTH 200 FEET; THENCE WEST 177 FEET; THENCE NORTH 200 FEET; THENCE EAST 177 FEET TO THE POINT OF BEGINNING.

**EXHIBIT B**  
**FORM OF BONDS**

***THIS BOND OR ANY PORTION HEREOF MAY BE TRANSFERRED, ASSIGNED OR  
NEGOTIATED ONLY AS PROVIDED IN THE HEREIN DESCRIBED INDENTURE.***

No. 1

**Not to Exceed  
\$960,000**

**UNITED STATES OF AMERICA  
STATE OF MISSOURI**

**CITY OF NEVADA, MISSOURI  
TAXABLE INDUSTRIAL REVENUE BOND  
(MARETH ENTERPRISES, LLC PROJECT)  
SERIES 2017**

**Interest Rate**

**5.0%**

**Maturity Date**

**December 1 of the tenth (10th)  
calendar year following the  
Acquisition Date**

**Dated Date**

\_\_\_\_\_, 2017

**OWNER:**

\_\_\_\_\_

**MAXIMUM PRINCIPAL AMOUNT:**

**NINE HUNDRED SIXTY THOUSAND  
DOLLARS**

**CITY OF NEVADA, MISSOURI**, a constitutional charter city organized and existing under the laws of the State of Missouri (the "City"), for value received, promises to pay, but solely from the source hereinafter referred to, to the Owner named above, or registered assigns thereof, on the Maturity Date shown above, the principal amount shown above, or such lesser amount as may be outstanding hereunder as reflected on **Schedule I** hereto held by the Trustee as provided in the hereinafter referred to Indenture. The City agrees to pay such principal amount to the Owner in any coin or currency of the United States of America which on the date of payment thereof is legal tender for the payment of public and private debts, and in like manner to pay to the Owner hereof, either by check or draft mailed to the Owner at a stated address as it appears on the bond registration books of the City kept by the Trustee under the within mentioned Indenture or, in certain situations authorized in the Indenture, by internal bank transfer or by wire transfer to an account in a commercial bank or savings institution located in the continental United States. Interest on the Cumulative Outstanding Principal Amount (as hereinafter defined) at the per annum Interest Rate stated above, payable in arrears on each December 1, commencing on December 1, 2018, and continuing thereafter until the earlier of the date on which said Cumulative Outstanding Principal Amount is paid in full or the Maturity Date. Interest on each advancement of the principal amount of this Bond shall accrue from the date that such advancement is made, computed on the basis of a year of 360 days consisting of 12 months of 30 days each.

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

**THIS BOND** is one of a duly authorized series of Bonds of the City designated “City of Nevada, Missouri, Taxable Industrial Revenue Bonds (Mareth Enterprises, LLC Project), Series 2017,” in the maximum aggregate principal amount of \$960,000 (the “Bonds”), to be issued for the purpose of acquiring certain real property located within the City (the “Project Site”) and acquiring and improving the improvements thereon. The City will lease the Project Site and the improvements thereon (collectively, the “Project”) to Mareth Enterprises, LLC, a Missouri limited liability company (the “Company”), under the terms of a Lease Agreement dated as of December \_\_, 2017 (said Lease Agreement, as amended and supplemented from time to time in accordance with the provisions thereof, being herein called the “Lease”), between the City and the Company, all pursuant to the authority of and in full compliance with the provisions, restrictions and limitations of the Constitution, the statutes of the State of Missouri, including particularly the Act, the charter of the City, and pursuant to proceedings duly had by the governing body of the City.

**THE BONDS** are issued under and are equally and ratably secured and entitled to the protection given by a Trust Indenture dated as of December \_\_, 2017 (said Trust Indenture, as amended and supplemented from time to time in accordance with the provisions thereof, being herein called the “Indenture”), between the City and BOKF, N.A., St. Louis, Missouri, as trustee (the “Trustee”). *Capitalized terms not defined herein shall have the meanings set forth in the Indenture.*

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

**THE BONDS** are subject to redemption and payment at any time before the stated maturity thereof, at the option of the City, upon written instructions from the Company, (1) in whole, if the Company exercises its option to purchase the Project and deposits an amount sufficient to effect such purchase pursuant to the Lease on the applicable redemption date, or (2) in part, if the Company prepays additional Basic Rent pursuant to the Lease; provided, however, if only a portion of the Bonds are to be redeemed, Bonds aggregating at least 10% of the maximum principal amount of Bonds authorized under the Indenture shall not be subject to redemption and payment before the stated maturity thereof. Any redemption of Bonds pursuant to this paragraph shall be at a redemption price equal to the par value thereof being redeemed, plus accrued interest thereon, without premium or penalty, to the redemption date.

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

If the Bonds are to be called for optional redemption, the Company shall deliver written notice to the City and the Trustee that it has elected to redeem all or a portion of the Bonds at least forty (40) days (ten (10) days if there is one Owner) before the scheduled redemption date. The Trustee shall then deliver written notice to the Owner of this Bond at least thirty (30) days (five (5) days if there is one Owner) before the scheduled redemption date by first-class mail (or facsimile, if there is one Owner) stating the date upon which the Bonds will be redeemed and paid.

**THE BONDS**, including interest thereon, are special obligations of the City and are payable solely out of the rents, revenues and receipts derived by the City from the Project and the Lease and not from any other fund or source of the City, and are secured by a pledge and assignment of the Project and of such rents, revenues and receipts, including all rentals and other amounts to be received by the City under and pursuant to the Lease, all as provided in the Indenture. The Bonds do not constitute a general obligation of the City or the State of Missouri, and neither the City nor said State shall be liable thereon, and the Bonds shall not constitute an indebtedness within the meaning of any constitutional, charter, or statutory debt limitation or restriction, and are not payable in any manner by taxation. Pursuant to the provisions of the Lease, rental payments sufficient for the prompt payment when due of the principal of and interest on the Bonds are to be paid by the Company directly to the Trustee for the account of the City and deposited in a special fund created by the City and designated the “City of Nevada, Missouri, Bond Fund – Mareth Enterprises, LLC”

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

**THIS BOND** is transferable, as provided in the Indenture, only upon the books of the City kept for that purpose at the above-mentioned office of the Trustee by the Owner hereof in Person or by such Person’s duly authorized attorney, upon surrender of this Bond together with a written instrument of transfer reasonably satisfactory to the Trustee duly executed by the Owner or such Person’s duly authorized attorney, and thereupon a new fully registered Bond or Bonds, in the same aggregate principal amounts, shall be issued to the transferee in exchange therefor as provided in the Indenture, and upon payment of the charges therein prescribed. The City, the Trustee and any Paying Agent may deem and treat the Person in whose name this Bond is registered as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or redemption price hereof and interest due hereon and for all other purposes.

**THE BONDS** are issuable in the form of one fully-registered Bond in the maximum principal amount of \$960,000.

**THIS BOND** shall not be valid or become obligatory for any purposes or be entitled to any security or benefit under the Indenture until the Certificate of Authentication hereon shall have been executed by the Trustee.

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

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

**CITY OF NEVADA, MISSOURI**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

[SEAL]

ATTEST:

By: \_\_\_\_\_  
Deputy City Clerk

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**CERTIFICATE OF AUTHENTICATION**

This Bond is the Taxable Industrial Revenue Bond (Mareth Enterprises, LLC Project), Series 2017, described in the Trust Indenture. The effective date of registration of this Bond is set forth below.

**BOKF, N.A.**, as Trustee

\_\_\_\_\_  
Date

By \_\_\_\_\_  
Authorized Signatory



---

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**FORM OF ASSIGNMENT**

*(NOTE RESTRICTIONS ON TRANSFERS)*

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

---

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

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints  
\_\_\_\_\_ attorney to transfer the within Bond on the books kept by the Trustee  
for the registration and transfer of Bonds, with full power of substitution in the premises.

Dated: \_\_\_\_\_.

---

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular.

Signature Guaranteed By:

---

(Name of Eligible Guarantor Institution as defined by SEC Rule 17 Ad-15 (17 CFR 240.17 Ad-15))

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

## EXHIBIT C

### FORM OF REPRESENTATION LETTER

City of Nevada, Missouri  
110 S. Ash St.  
Nevada, Missouri 64772  
ATTN: City Manager

BOKF, N.A.  
200 N. Broadway, Suite 1710  
St. Louis, Missouri 63102  
ATTN: Corporate Trust Department

Re: \$960,000 Maximum Principal Amount of Taxable Industrial Revenue Bonds (Mareth Enterprises, LLC Project), Series 2017 of the City of Nevada, Missouri

Ladies and Gentlemen:

In connection with the purchase of the above-referenced Bonds (the “Bonds”), the undersigned purchaser of the Bonds hereby represents, warrants and agrees as follows:

1. The undersigned fully understands that (a) the Bonds have been issued under and pursuant to a Trust Indenture dated as of December 1, 2017 (the “Indenture”), between the City of Nevada, Missouri (the “City”) and BOKF, N.A., as trustee (the “Trustee”), and (b) the Bonds are payable solely out of certain rents, revenues and receipts to be derived from the leasing or sale of the Project (as defined in the Indenture) to Mareth Enterprises, LLC, a Missouri limited liability company (the “Company”), under a Lease Agreement dated as of December 1, 2017 (the “Lease”), between the City and the Company, with certain of such rents, revenues and receipts being pledged and assigned by the City to the Trustee under the Indenture to secure the payment of the principal of and interest on the Bonds.

2. The undersigned understands that the Bonds are transferable only in the manner provided for in the Indenture and discussed below and warrants that it is acquiring the Bonds for its own account with the intent of holding the Bonds as an investment, and the acquisition of the Bonds is not made with a view toward its distribution or for the purpose of offering, selling or otherwise participating in a distribution of the Bonds.

3. The undersigned agrees not to attempt to offer, sell, hypothecate or otherwise distribute the Bonds to others unless authorized by the terms of the Indenture and, if requested by the City, upon receipt of an opinion of counsel reasonably acceptable to the City, the Company and the purchaser that all registration and disclosure requirements of the Securities and Exchange Commission and all other appropriate federal and Missouri securities laws and the securities law of any other applicable state are complied with.

4. The Company has (a) furnished to the undersigned such information about itself as the undersigned deems necessary in order for it to make an informed investment decision with respect to the purchase of the Bonds, (b) made available to the undersigned, during the course of this transaction, ample opportunity to ask questions of, and to receive answers from, appropriate officers of the City and the terms and conditions of the offering of the Bonds, and (c) provided to the undersigned all additional information which it has requested.

5. The undersigned is now, and was when it agreed to purchase the Bonds, familiar with the operations of the Company and fully aware of terms and risks of the Bonds. The undersigned believes that the Bonds which it is acquiring is a security of the kind that it wishes to purchase and hold for investment and that the nature and amount thereof are consistent with its investment program.

6. The undersigned is fully aware of and satisfied with (a) the current status of the title to the Project and any issues related thereto and (b) the terms, amounts and providers of the insurance maintained pursuant to **Article VII** of the Lease, and the undersigned is purchasing the Bonds with full knowledge of such matters.

7. The undersigned understands and agrees that the interest on the Bonds *is* subject to federal and state income taxation.

8. The undersigned hereby directs the Trustee to hold the Bonds in trust pursuant to **Section 204(c)** of the Indenture.

9. The undersigned is the lessee under the Lease or (a) a “qualified institutional buyer” under Rule 144A promulgated under the Securities Act of 1933, or (b) any general business corporation or enterprise with total assets in excess of \$100,000,000.

Dated: \_\_\_\_\_, 20\_\_

**[PURCHASER OF BONDS]**

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

Name: \_\_\_\_\_

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

---

---

**CITY OF NEVADA, MISSOURI,  
As Lessor,**

**AND**

**MARETH ENTERPRISES, LLC,  
As Lessee**

---

**LEASE AGREEMENT**

**Dated as of December 1, 2017**

---

**Relating to:**

**\$960,000  
(Aggregate Maximum Principal Amount)  
City of Nevada, Missouri  
Taxable Industrial Revenue Bonds  
(Mareth Enterprises, LLC Project)  
Series 2017**

---

**Certain rights of the City of Nevada, Missouri (the "City") in this Lease Agreement have been pledged and assigned to BOKF, N.A., St. Louis, Missouri, as Trustee under the Trust Indenture dated as of December 1, 2017, between the City and the Trustee.**

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## LEASE AGREEMENT

**THIS LEASE AGREEMENT**, dated as of December 1, 2017 (the “Lease”), between the **CITY OF NEVADA, MISSOURI**, a constitutional charter city organized and existing under the laws of the State of Missouri (the “City”), as lessor, and **MARETH ENTERPRISES, LLC**, a limited liability company organized and existing under the laws of the State of Missouri (the “Company”), as lessee;

### RECITALS:

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

2. Pursuant to the Act, the City Council passed an ordinance (the “Ordinance”) on December 5, 2017, authorizing the City to issue its Taxable Industrial Revenue Bonds (Mareth Enterprises, LLC Project), Series 2017, in the maximum principal amount of \$960,000 (the “Bonds”), for the purpose of acquiring certain real property located at 1800 North Industrial Parkway (the “Project Site,” as more fully described on **Exhibit A** attached hereto and incorporated herein by reference), and improving the Project Site and the existing improvements thereon.

3. Pursuant to the Ordinance, the City is authorized to enter into a Trust Indenture of even date herewith (the “Indenture”) with BOKF, N.A., St. Louis, Missouri, as Trustee (the “Trustee”), for the purpose of issuing and securing the Bonds, as therein provided, and to enter into this Lease with the Company under which the City will acquire the Project Site and improve the Project Site and the existing improvements thereon, and will lease the Project Site and the improvements thereon as they may at any time exist (collectively, 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.

4. In consideration of the terms and conditions of this Lease, the Ordinance, issuance of the Bonds and certain other agreements, the City and the Company have concurrently herewith entered into a Performance Agreement of even date herewith (the “Performance Agreement”) pursuant to which the Company has agreed to make certain payments in lieu of taxes.

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

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

## ARTICLE I

### DEFINITIONS

**Section 1.1. Definitions of Words and Terms.** In addition to any words and terms defined elsewhere in this Lease, capitalized words and terms used in this Lease shall have the meanings given to such words and terms in **Section 101** of the Indenture (which definitions are hereby incorporated by reference).

**Section 1.2. Rules of Interpretation.**

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

(b) Unless the context 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.

## ARTICLE II

### REPRESENTATIONS

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

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

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

improved the improvements thereon. 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, all for the purpose of furthering the public purposes of the Act.

(c) The acquisition and improvement of the Project and the leasing of the Project by the City to the Company will further the public purposes of the Act.

(d) To the City's knowledge, no member of the City Council or any other officer of the City has any significant or conflicting interest, financial, employment or otherwise, in the Company or in the transactions contemplated hereby.

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

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

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

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

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

(a) The Company is a limited liability company duly organized and validly existing in good standing under the laws of the State of Missouri and is duly authorized to transact business in the State of Missouri.

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

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

whatsoever upon any of the property or assets of the Company under the terms of any instrument or agreement to which the Company is a party.

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

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

## ARTICLE III

### GRANTING PROVISIONS

**Section 3.1. Granting of Leasehold Estate.** The City hereby exclusively rents, leases and lets the Project to the 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 terminate on December 31 of the tenth (10th) calendar year following the Acquisition Date.

**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 IMPROVEMENT 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.

**Section 4.2. Purchase and Improvement of the Project.** The City and the Company agree that the Company, as the agent of the City, shall, but solely from the Project Fund, purchase and improve the Project as follows:

(a) The City will acquire the Project at the execution hereof. Concurrently with the execution of this Lease, (i) a deed and any other necessary instruments of transfer will be delivered to the City and placed of record, and (ii) the commitment for title insurance or ownership and encumbrance report required by **Article VII** hereof will be delivered to the City and the Trustee.

(b) On behalf of the City, the Company will purchase and improve the Project 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 improvement will, with such changes and additions as may be made hereunder, result in facilities suitable for use by the Company for its purposes, and that all real and personal property described in the Plans and Specifications, with such changes and additions as may be made hereunder, is desirable and appropriate in connection with the Project. The provisions of this paragraph are in addition to and do not supersede the provisions of **Section 8.3**.

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

(d) The Company will cause the purchase of the Project to be completed on or before December 31, 2017.

**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. The Company may not submit any requisition certificates for Project Costs related to the Project incurred after the Completion Date; and all Project requisition certificates must be submitted within three (3) months after the Completion Date. The maximum amount of Project Costs for which requisitions may be submitted is expressly limited to \$960,000.

**Section 4.4. Payment for Project Costs.**

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

(b) The Trustee may rely conclusively on any such certificate and shall not be required to make any independent inspection or investigation in connection therewith. The approval of any requisition certificate by the Authorized Company Representative and an Authorized City Representative shall constitute, unto the Trustee, an irrevocable determination that all conditions precedent to the payments requested have been completed.

**Section 4.5. Establishment of Completion Date.** The Completion Date shall be evidenced to the City and the Trustee by a certificate signed by the Authorized Company Representative stating (a) that the purchase, construction, expansion, and improvement of the Project has been substantially completed in accordance with the Plans and Specifications, (b) the date of completion thereof, and (c) that all costs and expenses of the purchase, construction, expansion, and improvement of the Project have been incurred. Notwithstanding the foregoing, such certificate shall be deemed given on December 31, 2018 if not actually filed with the City by December 31, 2018. The Company and the City agree to cooperate in causing such certificate to be furnished to the Trustee.

**Section 4.6. Surplus in Project Fund.** 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 (a) the payment of principal and premium, if any, of the Bonds through the payment (including regularly scheduled principal payments, if any) or redemption thereof at the earliest date permissible under the terms of the Indenture, or (b) at the option of the Company, to the purchase of Bonds at such earlier date or dates as the Company may elect. Any amount so deposited in the Bond Fund may be invested as permitted by **Section 702** of the Indenture.

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

**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 and the entire purchase price of which is paid for by the Company with the Company's own funds, and no part of the purchase price of which is paid for from funds deposited pursuant to the terms of this Lease in the Project Fund, shall be the property of the Company and shall not constitute a part of the Project for purposes of **Section 6.4** and therefore are subject to taxation, to the extent otherwise provided by law.

## ARTICLE V

### RENT PROVISIONS

**Section 5.1. Basic Rent.** The Company covenants and agrees to pay to the Trustee in same day funds for the account of the City during 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.** The Company shall pay as Additional Rent, within thirty (30) days after receiving an itemized invoice therefor, the following amounts:

(a) all fees, charges and expenses, including agent and counsel fees and expenses, of the City, the Trustee and the Paying Agent incurred under or arising from the Indenture, this Lease or the Performance Agreement, including but not limited to claims by contractors or subcontractors, as and when the same become due;

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

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

(d) all other payments of whatever nature which the 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 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**.

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

**Section 5.4. Prepayment of Basic Rent.**

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

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

## ARTICLE VI

### MAINTENANCE, TAXES AND UTILITIES

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

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

(a) Subject to subsection (b) of this Section, the Company shall promptly pay and discharge, as the same become due, all taxes and assessments, general and special, and other governmental charges of any kind whatsoever that may be lawfully taxed, charged, levied, assessed or imposed upon or against or be payable for or in respect of the Project, or any part thereof or interest therein (including the leasehold estate of the Company therein) or any buildings, improvements, machinery and equipment at any time installed 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 (i) the Company, before instituting any such contest, gives the City written notice of its intention to do so, (ii) 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 (iii) 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 from any costs and expenses the City may incur related to any of the above.

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

**Section 6.3. Utilities.** All utilities and utility services used by the 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. Real 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 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 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's legal counsel showing the ownership of and encumbrances on the Project Site. Copies of such report shall be provided to the City and the Trustee.

#### **Section 7.2. Casualty Insurance.**

(a) The 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 promptly after 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 an agreement by the insurer that, notwithstanding any right of cancellation reserved to such insurer, such policy or contract shall continue in force for at least ten (10) days after written notice of cancellation to the Company, the Trustee and each other insured or loss payee named therein.

(b) In the event of loss or damage to the Project, the Net Proceeds of casualty insurance carried pursuant to this Section shall be (i) paid over to the Trustee and shall be applied as provided in **Article IX** of this Lease, or (ii) applied as directed in writing by, or on behalf of, the Owners of 100% in principal amount of the Bonds Outstanding, subject to the rights of any Financing Party under any Financing Documents.

#### **Section 7.3. Public Liability Insurance.**

(a) The Company shall at its sole cost and expense maintain or cause to be maintained at all times during the Lease Term commercial general liability insurance (including but not limited to coverage for operations, contingent liability, operations of subcontractors, completed operations and contractual liability), under which the City, the Company and the Trustee shall be named as additional insureds, properly protecting and indemnifying the City and the Trustee, in an amount not less than the limits of liability set by Section 537.610 of the Revised Statutes of Missouri, 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 an agreement by the insurer that, notwithstanding any right of cancellation reserved to such insurer, such policy or contract shall continue in force for at least ten (10) days after written notice of cancellation to the Company, the Trustee and each other insured or loss payee named therein. Certificates of such policies shall be furnished to the Trustee on the date of execution of this Lease and promptly after renewal of each insurance policy.

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

**Section 7.4. Blanket Insurance Policies; Self Insurance.** The 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. 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 thirty (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.

**Section 7.6. Sovereign Immunity.** Notwithstanding anything to the contrary contained herein, nothing in this Lease shall be construed to broaden the liability of the City beyond the provisions of Sections 537.600 to 537.610 of the Revised Statutes of Missouri, as amended, or abolish or waive any defense at law that might otherwise be available to the City or its officers, agents and employees.

## ARTICLE VIII

### ALTERATION OF THE PROJECT

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

(a) The 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 Acquisition Date, notify the City in writing of any improvements to the Project, other than the Project being financed with the proceeds of the Bonds, that in the aggregate are reasonably expected to exceed \$1,000,000 during any calendar year. In such case, before undertaking such improvements, the City and the Company shall amend the Performance Agreement to specifically identify such improvements and to either (i) provide for the payment by the Company of additional PILOT Payments (as defined in the Performance Agreement) or (ii) state that no additional PILOT Payments shall be required with respect to such improvements. 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. Additional Improvements on the Project Site.** Subject to **Section 8.1(b)** hereof, the Company may, at its sole cost and expense, construct on portions of the Project Site not theretofore occupied by buildings or improvements such additional buildings and improvements as the Company from time to time may deem necessary or desirable for its business purposes. All additional buildings and improvements constructed on the Project Site by the Company, and not paid for with Bond proceeds, pursuant to the authority of this Section shall not be included in the Project and, during the life of this Lease, shall remain the property of the Company and may be added to, altered or razed and removed by the Company at any time. All additional buildings and improvements shall be made in a good and workmanlike manner and in strict compliance with all material laws, orders and ordinances applicable thereto and when commenced shall be prosecuted to completion with due diligence. The Company covenants and agrees (a) to make any repairs and restorations required to be made to the Project because of the construction of, addition to, alteration or removal of said additional buildings or improvements, and (b) to promptly and with due diligence either raze and remove or repair, replace or restore any of said additional buildings and improvements as may from time to time be damaged by fire or other casualty. The Company shall pay all *ad valorem* taxes and assessments payable with respect to such additional buildings and improvements which remain the property of the Company. If for any reason the City Assessor determines that such additional buildings and improvements are not subject to *ad valorem* taxes, the Company shall make payments in lieu of taxes in an amount equal to the taxes that would otherwise be due under this Section.

**Section 8.3. Permits and Authorizations.** The Company shall not do or permit others under its control to do any work on the Project related to any repair, rebuilding, restoration, replacement, modification or addition to the Project, or any part thereof, unless all requisite municipal and other governmental permits and authorizations shall have been first procured. The City agrees to act promptly on all requests for such municipal permits and authorizations. In its capacity as owner of the Project, the City shall cooperate with the Company to obtain, amend, or maintain any existing or future municipal or other governmental permit or authorization for the Project that requires the City's signature, certification, or consent as the owner of any part of the Project, including executing any required applications, certifications, or reports; provided, however, that nothing herein contained shall be construed as the City's current approval of, or acquiescence to, any permit or authorization in its capacity as a municipal corporation, it being acknowledged that such matters can only be approved by the City in the proper exercise of its municipal functions through appropriate governmental procedures and in the exercise of the City's unlimited legislative discretion. All such work shall be done in a good and workmanlike manner and in strict compliance with all applicable material building and zoning laws and governmental regulations and requirements, and in accordance with the requirements, rules and regulations of all insurers under the policies required to be carried under the provisions of **Article VII** hereof.

#### **Section 8.4. Mechanics' Liens.**

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

(b) Notwithstanding paragraph (a) above, the Company may contest any such mechanics' or other similar lien if the Company (i) within sixty (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, (ii) diligently prosecutes such contest, (iii) at all times effectively stays or prevents any official or judicial sale of the Project, or any part thereof or interest therein, under execution or otherwise, (iv) promptly pays or otherwise satisfies any final judgment adjudging or enforcing such contested lien claim and (v) thereafter promptly procures record release or satisfaction thereof. The 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 (i) the value thereof shall not be less than the value of such destroyed or damaged improvements immediately before the occurrence of such damage or destruction and (ii) the nature of such new buildings, improvements, machinery, equipment and fixtures will not impair the character of the Project 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" 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) applied as directed in writing by, or on behalf of, the 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 written notice to the City and the Trustee with respect to all fires and any other casualties occurring in, on, at or about the Project Site causing (in the 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 ninety (90) days after the date of entry of a final order in any eminent domain proceedings granting condemnation or the date of sale under threat of condemnation, notify the City in writing, the Trustee, the mortgagee under the Leasehold Mortgage (if any) and the Financing Party under the Financing Document (if any) in writing as to the nature and extent of such condemnation or loss of title and whether it is practicable and desirable to acquire or construct substitute improvements.

(b) If the 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, 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.

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

## ARTICLE X

### SPECIAL COVENANTS

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

**Section 10.2. Surrender of Possession.** Upon accrual of the City's right of re-entry to the extent provided in **Section 12.2(b)**, the Company shall peacefully surrender possession of the Project to

the City in good condition and repair; provided, however, the Company may within ninety (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. Notwithstanding the foregoing, if the Company has paid all obligations due and owing under the Indenture (or such obligations have been cancelled by the Owners), this Lease and the Performance Agreement, the City shall convey the Project in accordance with **Section 11.2** hereof.

**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(2) Business Day's prior notice, subject to the Company's usual business proprietary, safety, confidentiality and security requirements, enter upon the Project Site (a) to examine and inspect the Project without interference or prejudice to the Company's operations, (b) to monitor the acquisition, construction and installation provided for in **Section 4.2** 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 City agrees that it will execute and deliver and will cause and direct the Trustee in writing to execute and deliver any instrument necessary or appropriate to confirm and grant, release or terminate any sublease, easement, license, right-of-way or other right or privilege or any such agreement or other arrangement, upon receipt by the City and the Trustee of: (i) a copy of the instrument of grant, release or termination or of the agreement or other arrangement, (ii) a written application signed by an Authorized Company Representative requesting such instrument, and (iii) a certificate executed by an Authorized Company Representative stating that such grant or release is not detrimental to the proper conduct of the business of the Company, will not impair the effective use or interfere with the efficient and economical operation of the Project, will not materially adversely affect the security intended to be given by or under the Indenture, will be a Permitted Encumbrance, and will (if requested by the City) limit recourse against the City to the City's interest in the Project. If no Event of Default has happened and is continuing beyond any applicable grace period, any payments or other consideration received by the Company for any such grant or with respect to or under any such agreement or other arrangement shall be and remain the property of the Company; but, subject to **Sections 10.4(c)** and **(d)**, upon (i) termination of this Lease for any reason other than the redemption of the Bonds and/or the purchase of the Project by the Company or (ii) the occurrence and continuance of an Event of Default by the Company, all rights then existing of the Company with respect to or under such grant shall inure to the benefit of and be exercisable by the City and the Trustee.

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

(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 and any Financing Party existing as of the date of the execution and delivery hereof:

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

(ii) the City shall serve upon each such Financing Party (at the address, if any, provided to the City) a copy of each notice of the occurrence of an Event of Default and each notice of termination given to the Company under this Lease, at the same time as such notice is served upon the Company. No such notice to the Company shall be effective unless a copy thereof is thus served upon each Financing Party;

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

(iv) the City may exercise any of its rights or remedies with respect to any other Event of Default by the Company, subject to the rights of the Financing Parties under this **Section 10.4(d)** as to such other events of default. Without limiting the generality of the foregoing, the holder of the 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)**;

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

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

(vii) this Lease may not be modified, amended, canceled or surrendered by agreement between the City and the 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; provided, however, that such documents, upon the City's request, will limit recourse against the City to the City's interest in the Project. The 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) The Company's obligations under any mortgage or Financing Document relating to the Project entered into after the date of execution of this Lease shall be subordinate to the Company's obligations under this Lease.

(g) 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 Order of 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 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 acquisition, purchase, or

improvement of the Project, (d) any act of negligence of the Company or of any of its agents, contractors, servants, employees or licensees, (e) unless the Company has been released from liability pursuant to **Section 13.1(c)**, any act of negligence of any assignee or sublessee of the Company, or of any agents, contractors, servants, employees or licensees of any assignee or sublessee of the Company, (f) obtaining any applicable state and local sales and use tax exemptions for materials or goods that become part of the Project, and (g) any violation of Section 107.170 of the Revised Statutes of Missouri, 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 of the City, or (ii) the result of gross negligence or willful misconduct by the City 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, at the Company's expense, 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, at the Company's expense, 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, that the Company may, without violating the agreement contained in this Section, consolidate with or merge into another Person or permit one or more other Persons to consolidate with or merge into it, or may sell or otherwise transfer to another Person all or substantially all of its assets as an entirety and thereafter dissolve, provided, the surviving, resulting or transferee Person (a) expressly assumes in writing all the obligations of the Company contained in this Lease, and (b) (i) the long-term-debt rating of such Person or the long-term-debt rating of an entity controlled by, under common control with or controlling such Person, is "BBB" or above if rated by Standard & Poor's or "Baa3" or above if rated by Moody's Investor Service, or (ii) such Person is controlled by, under common control with or controls the Company, or (c) is otherwise approved by Order of the City Council.

**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 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 (10) days after they are made or received by the Company. The Company will provide to the City for review only, any environmental assessment (“Assessments”) and reports regarding the correction or remediation of material environmental issues required by Environmental Laws to be addressed in the Assessment (“Reports”) concerning the Project; upon the completion of the City’s review of the Assessments and the Reports, the City shall immediately return to the Company all originals and copies of the Assessments and Reports.

(d) The Company warrants and represents that the Company has provided the City and the Trustee with copies of all emergency and hazardous chemical inventory forms (hereinafter “Environmental Notices”) showing Hazardous Substances on the Project Site given within 2 years preceding the date hereof, as of the date hereof, by the Company to any federal, state or local governmental authority or agency as required pursuant to the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C.A. §11001 *et seq.*, or any other applicable Environmental Laws. The Company will provide the City and the Trustee with copies of all Environmental Notices concerning Hazardous Substances on the Project Site subsequently sent to any such governmental authority or agency as required pursuant to the Emergency Planning and Community Right-to-Know Act of 1986 or any other applicable Environmental Laws. Such copies of subsequent Environmental Notices shall be sent to the City and the Trustee concurrently with their being mailed to any such governmental authority or agency.

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

(f) The Company agrees to indemnify, protect and hold harmless the City and the Trustee and their directors, officers, shareholders, officials or employees from and against any and all claims, demands, costs, liabilities, damages or expenses, including reasonable attorneys' fees, 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 (i) work being performed at the Project by employees of the City, (ii) gross negligence or willful misconduct by the City or the Trustee, or (iii) 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 subsection (f) shall survive any termination of this Lease.

## ARTICLE XI

### OPTION AND OBLIGATION TO PURCHASE THE PROJECT

**Section 11.1. Option to Purchase the Project.** The Company shall have, and is hereby granted, the option to purchase all or any portion of the Project at any time, upon payment in full or redemption of the Outstanding Bonds to be redeemed or provision for their payment or redemption having been made pursuant to **Article XIII** of the Indenture. To exercise such option, the Company shall give written notice to the City and to the Trustee, and shall specify therein the date of closing of such

purchase, which date shall be not less than fifteen (15) nor more than ninety (90) days from the date such notice is mailed, and, in case of a redemption of the Bonds in accordance with the provisions of the Indenture, the Company shall make arrangements satisfactory to the Trustee for the giving of the required notice of redemption. Notwithstanding the foregoing, if the City or the Trustee provides notice of its intent to exercise its remedies hereunder upon an Event of Default (a “Remedies Notice”), the Company shall be deemed to have exercised its repurchase option under this Section on the 29th day following the issuance of the Remedies Notice without any further action by the Company; provided said Remedies Notice has not been rescinded by such date (such option to take place on the 29th day following the issuance of the Remedies Notice). The Company may rescind such exercise by providing written notice to the City and the Trustee on or before the 29th day and by taking such action as may be required to cure the default that led to the giving of the Remedies Notice. The purchase price payable by the Company in the event of its exercise of the option granted in this Section shall be the sum of the following:

(a) an amount of money which, when added to the amount then on deposit in the Bond Fund, will be sufficient to redeem all or a portion of the then-Outstanding Bonds on the earliest redemption date next succeeding the closing date, including, without limitation, principal and interest to accrue to said redemption date and redemption expense; plus

(b) an amount of money equal to the Trustee’s and the Paying Agent’s agreed to and reasonable fees, charges and expenses under the Indenture accrued and to accrue until such redemption of the Bonds; plus

(c) an amount of money equal to the City’s reasonable charges and expenses incurred in connection with the Company exercising its option to purchase all or a portion of the Project; plus

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

(e) the sum of \$10.00.

**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 when conveyed to the City; (ii) those liens and encumbrances created by the Company or to the creation or suffering of which the Company consented; (iii) those liens and encumbrances resulting from the failure of the Company to perform or observe any of the agreement on its part contained in this Lease; (iv) Permitted Encumbrances other than the Indenture and this Lease; and (v) if the Project or any part thereof is being condemned, the rights and title of any condemning authority.

**Section 11.3. Relative Position of Option and Indenture.** The option to purchase the Project granted to the Company in this Article shall be and remain prior and superior to the Indenture and may be exercised whether or not the Company is in default under this Lease, provided that such option will not result in nonfulfillment of any condition to the exercise of any such option (including the payment of all amounts specified in **Section 11.1** 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.**

(a) The Company hereby agrees to purchase, and the City hereby agrees to sell, the Project upon the occurrence of (1) the expiration of the Lease Term following full payment of the Bonds or provision for payment thereof having been made in accordance with the provisions of the Indenture, and (2) the final payment due under the Performance Agreement. The amount of the purchase price under this Section shall be an amount sufficient to redeem all the then Outstanding Bonds, plus all payments due and payable pursuant to the Performance Agreement through the end of the calendar year in which the date of purchase occurs, plus accrued interest and the reasonable fees and expenses of the City and the Trustee.

**Section 11.5. Right of Set-Off.** At its option, to be exercised at least five (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. The Company may set-off any payment obligation under this Article by tendering a corresponding amount of the Bonds to the Trustee for cancellation.

## ARTICLE XII

### DEFAULTS AND REMEDIES

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

(a) default in the due and punctual payment of Basic Rent or Additional Rent within ten (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 sixty (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 United States Bankruptcy Code as now or in the future amended or any other similar present or future federal or state statute or regulation, or files a pleading asking for such relief; or (iii) makes an assignment for the benefit of creditors; or (iv) consents to the appointment of a trustee, receiver or liquidator for all or a

major portion of its property or fails to have the appointment of any trustee, receiver or liquidator made without the 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 ninety (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 sixty (60) days after the final entry, or levy or after any contest is finally adjudicated or any stay is vacated or set aside; or

(d) an Event of Default under the Performance Agreement, as defined in **Section 6.1** thereof.

**Section 12.2. Remedies on Default.** If any Event of Default referred to in **Section 12.1** 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 sixty (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; provided, however, if the Company has paid all obligations due and owing under the Indenture (or such obligations have been cancelled by the Owners), this Lease and the Performance Agreement, the City shall convey the Project in accordance with **Section 11.2** hereof.

**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, 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 sixty (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 this Lease to the contrary, however, the Company's option to re-purchase the property as provided in **Article XI** above shall not be terminated upon an Event of Default unless and until this Lease is terminated to the extent permitted pursuant to **Section 12.2(b)** above. The parties agree that no provision of this Lease shall be construed to allow the City to require the Company to acquire, construct or install the Project or to retain or create jobs.

**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 sublease, assign, transfer, encumber or dispose of this Lease or any interest herein or part hereof for any lawful purpose under the Act upon providing written notice to the City. Except as otherwise provided in this Section, the Company must obtain the City's prior written

consent by Order of the City Council to any such disposition, unless such disposition is to an entity controlled by or under common control with or controlling the Company.

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

(i) The Company shall notify the City and the Trustee of the assignment in writing;

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

(iii) Such assignment shall include the entire then unexpired term of this Lease; and

(iv) A duplicate original of such assignment shall be delivered to the City and the Trustee within ten (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.

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

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

**Section 13.4. Restrictions on Sale or Encumbrance of Project by City.** During the Lease Term, the City agrees that, except (a) to secure the Bonds to be issued pursuant to the Indenture, (b) to enforce its rights under **Section 12.2(b)** hereof and (c) as permitted by **Section 10.4** hereof, it will not sell, assign, encumber, mortgage, transfer or convey the Project or any interest therein.

## ARTICLE XIV

### AMENDMENTS, CHANGES AND MODIFICATIONS

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

## ARTICLE XV

### MISCELLANEOUS PROVISIONS

**Section 15.1. Notices.** All notices, certificates or other communications required or desired to be given hereunder shall be in writing and shall be deemed duly given when (a) mailed by registered or certified mail, postage prepaid, or (b) sent by overnight delivery or other delivery service which requires written acknowledgment of receipt by the addressee, addressed as follows:

(a) To the City:

City of Nevada, Missouri  
110 S. Ash St.  
Nevada, Missouri 64772  
ATTN: City Manager

with a copy to:

McCaffree Law Firm  
128 1/2 W. Walnut  
Nevada, Missouri 64772  
ATTN: James F. Lemon

(b) To the Trustee:

BOKF, N.A.  
200 N. Broadway, Suite 1710  
St. Louis, Missouri 63102  
ATTN: Corporate Trust Department

(c) To the Company:

Mareth Enterprises, LLC  
P.O. Box 416  
Purdy, Missouri 65734  
ATTN: Lewis Gray, Chief Operations Officer

with a copy to:

Randall, Masri & Randall, P.C.  
405 E. Broadway Street  
Monett, Missouri 65708  
ATTN: Jim Randall

All notices given by certified or registered mail as aforesaid shall be deemed fully given as of the date they are so mailed, provided, however, that notice to the Trustee shall be effective only upon receipt. A duplicate copy of each notice, certificate or other communication given hereunder by either the City or the Company to the other shall also be given to the Trustee. The City, the Company and the Trustee may from time to time designate, by notice given hereunder to the others of such parties, such other address to which subsequent notices, certificates or other communications shall be sent.

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

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

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

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

**Section 15.6. Binding Effect.** This Lease shall be binding upon and shall inure to the benefit of the City and the 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. Execution in Counterparts.** This Lease may be executed in several counterparts, each of which shall be deemed to be an original and all of which shall constitute but one and the same instrument.

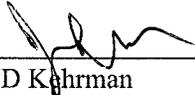
**Section 15.9. Electronic Storage.** The parties agree that the transaction described herein may be conducted and related documents may be sent, received or stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed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

**Section 15.10. City Consent.** Pursuant to the Ordinance, the Mayor and the City Manager are authorized to execute all documents on behalf of the City (including documents pertaining to the transfer of property or the financing and refinancing of the Project or any portion thereof) as may be required to carry out and comply with the intent of the Ordinance. The Mayor and the City Manager are also authorized, unless expressly provided herein, to grant on behalf of the City such consents, estoppels and waivers relating to the Bonds, the Indenture, the Performance Agreement or this Lease as may be requested during the term thereof; provided, such consents, estoppels and/or waivers shall not increase the principal amount of the Bonds, increase the term of this Lease or the tax exemption as provided for herein, waive an Event of Default or materially change the nature of the transaction unless otherwise approved by the City Council.

[Remainder of Page Intentionally Left Blank.]

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

**CITY OF NEVADA, MISSOURI**

By:   
Name: JD Kahrman  
Title: City Manager

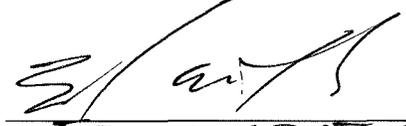
[SEAL]

ATTEST:

By:   
Deputy City Clerk

[Lease Agreement]

MARETH ENTERPRISES, LLC

By:   
Name: ED MARETH  
Title: Authorized Agent

**EXHIBIT A**

**PROJECT SITE**

TRACT 1:

ALL THAT PART OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION THIRTY-FOUR (34), TOWNSHIP THIRTY-SIX (36) NORTH, RANGE THIRTY-ONE (31) WEST, LYING WEST OF THE MISSOURI PACIFIC RAILROAD RIGHT-OF-WAY AND EAST OF THE RIGHT-OF-WAY OF U. S. HIGHWAY 71 AND U.S. HIGHWAY 71 PROPOSED BY-PASS (AS SET FORTH BY RIGHT-OF-WAY DEED RECORDED IN BOOK 290 AT PAGE 147 IN THE RECORDER'S OFFICE, VERNON COUNTY, MISSOURI), EXCEPT THE NORTH 424 FEET THEREOF.

TRACT 2:

THE EAST 227 FEET OF THE NORTH 424 FEET OF THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 36 NORTH, RANGE 31 WEST, VERNON COUNTY, MISSOURI, LYING WEST OF THE RIGHT-OF-WAY OF THE MISSOURI PACIFIC RAILROAD, EXCEPT THE NORTH 30 FEET, AND EXCEPT A TRACT DESCRIBED AS: BEGINNING IN THE WEST RIGHT-OF-WAY LINE OF THE MISSOURI PACIFIC RAILROAD AT A POINT 30 FEET SOUTH OF THE NORTH LINE OF THE SOUTHWEST QUARTER OF SECTION 34; RUN SOUTH 200 FEET; THENCE WEST 177 FEET; THENCE NORTH 200 FEET; THENCE EAST 177 FEET TO THE POINT OF BEGINNING.

**EXHIBIT B**

**FORM OF REQUISITION CERTIFICATE**

Requisition No. \_\_\_\_\_  
Date: \_\_\_\_\_

**REQUISITION CERTIFICATE**

**TO: BOKF, N.A., AS TRUSTEE UNDER A TRUST INDENTURE DATED AS OF DECEMBER 1, 2017, BETWEEN THE CITY OF NEVADA, MISSOURI, AND THE TRUSTEE, AND THE LEASE AGREEMENT DATED AS OF DECEMBER 1, 2017, BETWEEN THE CITY OF NEVADA, MISSOURI, AND MARETH ENTERPRISES, LLC**

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

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

| <u><b>Date and Type of Project Costs</b></u> | <u><b>Amount Submitted in<br/>this Requisition</b></u> | <u><b>Requisitions Submitted to Date<br/>(Including this Requisition)</b></u> |
|--|--|---|
| __/__/20__ - Project Site/Project            | \$_____  | \$_____   |
| <b>Total</b>                                 | <b>\$=====</b>   | <b>\$=====</b>  |

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

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

4. As of this date, except for the amounts referred to above, to the best of my knowledge there are no outstanding disputed statements for which payment is requested for labor, wages, materials, supplies or services in connection with the purchase and construction of the Project which, if unpaid, might become the basis of a vendors', mechanics', laborers' or materialmen's statutory or similar lien upon the Project or any part thereof.

**MARETH ENTERPRISES, LLC**

By: \_\_\_\_\_  
Authorized Company Representative

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

**CITY OF NEVADA, MISSOURI**

By: \_\_\_\_\_  
Authorized City Representative

**SCHEDULE 1 TO REQUISITION CERTIFICATE**

**PROJECT COSTS**

| <u>Payee and Address</u> | <u>Description</u> | <u>Amount</u> |
|--------------------------|--------------------|---------------|
|--------------------------|--------------------|---------------|

Recorded in Vernon County, Missouri



Recording Date/Time: 12/26/2017 at 11:25:49 AM

Instr #: 2017R02915

Book: 2017 Page: 2881

Type: LS

Pages: 6

Fee: \$39.00 S 20170002782



Doug Shupe  
Recorder of Deeds

FIRST AMERICAN TITLE

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

TITLE OF DOCUMENT: MEMORANDUM OF LEASE AGREEMENT

DATE OF DOCUMENT: As of December 1, 2017

GRANTOR: CITY OF NEVADA, MISSOURI,  
a constitutional charter city organized and existing under  
the laws of the State of Missouri

GRANTOR'S MAILING ADDRESS: 110 S. Ash St.  
Nevada, Missouri 64772  
Attn: City Manger

GRANTEE: MARETH ENTERPRISES, LLC  
a Missouri limited liability company

GRANTEE'S MAILING ADDRESS: P.O. Box 416  
Purdy, Missouri 65734  
Attn: Chief Operations Officer

RETURN DOCUMENTS TO: Benjamin L. Musholt, Esq.  
Armstrong Teasdale LLP  
7700 Forsyth Blvd., Suite 1800  
St. Louis, Missouri 63105

LEGAL DESCRIPTION: See **Exhibit A** attached hereto and incorporated herein.

## MEMORANDUM OF LEASE AGREEMENT

**THIS MEMORANDUM OF LEASE AGREEMENT**, gives notice of, ratifies and confirms the Lease Agreement dated as of December 1, 2017 (the "Lease"), between the **CITY OF NEVADA, MISSOURI**, a constitutional charter city organized and existing under the laws of the State of Missouri (the "City"), as lessor, and **MARETH ENTERPRISES, LLC**, a Missouri limited liability company (the "Company"), as lessee.

### RECITALS:

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

2. Pursuant to the Act, the City Council passed an ordinance (the "Ordinance") on December 5, 2017, authorizing the City to issue its Taxable Industrial Revenue Bonds (Mareth Enterprises, LLC Project), Series 2017, in the maximum principal amount of \$960,000 (the "Bonds"), for the purpose of (a) acquiring certain real estate located at 1800 North Industrial Parkway in the City (the "Project Site," as more fully described on **Exhibit A**, attached hereto and incorporated herein by reference) and (b) improving the Project Site and the existing improvements thereon (collectively, the "Project").

3. Pursuant to the Ordinance, the City is authorized to enter into a Trust Indenture of even date herewith (the "Indenture") with BOKF, N.A., St. Louis, Missouri, as Trustee (the "Trustee") for the purpose of issuing and securing the Bonds, and to enter into the Lease, under which the City will, or will cause the Company to, purchase, construct and improve the Project and will lease the Project to the Company in consideration of rentals that will be sufficient to pay the principal of and interest on the Bonds.

4. 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 set forth in the Lease.

**NOW, THEREFORE**, in consideration of the premises and the mutual representations, covenants and agreements contained in the Lease, the City and the Company do represent, covenant and agree as follows:

1. **Granting of Leasehold Estate.** The City exclusively rents, leases and lets the Project to the Company, and the Company rents, leases and hires the Project from the City, subject to Permitted Encumbrances existing as of the date of the execution and delivery of the Lease, for the rentals and upon and subject to the terms and conditions contained in the Lease.

2. **Lease Term.** The Lease shall become effective upon its execution and delivery. Subject to earlier termination pursuant to the provisions of the Lease, the lease of the Project shall terminate on December 31 of the 10<sup>th</sup> calendar year following the Acquisition Date.

3. **Basic Rent.** The Company covenants and agrees to pay to the Trustee in same day funds for the account of the City during the Lease Term, on or before 11:00 a.m., Trustee's local time, on each Payment Date, as Basic Rent for the Project, an amount which, when added to any collected funds then on deposit in the Bond Fund and available for the payment of principal 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.

4. **Definition of Terms.** Capitalized terms not defined herein shall have the meanings ascribed thereto in the Indenture and the Lease.

*[Remainder of Page Intentionally Left Blank.]*

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

MARETH ENTERPRISES, LLC

By: [Signature]  
Name: ED MARETH  
Title: Authorized Agent

ACKNOWLEDGMENT

STATE OF MISSOURI )  
 ) SS.  
COUNTY OF Barry Co )

On this 18 day of December, 2017, before me, the undersigned, a Notary Public in and for said State, personally appeared Ed Mareth, to me personally known, who, being by me duly sworn, did say that he is the Authorized Agent of MARETH ENTERPRISES, LLC, a Missouri limited liability company, and that said instrument was signed on behalf of said company by authority of its governing body, and said officer acknowledged said instrument to be the free act and deed of said company.

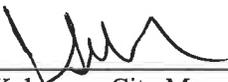
IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid on the day and year first above written.

[Signature]  
Name: KIM HOWERTON  
Notary Public in and for said State  
My Commission Expires: October 31, 2019

KIM HOWERTON  
Notary Public, Notary Seal  
State of Missouri  
Barry County  
Commission # 11340575  
My Commission Expires October 31, 2019

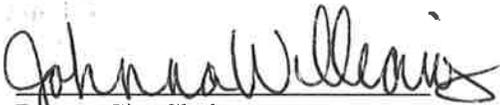
PLEASE AFFIX SEAL FIRMLY AND CLEARLY IN THIS BOX

CITY OF NEVADA, MISSOURI

By:   
JD Kehrman, City Manager

[SEAL]

ATTEST:

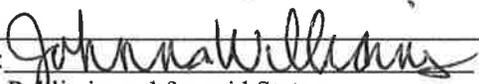
By:   
Deputy City Clerk

ACKNOWLEDGMENT

STATE OF MISSOURI )  
                                  ) SS.  
COUNTY OF Barton )

On this 13<sup>th</sup> day of December, 2017, before me, the undersigned, a Notary Public, appeared JD Kehrman, to me personally known, who, being by me duly sworn, did say that he is the City Manager of the **CITY OF NEVADA, MISSOURI**, and that the seal affixed to the foregoing instrument is the corporate seal of said City, and that said instrument was signed and sealed by authority of its City Council, and said officers acknowledged said instrument to be executed for the purposes therein stated and as the free act and deed of said City.

**IN TESTIMONY WHEREOF**, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Name:   
Notary Public in and for said State

My Commission Expires:

**JOHNNA WILLIAMS**  
**Notary Public – Notary Seal**  
**State of Missouri, Barton County**  
**Commission # 15987302**  
**My Commission Expires Dec 10, 2019**

PLEASE AFFIX SEAL FIRMLY AND CLEARLY IN THIS BOX

**EXHIBIT A**

**PROJECT SITE**

The land situated in the County of Vernon, State of Missouri, and described as follows:

ALL THAT PART OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION THIRTY-FOUR (34), TOWNSHIP THIRTY-SIX (36) NORTH, RANGE THIRTY-ONE (31) WEST, LYING WEST OF THE MISSOURI PACIFIC RAILROAD RIGHT-OF-WAY AND EAST OF THE RIGHT-OF-WAY OF U. S. HIGHWAY 71 AND U.S. HIGHWAY 71 PROPOSED BY-PASS (AS SET FORTH BY RIGHT-OF-WAY DEED RECORDED IN BOOK 290 AT PAGE 147 IN THE RECORDER'S OFFICE, VERNON COUNTY, MISSOURI), EXCEPT THE NORTH 424 FEET THEREOF; AND ALL THAT PART OF THE NORTHWEST QUARTER (NW 1/4) OF THE NORTHWEST QUARTER (NW 1/4), OTHERWISE KNOWN AS THE WEST HALF OF LOT TWO OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION THREE (3), TOWNSHIP THIRTY-FIVE (35) NORTH, RANGE THIRTY-ONE (31) WEST, LYING WEST OF THE MISSOURI PACIFIC RAILROAD RIGHT-OF-WAY AND EAST OF U. S. HIGHWAY 71 PROPOSED BY-PASS (AS SET FORTH BY RIGHT-OF-WAY DEED RECORDED IN BOOK 290 AT PAGE 147 IN THE RECORDER'S OFFICE, VERNON COUNTY, MISSOURI.)

Recorded in Vernon County, Missouri



Recording Date/Time: 02/07/2018 at 11:37:59 AM

Instr #: 2018R00316

Book: 2018 Page: 313

Type: AMM

Pages: 6

Fee: \$39.00 S 20180000280



Doug Shupe  
Recorder of Deeds

FIRST AMERICAN TITLE

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

TITLE OF DOCUMENT: FIRST AMENDMENT TO MEMORANDUM OF LEASE AGREEMENT

DATE OF DOCUMENT: As of January 1, 2018

GRANTOR: CITY OF NEVADA, MISSOURI,  
a constitutional charter city organized and existing under the laws of the State of Missouri

GRANTOR'S MAILING ADDRESS: 110 S. Ash St.  
Nevada, Missouri 64772  
Attn: City Manger

GRANTEE: MARETH ENTERPRISES, LLC  
a Missouri limited liability company

GRANTEE'S MAILING ADDRESS: P.O. Box 416  
Purdy, Missouri 65734  
Attn: Chief Operations Officer

RETURN DOCUMENTS TO: Benjamin L. Musholt, Esq.  
Armstrong Teasdale LLP  
7700 Forsyth Blvd., Suite 1800  
St. Louis, Missouri 63105

LEGAL DESCRIPTION: See **Exhibit A** attached hereto and incorporated herein.

DOCUMENT REFERENCE: Instrument # 2017R02915, Book: 2017, Page: 2881

## **FIRST AMENDMENT TO MEMORANDUM OF LEASE AGREEMENT**

**THIS FIRST AMENDMENT TO MEMORANDUM OF LEASE AGREEMENT** (this “First Amendment”), gives notice of, ratifies and confirms the Lease Agreement dated as of December 1, 2017 (the “Lease”), between the **CITY OF NEVADA, MISSOURI**, a constitutional charter city organized and existing under the laws of the State of Missouri (the “City”), as lessor, and **MARETH ENTERPRISES, LLC**, a Missouri limited liability company (the “Company”), as lessee.

### **RECITALS:**

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

2. Pursuant to the Act, the City Council passed an ordinance (the “Ordinance”) on December 5, 2017, authorizing the City to issue its Taxable Industrial Revenue Bonds (Mareth Enterprises, LLC Project), Series 2017, in the maximum principal amount of \$960,000 (the “Bonds”), for the purpose of (a) acquiring certain real estate located at 1800 North Industrial Parkway in the City (the “Project Site,” as more fully described on **Exhibit A**, attached hereto and incorporated herein by reference) and (b) improving the Project Site and the existing improvements thereon (collectively, the “Project”).

3. Pursuant to the Ordinance, the City is authorized to enter into a Trust Indenture of even date herewith (the “Indenture”) with BOKF, N.A., St. Louis, Missouri, as Trustee (the “Trustee”) for the purpose of issuing and securing the Bonds, and to enter into the Lease, under which the City will, or will cause the Company to, purchase, construct and improve the Project and will lease the Project to the Company in consideration of rentals that will be sufficient to pay the principal of and interest on the Bonds.

4. 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 set forth in the Lease.

5. The parties executed and recorded a Memorandum of Lease Agreement dated as of December 1, 2017, and recorded December 26, 2017, by the Vernon County, Missouri Recorder of Deeds as Instrument No. 2017R02915, in Book 2017, Page 2881 (the “Original Memo”), but the Original Memo did not contain the correct legal description as intended by the parties.

6. The parties desire to enter into this First Amendment to correct the legal description of the Original Memo to reflect the intentions of the parties and to accurately describe the Project Site.

**NOW, THEREFORE**, in consideration of the premises and the mutual representations, covenants and agreements contained in the Lease, the City and the Company do represent, covenant and agree as follows:

1. The legal description of the Project Site shall be amended to reflect the intentions of the parties. The Project Site, as amended, is legally described on **Exhibit A**, attached hereto and incorporated herein by reference.

2. Capitalized terms not defined herein shall have the meanings ascribed thereto in the Indenture and the Lease.

3. All other terms and conditions of the Original Memo and the Agreement, except as amended herein, shall remain unchanged and in full force and effect.

*[Remainder of Page Intentionally Left Blank.]*

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

**MARETH ENTERPRISES, LLC**

By:   
Name: Ed Mareth  
Title: Authorized Agent

**ACKNOWLEDGMENT**

STATE OF MISSOURI        )  
  ) SS.  
COUNTY OF BARRY        )

On this 30<sup>th</sup> day of January, 2018, before me, the undersigned, a Notary Public in and for said State, personally appeared Ed Mareth, to me personally known, who, being by me duly sworn, did say that he is the Authorized Agent of **MARETH ENTERPRISES, LLC**, a Missouri limited liability company, and that said instrument was signed on behalf of said company by authority of its governing body, and said officer acknowledged said instrument to be the free act and deed of said company.

**IN TESTIMONY WHEREOF**, I have hereunto set my hand and affixed my official seal in the County and State aforesaid on the day and year first above written.

  
Name: KIM HOWERTON  
Notary Public in and for said State

My Commission Expires: October 31, 2019

KIM HOWERTON  
Notary Public, Notary Seal  
State of Missouri  
Barry County  
Commission # 11340575  
My Commission Expires October 31, 2019

PLEASE AFFIX SEAL FIRMLY AND CLEARLY IN THIS BOX



**EXHIBIT A**  
**PROJECT SITE**

The land situated in the County of Vernon, State of Missouri, and described as follows:

**TRACT 1:**

ALL THAT PART OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION THIRTY-FOUR (34), TOWNSHIP THIRTY-SIX (36) NORTH, RANGE THIRTY-ONE (31) WEST, LYING WEST OF THE MISSOURI PACIFIC RAILROAD RIGHT-OF-WAY AND EAST OF THE RIGHT-OF-WAY OF U. S. HIGHWAY 71 AND U.S. HIGHWAY 71 PROPOSED BY-PASS (AS SET FORTH BY RIGHT-OF-WAY DEED RECORDED IN BOOK 290 AT PAGE 147 IN THE RECORDER'S OFFICE, VERNON COUNTY, MISSOURI), EXCEPT THE NORTH 424 FEET THEREOF.

**TRACT 2:**

THE EAST 227 FEET OF THE NORTH 424 FEET OF THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 36 NORTH, RANGE 31 WEST, VERNON COUNTY, MISSOURI, LYING WEST OF THE RIGHT-OF-WAY OF THE MISSOURI PACIFIC RAILROAD, EXCEPT THE NORTH 30 FEET, AND EXCEPT A TRACT DESCRIBED AS: BEGINNING IN THE WEST RIGHT-OF-WAY LINE OF THE MISSOURI PACIFIC RAILROAD AT A POINT 30 FEET SOUTH OF THE NORTH LINE OF THE SOUTHWEST QUARTER OF SECTION 34; RUN SOUTH 200 FEET; THENCE WEST 177 FEET; THENCE NORTH 200 FEET; THENCE EAST 177 FEET TO THE POINT OF BEGINNING.

**\$960,000**  
**(AGGREGATE MAXIMUM PRINCIPAL AMOUNT)**  
**CITY OF NEVADA, MISSOURI**  
**TAXABLE INDUSTRIAL REVENUE BONDS**  
**(MARETH ENTERPRISES, LLC PROJECT)**  
**SERIES 2017**

**Dated as of December 1, 2017**

**BOND PURCHASE AGREEMENT**

Honorable Mayor  
and City Council  
City of Nevada, Missouri

On the basis of the representations and covenants and upon the terms and conditions contained in this Bond Purchase Agreement, Mareth Enterprises, LLC, a Missouri limited liability company (the “Purchaser”), offers to purchase from the City of Nevada, Missouri (the “City”), the above-referenced bonds (the “Bonds”), to be issued by the City under and pursuant to Ordinance No. 8193 adopted by the City Council on December 5, 2017 (the “Ordinance”) and a Trust Indenture dated as of December 1, 2017 (the “Indenture”) by and between the City and BOKF, N.A., as trustee (the “Trustee”). *Capitalized terms not otherwise defined herein shall have the meanings set forth in the Indenture.*

**SECTION 1. REPRESENTATIONS AND AGREEMENTS**

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

(1) The City is a constitutional charter city duly organized and validly existing under the laws of the State of Missouri. The City is authorized pursuant to the Constitution, its charter, the laws of the State of Missouri, and the ordinances, orders and resolutions of the City, and all necessary action has been taken to authorize, issue and deliver the Bonds and to consummate all transactions contemplated by the Ordinance, this Bond Purchase Agreement, the Indenture, the Lease Agreement dated as of December 1, 2017 (the “Lease”) by and between the City and the Purchaser, the Performance Agreement dated as of December 1, 2017 (the “Performance Agreement”) by and between the City and the Purchaser, and any and all other agreements relating thereto. The proceeds of the Bonds shall be used for the purpose of acquiring and improving the Project and paying the costs incurred in connection with the issuance of the Bonds.

(2) There is no controversy, suit or other proceeding of any kind pending or, to the City’s knowledge, threatened wherein or whereby any question is raised or may be raised, questioning, disputing or affecting in any way the legal organization of the City or its boundaries, or the right or title of any of its officers to their respective offices, or the legality of any official act leading up to the issuance of the Bonds or the constitutionality or validity of the obligations

represented by the Bonds or the validity of the Bonds, the Ordinance, the Lease, the Indenture, the Performance Agreement or this Bond Purchase Agreement.

(b) The Purchaser represents as follows:

(1) *Organization.* The Purchaser is a limited liability company duly organized and validly existing in good standing under the laws of the State of Missouri and is duly authorized to transact business in the State of Missouri.

(2) *No Conflict or Breach.* The execution, delivery and performance of this Bond Purchase Agreement by the Purchaser has been duly authorized by all necessary action of the Purchaser and does not and will not conflict with or result in the breach of any of the terms, conditions or provisions of, or constitute a default under, its organizational documents, any law, court or administrative regulation, decree or order applicable to or binding upon the Purchaser, or, to the best of its knowledge, any agreement, indenture, mortgage, lease or instrument to which the Purchaser is a party or by which it is bound.

(3) *Documents Legal, Valid and Binding.* When executed and delivered by the Purchaser, this Bond Purchase Agreement will be, and is, a legal, valid and binding obligation, enforceable in accordance with its terms, subject, as to enforcement, to any applicable bankruptcy, reorganization, insolvency, moratorium or other laws affecting the enforcement of creditors' rights generally and further subject to the availability of equitable remedies.

(4) *Purchaser's Certificates.* Any certificate signed by an authorized officer or agent of the Purchaser and delivered to the City shall be deemed a representation and warranty by the Purchaser to such parties as to the statements made therein.

## **SECTION 2. PURCHASE, SALE AND DELIVERY OF THE BONDS**

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

The Bonds shall be sold to the Purchaser by the City on the Closing Date (hereinafter defined) upon payment of an amount equal to the Closing Price (hereinafter defined), which amount shall be applied as provided in the Indenture and the Lease. From time to time after the Closing Date, the Purchaser shall make additional payments with respect to the Bonds ("Additional Payments") to the Trustee under the Indenture, which Additional Payments shall be applied to the payment of Project Costs or as provided in the Indenture and the Lease; provided that the sum of the Closing Price and all such Additional Payments shall not, in the aggregate, exceed \$960,000 plus the costs of issuance of the Bonds (if such costs of issuance are not paid with Bond proceeds).

As used herein, the term "Closing Date" shall mean December 22, 2017, or such other date as shall be mutually agreed upon by the City and the Purchaser; the term "Closing Price" shall mean the amount specified in writing by the Purchaser and agreed to by the City as the amount required to pay for the initial issuance of the Bonds on the Closing Date, which amount shall be equal to (1) any Project Costs spent by the Purchaser from its own funds (including costs of issuance of the Bonds) on or before

the Closing Date, or (2) the aggregate principal amount of the Bonds, if all of the proceeds of the Bonds are being transferred to the Trustee on the Closing Date.

The Bonds shall be issued under and secured as provided in the Ordinance, the Indenture and the Lease authorized thereby and the Bonds shall have the maturity, interest rate and shall be subject to redemption as set forth therein. The delivery of the Bonds shall be made in definitive form as a fully-registered bond in the maximum aggregate principal denomination of \$960,000; provided, that the principal amount of the Bonds outstanding at any time shall be that amount recorded in the records of the Trustee and further provided that interest shall be payable on the Bonds only on the outstanding principal amount of the Bonds, as more fully provided in the Indenture.

### **SECTION 3. CONDITIONS TO THE OBLIGATIONS**

The obligations hereunder shall be subject to the due performance by the parties of the obligations and agreements to be performed hereunder on or prior to the Closing Date and to the accuracy of and compliance with the representations contained herein, as of the date hereof and as of the Closing Date, and are also subject to the following conditions:

(a) There shall be delivered to the Purchaser on or prior to the Closing Date a duly certified copy of the Ordinance, the Indenture, the Lease, the Performance Agreement, this Bond Purchase Agreement and any other instrument contemplated thereby, and such documents shall be in full force and effect and shall not have been modified or changed except as may have been agreed to in writing by the Purchaser.

(b) The City shall confirm on the Closing Date by a certificate that at and as of the Closing Date the City has taken all action necessary to issue the Bonds and that there is no controversy, suit or other proceeding of any kind pending or, to its knowledge, threatened against the City wherein any question is raised affecting in any way the legal organization of the City or the legality of any official act shown to have been done in the transcript of proceedings leading up to the issuance of the Bonds, or the constitutionality or validity of the obligations represented by the Bonds or the validity of the Bonds or any proceedings in relation to the issuance or sale thereof.

(c) The Purchaser shall execute a certificate, dated as of the Closing Date, to the effect that (1) no litigation, proceeding or investigation is pending against the Purchaser or its affiliates or, to the knowledge of the Purchaser, threatened which would (A) contest, affect, restrain or enjoin the issuance, validity, execution, delivery or performance of the Bonds, or (B) in any way contest the existence or powers of the Purchaser, (2) no litigation, proceeding or investigation is pending or, to the knowledge of the Purchaser, threatened against the Purchaser that could reasonably be expected to adversely affect its ability to perform its obligations under the Lease and the Performance Agreement, (3) the representations and warranties of the Purchaser herein were and are true and correct in all material respects and not misleading as of the date made and as of the Closing Date, and (4) such other matters as are reasonably requested by the other parties in connection with the issuance of the Bonds.

### **SECTION 4. THE PURCHASER'S RIGHT TO CANCEL**

The Purchaser may cancel its obligation hereunder to purchase the Bonds by notifying the City in writing at or before the Closing Date.

**SECTION 5. CONDITIONS OF OBLIGATIONS**

The obligations of the parties hereto are subject to the receipt of the approving opinion of Armstrong Teasdale LLP, Bond Counsel, with respect to the validity of the authorization and issuance of the Bonds.

**SECTION 6. REPRESENTATIONS AND AGREEMENTS TO SURVIVE DELIVERY**

All of the representations and agreements by either party shall remain operative and in full force and effect, and shall survive delivery of the Bonds to the Purchaser.

**SECTION 7. NOTICE**

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

- (a) To the City:

City of Nevada, Missouri  
110 S. Ash St.  
Nevada, Missouri 64772  
ATTN: City Manager

with a copy to:

McCaffree Law Firm  
128 1/2 W. Walnut  
Nevada, Missouri 64772  
ATTN: William McCaffree

- (b) To the Trustee:

BOKF, N.A.  
200 N. Broadway, Suite 1710  
St. Louis, Missouri 63102  
ATTN: Corporate Trust Department

- (c) To the Purchaser:

Mareth Enterprises, LLC  
P.O. Box 416  
Purdy, Missouri 65734  
ATTN: Chief Operations Officer

with a copy to:

Rnadall, Masri & Randall, P.C.  
405 E. Broadway Street  
Monett, Missouri 65708  
ATTN: Jim Randall

**SECTION 8. APPLICABLE LAW; ASSIGNABILITY**

This Bond Purchase Agreement shall be governed by the laws of the State of Missouri and may be assigned by the Purchaser upon the terms of **Section 13.1** of the Lease. Any such assignee shall agree to be bound by the terms of this Bond Purchase Agreement.

**SECTION 9. EXECUTION OF COUNTERPARTS**

This Bond Purchase Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same document.

[Remainder of Page Intentionally Left Blank.]

Very truly yours,

**MARETH ENTERPRISES, LLC**

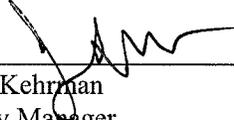
By:   
Name: ED MARETH  
Title: Authorized Agent

DATE OF EXECUTION: December 18, 2017

[Bond Purchase Agreement]

Accepted and Agreed to this 5<sup>th</sup> day of December, 2017.

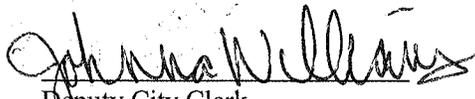
**CITY OF NEVADA, MISSOURI**

By:   
Name: JD Kehrman  
Title: City Manager

[SEAL]

ATTEST:

By:

  
Deputy City Clerk

[Bond Purchase Agreement]

**THIS BOND OR ANY PORTION HEREOF MAY BE TRANSFERRED, ASSIGNED OR NEGOTIATED ONLY AS PROVIDED IN THE HEREIN DESCRIBED INDENTURE.**

No. 1

Not to Exceed

**\$960,000**

**UNITED STATES OF AMERICA  
STATE OF MISSOURI**

**CITY OF NEVADA, MISSOURI  
TAXABLE INDUSTRIAL REVENUE BOND  
(MARETH ENTERPRISES, LLC PROJECT)  
SERIES 2017**

**Interest Rate**

**5.0%**

**Maturity Date**

**December 1 of the tenth (10th)  
calendar year following the  
Acquisition Date**

**Dated Date**

**December 22, 2017**

**OWNER:**

**MARETH ENTERPRISES, LLC**

**MAXIMUM PRINCIPAL AMOUNT:**

**NINE HUNDRED SIXTY THOUSAND  
DOLLARS**

**CITY OF NEVADA, MISSOURI**, a constitutional charter city organized and existing under the laws of the State of Missouri (the "City"), for value received, promises to pay, but solely from the source hereinafter referred to, to the Owner named above, or registered assigns thereof, on the Maturity Date shown above, the principal amount shown above, or such lesser amount as may be outstanding hereunder as reflected on **Schedule I** hereto held by the Trustee as provided in the hereinafter referred to Indenture. The City agrees to pay such principal amount to the Owner in any coin or currency of the United States of America which on the date of payment thereof is legal tender for the payment of public and private debts, and in like manner to pay to the Owner hereof, either by check or draft mailed to the Owner at a stated address as it appears on the bond registration books of the City kept by the Trustee under the within mentioned Indenture or, in certain situations authorized in the Indenture, by internal bank transfer or by wire transfer to an account in a commercial bank or savings institution located in the continental United States. Interest on the Cumulative Outstanding Principal Amount (as hereinafter defined) at the per annum Interest Rate stated above, payable in arrears on each December 1, commencing on December 1, 2018, and continuing thereafter until the earlier of the date on which said Cumulative Outstanding Principal Amount is paid in full or the Maturity Date. Interest on each advancement of the principal amount of this Bond shall accrue from the date that such advancement is made, computed on the basis of a year of 360 days consisting of 12 months of 30 days each.

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

**THIS BOND** is one of a duly authorized series of Bonds of the City designated "City of Nevada, Missouri, Taxable Industrial Revenue Bonds (Mareth Enterprises, LLC Project), Series 2017," in the maximum aggregate principal amount of \$960,000 (the "Bonds"), to be issued for the purpose of acquiring certain real property located within the City (the "Project Site") and acquiring and improving the improvements thereon. The City will lease the Project Site and the improvements thereon (collectively, the "Project") to Mareth Enterprises, LLC, a Missouri limited liability company (the "Company"), under the terms of a Lease Agreement dated as of December 1, 2017 (said Lease Agreement, as amended and supplemented from time to time in accordance with the provisions thereof, being herein called the "Lease"), between the City and the Company, all pursuant to the authority of and in full compliance with the provisions, restrictions and limitations of the Constitution, the statutes of the State of Missouri, including particularly the Act, the charter of the City, and pursuant to proceedings duly had by the governing body of the City.

**THE BONDS** are issued under and are equally and ratably secured and entitled to the protection given by a Trust Indenture dated as of December 1, 2017 (said Trust Indenture, as amended and supplemented from time to time in accordance with the provisions thereof, being herein called the "Indenture"), between the City and BOKF, N.A., St. Louis, Missouri, as trustee (the "Trustee"). *Capitalized terms not defined herein shall have the meanings set forth in the Indenture.*

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

**THE BONDS** are subject to redemption and payment at any time before the stated maturity thereof, at the option of the City, upon written instructions from the Company, (1) in whole, if the Company exercises its option to purchase the Project and deposits an amount sufficient to effect such purchase pursuant to the Lease on the applicable redemption date, or (2) in part, if the Company prepays additional Basic Rent pursuant to the Lease; provided, however, if only a portion of the Bonds are to be redeemed, Bonds aggregating at least 10% of the maximum principal amount of Bonds authorized under the Indenture shall not be subject to redemption and payment before the stated maturity thereof. Any redemption of Bonds pursuant to this paragraph shall be at a redemption price equal to the par value thereof being redeemed, plus accrued interest thereon, without premium or penalty, to the redemption date.

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

If the Bonds are to be called for optional redemption, the Company shall deliver written notice to the City and the Trustee that it has elected to redeem all or a portion of the Bonds at least forty (40) days (ten (10) days if there is one Owner) before the scheduled redemption date. The Trustee shall then deliver written notice to the Owner of this Bond at least thirty (30) days (five (5) days if there is one Owner) before the scheduled redemption date by first-class mail (or facsimile, if there is one Owner) stating the date upon which the Bonds will be redeemed and paid.

**THE BONDS**, including interest thereon, are special obligations of the City and are payable solely out of the rents, revenues and receipts derived by the City from the Project and the Lease and not from any other fund or source of the City, and are secured by a pledge and assignment of the Project and of such rents, revenues and receipts, including all rentals and other amounts to be received by the City under and pursuant to the Lease, all as provided in the Indenture. The Bonds do not constitute a general obligation of the City or the State of Missouri, and neither the City nor said State shall be liable thereon, and the Bonds shall not constitute an indebtedness within the meaning of any constitutional, charter, or statutory debt limitation or restriction, and are not payable in any manner by taxation. Pursuant to the provisions of the Lease, rental payments sufficient for the prompt payment when due of the principal of and interest on the Bonds are to be paid by the Company directly to the Trustee for the account of the City and deposited in a special fund created by the City and designated the "City of Nevada, Missouri, Bond Fund – Mareth Enterprises, LLC"

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

**THIS BOND** is transferable, as provided in the Indenture, only upon the books of the City kept for that purpose at the above-mentioned office of the Trustee by the Owner hereof in Person or by such Person's duly authorized attorney, upon surrender of this Bond together with a written instrument of transfer reasonably satisfactory to the Trustee duly executed by the Owner or such Person's duly authorized attorney, and thereupon a new fully registered Bond or Bonds, in the same aggregate principal amounts, shall be issued to the transferee in exchange therefor as provided in the Indenture, and upon payment of the charges therein prescribed. The City, the Trustee and any Paying Agent may deem and treat the Person in whose name this Bond is registered as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or redemption price hereof and interest due hereon and for all other purposes.

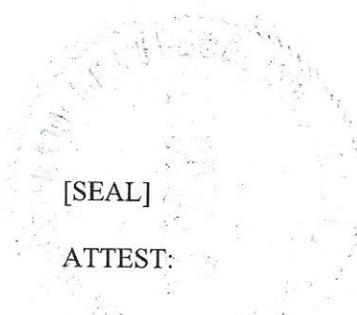
**THE BONDS** are issuable in the form of one fully-registered Bond in the maximum principal amount of \$960,000.

**THIS BOND** shall not be valid or become obligatory for any purposes or be entitled to any security or benefit under the Indenture until the Certificate of Authentication hereon shall have been executed by the Trustee.

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

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

**CITY OF NEVADA, MISSOURI**



[SEAL]

ATTEST:

By: [Signature]  
Name: JD Kehrman  
Title: City Manager

By: [Signature]  
Deputy City Clerk

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**CERTIFICATE OF AUTHENTICATION**

This Bond is the Taxable Industrial Revenue Bond (Mareth Enterprises, LLC Project), Series 2017, described in the Trust Indenture. The effective date of registration of this Bond is set forth below.

**BOKF, N.A., as Trustee**

December 22, 2017  
Date

By: [Signature]  
Authorized Signatory



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**FORM OF ASSIGNMENT**

***(NOTE RESTRICTIONS ON TRANSFERS)***

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

---

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

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints  
\_\_\_\_\_ attorney to transfer the within Bond on the books kept by the Trustee  
for the registration and transfer of Bonds, with full power of substitution in the premises.

Dated: \_\_\_\_\_.

\_\_\_\_\_  
NOTICE: The signature to this assignment must  
correspond with the name as it appears upon the  
face of the within Bond in every particular.

Signature Guaranteed By:

\_\_\_\_\_  
(Name of Eligible Guarantor Institution as  
defined by SEC Rule 17 Ad-15 (17 CFR 240.17  
Ad-15))

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

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## PERFORMANCE AGREEMENT

**THIS PERFORMANCE AGREEMENT**, dated as of December 1, 2017, as from time to time amended and supplemented in accordance with the provisions hereof (this “Agreement”), between the **CITY OF NEVADA, MISSOURI**, a constitutional charter city organized and existing under the laws of the State of Missouri (the “City”), and **MARETH ENTERPRISES, LLC**, a Missouri limited liability company (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”), and the City Charter, to purchase, construct, extend and improve certain projects (as defined in the Act) and to issue industrial development revenue bonds for the purpose of providing funds to pay the costs of such projects and to lease or otherwise dispose of such projects to private persons or corporations for manufacturing, commercial, warehousing, office industry and industrial development purposes upon such terms and conditions as the City shall deem advisable.

2. Pursuant to the Act, the City Council passed an ordinance (the “Ordinance”) on December 5, 2017, authorizing the City to issue its Taxable Industrial Revenue Bonds (Mareth Enterprises, LLC Project), Series 2017, in the maximum principal amount of \$960,000 (the “Bonds”), for the purpose of (a) acquiring certain real property located at 1800 North Industrial Parkway (the “Project Site,” as more fully described on **Exhibit A** attached hereto and incorporated herein by reference), and (b) improving the Project Site and any existing improvements thereon.

3. The Ordinance authorizes the City to lease the Project Site and the improvements thereon (collectively, the “Project”) to the Company pursuant to a Lease Agreement to be entered into by and between the City and the Company (the “Lease”). Pursuant to the Lease, the City, as lessor, will purchase and improve or will cause the Company to purchase and improve the Project and will lease the Project to the Company, as lessee.

4. Pursuant to the foregoing, the City desires to enter into this Agreement with the Company in consideration of the Company’s desire to cause the purchase and improvement of the Project as more fully described in the Lease upon the terms and subject to the 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 hereby represent, covenant and agree as follows:

### ARTICLE I

#### DEFINITIONS

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

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

“**Agreement**” means this Performance Agreement dated as of December 1, 2017, between the City and the Company, as from time to time amended and supplemented in accordance with the provisions hereof.

“**Assessor**” means the Assessor of Vernon County, Missouri.

“**Acquisition Date**” means the date the Company acquires fee title ownership in the Project Site.

“**Collector**” means the Collector of Revenue of Vernon County, Missouri.

“**Completion Date**” means the date of execution of the certificate required by **Section 4.5** of the Lease and **Section 504** of the Indenture, which shall be deemed executed and filed on December 31, 2018 if not actually executed and filed by December 31, 2018, except as otherwise provided in **Section 4.5** of the Lease.

“**County**” means Vernon County, Missouri.

“**Event of Default**” means any Event of Default as provided in **Section 12.1**.

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

“**Pre-Existing Improvements**” means the improvements located on the Project Site prior to acquisition of the Project.

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

“**Project Costs**” means all costs of acquiring and improving the Project.

“**Project Site**” means the real estate described in **Exhibit A** attached hereto and incorporated herein by reference.

## ARTICLE II

### ISSUANCE OF BONDS

**Section 2.1. Issuance of the Bonds.** As described herein, the City intends to issue the Bonds (to be purchased by the Company) under the Act for the purpose of paying a portion of the Project Costs. In connection with the issuance of the Bonds, the City will acquire title to the Project from the Company.

## ARTICLE III

### PROPERTY TAX EXEMPTION; PILOT PAYMENTS

**Section 3.1. Real Property Tax Exemption.** The City expects the Project to be exempt from ad valorem real property taxes so long as the City owns title thereto. Notwithstanding anything to the contrary, in no event shall the personal property located in, on, or about the Project be tax exempt.

**Section 3.2. Payments in Lieu of Taxes.**

(a) The Company covenants and agrees that, during each year the Project is exempt from ad valorem real property taxes by reason of the City's ownership thereof, the Company will make PILOT Payments in such amounts and at such times set forth in this **Article III**.

(b) The Assessor will, until this Agreement is terminated, determine an assessed valuation with respect to the Project in accordance with Article X, Section 4(b) of the Missouri Constitution and Section 137.115 of the Revised Statutes of Missouri, as amended, as if title to the Project were in the name of the Company and not the City. Such assessment shall be performed as of January 1 of each year. To facilitate the assessment, the Company agrees to provide to the Assessor each year, by the same date on which property declarations are required by law to be made, a report that includes the following information:

- (1) a list of improvements made to the Project during the calendar year; and
- (2) such other information as the Assessor may reasonably require to complete the assessment of the Project.

The itemization shall be consistent with the information provided to the City and the Trustee under **Section 4.2** of the Lease.

(c) The Assessor shall notify the City and the Company of the assessed valuation in writing. The Company shall notify the Assessor if the Company has not received such notice by July 1.

(d) On or about the same date on which the Collector notifies taxpayers of taxes due under Missouri law, the Collector shall notify the Company and the City of the amount of PILOT Payments due hereunder. The Company shall notify the City and the Assessor if the Company has not received such notice by December 1. Except as otherwise provided in **Section 3.6** hereof, the PILOT Payments shall be calculated as follows:

- (1) Project:
  - (A) For each calendar year up to and including the calendar year of the Acquisition Date, an amount equal to 100% of the actual real property taxes that would have been payable on the land and the existing real property improvements located at the Project Site, but for the City's ownership of the Project;
  - (B) For each of the ten (10) calendar years following the calendar year of the Acquisition Date, but beginning not later than January 1, 2018, 0% of the

actual real property taxes attributable to the assessed value of land that would otherwise have been payable during such ten (10) year period, but for the City's ownership of the Project,; and

(e) Each PILOT Payment shall be payable to the Collector. The Company covenants and agrees to make such PILOT Payments on or before December 31 of each year during the term of this Agreement. The Company's failure to receive notices under (c) or (d) of this Section does not relieve the Company of its obligation to make the applicable PILOT Payments by December 31 as provided herein.

(f) Within thirty (30) days after receipt of each PILOT Payment, the Collector shall, after deducting its customary fee for collection thereof, divide each PILOT Payment among the taxing jurisdictions in proportion to the amount of the then-current ad valorem tax levy of each taxing jurisdiction.

(g) The Company hereby acknowledges that certain reports and notifications provided by the City may show an adjusted assessed value of the Project rather than the actual assessed value of the Project for the purpose of facilitating the calculation of PILOT Payments. The Company agrees not to rely on such adjusted values as the actual assessed value of the Project. The Company can contact the Assessor's office to confirm the actual assessed value of the Project.

**Section 3.3. Obligation to Effect Tax Abatement.** The City shall, at the Company's request and at the Company's expense, take all actions, subject only to limitations imposed by applicable law, 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 any other governmental taxing authority to recognize the exemption provided herein, and the City shall not be required to file or participate in any litigation to effect the exemption. The City covenants that it will not voluntarily take any action intended to cause or induce the levy or assessment of ad valorem taxes on the Project. If such a levy or assessment should occur, the City shall, at the Company's request and at the Company's expense, cooperate with the Company in all reasonable ways to prevent and/or remove any levy or assessment against the Project.

**Section 3.4. Other Property Taxes in Connection with the Project; Credits.** The property tax exemption provided by the City's ownership of the Project is expected to apply to all interests in the Project during the period it is owned by the City. If any ad valorem real property taxes are levied by or on behalf of any taxing jurisdiction against any interest in the Project during the period the City owns the Project (including, without limitation, any ad valorem real property taxes levied against the Company's rights in the Lease), the amount of ad valorem real property tax payments related to such levy or levies that are paid by the Company and received by the Collector 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 Project that the Company owns in its own name or granted to the Company other than pursuant to the Lease. Notwithstanding **Section 4.6** hereof, there shall be no reduction in PILOT Payments for any sales taxes imposed by any governmental authority, including the Missouri Department of Revenue, in connection with the Company's acquisition of construction materials for real property improvements or equipment at the Project Site.

**Section 3.5. PILOT Payment if Company Purchases the Project.**

(a) If the Company exercises its option to purchase the entire Project pursuant to **Section 11.1** of the Lease before the Collector notifies the Company of the PILOT Payment due under

this Agreement, the Company shall make a PILOT Payment to the City equal to 100% of the amount that would have been payable to each taxing jurisdiction, but for the City's ownership of the Project, for the preceding calendar year. Once the Collector notifies the Company of the amount due under **Section 3.2** for the calendar year in which the Company purchases the Project, the City will refund the appropriate amount to the Company.

(b) If the Company exercises its option to purchase the entire Project pursuant to **Section 11.1** of the Lease after receiving notification of the PILOT Payment due under this Agreement for the calendar year in which the Company purchases the Project, the Company shall pay that amount to the Collector (to be distributed as provided in **Section 3.2**) prior to closing on the purchase of the Project.

**Section 3.6. No Abatement on Special Assessments, Licenses or Fees.** The City and the Company hereby agree that the real 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 Project. 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 Project if such Project was not owned by the City.

**Section 3.7. Company's Right to Protest Taxes.** No provision of 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 in the name of the City and/or the Company, as appropriate, any property tax valuation, assessment or classification of the Project Site or any personal property thereon.

**Section 3.8. Additional Personal Property.** The Company may acquire personal property on its own accord and such personal property need not be financed with the proceeds of the Bonds and shall not be subject to the terms of this Agreement; provided, however, any such personal property shall be subject to ad valorem taxes.

## ARTICLE IV

### COVENANTS, REPRESENTATIONS AND AGREEMENTS OF THE COMPANY

**Section 4.1. Inspection.** The City may conduct such periodic inspections of the Project as may be generally provided in the City's code. In addition, the Company agrees that the City and its duly authorized agents may at reasonable times (during business hours but without disruption to the business), subject to at least five (5) Business Days' advance written notice and in observance of the Company's usual business proprietary, safety, confidentiality and security requirements, enter upon the Project Site to examine and inspect the Project and the records of the Company that demonstrate compliance with this Agreement.

**Section 4.2. Representations.**

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

(1) The Company is a limited liability company duly organized and validly existing in good standing under the laws of the State of Missouri and is duly authorized to transact business in the State of Missouri.

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

(3) The execution, delivery and performance by the Company of this Agreement has been duly authorized by all necessary action, and does not violate the articles of organization or the operating agreement 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) There are no actions or proceedings by or before any court, governmental commission, board, bureau or any other administrative agency pending, or to the best of the Company's knowledge, threatened or affecting the Company that would impair its ability to enter into or perform its obligations under this Agreement.

(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 purchase, construct, complete and operate the Project.

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

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

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

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

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

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

**Section 4.3. Survival of Covenants.** All warranties, representations, covenants and agreements of the Company contained herein shall survive termination of this Agreement for any reason.

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

**Section 4.5. Costs to be paid by Company.**

(a) The Company agrees to pay or provide for the payment of, on the issuance date of the Bonds, all costs of issuance incurred in connection therewith, including, without limitation, the City's issuance fee equal to 0.5% of the maximum principal amount of the Bonds.

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

**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, assigned, pledged or in any other manner hypothecated, except as provided in **Section 13.1** of the Lease.

**ARTICLE VI**

**DEFAULT AND REMEDIES**

**Section 6.1. Events of Default.** If any one or more of the following events occurs and is continuing, it is hereby defined as and declared to be and to constitute an Event of Default hereunder:

(a) the Company fails to make any PILOT Payment required to be paid hereunder within ten (10) business days after written notice and demand given by the City to the Company;

(b) the Company fails to perform any of its material obligations hereunder for a period of thirty (30) 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, or if such failure is not subject to cure within such thirty (30) days after such notice, the Company fails to initiate action to cure the default within such thirty (30) days after such notice is given and fails to pursue such action diligently to completion;

(c) any representation of the Company contained herein proves to be materially false or erroneous and is not corrected or brought into compliance within thirty (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; or

(d) the Company fails to invest at least \$500,000 on Project Costs by the Completion Date.

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

**Section 6.3. Interest on Late Payments.** Any amounts due hereunder which are not paid when due shall bear interest at the interest rate of 18% per annum from the date such payment was first due.

**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 PILOT Payments provided for in this Agreement may bring an action for specific performance to enforce such payments.

## ARTICLE VII

### TERM OF AGREEMENT

**Section 7.1. Term of Agreement.** This Agreement shall become effective upon execution by the parties hereto and shall terminate upon the earliest to occur of the following:

- (a) the payment in full of the Bonds (or any bonds issued to refund the Bonds) and the payment of all amounts due under this Agreement;
- (b) the occurrence and continuance of an Event of Default beyond the cure period and the subsequent termination of this Agreement pursuant to the provisions of the Lease and this Agreement; or
- (c) the expiration of the Lease Term set forth in **Section 3.2** of the Lease.

**Section 7.2. Payments in Last Year.** The foregoing provisions of **Section 7.1** shall not relieve the Company of its obligation to make any PILOT Payment owing during the year in which the Bonds are paid, to the extent the Company receives the ad valorem tax exemption contemplated for that year.

## ARTICLE VIII

### MISCELLANEOUS PROVISIONS

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

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

**Section 8.3. Severability; Effect of Invalidity.** If for any reason any provision of this Agreement shall be determined to be invalid or unenforceable, such invalid or unenforceable term will be deemed severed from this Agreement and the validity and enforceability of the other provisions hereof shall not be affected thereby. If this Agreement, or any portion hereof, or any agreements related hereto, are determined to be invalid, the City may not recover or recapture any taxes subject to abatement as provided herein or benefits accruing to the Company prior to such determination if the Company has paid taxes in an amount at least equal to the PILOT Payments due under this Agreement.

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

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

**Section 8.6. Waiver.** The City and the 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 8.7. Entire Agreement.** This Agreement, together with the Lease, the Indenture and any other documents entered into of even date herewith in connection with the issuance of the Bonds, constitute the entire agreement of the parties with respect to the subject matter hereof and supersede all prior agreements, representations, negotiations and understandings, both written and oral, between the City and the Company with respect to the subject matter hereof. This Agreement shall not be modified except by written agreement signed on behalf of the City and the Company by their duly authorized representatives.

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

**Section 8.9. Employee Verification.** The Company will comply with and satisfy the requirements of Section 285.530.2 of the Revised Statutes of Missouri, as amended, which requires (a) 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 (b) every such business entity to annually sign an affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the entity receiving tax abatement. The Company shall provide such affidavit, in substantially the form of **Exhibit B**, attached hereto and incorporated herein by reference, and documentation to the City Manager on or before November 15 of each year during the term of this Agreement, beginning November 15, 2018.

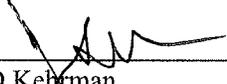
**Section 8.10. City Consent.** Pursuant to the Ordinance, the Mayor and the City Manager are authorized to execute all documents on behalf of the City (including documents pertaining to the transfer of property or the financing and refinancing of the Project or any portion thereof) as may be required to carry out and comply with the intent of the Ordinance. The Mayor and the City Manager are also authorized, unless expressly provided herein, to grant on behalf of the City such consents, estoppels and

waivers relating to the Bonds, the Indenture, the Lease or this Performance Agreement as may be requested during the term thereof; provided, such consents, estoppels and/or waivers shall not increase the principal amount of the Bonds, increase the term of this Lease or the tax exemption as provided for herein, waive an Event of Default or materially change the nature of the transaction unless otherwise approved by the City Council.

[Remainder of Page Intentionally Left Blank.]

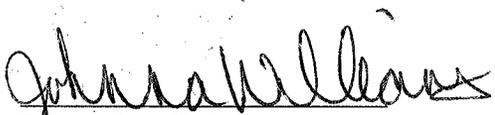
**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed in their respective corporate names by their duly authorized officers, all as of the date first above written.

**CITY OF NEVADA, MISSOURI**

By:   
Name: JD Kehman  
Title: City Manager

[SEAL]

ATTEST:

By:   
Deputy City Clerk

[Performance Agreement]

**MARETH ENTERPRISES, LLC**

By:   
Name: ED MARETH  
Title: American Agent

**EXHIBIT A**  
**PROJECT SITE**

The land situated in the County of Vernon, State of Missouri, and described as follows:

TRACT 1:

ALL THAT PART OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION THIRTY-FOUR (34), TOWNSHIP THIRTY-SIX (36) NORTH, RANGE THIRTY-ONE (31) WEST, LYING WEST OF THE MISSOURI PACIFIC RAILROAD RIGHT-OF-WAY AND EAST OF THE RIGHT-OF-WAY OF U. S. HIGHWAY 71 AND U.S. HIGHWAY 71 PROPOSED BY-PASS (AS SET FORTH BY RIGHT-OF-WAY DEED RECORDED IN BOOK 290 AT PAGE 147 IN THE RECORDER'S OFFICE, VERNON COUNTY, MISSOURI), EXCEPT THE NORTH 424 FEET THEREOF.

TRACT 2:

THE EAST 227 FEET OF THE NORTH 424 FEET OF THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 36 NORTH, RANGE 31 WEST, VERNON COUNTY, MISSOURI, LYING WEST OF THE RIGHT-OF-WAY OF THE MISSOURI PACIFIC RAILROAD, EXCEPT THE NORTH 30 FEET, AND EXCEPT A TRACT DESCRIBED AS: BEGINNING IN THE WEST RIGHT-OF-WAY LINE OF THE MISSOURI PACIFIC RAILROAD AT A POINT 30 FEET SOUTH OF THE NORTH LINE OF THE SOUTHWEST QUARTER OF SECTION 34; RUN SOUTH 200 FEET; THENCE WEST 177 FEET; THENCE NORTH 200 FEET; THENCE EAST 177 FEET TO THE POINT OF BEGINNING.

**EXHIBIT B**

**COMPANY'S AFFIDAVIT**

STATE OF \_\_\_\_\_ )  
 ) SS  
COUNTY OF \_\_\_\_\_ )

I, the undersigned, am over the age of 18 years and have personal knowledge of the matters stated herein.

I am a duly authorized officer of Mareth Enterprises, LLC, a Missouri limited liability company (the "*Company*"), and am authorized by the Company to attest to the matters set forth herein.

I hereby affirm the Company's enrollment and participation in a "federal work authorization program" as defined in Section 285.525 of the Revised Statutes of Missouri, as amended.

The Company does not knowingly employ any person who is an "unauthorized alien" as defined in Section 285.525 of the Revised Statutes of Missouri, as amended.

Further Affiant Sayeth Not.

**MARETH ENTERPRISES, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

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

My commission expires on: \_\_\_\_\_

Recorded in Vernon County, Missouri



Recording Date/Time: 12/26/2017 at 11:25:50 AM

Instr #: 2017R02916

Book: 2017 Page: 2882

Type: AGR

Pages: 6

Fee: \$39.00 S 20170002782



Doug Shupe  
Recorder of Deeds

FIRST AMERICAN TITLE

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

TITLE OF DOCUMENT: MEMORANDUM OF PERFORMANCE AGREEMENT

DATE OF DOCUMENT: As of December 1, 2017

GRANTORS: MARETH ENTERPRISES, LLC  
a Missouri limited liability company; and

GRANTORS' MAILING ADDRESS: P.O. Box 416  
Purdy, Missouri 65734  
Attn: Chief Operations Officer

GRANTEE: CITY OF NEVADA, MISSOURI,  
a constitutional charter city organized and existing under  
the laws of the State of Missouri

GRANTEE'S MAILING ADDRESS: 110 S. Ash St.  
Nevada, Missouri 64772  
Attn: City Manager

RETURN DOCUMENTS TO: Benjamin L. Musholt, Esq.  
Armstrong Teasdale LLP  
7700 Forsyth Blvd., Suite 1800  
St. Louis, Missouri 63105

LEGAL DESCRIPTION: See **Exhibit A** attached hereto and incorporated herein.

## MEMORANDUM OF PERFORMANCE AGREEMENT

**THIS MEMORANDUM OF PERFORMANCE AGREEMENT**, gives notice of, ratifies and confirms the Performance Agreement dated as of December 1, 2017 (the "Agreement"), between the **CITY OF NEVADA, MISSOURI**, a constitutional charter city organized and existing under the laws of the State of Missouri (the "City"), and **MARETH ENTERPRISES, LLC**, a Missouri limited liability company (the "Company").

### RECITALS:

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

2. Pursuant to the Act, the City Council passed an ordinance (the "Ordinance") on December 5, 2017, authorizing the City to issue its Taxable Industrial Revenue Bonds (Mareth Enterprises, LLC Project), Series 2017, in the maximum principal amount of \$960,000 (the "Bonds"), for the purpose of (a) acquiring certain real estate located at 1800 North Industrial Parkway in the City (the "Project Site," as more fully described on **Exhibit A**, attached hereto and incorporated herein by reference) and (b) improving the Project Site and the existing improvements thereon (collectively, the "Project").

3. The Ordinance authorizes the City to lease the Project to the Company pursuant to a Lease Agreement to be entered into by and between the City and the Company (the "Lease"). Pursuant to the Lease, the City, as lessor, will purchase, construct and improve, or will cause the Company to purchase, construct and improve, the Project and will lease the Project to the Company, as lessee.

4. Pursuant to the foregoing, the City desires to enter into the Agreement with the Company in consideration of the Company's desire to cause the purchase, construction and equipping of the Project as more fully described in the Lease upon the terms and subject to the conditions set forth in the Agreement.

**NOW, THEREFORE**, in consideration of the premises and the mutual representations, covenants and agreements contained in the Agreement, the County and the Company represent, covenant and agree as follows:

1. **Property Tax Exemption.** So long as the City owns title to the Project, the City expects that the Project will be exempt from ad valorem taxes on real property.

2. **Payments in Lieu of Taxes.** The Company covenants and agrees that, during each year the Project is exempt from ad valorem real taxes by reason of the City's ownership thereof, the Company will make PILOT Payments in such amounts and at such times set forth in the Agreement.

**3. Term of Agreement.** The Agreement shall become effective upon execution by the parties thereto and shall terminate upon the earliest to occur of the following:

(a) the payment in full of the Bonds (or any bonds issued to refund the Bonds) and the payment of all amounts due under the Agreement;

(b) the occurrence and continuance of an Event of Default beyond the cure period and the subsequent termination of the Agreement pursuant to the provisions of the Lease and the Agreement; or

(c) the expiration of the Lease Term set forth in **Section 3.2** of the Lease.

The foregoing provisions shall not relieve the Company of its obligation to make any PILOT Payment owing during the year in which the Bonds are paid, to the extent the Company receives the ad valorem tax exemption contemplated for that year.

**4. Definition of Terms.** Capitalized terms not defined herein shall have the meanings ascribed thereto in the Agreement.

[Remainder of Page Intentionally Left Blank.]

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

CITY OF NEVADA, MISSOURI

By: [Signature]  
JD Kehrman, City Manager

[SEAL]

ATTEST:

By: [Signature]  
Deputy City Clerk

ACKNOWLEDGMENT

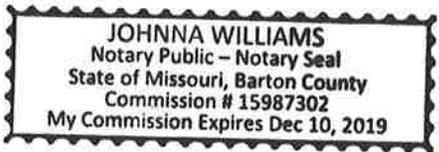
STATE OF MISSOURI            )  
                                  Barton        ) SS.  
COUNTY OF VERNON         )

On this 13<sup>th</sup> day of December, 2017, before me, the undersigned, a Notary Public, appeared JD Kehrman, to me personally known, who, being by me duly sworn, did say that he is the City Manager of the **CITY OF NEVADA, MISSOURI**, and that the seal affixed to the foregoing instrument is the corporate seal of said City, and that said instrument was signed and sealed by authority of its City Council, and said officers acknowledged said instrument to be executed for the purposes therein stated and as the free act and deed of said City.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Name: [Signature]  
Notary Public in and for said State

My Commission Expires:



PLEASE AFFIX SEAL FIRMLY AND CLEARLY IN THIS BOX

MARETH ENTERPRISES, LLC

By: [Signature]  
Name: ED MARETH  
Title: Authorized Agent

ACKNOWLEDGMENT

STATE OF MISSOURI     )  
                                  ) SS.  
COUNTY OF Barry Co. )

On this 18 day of December, 2017, before me, the undersigned, a Notary Public in and for said State, personally appeared Ed Mareth, to me personally known, who, being by me duly sworn, did say that he is the Authorized Agent of **MARETH ENTERPRISES, LLC**, a Missouri limited liability company, and that said instrument was signed on behalf of said company by authority of its governing body, and said officer acknowledged said instrument to be the free act and deed of said company.

**IN TESTIMONY WHEREOF**, I have hereunto set my hand and affixed my official seal in the County and State aforesaid on the day and year first above written.

[Signature]  
Name: KIM HOWERTON  
Notary Public in and for said State

My Commission Expires: October 31, 2019



PLEASE AFFIX SEAL FIRMLY AND CLEARLY IN THIS BOX

**EXHIBIT A**

**PROJECT SITE**

The land situated in the County of Vernon, State of Missouri, and described as follows:

ALL THAT PART OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION THIRTY-FOUR (34), TOWNSHIP THIRTY-SIX (36) NORTH, RANGE THIRTY-ONE (31) WEST, LYING WEST OF THE MISSOURI PACIFIC RAILROAD RIGHT-OF-WAY AND EAST OF THE RIGHT-OF-WAY OF U. S. HIGHWAY 71 AND U.S. HIGHWAY 71 PROPOSED BY-PASS (AS SET FORTH BY RIGHT-OF-WAY DEED RECORDED IN BOOK 290 AT PAGE 147 IN THE RECORDER'S OFFICE, VERNON COUNTY, MISSOURI), EXCEPT THE NORTH 424 FEET THEREOF; AND ALL THAT PART OF THE NORTHWEST QUARTER (NW 1/4) OF THE NORTHWEST QUARTER (NW 1/4), OTHERWISE KNOWN AS THE WEST HALF OF LOT TWO OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION THREE (3), TOWNSHIP THIRTY-FIVE (35) NORTH, RANGE THIRTY-ONE (31) WEST, LYING WEST OF THE MISSOURI PACIFIC RAILROAD RIGHT-OF-WAY AND EAST OF U. S. HIGHWAY 71 PROPOSED BY-PASS (AS SET FORTH BY RIGHT-OF-WAY DEED RECORDED IN BOOK 290 AT PAGE 147 IN THE RECORDER'S OFFICE, VERNON COUNTY, MISSOURI.)

Recorded in Vernon County, Missouri



Recording Date/Time: 02/07/2018 at 11:38:00 AM

Instr #: 2018R00317

Book: 2018 Page: 314

Type: AMM

Pages: 6

Fee: \$39.00 S 20180000280



FIRST AMERICAN TITLE

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

TITLE OF DOCUMENT: FIRST AMENDMENT TO MEMORANDUM OF PERFORMANCE AGREEMENT

DATE OF DOCUMENT: As of January 1, 2018

GRANTOR: MARETH ENTERPRISES, LLC  
a Missouri limited liability company; and

GRANTOR'S MAILING ADDRESS: P.O. Box 416  
Purdy, Missouri 65734  
Attn: Chief Operations Officer

GRANTEE: CITY OF NEVADA, MISSOURI,  
a constitutional charter city organized and existing under  
the laws of the State of Missouri

GRANTEE'S MAILING ADDRESS: 110 S. Ash St.  
Nevada, Missouri 64772  
Attn: City Manager

RETURN DOCUMENTS TO: Benjamin L. Musholt, Esq.  
Armstrong Teasdale LLP  
7700 Forsyth Blvd., Suite 1800  
St. Louis, Missouri 63105

LEGAL DESCRIPTION: See **Exhibit A** attached hereto and incorporated herein.

DOCUMENT REFERENCE: Instrument # 2017R02916, Book: 2017, Page: 2882

## **FIRST AMENDMENT TO MEMORANDUM OF PERFORMANCE AGREEMENT**

**THIS FIRST AMENDMENT TO MEMORANDUM OF PERFORMANCE AGREEMENT** (this "First Amendment"), gives notice of, ratifies and confirms the Performance Agreement dated to as of December 1, 2017 (the "Agreement"), between the **CITY OF NEVADA, MISSOURI**, a constitutional charter city organized and existing under the laws of the State of Missouri (the "City"), and **MARETH ENTERPRISES, LLC**, a Missouri limited liability company (the "Company").

### **RECITALS:**

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

2. Pursuant to the Act, the City Council passed an ordinance (the "Ordinance") on December 5, 2017, authorizing the City to issue its Taxable Industrial Revenue Bonds (Mareth Enterprises, LLC Project), Series 2017, in the maximum principal amount of \$960,000 (the "Bonds"), for the purpose of (a) acquiring certain real estate located at 1800 North Industrial Parkway in the City (the "Project Site," as more fully described on **Exhibit A**, attached hereto and incorporated herein by reference) and (b) improving the Project Site and the existing improvements thereon (collectively, the "Project").

3. The Ordinance authorizes the City to lease the Project to the Company pursuant to a Lease Agreement to be entered into by and between the City and the Company (the "Lease"). Pursuant to the Lease, the City, as lessor, will purchase, construct and improve, or will cause the Company to purchase, construct and improve, the Project and will lease the Project to the Company, as lessee.

4. The City entered into the Agreement with the Company in consideration of the Company's desire to cause the purchase, construction and equipping of the Project as more fully described in the Lease upon the terms and subject to the conditions set forth in the Agreement.

5. The parties executed and recorded a Memorandum of Performance Agreement dated as of December 1, 2017, and recorded December 26, 2017, by the Vernon County, Missouri Recorder of Deeds as Instrument No. 2017R02916, in Book 2017, Page 2882 (the "Original Memo"), but the Original Memo did not contain the correct legal description as intended by the parties.

6. The parties desire to enter into this First Amendment to correct the legal description of the Original Memo to reflect the intentions of the parties and to accurately describe the Project Site.

**NOW, THEREFORE**, in consideration of the premises and the mutual representations, covenants and agreements contained in the Agreement, the County and the Company represent, covenant and agree as follows:

1. The legal description of the Project Site shall be amended to reflect the intentions of the parties. The Project Site, as amended, is legally described on **Exhibit A**, attached hereto and incorporated herein by reference.

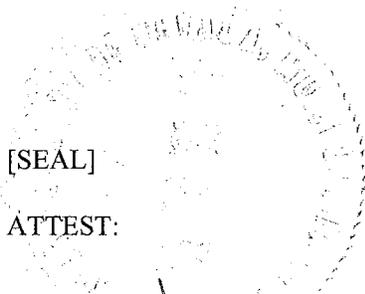
2. Capitalized terms not defined herein shall have the meanings ascribed thereto in the Indenture and the Lease.

3. All other terms and conditions of the Original Memo and the Agreement, except as amended herein, shall remain unchanged and in full force and effect.

[Remainder of Page Intentionally Left Blank.]

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

CITY OF NEVADA, MISSOURI



[SEAL]

ATTEST:

By: [Signature]  
JD, Kehrman, City Manager

By: [Signature]  
Deputy City Clerk

ACKNOWLEDGMENT

STATE OF MISSOURI        )  
  ) SS.  
COUNTY OF BARTON        )

On this 26th day of January, 2018, before me, the undersigned, a Notary Public, appeared JD Kehrman, to me personally known, who, being by me duly sworn, did say that he is the City Manager of the **CITY OF NEVADA, MISSOURI**, and that the seal affixed to the foregoing instrument is the corporate seal of said City, and that said instrument was signed and sealed by authority of its City Council, and said officers acknowledged said instrument to be executed for the purposes therein stated and as the free act and deed of said City.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Name: [Signature]  
Notary Public in and for said State

My Commission Expires:

JOHANNA WILLIAMS  
Notary Public – Notary Seal  
State of Missouri, Barton County  
Commission # 15987302  
My Commission Expires Dec 10, 2019

PLEASE AFFIX SEAL FIRMLY AND CLEARLY IN THIS BOX



**EXHIBIT A**  
**PROJECT SITE**

The land situated in the County of Vernon, State of Missouri, and described as follows:

**TRACT 1:**

ALL THAT PART OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION THIRTY-FOUR (34), TOWNSHIP THIRTY-SIX (36) NORTH, RANGE THIRTY-ONE (31) WEST, LYING WEST OF THE MISSOURI PACIFIC RAILROAD RIGHT-OF-WAY AND EAST OF THE RIGHT-OF-WAY OF U. S. HIGHWAY 71 AND U.S. HIGHWAY 71 PROPOSED BY-PASS (AS SET FORTH BY RIGHT-OF-WAY DEED RECORDED IN BOOK 290 AT PAGE 147 IN THE RECORDER'S OFFICE, VERNON COUNTY, MISSOURI), EXCEPT THE NORTH 424 FEET THEREOF.

**TRACT 2:**

THE EAST 227 FEET OF THE NORTH 424 FEET OF THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 36 NORTH, RANGE 31 WEST, VERNON COUNTY, MISSOURI, LYING WEST OF THE RIGHT-OF-WAY OF THE MISSOURI PACIFIC RAILROAD, EXCEPT THE NORTH 30 FEET, AND EXCEPT A TRACT DESCRIBED AS: BEGINNING IN THE WEST RIGHT-OF-WAY LINE OF THE MISSOURI PACIFIC RAILROAD AT A POINT 30 FEET SOUTH OF THE NORTH LINE OF THE SOUTHWEST QUARTER OF SECTION 34; RUN SOUTH 200 FEET; THENCE WEST 177 FEET; THENCE NORTH 200 FEET; THENCE EAST 177 FEET TO THE POINT OF BEGINNING.

Recorded in Vernon County, Missouri



Recording Date/Time: 12/26/2017 at 11:25:48 AM

Instr #: 2017R02914

Book: 2017 Page: 2880

Type: WD

Pages: 5

Fee: \$36.00 S 20170002782



Doug Shupe  
Recorder of Deeds

FIRST AMERICAN TITLE

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

TITLE OF DOCUMENT: SPECIAL WARRANTY DEED

DATE OF DOCUMENT: As of December 1, 2017

GRANTOR: MARETH ENTERPRISES, LLC,  
a Missouri limited liability company

GRANTOR'S MAILING ADDRESS: P.O. Box 416  
Purdy, Missouri 65734  
Attn: Chief Operations Officer

GRANTEE: CITY OF NEVADA, MISSOURI,  
a constitutional charter city organized and existing under  
the laws of the State of Missouri

GRANTEE'S MAILING ADDRESS: 110 S. Ash St.  
Nevada, Missouri 64772  
Attn: City Manager

RETURN DOCUMENTS TO: Benjamin L. Musholt, Esq.  
Armstrong Teasdale LLP  
7700 Forsyth Blvd., Suite 1800  
St. Louis, Missouri 63105

LEGAL DESCRIPTION: See **Exhibit A** attached hereto and incorporated herein

**SPECIAL WARRANTY DEED**

**THIS SPECIAL WARRANTY DEED**, made as of December 1, 2017, from **MARETH ENTERPRISES, LLC**, a Missouri limited liability company, with a mailing address of P.O. Box 416, Purdy, Missouri 65734, Attn: Chief Operations Officer (the “Grantor”), to the **CITY OF NEVADA, MISSOURI**, a constitutional charter city organized and existing under the laws of the State of Missouri, with a mailing address of 110 S. Ash St., Nevada, Missouri 64772, Attn: City Manager (the “Grantee”).

**WITNESSETH, THAT THE GRANTOR**, in consideration of the sum of One Dollar (\$1.00) and other valuable considerations to it paid by the Grantee to Grantor (the receipt of which is hereby acknowledged) does by these presents, **BARGAIN AND SELL, CONVEY AND CONFIRM** unto the Grantee, its successors and assigns, the lots, tracts or parcels of land situated in the City of Nevada, County of Vernon, State of Missouri, legally described in **EXHIBIT A** (the “Land”), which is attached hereto at page A-1 of this Special Warranty Deed and incorporated herein by this reference, **SUBJECT, HOWEVER**, to the Permitted Encumbrances described in the Trust Indenture dated as of December 1, 2017 between the Grantee and BOKF, N.A., as trustee.

**TO HAVE AND TO HOLD**, the Land, with all and singular the rights, privileges, appurtenances and immunities thereto belonging or in anyway appertaining unto the Grantee and unto its successors and assigns forever; the Grantor hereby covenanting that the Land is free and clear from any encumbrance done or suffered by it, other than the Permitted Encumbrances; and that it will warrant and defend the title to the Land unto the Grantee and unto the Grantee’s successors and assigns forever, against the lawful claims and demands of all persons claiming under Grantor, but not otherwise.

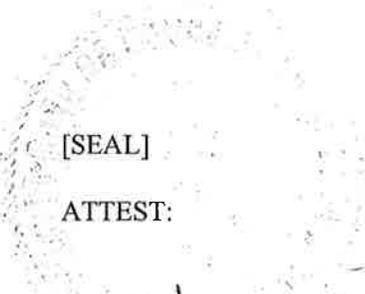
**IN WITNESS WHEREOF**, the Grantor and Grantee have executed this Special Warranty Deed as of the day and year above written.

[Remainder of Page Intentionally Left Blank]



“GRANTEE”

CITY OF NEVADA, MISSOURI



[SEAL]

ATTEST:

By:

Johnna Williams  
Deputy City Clerk

By:

Name: JD Kehrman

Title: City Manager

ACKNOWLEDGMENT

STATE OF MISSOURI            )  
  ) SS.  
COUNTY OF Barton        )

On this 13<sup>th</sup> day of December 2017, before me, the undersigned, a Notary Public, appeared JD Kehrman, to me personally known, who, being by me duly sworn, did say that he is the City Manager of the **CITY OF NEVADA, MISSOURI**, and that the seal affixed to the foregoing instrument is the corporate seal of said City, and that said instrument was signed and sealed by authority of its City Council, and said officers acknowledged said instrument to be executed for the purposes therein stated and as the free act and deed of said City.

**IN TESTIMONY WHEREOF**, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Name: Johnna Williams  
Notary Public in and for said State

My Commission Expires:



PLEASE AFFIX SEAL FIRMLY AND CLEARLY IN THIS BOX

[Special Warranty Deed]

**EXHIBIT A**

**DESCRIPTION OF THE LAND**

The land situated in the County of Vernon, State of Missouri, and described as follows:

ALL THAT PART OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION THIRTY-FOUR (34), TOWNSHIP THIRTY-SIX (36) NORTH, RANGE THIRTY-ONE (31) WEST, LYING WEST OF THE MISSOURI PACIFIC RAILROAD RIGHT-OF-WAY AND EAST OF THE RIGHT-OF-WAY OF U. S. HIGHWAY 71 AND U.S. HIGHWAY 71 PROPOSED BY-PASS (AS SET FORTH BY RIGHT-OF-WAY DEED RECORDED IN BOOK 290 AT PAGE 147 IN THE RECORDER'S OFFICE, VERNON COUNTY, MISSOURI), EXCEPT THE NORTH 424 FEET THEREOF; AND ALL THAT PART OF THE NORTHWEST QUARTER (NW 1/4) OF THE NORTHWEST QUARTER (NW 1/4), OTHERWISE KNOWN AS THE WEST HALF OF LOT TWO OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION THREE (3), TOWNSHIP THIRTY-FIVE (35) NORTH, RANGE THIRTY-ONE (31) WEST, LYING WEST OF THE MISSOURI PACIFIC RAILROAD RIGHT-OF-WAY AND EAST OF U. S. HIGHWAY 71 PROPOSED BY-PASS (AS SET FORTH BY RIGHT-OF-WAY DEED RECORDED IN BOOK 290 AT PAGE 147 IN THE RECORDER'S OFFICE, VERNON COUNTY, MISSOURI.)

Recorded in Vernon County, Missouri



Recording Date/Time: 02/07/2018 at 11:37:58 AM

Instr #: 2018R00315

Book: 2018 Page: 312

Type: WD

Pages: 5

Fee: \$36.00 S 20180000280



Doug Shupe  
Recorder of Deeds

FIRST AMERICAN TITLE

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

TITLE OF DOCUMENT: SPECIAL WARRANTY DEED

DATE OF DOCUMENT: As of January 1, 2018

GRANTOR: CITY OF NEVADA, MISSOURI,  
a constitutional charter city organized and existing under  
the laws of the State of Missouri

GRANTOR'S MAILING ADDRESS: 110 S. Ash St.  
Nevada, Missouri 64772  
Attn: City Manager

GRANTEE: MARETH ENTERPRISES, LLC,  
a Missouri limited liability company

GRANTEE'S MAILING ADDRESS: P.O. Box 416  
Purdy, Missouri 65734  
Attn: Chief Operations Officer

RETURN DOCUMENTS TO: Benjamin L. Musholt, Esq.  
Armstrong Teasdale LLP  
7700 Forsyth Blvd., Suite 1800  
St. Louis, Missouri 63105

LEGAL DESCRIPTION: See **Exhibit A** attached hereto and incorporated herein

**SPECIAL WARRANTY DEED**

**THIS SPECIAL WARRANTY DEED**, made to be effective as of January 1, 2018, from the **CITY OF NEVADA, MISSOURI**, a constitutional charter city organized and existing under the laws of the State of Missouri, with a mailing address of 110 S. Ash St., Nevada, Missouri 64772, Attn: City Manager (the "Grantor"), to **MARETH ENTERPRISES, LLC**, a Missouri limited liability company, with a mailing address of P.O. Box 416, Purdy, Missouri 65734, Attn: Chief Operations Officer (the "Grantee").

**THIS SPECIAL WARRANTY DEED** is made to (i) correctly reflect the intentions of Grantor and Grantee in connection with the Grantor's issuance of its Taxable Industrial Revenue Bonds (Mareth Enterprises, LLC Project), Series 2017, in the maximum principal amount of \$960,000 (the "Bonds"), by excluding the Land (as defined hereinafter) from the Grantor's acquisition of certain real property as intended by the parties when the Grantor issued the Bonds and (ii) correctly identify the real property legally described in the Special Warranty Deed dated as of December 1, 2017, and recorded on December 26, 2017, with the Vernon County, Missouri Recorder of Deed as Instrument No. 2017R02914, in Book 2017, Page 2880.

**WITNESSETH, THAT THE GRANTOR**, in consideration of the sum of One Dollar (\$1.00) and other valuable considerations to it paid by the Grantee to Grantor (the receipt of which is hereby acknowledged) does by these presents, **BARGAIN AND SELL, CONVEY AND CONFIRM** unto the Grantee, its successors and assigns, the lots, tracts or parcels of land situated in the City of Nevada, County of Vernon, State of Missouri, legally described in **EXHIBIT A** (the "Land"), which is attached hereto at page A-1 of this Special Warranty Deed and incorporated herein by this reference, **SUBJECT, HOWEVER**, to the Permitted Encumbrances described in the Trust Indenture dated as of December 1, 2017 between the Grantee and BOKF, N.A., as trustee.

**TO HAVE AND TO HOLD**, the Land, with all and singular the rights, privileges, appurtenances and immunities thereto belonging or in anyway appertaining unto the Grantee and unto its successors and assigns forever; the Grantor hereby covenanting that the Land is free and clear from any encumbrance done or suffered by it, other than the Permitted Encumbrances; and that it will warrant and defend the title to the Land unto the Grantee and unto the Grantee's successors and assigns forever, against the lawful claims and demands of all persons claiming under Grantor, but not otherwise.

**IN WITNESS WHEREOF**, the Grantor and Grantee have executed this Special Warranty Deed as of the day and year above written.

[Remainder of Page Intentionally Left Blank]

"GRANTOR"

CITY OF NEVADA, MISSOURI

By: [Signature]  
Name: JD Kehrman  
Title: City Manager

[SEAL]

ATTEST:

By: [Signature]  
Deputy City Clerk

ACKNOWLEDGMENT

STATE OF MISSOURI )  
COUNTY OF Barton ) SS.

On this 26th day of January, 2018, before me, the undersigned, a Notary Public in and for said State, personally appeared JD Kehrman, to me personally known, who, being by me duly sworn, did say that he is the City Manager of the **CITY OF NEVADA, MISSOURI**, and that the seal affixed to the foregoing instrument is the corporate seal of said City, and that said instrument was signed and sealed by authority of its City Council, and said officers acknowledged said instrument to be executed for the purposes therein stated and as the free act and deed of said City.

**IN TESTIMONY WHEREOF**, I have hereunto set my hand and affixed my official seal in the County and State aforesaid on the day and year first above written.

Name: [Signature]  
Notary Public in and for said State

My Commission Expires:

**JOHNNA WILLIAMS**  
Notary Public - Notary Seal  
State of Missouri, Barton County  
Commission # 15987302  
My Commission Expires Dec 10, 2019

PLEASE AFFIX SEAL FIRMLY AND CLEARLY IN THIS BOX

[Special Warranty Deed]

**"GRANTEE"**

**MARETH ENTERPRISES, LLC**

By: [Signature]  
Name: Ed Mareth  
Title: Authorized Agent

**ACKNOWLEDGMENT**

STATE OF MISSOURI     )  
  ) SS.  
COUNTY OF BARRY     )

On this 30<sup>th</sup> day of January, 2018, before me, the undersigned, a Notary Public, appeared Ed Mareth, to me personally known, who, being by me duly sworn, did say that he is the Authorized Agent of **MARETH ENTERPRISES, LLC**, a Missouri limited liability company, and that said instrument was signed on behalf of said limited liability company by authority of its governing body, and said officer acknowledged said instrument to be the free act and deed of said limited liability company.

**IN TESTIMONY WHEREOF**, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Kim Howerton  
Name: Kim HOWERTON  
Notary Public in and for said State

My Commission Expires: October 31, 2019

KIM HOWERTON  
Notary Public, Notary Seal  
State of Missouri  
Barry County  
Commission # 11340575  
My Commission Expires October 31, 2019

PLEASE AFFIX SEAL FIRMLY AND CLEARLY IN THIS BOX

**EXHIBIT A**

**DESCRIPTION OF THE LAND**

The land situated in the County of Vernon, State of Missouri, and described as follows:

ALL THAT PART OF THE NORTHWEST QUARTER (NW 1/4) OF THE NORTHWEST QUARTER (NW 1/4), OTHERWISE KNOWN AS THE WEST HALF OF LOT TWO OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION THREE (3), TOWNSHIP THIRTY-FIVE (35) NORTH, RANGE THIRTY-ONE (31) WEST, LYING WEST OF THE MISSOURI PACIFIC RAILROAD RIGHT-OF-WAY AND EAST OF U. S. HIGHWAY 71 PROPOSED BY-PASS (AS SET FORTH BY RIGHT-OF-WAY DEED RECORDED IN BOOK 290 AT PAGE 147 IN THE RECORDER'S OFFICE, VERNON COUNTY, MISSOURI.)

Recorded in Vernon County, Missouri



Recording Date/Time: 02/07/2018 at 11:37:57 AM

Instr #: 2018R00314

Book: 2018 Page: 311

Type: WD

Pages: 5

Fee: \$36.00 S 20180000280



Doug Shupe  
Recorder of Deeds

FIRST AMERICAN TITLE

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

TITLE OF DOCUMENT: SPECIAL WARRANTY DEED

DATE OF DOCUMENT: As of January 1, 2018

GRANTOR: MARETH ENTERPRISES, LLC,  
a Missouri limited liability company

GRANTOR'S MAILING ADDRESS: P.O. Box 416  
Purdy, Missouri 65734  
Attn: Chief Operations Officer

GRANTEE: CITY OF NEVADA, MISSOURI,  
a constitutional charter city organized and existing under  
the laws of the State of Missouri

GRANTEE'S MAILING ADDRESS: 110 S. Ash St.  
Nevada, Missouri 64772  
Attn: City Manager

RETURN DOCUMENTS TO: Benjamin L. Musholt, Esq.  
Armstrong Teasdale LLP  
7700 Forsyth Blvd., Suite 1800  
St. Louis, Missouri 63105

LEGAL DESCRIPTION: See **Exhibit A** attached hereto and incorporated herein

**SPECIAL WARRANTY DEED**

**THIS SPECIAL WARRANTY DEED**, made to be effective as of January 1, 2018, from **MARETH ENTERPRISES, LLC**, a Missouri limited liability company, with a mailing address of P.O. Box 416, Purdy, Missouri 65734, Attn: Chief Operations Officer (the "Grantor"), to the **CITY OF NEVADA, MISSOURI**, a constitutional charter city organized and existing under the laws of the State of Missouri, with a mailing address of 110 S. Ash St., Nevada, Missouri 64772, Attn: City Manager (the "Grantee").

**THIS SPECIAL WARRANTY DEED** is made to (i) correctly reflect the intentions of Grantor and Grantee in connection with the Grantee's issuance of its Taxable Industrial Revenue Bonds (Mareth Enterprises, LLC Project), Series 2017, in the maximum principal amount of \$960,000 (the "Bonds"), by incorporating the Land (as defined hereinafter) as part of the Grantee's acquisition of certain real property as intended by the parties when the Grantee issued the Bonds and (ii) correctly identify the real property legally described in the Special Warranty Deed dated as of December 1, 2017, and recorded on December 26, 2017, with the Vernon County, Missouri Recorder of Deed as Instrument No. 2017R02914, in Book 2017, Page 2880.

**WITNESSETH, THAT THE GRANTOR**, in consideration of the sum of One Dollar (\$1.00) and other valuable considerations to it paid by the Grantee to Grantor (the receipt of which is hereby acknowledged) does by these presents, **BARGAIN AND SELL, CONVEY AND CONFIRM** unto the Grantee, its successors and assigns, the lots, tracts or parcels of land situated in the City of Nevada, County of Vernon, State of Missouri, legally described in **EXHIBIT A** (the "Land"), which is attached hereto at page A-1 of this Special Warranty Deed and incorporated herein by this reference, **SUBJECT, HOWEVER**, to the Permitted Encumbrances described in the Trust Indenture dated as of December 1, 2017 between the Grantee and BOKF, N.A., as trustee.

**TO HAVE AND TO HOLD**, the Land, with all and singular the rights, privileges, appurtenances and immunities thereto belonging or in anyway appertaining unto the Grantee and unto its successors and assigns forever; the Grantor hereby covenanting that the Land is free and clear from any encumbrance done or suffered by it, other than the Permitted Encumbrances; and that it will warrant and defend the title to the Land unto the Grantee and unto the Grantee's successors and assigns forever, against the lawful claims and demands of all persons claiming under Grantor, but not otherwise.

**IN WITNESS WHEREOF**, the Grantor and Grantee have executed this Special Warranty Deed as of the day and year above written.

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**"GRANTOR"**

**MARETH ENTERPRISES, LLC**

By:   
Name: Ed Mareth  
Title: Authorized Agent

**ACKNOWLEDGMENT**

STATE OF MISSOURI        )  
  ) SS.  
COUNTY OF BARRY        )

On this 30<sup>th</sup> day of January, 2018, before me, the undersigned, a Notary Public in and for said State, personally appeared Ed Mareth, to me personally known, who, being by me duly sworn, did say that he is the Authorized Agent of **MARETH ENTERPRISES, LLC**, a Missouri limited liability company, and that said instrument was signed on behalf of said limited liability company by authority of its governing body, and said officer acknowledged said instrument to be the free act and deed of said limited liability company.

**IN TESTIMONY WHEREOF**, I have hereunto set my hand and affixed my official seal in the County and State aforesaid on the day and year first above written.

  
Name: KIM HOWERTON  
Notary Public in and for said State

My Commission Expires: October 31, 2019

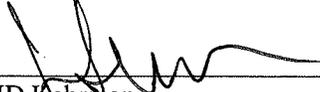
|  |
|--|
| KIM HOWERTON<br>Notary Public, Notary Seal<br>State of Missouri<br>Barry County<br>Commission # 11340575<br>My Commission Expires October 31, 2019 |
|--|

PLEASE AFFIX SEAL FIRMLY AND CLEARLY IN THIS BOX

[Special Warranty Deed]

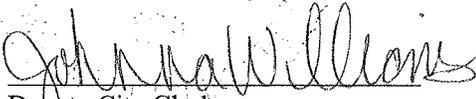
**"GRANTEE"**

**CITY OF NEVADA, MISSOURI**

By:   
Name: JD Kehrman  
Title: City Manager

[SEAL]

ATTEST:

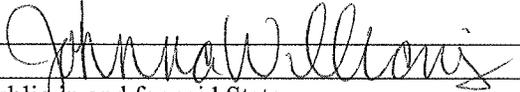
By:   
Deputy City Clerk

**ACKNOWLEDGMENT**

STATE OF MISSOURI )  
COUNTY OF Barton ) SS.

On this 26<sup>th</sup> day of January, 2018, before me, the undersigned, a Notary Public, appeared JD Kehrman, to me personally known, who, being by me duly sworn, did say that he is the City Manager of the **CITY OF NEVADA, MISSOURI**, and that the seal affixed to the foregoing instrument is the corporate seal of said City, and that said instrument was signed and sealed by authority of its City Council, and said officers acknowledged said instrument to be executed for the purposes therein stated and as the free act and deed of said City.

**IN TESTIMONY WHEREOF**, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Name:   
Notary Public in and for said State

My Commission Expires:

**JOHNA WILLIAMS**  
Notary Public - Notary Seal  
State of Missouri, Barton County  
Commission # 15987302  
My Commission Expires Dec 10, 2019

PLEASE AFFIX SEAL FIRMLY AND CLEARLY IN THIS BOX

[Special Warranty Deed]

**EXHIBIT A**

**DESCRIPTION OF THE LAND**

The land situated in the County of Vernon, State of Missouri, and described as follows:

THE EAST 227 FEET OF THE NORTH 424 FEET OF THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 36 NORTH, RANGE 31 WEST, VERNON COUNTY, MISSOURI, LYING WEST OF THE RIGHT-OF-WAY OF THE MISSOURI PACIFIC RAILROAD, EXCEPT THE NORTH 30 FEET, AND EXCEPT A TRACT DESCRIBED AS: BEGINNING IN THE WEST RIGHT-OF-WAY LINE OF THE MISSOURI PACIFIC RAILROAD AT A POINT 30 FEET SOUTH OF THE NORTH LINE OF THE SOUTHWEST QUARTER OF SECTION 34; RUN SOUTH 200 FEET; THENCE WEST 177 FEET; THENCE NORTH 200 FEET; THENCE EAST 177 FEET TO THE POINT OF BEGINNING.

## CITY'S CLOSING CERTIFICATE

I, the undersigned, hereby certify that I am the duly qualified and acting City Manager of the City of Nevada, Missouri (the "City"), and as such I am familiar with the official books and records of the City. In connection with the issuance by the City of \$960,000 maximum principal amount of Taxable Industrial Revenue Bonds (Mareth Enterprises, LLC Project), Series 2017 (the "Bonds"), I hereby certify as follows:

### 1. MATTERS CONCERNING AUTHORIZATION

**1.1. Due Organization.** The City is a constitutional charter city duly organized and existing under the laws of the State of Missouri.

**1.2. Transcript of Proceedings.** To the best of our knowledge, information and belief, the transcript of proceedings (the "Transcript") relating to the authorization and issuance of the Bonds furnished to the purchaser of the Bonds, Mareth Enterprises, LLC (the "Company"), is full and complete; the proceedings of the City shown in the Transcript have not been modified, amended or repealed; and the facts as are stated in the Transcript still exist.

**1.3. Meetings.** All meetings of the City Council as shown in the Transcript were called and held in accordance with Missouri law and a quorum was present throughout. Proper notice of the time, place and purposes of each such meeting was given to the public as required by Missouri law. A true and complete copy of the notice that was posted for each such meeting is included in the Transcript.

**1.4. Incumbency of Officers.** The following named persons were and are the duly elected, qualified and acting officers and members of the City Council at all times except as otherwise indicated during the proceedings relating to the authorization and issuance of the Bonds, as follows:

| <u>Name</u>           | <u>Office</u>     |
|-----------------------|-------------------|
| Brian L. Leonard      | Mayor             |
| Ryan Watts            | Mayor Pro Tem     |
| Carol Clyde-Gallagher | Councilmember     |
| Jayne Novak           | Councilmember     |
| Blake Hertzberg       | Councilmember     |
| Johnna Williams       | Deputy City Clerk |
| JD Kehrman            | City Manager      |

**1.5. Approval of Plan for the Project.** Pursuant to Ordinance No. 8193, approved by the City Council on December 5, 2017 (the "Ordinance"), the City Council approved a plan for an industrial development project (the "Project") conforming to the requirements of Section 100.050 of the Revised Statutes of Missouri.

**1.6. Location of Project.** The Project is located entirely within the incorporated limits of the City.

**1.7. Bonds Issued for the Company.** The City has not previously authorized or issued any obligations of any kind or character whatsoever payable out of the revenues, or the pledge thereof, under the Lease Agreement hereafter referred to.

**1.8. Non-Litigation.** To the City’s knowledge, there is no controversy, suit or other proceeding of any kind pending or threatened wherein or whereby any question is raised, or may be raised, questioning, disputing or affecting in any way the legal organization of the City, or the right or title of any of its officers or officials to their respective offices, or the legality of any official act shown to have been done in the Transcript evidencing the authorization and issuance of the Bonds, or the constitutionality or validity of the obligations represented by the Bonds, or the validity of the Bonds or any of the proceedings had in relation to the authorization, issuance or sale thereof.

## **2. MATTERS CONCERNING ISSUANCE AND DELIVERY**

**2.1. Execution of Documents.** The following documents (the “City Documents”) have been duly executed and delivered in the name and on behalf of the City by its duly authorized officers, pursuant to and in full compliance with the Ordinance, as shown in the Transcript; the copies of said documents contained in the Transcript are true, complete and correct copies or counterparts of said documents as executed and delivered by the City, and are in substantially the same form and text as the copies of such documents which were before the City Council and approved by the Ordinance; said documents have not been amended, modified or rescinded and remain in full force and effect as of the date hereof:

(a) Trust Indenture dated as of December 1, 2017 (the “Indenture”), between the City and BOKF, N.A., as trustee (the “Trustee”).

(b) Lease Agreement dated as of December 1, 2017, between the City and the Company, and a memorandum thereof to be recorded in the real property records of Vernon County, Missouri.

(c) Performance Agreement dated as of December 1, 2017, between the City and the Company.

(d) Bond Purchase Agreement dated as of December 1, 2017, between the City and the Company, as the purchaser of the Bonds.

(e) Special Warranty Deed dated December 1, 2017, from the Company, as grantor, to the City, as grantee.

**2.2. Execution of Bonds.** The Bonds, in the form of one fully-registered Bond in the maximum principal amount of not to exceed \$960,000, have been duly signed and executed by the manual signatures of the Mayor or the City Manager and the Deputy City Clerk as the duly qualified, constituted and authorized officials of the City. On the date of the Bonds, and on the date when the Bonds were executed, such officials were and at the date hereof are the officials indicated by their signatures on the Bonds and on this Certificate, respectively. The signatures of such officials on the Bonds are their true and genuine signatures, and the seal affixed or imprinted on the Bonds was and is the duly authorized seal of the City and was affixed or imprinted on the Bonds by the authority and direction of the City Council, and is the seal affixed to this Certificate.

**2.3. Representations in City Documents.** To the City’s knowledge, each of the representations of the City made in the City Documents is true and complete in all material respects as of the date hereof as if made on and as of the date hereof, and all agreements to be complied with and

obligations to be performed by the City under the Lease Agreement on or prior to the closing date of the Bonds have been complied with and performed.

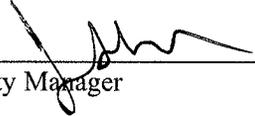
**2.4. Request to Authenticate and Deliver the Bonds.** Pursuant to **Section 205(b)** and **Section 208(d)** of the Indenture, the Trustee is hereby requested and authorized by the City to authenticate the Bond numbered 1 and to deliver it to or at the direction of the Company upon payment to the Trustee for the account of the City of the Closing Price for the Bonds as specified in the Bond Purchase Agreement.

**2.5 M.A.P. Filing Authorization.** The City hereby authorizes Armstrong Teasdale LLP to file the information required by Section 37.850 of the Revised Statutes of Missouri, as amended, on the Missouri Accountability Portal website maintained by the State of Missouri Office of Administration.

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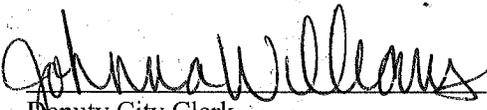
13<sup>th</sup> IN WITNESS WHEREOF, the undersigned has caused this Certificate to be executed this day of December, 2017.

**CITY OF NEVADA, MISSOURI**

By:   
\_\_\_\_\_  
City Manager

(Seal)

ATTEST:

  
\_\_\_\_\_  
Deputy City Clerk

[City's Closing Certificate]

**MINUTES**  
**REGULAR SESSION CITY COUNCIL MINUTES**  
120 S. Ash  
City Council Chambers  
Tuesday, October 17, 2017  
7:00 p.m.

***NOTICE OF MEETING***

A regular session of the City Council of Nevada, Missouri was posted pursuant to Section 2-6 and Section 2-7 of the City Code and RSMo., Chapter 610.021 with a tentative agenda on Friday, October 13, 2017 at 2:10 p.m.

***CALL TO ORDER***

A regular session of the City Council of Nevada, Missouri was held on Tuesday, October 17, 2017 pursuant to Section 2-6 and 2-7 of the City Code and Section 3.11 of the City Charter.

Mayor Leonard called the meeting to order at 7:00 p.m., followed by the Pledge of Allegiance.

***INVOCATION***

Bill Platt gave the invocation.

***ROLL CALL***

The following Council members were present for roll call:

Present: Carol Clyde-Gallagher; Blake Hertzberg; Brian Leonard; Ryan Watts

Absent: Jayne Novak

Mayor Leonard excused Councilperson Novak as she was out of town with family.

Staff present: JD Kehrman, City Manager; Kristie Modlin, Treasurer; Johnna Williams, Deputy City Clerk; Mark Mitchell, CIO; Casey Crain, Chief of Police; William Thornton, Fire Chief; Sharon Kegler, Human Resources Director; Kevin Crump, Park & Recreation Director; Eric McPeak, Alliance Water Resources.

***PROCLAMATIONS***

Mayor Leonard presented the VFW Buddy Poppy Days Proclamation.

### ***APPROVAL OF MINUTES***

Councilperson Hertzberg moved to accept the October 3, 2017 regular session City Council minutes as written. Councilperson Clyde-Gallagher provided the second. The motion was duly considered and passed unanimously.

Councilperson Watts moved to accept the October 5, 2017 special session City Council minutes as written. Councilperson Hertzberg provided the second. The motion was duly considered and passed unanimously.

Councilperson Watts moved to accept the October 12, 2017 special session City Council minutes as written. Councilperson Hertzberg provided the second. The motion was duly considered and passed unanimously.

### ***APPOINTMENTS TO BOARDS AND COMMISSION***

Mayor Leonard presented Richard Burdick for appointment to the Infrastructure Board.

Councilperson Clyde-Gallagher moved to appoint Richard Burdick to the Infrastructure Board, replacing Jack Bastow, term expiring 9/2020. Councilperson Hertzberg provided the second. The motion was duly considered and unanimously passed.

Then, Mayor Leonard presented Heather Klingaman for appointment to the Infrastructure Board.

Councilperson Hertzberg moved to appoint Heather Klingaman to the Infrastructure Board, replacing Bob Coonrod, term expiring 9/2020. Councilperson Watts provided the second. The motion was duly considered and unanimously passed.

Next, Mayor Leonard presented Jim Rayburn for appointment to the Infrastructure Board.

Councilperson Hertzberg moved to appoint Jim Rayburn to the Infrastructure Board, replacing Ray Scism, term expiring 9/2019. Councilperson Watts provided the second. The motion was duly considered and unanimously passed.

### ***CONSIDERATION OF BIDS***

There were none.

### ***PUBLIC PARTICIPATION FROM THOSE REGISTERED WITH THE CITY CLERK***

Carol Branham, 304 S. Washington, briefed City Council on Housing America Month and invited everyone to Chapman Estates on Thursday, October 19, 2017 to get regulation update and review fair market rents, will also be a petting zoo. Same event will be at Fairground Estates on Friday, October 20, 2017.

Ted Moore, 1008 N. Washington, requested cost of consultant to city, including expenses, also stated employees and public would have been more accepting to City Council's decision on Hospital if they would have been more open and meetings would have been public.

### **COMMUNICATIONS AND PETITIONS**

There were none.

### **OLD BUSINESS**

Next to be considered was Bill No. 2017-050 accepting the bid and authorizing the execution of an agreement with Ast Heating & Air of Nevada, Missouri for Community Center HVAC unit installation.

Councilperson Watts moved to place Bill No. 2017-050 on second reading by title only. Councilperson Hertzberg provided the second. Jerry Wait, 327 N. Main, stated that CDL is a local company and they had the low bid; CDL should have been awarded the bid.

The motion was duly considered and failed by the following vote:

Aye: Watts

Nay: Clyde-Gallagher; Hertzberg; Leonard

Absent: Novak

Next to be considered was Bill No. 2017-051 authorizing the execution of an agreement with Black and Veatch for an engineering study concerning Water Treatment Plant upgrades.

Councilperson Hertzberg moved to place Bill No. 2017-051 on second reading by title only. Councilperson Watts provided the second. The motion was duly considered and passed by the following vote:

Aye: Hertzberg; Leonard; Watts; Clyde-Gallagher

Nay: None

Absent: Novak

The Mayor declared Bill No. 2017-051 read a second time, passed, approved and adopted. The Bill was numbered Ordinance No. 8180 and was signed by the Mayor and attested by the City Clerk. The Mayor directed said Ordinance be engrossed upon the corporate records.

**NEW BUSINESS**

Next to be considered was Bill No. 2017-053 authorizing the execution of Change Order No. 1 to an agreement with Ozark Applicators, LLC, of Van Buren, Missouri.

Councilperson Clyde-Gallagher moved to place Bill No. 2017-053 on first reading by title only. Councilperson Hertzberg provided the second. The motion was duly considered and passed by the following vote:

Aye: Leonard; Watts; Clyde-Gallagher; Hertzberg

Nay: None

Absent: Novak

Next to be considered was Bill No. 2017-054 amending Section 2-109 of the Code of the City of Nevada, Missouri.

Councilperson Hertzberg moved to place Bill No. 2017-054 on first reading by title only. Councilperson Watts provided the second. Steve Branstetter, 15969 S. 1463 Rd., stated that he supports hospital and wanted to make sure that this ordinance only authorizes a one-time transfer; would like to know if we would get the money back.

The motion was duly considered and passed by the following vote:

Aye: Watts; Clyde-Gallagher; Hertzberg; Leonard

Nay: None

Absent: Novak

Next to be considered was Bill No. 2017-055 accepting the bid from Masek Golf Car Company to provide thirty (30) golf cars and three (3) utility cars to the Twin Lakes Sports Complex and conditionally approving an agreement with Yamaha Motor Corporation, USA.

Councilperson Hertzberg moved to place Bill No. 2017-055 on first reading by title only. Councilperson Clyde-Gallagher provided the second. The motion was duly considered and passed by the following vote:

Aye: Clyde-Gallagher; Hertzberg; Leonard; Watts

Nay: None

Absent: Novak

Next to be considered was Resolution No. 1501 approving Buzz's BBQ Two, LLC liquor license application to sell intoxicating liquor in excess of five percent of alcohol by weight, by the drink for consumption on the premises where sold.

Councilperson Clyde-Gallagher moved to approve Resolution No. 1501, seconded by Councilperson Hertzberg. The motion was duly considered and passed unanimously.

Next to be considered was Resolution No. 1502 approving a travel portion of right-of-way permit for Jeffrey & Kristina L Taylor DBA Wind Riders.

Councilperson Hertzberg moved to approve Resolution No. 1502, seconded by Councilperson Watts. The motion was duly considered and passed unanimously.

Next to be considered was Resolution No. 1503 intent of the City Council of the City of Nevada, Missouri, for the issuance of the City's Industrial Development Revenue Bonds in an aggregate principal amount not to exceed \$960,000 to finance a project for the benefit of Mareth Enterprises, LLC; and authorizing certain actions relating thereto.

Councilperson Clyde-Gallagher moved to approve Resolution No. 1503, seconded by Councilperson Hertzberg. Patrick Massey with Development Dynamics discussed the process of the bonds and this ordinance gets the process started. The motion was duly considered and passed unanimously.

## **REPORTS**

### ***Monthly Department Reports***

The following reports were reviewed and are on file in the City Clerk's Office:

- i. Municipal Court – September
- ii. Fire Department – September
- iii. Animal Control – September
- iv. Police Department – September
- v. Alliance Water Resources – September
- vi. Finance – August
  1. Business License - August

### ***Boards and Commissions Written Minutes/Reports***

There were none.

### ***Mayor's Report***

Mayor Leonard will be attending the 100 year celebration for the Carnegie Building this Thursday. Also this Thursday is the Housing Month celebration at the Housing Authority.

**City Manager's Report**

There was none.

**MISCELLANEOUS MATTERS**

Nutri Flo is outside City limits and is no longer on city sewer. DNR is heavily involved with air quality and complaints should be forwarded to DNR. Division Street project is complete.

Mayor Leonard stated that an executive session was no longer needed.

**ADJOURNMENT**

With no further business to come before City Council, Mayor Leonard asked for a motion to adjourn.

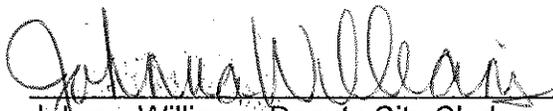
Councilperson Clyde-Gallagher moved to adjourn the regular session of City Council. Councilperson Hertzberg provided the second. The motion was duly considered and passed by the following vote:

Aye: Hertzberg; Leonard; Watts; Clyde-Gallagher

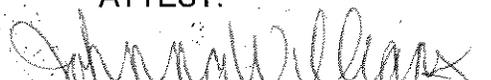
Nay: None

Absent: Novak

The meeting adjourned 8:02 p.m.

  
Johnna Williams, Deputy City Clerk

(seal)  
ATTEST:

  
Johnna Williams, Deputy City Clerk

  
Brian L. Leonard, Mayor

**RESOLUTION NO. 1503**

**RESOLUTION OF OFFICIAL INTENT OF THE CITY COUNCIL  
OF THE CITY OF NEVADA, MISSOURI, FOR THE ISSUANCE  
OF THE CITY'S INDUSTRIAL DEVELOPMENT REVENUE  
BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO  
EXCEED \$960,000 TO FINANCE A PROJECT FOR THE  
BENEFIT OF MARETH ENTERPRISES, LLC; AND  
AUTHORIZING CERTAIN ACTIONS RELATING THERETO**

**WHEREAS**, the City of Nevada, Missouri (the "City"), is authorized and empowered under the provisions of Article VI, Section 27(b) 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, equip 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**, Mareth Enterprises, LLC, a Missouri limited liability company (the "Company"), is the owner under contract of certain real property located at 1800 North Industrial Parkway, Nevada, Missouri 63901 (the "Project Site"); and

**WHEREAS**, the Company has requested that the City (a) prepare and approve a plan for an industrial development project involving the acquisition of the Project Site and certain improvements at the Project Site (collectively, the "Project"), (b) issue its industrial development revenue bonds (the "Bonds") to provide funds to pay the costs of the Project, and (c) lease the Project to the Company, all in accordance with and pursuant to the Act; and

**WHEREAS**, the Bonds would be payable solely out of payments, revenues and receipts derived from the lease of the Project by the City to the Company; and

**WHEREAS**, the City has determined that it is necessary and desirable to declare the official intent of the City to finance the costs of the Project from the proceeds of the Bonds for such purposes, subject to certain terms and conditions set forth in this Resolution; and

**WHEREAS**, Section 100.050 of the Act requires the City to prepare a plan in connection with any industrial development project proposed to be undertaken pursuant to the Act; and

**WHEREAS**, the City desires to engage and retain Development Dynamics, LLC ("Development Dynamics") to prepare a Plan for an Industrial Development Project and Tax and Cost Impact Analysis (the "Plan"); and

**WHEREAS**, the City desires to engage and retain Armstrong Teasdale LLP ("ATLLP") to act as bond counsel and prepare the necessary documents in connection with the City's issuance of the Bonds; and

**WHEREAS**, Section 100.059 of the Act requires the City Council, not less than twenty days prior to the Council's approval of the Plan, to provide notice of the proposed project to the taxing jurisdictions;

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

**Section 1. Finding of Public Benefit.** The City Council hereby finds and determines that the acquisition of the Project will promote the economic well-being and industrial development of the City and the taxing jurisdictions within which the Project is located, and that the issuance of the Bonds to pay the cost of the Project will be in furtherance of the public purposes set forth in the Act.

**Section 2. Declaration of Intent.** The City Council hereby declares the intent of the City to:

- (a) issue the Bonds in an aggregate principal amount not to exceed \$960,000 as set forth in the Memorandum of Understanding attached hereto as Exhibit A and incorporated herein by reference (the "Memorandum") to provide funds to finance the Project, with such maturities, interest rates, redemption terms and other provisions as may be determined by subsequent resolution or ordinance of the City, subject to the conditions set forth in this Resolution and as set forth in the Memorandum;
- (b) authorize and engage Development Dynamics, as plan consultant, to prepare the Plan;
- (c) authorize and engage ATLLP to serve as bond counsel and to prepare the necessary documents in connection with the City's issuance of the Bonds;
- (d) to effect the foregoing, adopt such resolutions and ordinances authorizing the execution and delivery of such instruments and the taking of such action as may be necessary or advisable for the authorization and issuance of the Bonds and take or cause to be taken such other action as may be required to implement the aforesaid.

**Section 3. Limited Obligations.** The Bonds shall be limited and special revenue obligations payable solely out of payments, revenues and receipts derived from the lease of the Project by the City to the Company, as lessee. The Bonds and the interest thereon shall not be a debt of the City or the State of Missouri, and neither the City nor the State shall be liable thereon, and the Bonds shall not constitute an indebtedness within the meaning of any constitutional, statutory or charter debt limitation or restriction.

**Section 4. Conditions to Issuance of Bonds.** This Resolution constitutes a statement of intent of the City Council. The issuance of the Bonds and the execution and delivery of any documents related to financing the Project are subject, in the sole discretion of the City, to the following conditions:

- (a) approval by the City Council of a plan for industrial development in accordance with Section 100.050 of the Act, which plan will include a tax and cost impact analysis;
- (b) authorization by ordinance of the City Council;
- (c) obtaining any other necessary governmental approvals for the Project;
- (d) agreement by the City, the Company and the purchasers of the Bonds upon (1) mutually acceptable terms for the Bonds and for the sale and delivery thereof and (2) mutually acceptable terms and conditions of any documents related to the issuance of the Bonds and the Project, and execution and delivery to the City by the purchaser of the Bonds of an investment representation letter satisfactory to the City; and

(e) receipt by the City of satisfactory indemnification for all matters relating to the Project.

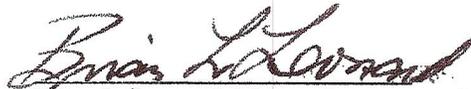
**Section 5. Notice to Taxing Jurisdictions.** The City Clerk, or designee, shall send a notice to all taxing jurisdictions from which taxable property is included in the Project, which notice shall (a) include a copy of the Plan, (b) state the date that the City Council will first consider approval of the Plan, which date shall be no less than twenty days after such notice is provided to the taxing jurisdictions, and (c) invite such entities to submit comments to the City Council regarding the Plan.

**Section 6. Preparation of Documents.** Counsel to the City, Armstrong Teasdale LLP, as Bond Counsel, and Development Dynamics, as Plan Consultant, together with the officers and employees of the City, are hereby authorized to work with the purchaser of the Bonds, the Company, their respective counsel and others, to prepare for submission to and final action by the City Council all documents necessary to effect the authorization, issuance and sale of the Bonds and other actions contemplated hereunder in connection with the financing of the Project, including, but not limited to, the Plan.

**Section 7. Further Authority.** The City hereby authorizes and empowers the officers and representatives of the City to do all such acts and things and to execute, acknowledge and deliver all such documents as may in their discretion be deemed necessary or desirable in order to carry out or comply with the terms and provisions of this Resolution in connection with the structure and sale of the Bonds. All of the acts and undertakings of such officers and representatives which are in conformity with the intent and purposes of this Resolution, whether heretofore or hereafter taken or done shall be and the same are hereby in all respects, ratified, confirmed and approved.

**Section 8. Effective Date.** This Resolution shall be in full force and effect from and after the date of its adoption.

ADOPTED this 17th day of October, 2017.

  
Brian L. Leonard, Mayor

Attest:

  
Johana Williams, Deputy City Clerk

**EXHIBIT A**  
**Memorandum of Understanding**

(see attached)

## MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (this "Memorandum"), dated as of October 17, 2017, by and among MARETH ENTERPRISES, LLC, a Missouri limited liability company (the "Company"), and the CITY OF NEVADA, MISSOURI, (the "City"), describes the intent of the parties to finance the acquisition, construction, improvement, furnishing and equipping of an industrial development project upon real property at 1800 North Industrial Parkway (the "Project Site") in the City of Nevada, Missouri, located within Vernon County.

### RECITALS

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

B. The City encourages development in its jurisdiction that enhances both the overall tax base and the services provided to its citizens and supports economic development incentive programs offered at both the state and local level that create jobs and promote investment.

C. The Company is under contract to purchase the Project Site and the facility and improvements located thereon, and desires to extend and improve the Project Site.

D. To facilitate the Company's desires and improvements to the Project Site, the City has offered to work with the Company to secure certain economic development incentives that may be available pursuant to state law (collectively, the "Incentives"), including those Incentives arising out of or derived from the Act; provided, however, that the parties acknowledge and agree that the City is not guaranteeing that Company will ever receive any such Incentives.

E. Representatives of the parties hereto have negotiated the business terms of this Memorandum as an expression of intent to proceed with further negotiations. However, except for the confidentiality provisions of Section 6 of this Memorandum, the parties shall not be legally bound hereby, and any legal rights or obligations of the parties shall arise solely out of the subsequent negotiation and execution of agreements between the parties, which have been approved by their authorized representatives. The parties hereto shall not be legally bound to enter into any definitive agreements.

NOW, THEREFORE, the parties intend to negotiate toward entering into legally binding agreements as follows:

1. **Statement of Overall Intent.** The parties hereto intend that the Company will undertake the improvements described below, in exchange for the Incentives. The City shall seek the approval of any other public entities required for the granting of the Incentives in a reasonable time period and shall support the granting of such Incentives.

2. **Company Commitments.** In consideration of the Incentives, the Company intends to make the following commitments:

(a) *Investment.* The Company expects to invest approximately \$960,000 at the Project Site (the "**Project**").

3. **Incentives.** In consideration of the Company's intention to make the commitments noted above, the City agrees to provide assistance to secure the Incentives for the Company, subject to law, legislative approvals and appropriate communications with taxing authorities, as follows:

(a) *Real Property Tax Relief.* The City intends to extend real property tax relief to the Company as follows:

- (i) The City will issue Chapter 100 taxable industrial revenue bonds to finance the Project (the "**Bonds**"), which shall be purchased by the Company. The Bonds will be secured solely from revenue generated by the Project and from no other source.
- (ii) The City will take an ownership interest in the Project, thus making the Project exempt from taxation. The City will then lease the Project to the Company (the "**Lease**"). Commencing on the City's ownership of the Project and continuing through the lease period, the Project will be 100% exempt from the ad valorem real property taxes that would have been paid on the Project, but for the City's ownership thereof for a period of ten (10) years beginning on January 1, 2018. No later than December 31, 2027, the Lease will terminate and the Project will be re-conveyed to the Company.
- (iii) The City and the Company will negotiate the terms and other conditions of the Bonds in conformance with the intent of this Memorandum, the Act, and applicable law, including, but not limited to, the following provisions: (A) the Company will be responsible for all maintenance and insurance costs, taxes attributable to those improvements existing on the Project Site prior to commencement of the Project, if any, payments in lieu of taxes, if any, and all costs related to the operation of the Project during the time the City owns or has an ownership interest therein; and (B) the Company will hold the City harmless to the extent reasonable and customary under such documentation.
- (iv) In the event the Company fails to complete the Project, the City reserves the right to terminate the Lease and the Bonds issued to

finance said Project, to reduce the tax relief granted pursuant to this subsection (a) in proportion to the degree to which the Project is incomplete, or to take any other action reasonably appropriate to reduce the Incentives granted with respect to said Project.

4. **Costs of Issuance.** The Company shall be responsible for all reasonable and customary costs of issuance of the Bonds pursuant to the Act and other Incentives, including attorneys' fees, administrative fees, and reasonable and customary-related expenses; including, but not limited to the following:

- Issuance fee to City (0.5% of Bond principal amount)
- City Attorney fees
- Bond Counsel fees
- Plan Consultant fees
- Trustee fees
- Company Counsel fees

Additionally, the parties agree to enter into a Preliminary Funding Agreement ("**Preliminary Funding Agreement**") that will outline the required payments of fees and costs in connection with the negotiation, preparation, and issuance of the Bonds and Incentives. The City's obligations and performance in connection with the Incentives and Project are subject to and conditioned upon the Company entering into and executing the Preliminary Funding Agreement and performing thereunder.

5. **Corporate and Legislative Approvals.** The mutual statements of intent herein are subject to negotiation of the terms of the Incentives acceptable to all parties, legislative approval of the City, approvals by other legislative bodies as required by law and approval by the authorized representatives of the Company.

6. **Confidentiality.** To the extent permitted by law, the parties agree that each will treat in confidence this Memorandum and all documents, materials and other information which each party shall have obtained during the course of the negotiations leading up to, and its performance of, this Memorandum ("**Confidential Information**"). The Confidential Information shall not be communicated to any third party, including the media, without providing advance notice to the non-disclosing party. Notwithstanding the foregoing, a party may disclose Confidential Information which (i) may become available to a party from a source other than the other party's counsel or representatives, (ii) is or becomes available to the public other than as a result of disclosure by one of the parties or their agents, (iii) is required to be disclosed under applicable law, by a regulatory agency, administrative process or judicial process, but only to the extent it must be disclosed and notice of the required disclosure is provided to the non-disclosing party prior to any disclosure to allow the non-disclosing party to comment thereon and/or to seek a protective order or similar relief, or (iv) a party reasonably deems it necessary to disclose in order to obtain any of the consents or approvals contemplated hereby, provided the disclosing party instructs the recipient of the confidentiality obligations hereunder. The parties further agree to take appropriate action by instruction, agreement or otherwise with its employees who are permitted access to the Confidential Information to notify them of the obligations hereunder.

7. Cooperation. The parties will cooperate with each other in securing the Incentives and will share in the responsibilities associated with approving the Project and issuing the Company Bonds.

8. Indemnity. The Company agrees to indemnify and hold harmless the City from and against any claim, lawsuit, judgment or penalty arising from the transactions described herein and the Incentives contemplated above, including, without limitation, all attorneys' fees incurred in defending same.

9. Execution in Counterparts. This Memorandum 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.

10. Non-Binding. Representatives of the parties hereto have negotiated the business terms of this Memorandum as an expression of intent to proceed with further negotiations. This Memorandum is solely intended to reflect the intent of the parties and is not intended to be a contract binding on any party hereto, including the City. The parties acknowledge the terms and conditions of this Memorandum and that the foregoing shall not be binding unless and until the City and the Company have entered into and executed a fully negotiated Performance Agreement.

*[The remainder of this page is intentionally left blank – signature page(s) to follow]*

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

CITY OF NEVADA, MISSOURI

By: JD Kehrman

Name: [Signature]

Title: City Manager

[SEAL]

ATTEST

[Signature]  
City Clerk

MARETH ENTERPRISES, LLC

By: Lewis Gray

Name: [Signature]

Title: COO

**MINUTES  
REGULAR SESSION CITY COUNCIL MINUTES  
120 S. Ash  
City Council Chambers  
Tuesday, November 21, 2017  
7:00 p.m.**

***NOTICE OF MEETING***

A regular session of the City Council of Nevada, Missouri was posted pursuant to Section 2-6 and Section 2-7 of the City Code and RSMo., Chapter 610.021 with a tentative agenda on Friday, November 17, 2017 at 4:45 p.m.

***CALL TO ORDER***

A regular session of the City Council of Nevada, Missouri was held on Tuesday, November 21, 2017 pursuant to Section 2-6 and 2-7 of the City Code and Section 3.11 of the City Charter.

Mayor Leonard called the meeting to order at 7:02 p.m., followed by the Pledge of Allegiance.

***INVOCATION***

Mayor Leonard gave the invocation.

***ROLL CALL***

The following Council members were present for roll call:

Present: Carol Clyde-Gallagher; Blake Hertzberg; Brian Leonard; Jayne Novak; Ryan Watts

Absent: None

Staff present: JD Kehrman, City Manager; Wm. G. McCaffree, City Attorney; Kristie Modlin, Treasurer; Johnna Williams, Deputy City Clerk; Mark Mitchell, CIO; Casey Crain, Chief of Police; William Thornton, Fire Chief; Randy Marti, Administrative Service Director; Sharon Kegler, Human Resources Director; Kevin Crump, Park & Recreation Director; Tom Hutchinson, Field Operations Manager; Eric McPeak, Alliance Water Resources; Jennie Payne, Finance Manager.

***PROCLAMATIONS***

There were none.

***APPROVAL OF MINUTES***

Councilperson Clyde-Gallagher moved to accept the November 7, 2017 regular session City Council minutes as written. Councilperson Watts provided the second. The motion was duly considered and passed unanimously.

***APPOINTMENTS TO BOARDS AND COMMISSION***

There were none.

***CONSIDERATION OF BIDS***

Then, consideration of Bid No. 2017-60 High Service Pump #4 Motor, Water Treatment Plant – Alliance.

Councilperson Hertzberg moved to approve the bid from by Independent Electric in the amount of \$5,451.00 for a new 75 HP electric motor. Councilperson Watts provided the second. The motion was duly considered and passed by the following vote:

Aye: Clyde-Gallagher; Hertzberg; Leonard; Novak; Watts

Nay: None

Absent: None

Next was consideration of Bid No. 2017-61 Computer Replacement – Finance.

Councilperson Watts moved to approve the purchase of replacement computers for a not to exceed amount of \$8,050.00. Councilperson Novak provided the second. The motion was duly considered and passed by the following vote:

Aye: Hertzberg; Leonard; Novak; Watts; Clyde-Gallagher

Nay: None

Absent: None

***PUBLIC PARTICIPATION FROM THOSE REGISTERED WITH THE CITY CLERK***

There were none.

***COMMUNICATIONS AND PETITIONS***

There were none.

***OLD BUSINESS***

Next to be considered was Bill No. 2017-057 authorizing the execution of an agreement with the Vernon County Commission for the 2017 Real Estate and Personal Property tax billings and collection.

Councilperson Novak moved to place Bill No. 2017-057 on second reading by title only. Councilperson Hertzberg provided the second. The motion was duly considered and passed by the following vote:

Aye: Leonard; Novak; Watts; Clyde-Gallagher; Hertzberg

Nay: None

Absent: None

The Mayor declared Bill No. 2017-057 read a second time, passed, approved and adopted. The Bill was numbered Ordinance No. 8185 and was signed by the Mayor and attested by the City Clerk. The Mayor directed said Ordinance be engrossed upon the corporate records.

Next to be considered was Bill No. 2017-058 accepting the bid and authorizing the execution of an agreement with CDL Electric of Pittsburg, KS for Community Center HVAC unit installation.

Councilperson Hertzberg moved to place Bill No. 2017-058 on second reading by title only. Councilperson Clyde-Gallagher provided the second. The motion was duly considered and passed by the following vote:

Aye: Novak; Clyde-Gallagher; Hertzberg; Leonard

Nay: Watts

Absent: None

The Mayor declared Bill No. 2017-058 read a second time, passed, approved and adopted. The Bill was numbered Ordinance No. 8186 and was signed by the Mayor and attested by the City Clerk. The Mayor directed said Ordinance be engrossed upon the corporate records.

Next to be considered was Bill No. 2017-059 accepting the bid and authorizing the execution of an agreement with Mark Rives of Nevada, Missouri for City Hall exterior repairs.

Councilperson Hertzberg moved to place Bill No. 2017-059 on second reading by title only. Councilperson Novak provided the second. The motion was duly considered and passed by the following vote:

Aye: Watts; Clyde-Gallagher; Hertzberg; Leonard; Novak  
Nay: None  
Absent: None

The Mayor declared Bill No. 2017-059 read a second time, passed, approved and adopted. The Bill was numbered Ordinance No. 8187 and was signed by the Mayor and attested by the City Clerk. The Mayor directed said Ordinance be engrossed upon the corporate records.

Councilperson Hertzberg left Council Chambers as he has a financial interest and must abstain from Bill No. 2017-060.

Next to be considered was Bill No. 2017-060 accepting the bid and authorizing the execution of an agreement with Hertzberg Furniture of Nevada, Missouri for City Hall carpet and flooring replacement.

Councilperson Watts moved to place Bill No. 2017-060 on second reading by title only. Councilperson Novak provided the second. The motion was duly considered and passed by the following vote:

Aye: Clyde-Gallagher; Leonard; Novak; Watts  
Nay: None  
Abstain: Hertzberg  
Absent: None

The Mayor declared Bill No. 2017-060 read a second time, passed, approved and adopted. The Bill was numbered Ordinance No. 8188 and was signed by the Mayor and attested by the City Clerk. The Mayor directed said Ordinance be engrossed upon the corporate records.

Councilperson Hertzberg returned to Council Chambers.

Next to be considered was Bill No. 2017-061 accepting the bid and authorizing the execution of an agreement with Santa Paula Awning of El Dorado Springs, Missouri for City Hall entry door replacement.

Councilperson Watts moved to place Bill No. 2017-061 on second reading by title only. Councilperson Hertzberg provided the second. The motion was duly considered and passed by the following vote:

Aye: Hertzberg; Leonard; Novak; Watts; Clyde-Gallagher

Nay: None

Absent: None

The Mayor declared Bill No. 2017-061 read a second time, passed, approved and adopted. The Bill was numbered Ordinance No. 8189 and was signed by the Mayor and attested by the City Clerk. The Mayor directed said Ordinance be engrossed upon the corporate records.

Next to be considered was Bill No. 2017-062 amending Chapter 2-12 of the Code of the City of Nevada, Missouri.

Councilperson Novak moved to place Bill No. 2017-062 on second reading by title only. Councilperson Watts provided the second. The motion was duly considered and passed by the following vote:

Aye: Leonard; Novak; Watts; Clyde-Gallagher; Hertzberg

Nay: None

Absent: None

The Mayor declared Bill No. 2017-062 read a second time, passed, approved and adopted. The Bill was numbered Ordinance No. 8190 and was signed by the Mayor and attested by the City Clerk. The Mayor directed said Ordinance be engrossed upon the corporate records.

### ***NEW BUSINESS***

Next to be considered was Bill No. 2017-063 accepting additional right-of-way easements for the Clay Street Phase II Sewer Project.

Councilperson Clyde-Gallagher left Council Chambers as she has an interest in Bill No. 2017-063.

Councilperson Watts moved to place Bill No. 2017-063 on first reading by title only. Councilperson Hertzberg provided the second. The motion was duly considered and passed by the following vote:

Aye: Novak; Watts; Hertzberg; Leonard

Nay: None

Abstain: Clyde-Gallagher

Absent: None

Councilperson Clyde-Gallagher returned to Council Chambers.

Next to be considered was Bill No. 2017-064 authorizing the execution of an agreement with Timberworks Lumberjack Show for a special event scheduled on October 6, 2018.

Councilperson Novak moved to place Bill No. 2017-064 on first reading by title only. Councilperson Watts provided the second. The motion was duly considered and passed by the following vote:

Aye: Watts; Clyde-Gallagher; Hertzberg; Leonard; Novak

Nay: None

Absent: None

Next to be considered was Bill No. 2017-065 authorizing the City of Nevada, Missouri to issue its Taxable Industrial Revenue Bonds (Mareth Enterprises, LLC Project), in a principal amount not to exceed \$960,000, for the purpose of providing funds to pay the costs of acquiring and improving an Industrial Development Project; approving a plan for the Project; and authorizing the City to enter into certain agreements and take certain other actions in connection with the issuance of the bonds.

Councilperson Hertzberg moved to place Bill No. 2017-065 on first reading by title only. Councilperson Clyde-Gallagher provided the second. Representatives from Mareth Enterprises gave an overview of the project. The motion was duly considered and passed by the following vote:

Aye: Clyde-Gallagher; Hertzberg; Leonard; Novak; Watts

Nay: None

Absent: None

Next to be considered was Resolution No. 1505 approving Midas Operations LLC liquor license application to sell intoxicating liquor in the original package.

Councilperson Novak moved to approve Resolution No. 1505, seconded by Councilperson Watts. The motion was duly considered and passed unanimously.

## **REPORTS**

### ***Monthly Department Reports***

The following reports were reviewed and are on file in the City Clerk's Office:

- i. Municipal Court – October

- ii. Fire Department – October
- iii. Animal Control – October
- iv. Police Department – October
- v. Alliance Water Resources – October
- vi. Finance – September
  - 1. Business License - September

***Boards and Commissions Written Minutes/Reports***

There were none.

***Mayor's Report***

There was none.

***City Manager's Report***

There was none.

***MISCELLANEOUS MATTERS***

Mayor Leonard reminded everyone about Mayor's Christmas tree lighting, lights at the lake, Christmas Parade and Miss Merry Christmas.

***EXECUTIVE SESSION***

The City Manager requested an executive session in accordance with Section 610.021 RSMo., Subparagraph (3) Hiring, firing, disciplining or promoting of particular employees by a public governmental body when personal information about the employee is discussed or recorded.

Councilperson Hertzberg moved to go into executive session for reasons in accordance with Section 610.021 RSMo., Subparagraph (3) Hiring, firing, disciplining or promoting of particular employees by a public governmental body when personal information about the employee is discussed or recorded, after a five-minute recess. The second was provided by Councilperson Watts.

The motion was duly considered and passed by the following vote:

- Aye: Hertzberg; Leonard; Novak; Watts; Clyde-Gallagher
- Nay: None
- Absent: None

An executive session of the City Council of the City of Nevada, Missouri was held in the City Council Chambers, 120 S. Ash, Nevada, Missouri, beginning at 7:31 p.m.

Present: Clyde-Gallagher; Hertzberg; Leonard; Novak; Watts

Absent: None

Staff present: JD Kehrman, City Manager; Kristie Modlin, Treasurer; Johnna Williams, Deputy City Clerk; Sharon Kegler, Human Resources Director

Discussion was limited to Section 610.021 RSMo., Subparagraph (3) Hiring, firing, disciplining or promoting of particular employees by a public governmental body when personal information about the employee is discussed or recorded.

Councilperson Watts moved to adjourn the executive session and move back into regular session. The second was provided by Councilperson Novak. The motion was duly considered and passed by the following vote:

Aye: Leonard; Novak; Watts; Clyde-Gallagher; Hertzberg

Absent: None

Executive session adjourned at 8:18 p.m.

### **ADJOURNMENT**

With no further business to come before City Council, Mayor Leonard asked for a motion to adjourn.

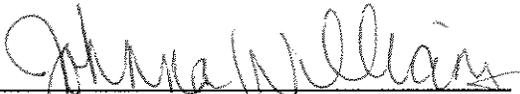
Councilperson Novak moved to adjourn the regular session of City Council. Councilperson Watts provided the second. The motion was duly considered and passed by the following vote:

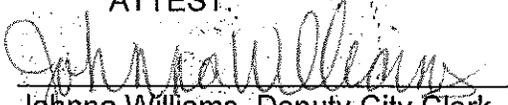
Aye: Novak; Watts; Clyde-Gallagher; Hertzberg; Leonard

Nay: None

Absent: None

The meeting adjourned 8:19 p.m.

  
Johnna Williams, Deputy City Clerk

(seal)  
ATTEST:  
  
Johnna Williams, Deputy City Clerk

  
Brian L. Leonard, Mayor

**MINUTES**  
**REGULAR SESSION CITY COUNCIL MINUTES**  
**120 S. Ash**  
**City Council Chambers**  
**Tuesday, December 5, 2017**  
**7:00 p.m.**

***NOTICE OF MEETING***

A regular session of the City Council of Nevada, Missouri was posted pursuant to Section 2-6 and Section 2-7 of the City Code and RSMo., Chapter 610.021 with a tentative agenda on Friday, December 1, 2017 at 4:30 p.m.

***CALL TO ORDER***

A regular session of the City Council of Nevada, Missouri was held on Tuesday, December 5, 2017 pursuant to Section 2-6 and 2-7 of the City Code and Section 3.11 of the City Charter.

Mayor Leonard called the meeting to order at 7:02 p.m., followed by the Pledge of Allegiance.

***INVOCATION***

Gary Almquist gave the invocation.

***ROLL CALL***

The following Council members were present for roll call:

Present: Carol Clyde-Gallagher; Blake Hertzberg; Brian Leonard; Jayne Novak; Ryan Watts

Absent: None

Staff present: JD Kehrman, City Manager; Wm. G. McCaffree, City Attorney; Kristie Modlin, Treasurer; Johnna Williams, Deputy City Clerk; Mark Mitchell, CIO; Casey Crain, Chief of Police; William Thornton, Fire Chief; Randy Marti, Administrative Service Director; Sharon Kegler, Human Resources Director; Kevin Crump, Park & Recreation Director; Tom Hutchinson, Field Operations Manager; Eric McPeak, Alliance Water Resources; Jennie Payne, Finance Manager; Tera McFarland, Community Center Supervisor.

***PROCLAMATIONS***

There were none.

**APPROVAL OF MINUTES**

Councilperson Novak moved to accept the November 21, 2017 special session City Council minutes as written. Councilperson Watts provided the second. The motion was duly considered and passed unanimously.

Councilperson Hertzberg moved to accept the November 21, 2017 regular session City Council minutes as written. Councilperson Novak provided the second. The motion was duly considered and passed unanimously.

**APPOINTMENTS TO BOARDS AND COMMISSION**

There were none.

**CONSIDERATION OF BIDS**

Then, consideration of Bid No. 2017-58 2018 Fuel – Public Works.

Councilperson Novak moved to approve the bid from MFA-Petro for \$.05 cents off posted price for bulk fuel and \$.035 cents of posted price for automotive fuel. Councilperson Hertzberg provided the second. The motion was duly considered and passed by the following vote:

Aye: Clyde-Gallagher; Hertzberg; Leonard; Novak; Watts

Nay: None

Absent: None

Next was consideration of Bid No. 2017-62 High Service Pump #1 Replacement – Alliance.

Councilperson Clyde-Gallagher moved to approve the bid from Layne Christensen Company in the amount of \$10,951. Councilperson Watts provided the second. The motion was duly considered and passed by the following vote:

Aye: Hertzberg; Leonard; Novak; Watts; Clyde-Gallagher

Nay: None

Absent: None

**PUBLIC PARTICIPATION FROM THOSE REGISTERED WITH THE CITY CLERK**

There were none.

**COMMUNICATIONS AND PETITIONS**

Cassie Sanders, Kaysinger Basin, discussed the Vernon County Hazard Mitigation Plan and kick-off meeting scheduled for December 7, 2017 at Healthy Nevada.

**OLD BUSINESS**

Next to be considered was Bill No. 2017-063 accepting additional right-of-way easements for the Clay Street Phase II Sewer Project.

Councilperson Clyde-Gallagher left Council Chambers as she has an interest in Bill No. 2017-063.

Councilperson Novak moved to place Bill No. 2017-063 on second reading by title only. Councilperson Hertzberg provided the second. The motion was duly considered and passed by the following vote:

- Aye: Leonard; Novak; Watts; Hertzberg
- Nay: None
- Abstain: Clyde-Gallagher
- Absent: None

The Mayor declared Bill No. 2017-063 read a second time, passed, approved and adopted. The Bill was numbered Ordinance No. 8191 and was signed by the Mayor and attested by the City Clerk. The Mayor directed said Ordinance be engrossed upon the corporate records.

Councilperson Clyde-Gallagher returned to Council Chambers.

Next to be considered was Bill No. 2017-064 authorizing the execution of an agreement with Timberworks Lumberjack Show for a special event scheduled on October 6, 2018.

Councilperson Clyde-Gallagher moved to place Bill No. 2017-064 on second reading by title only. Councilperson Watts provided the second. The motion was duly considered and passed by the following vote:

- Aye: Novak; Watts; Clyde-Gallagher; Hertzberg; Leonard
- Nay: None
- Absent: None

The Mayor declared Bill No. 2017-064 read a second time, passed, approved and adopted. The Bill was numbered Ordinance No. 8192 and was signed by the Mayor and attested by the City Clerk. The Mayor directed said Ordinance be engrossed upon the corporate records.

Next to be considered was Bill No. 2017-065 authorizing the City of Nevada, Missouri to issue its Taxable Industrial Revenue Bonds (Mareth Enterprises, LLC Project), in a principal amount not to exceed \$960,000, for the purpose of providing funds to pay the costs of acquiring and improving an Industrial Development Project; approving a plan for the Project; and authorizing the City to enter into certain agreements and take certain other actions in connection with the issuance of the bonds.

Councilperson Hertzberg moved to place Bill No. 2017-065 on second reading by title only. Councilperson Novak provided the second. The motion was duly considered and passed by the following vote:

Aye: Watts; Clyde-Gallagher; Hertzberg; Leonard; Novak  
Nay: None  
Absent: None

The Mayor declared Bill No. 2017-065 read a second time, passed, approved and adopted. The Bill was numbered Ordinance No. 8193 and was signed by the Mayor and attested by the City Clerk. The Mayor directed said Ordinance be engrossed upon the corporate records.

### ***NEW BUSINESS***

Next to be considered was Bill No. 2017-066 Amending Chapter 6 of the Nevada City Code pertaining to Dangerous Buildings.

Councilperson Novak moved to place Bill No. 2017-066 on first reading by title only. Councilperson Hertzberg provided the second. The motion was duly considered and passed by the following vote:

Aye: Clyde-Gallagher; Hertzberg; Leonard; Novak; Watts  
Nay: None  
Absent: None

Next to be considered was Bill No. 2017-067 Authorizing the execution of an agreement by and between the Vernon County Commission and the City of Nevada Missouri for 911 Dispatch Services.

Councilperson Clyde-Gallagher moved to place Bill No. 2017-067 on first reading by title only. Councilperson Novak provided the second. The motion was duly considered and passed by the following vote:

Aye: Hertzberg; Leonard; Novak; Watts; Clyde-Gallagher  
Nay: None  
Absent: None

Next to be considered was Bill No. 2017-068 Authorizing a fee structure for Hangar rentals and other fees at the Nevada Municipal Airport.

Councilperson Novak moved to place Bill No. 2017-068 on first reading by title only. Councilperson Clyde-Gallagher provided the second. The motion was duly considered and passed by the following vote:

Aye: Leonard; Novak; Watts; Clyde-Gallagher; Hertzberg  
Nay: None  
Absent: None

Next to be considered was Bill No. 2017-069 Approving and authorizing the execution of Amendment No. 3 to the contract between the City of Nevada, Missouri and Alliance Water Resources, Inc.

Councilperson Novak moved to place Bill No. 2017-069 on first reading by title only. Councilperson Hertzberg provided the second. The motion was duly considered and passed by the following vote:

Aye: Novak; Watts; Clyde-Gallagher; Hertzberg; Leonard  
Nay: None  
Absent: None

Then, Mayor Leonard opened a public hearing regarding the 2018 water and sewer rates at 7:19 p.m.

With no public comment the public hearing was closed at 7:19 p.m.

Next to be considered was Bill No. 2017-070 Amending Chapter 28 of the Nevada City Code pertaining to sewers and sewage disposal.

Councilperson Hertzberg moved to place Bill No. 2017-070 on first reading by title only. Councilperson Novak provided the second. The motion was duly considered and passed by the following vote:

Aye: Watts; Clyde-Gallagher; Hertzberg; Leonard; Novak  
Nay: None  
Absent: None

Next to be considered was Bill No. 2017-071 Amending Chapter 40 of the Nevada City Code pertaining to water service.

Councilperson Watts moved to place Bill No. 2017-071 on first reading by title only. Councilperson Clyde-Gallagher provided the second. The motion was duly considered and passed by the following vote:

Aye: Clyde-Gallagher; Hertzberg; Leonard; Novak; Watts  
Nay: None  
Absent: None

Next to be considered was Bill No. 2017-072 Amending the Fiscal 2017 Budget.

Councilperson Watts moved to place Bill No. 2017-072 on first reading by title only. Councilperson Novak provided the second. The motion was duly considered and passed by the following vote:

Aye: Hertzberg; Leonard; Novak; Watts; Clyde-Gallagher  
Nay: None  
Absent: None

Then, Mayor Leonard opened a public hearing regarding the 2018 Annual Fiscal Budget of the City of Nevada, Missouri at 7:22 p.m.

Sheree Gayman, 225 W. Austin, spoke concerning the tourism budget and requested the City Council to reconsider the grant amount the Chamber requested.

With no further public comment the public hearing was closed at 7:24 p.m.

Next to be considered was Bill No. 2017-073 Approving the Fiscal 2018 Budget of the City of Nevada, Missouri, appropriating from the revenue of the City requisite funds therefor, providing for the adjustments thereof, providing for the salaries of the City

employees, approving the Five-Year Capital Improvement Program, updating the Organization Chart, and approving the Public Records and Abatement Fee schedules.

Councilperson Hertzberg moved to place Bill No. 2017-073 on first reading by title only. Councilperson Novak provided the second. The motion was duly considered and passed by the following vote:

Aye: Leonard; Novak; Watts; Clyde-Gallagher; Hertzberg  
Nay: None  
Absent: None

Next to be considered was Bill No. 2017-074 Establishing a Fee Schedule for the use of the Franklin P. Norman City County Community Center.

Councilperson Novak moved to place Bill No. 2017-074 on first reading by title only. Councilperson Hertzberg provided the second. The motion was duly considered and passed by the following vote:

Aye: Novak; Watts; Clyde-Gallagher; Hertzberg; Leonard  
Nay: None  
Absent: None

Next to be considered was Bill No. 2017-075 Establishing a Fee Schedule for the use of the Park Shelter Houses, Colonel John Marmaduke Community Building and Twin Lakes Sports Complex Ball Fields.

Councilperson Novak moved to place Bill No. 2017-075 on first reading by title only. Councilperson Clyde-Gallagher provided the second. The motion was duly considered and passed by the following vote:

Aye: Watts; Clyde-Gallagher; Hertzberg; Leonard; Novak  
Nay: None  
Absent: None

Next to be considered was Bill No. 2017-076 Establishing a Fee Schedule for the use of the Walton Aquatic Center.

Councilperson Novak moved to place Bill No. 2017-076 on first reading by title only. Councilperson Watts provided the second. The motion was duly considered and passed by the following vote:

Aye: Clyde-Gallagher; Hertzberg; Leonard; Novak; Watts  
Nay: None  
Absent: None

Next to be considered was Bill No. 2017-077 Establishing a Fee Schedule for the use of the Frank E. Peters Municipal Golf Course.

Councilperson Novak moved to place Bill No. 2017-077 on first reading by title only. Councilperson Hertzberg provided the second. The motion was duly considered and passed by the following vote:

Aye: Hertzberg; Leonard; Novak; Watts; Clyde-Gallagher  
Nay: None  
Absent: None

Next to be considered was Resolution No. 1506 Approving membership in the Kaysinger Basin Regional Planning Commission.

Councilperson Watts moved to approve Resolution No. 1506, seconded by Councilperson Hertzberg. The motion was duly considered and passed unanimously.

## **REPORTS**

### ***Monthly Department Reports***

There were none.

### ***Boards and Commissions Written Minutes/Reports***

The following reports were reviewed and are on file in the City Clerk's Office:

- i. NRMCM Board – October 30, 2017
- ii. Park Board – October 25, 2017

### ***Mayor's Report***

There was none.

### ***City Manager's Report***

City Manager, JD Kehrman reported, that staff did a good job on the budget.

**MISCELLANEOUS MATTERS**

Councilperson Clyde-Gallagher congratulated Park Staff on a great job at the Candy Cane Hunt, it was well attended.

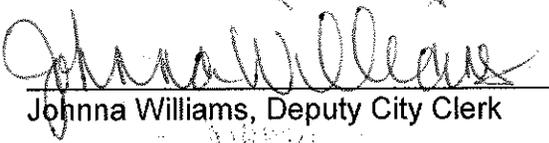
**ADJOURNMENT**

With no further business to come before City Council, Mayor Leonard asked for a motion to adjourn.

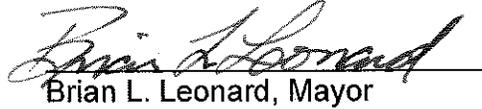
Councilperson Watts moved to adjourn the regular session of City Council. Councilperson Clyde-Gallagher provided the second. The motion was duly considered and passed by the following vote:

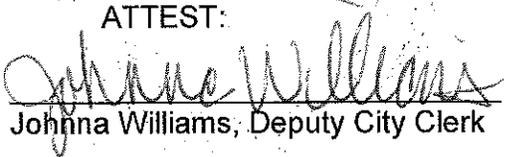
Aye: Leonard; Novak; Watts; Clyde-Gallagher; Hertzberg  
Nay: None  
Absent: None

The meeting adjourned at 7:31 p.m.

  
Johnna Williams, Deputy City Clerk

(seal)

  
Brian L. Leonard, Mayor

ATTEST:  
  
Johnna Williams, Deputy City Clerk

**AN ORDINANCE AUTHORIZING THE CITY OF NEVADA, MISSOURI TO ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS (MARETH ENTERPRISES, LLC PROJECT), IN A PRINCIPAL AMOUNT NOT TO EXCEED \$960,000, FOR THE PURPOSE OF PROVIDING FUNDS TO PAY THE COSTS OF ACQUIRING AND IMPROVING AN INDUSTRIAL DEVELOPMENT PROJECT; APPROVING A PLAN FOR THE PROJECT; AND AUTHORIZING THE CITY TO ENTER INTO CERTAIN AGREEMENTS AND TAKE CERTAIN OTHER ACTIONS IN CONNECTION WITH THE ISSUANCE OF THE BONDS.**

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

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

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

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

**WHEREAS**, the City Council hereby finds and determines that it is desirable for the improvement of the economic welfare and development of the City and within the public purposes of the Act that the City: (1) approve the Plan pursuant to the Act; (2) issue its Taxable Industrial Revenue Bonds (Mareth Enterprises, LLC Project), in the maximum principal amount of \$960,000 (the "Bonds"), for the purpose of acquiring certain real property and the existing improvements thereon located at 1800 North Industrial Parkway (the "Project Site"), and improving the Project Site and existing improvements thereon (the "Project"), all as more fully described in the Indenture and in the Lease Agreement hereinafter authorized; (3) lease the Project and Project Site to Mareth Enterprises, LLC (the "Company"); and (4) enter into a Performance Agreement with the Company, under which the Company will make certain payments to the City in consideration of the City issuing the Bonds; and

**WHEREAS**, the City Council further finds and determines that it is necessary and desirable in connection with the implementation of the Plan and the issuance of the Bonds that the City enter into certain documents, and 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 NEVADA, MISSOURI, AS FOLLOWS:**

**Section 1. Approval of the Plan.** The City Council hereby approves the Plan for an Industrial Development Project in the form of **Exhibit A**, attached hereto and incorporated herein by reference.

**Section 2. Authorization for the Project.** The City is hereby authorized to provide for the acquisition, construction, installation, equipping, improving, and expansion of the Project, all in the manner and as more particularly described in the Indenture and the Lease Agreement hereinafter authorized.

**Section 3. Authorization of the Bonds.** The City is hereby authorized to issue and sell the Bonds as described in the recitals hereto for the purpose of providing funds to pay the costs of the Project. The Bonds shall be issued and secured pursuant to the Indenture described below and shall have such terms, provisions, covenants and agreements as are set forth in the Indenture.

**Section 4. Limitation on Liability.** The Bonds and the interest thereon shall be limited obligations of the City, payable solely out of certain payments, revenues and receipts derived by the City from the Lease Agreement described below. Such payments, revenues and receipts shall be pledged and assigned to the bond trustee (the "Trustee") named in the Indenture as security for the payment of the Bonds as provided in the Indenture. The Bonds and the interest thereon shall not constitute general obligations of the City, the State of Missouri (the "State") or any political subdivision thereof, and neither the City nor the State shall be liable thereon. The Bonds shall not constitute an indebtedness within the meaning of any constitutional, charter, or statutory debt limitation or restriction, and are not payable in any manner by taxation.

**Section 5. Authorization of Documents.** The City is hereby authorized to enter into the following documents (collectively, the "City Documents"), in substantially the forms presented to and approved by the City Council and attached to this Ordinance, with such changes therein as shall be approved by the officials of the City executing the documents, such officials' signatures thereon being conclusive evidence of their approval thereof:

(a) Trust Indenture (the "Indenture") between the City and the Trustee, in substantially the form attached hereto as **Exhibit B** and incorporated herein by reference, pursuant to which the Bonds will be issued and the City will pledge the Project and Project Site and assign certain of the payments, revenues and receipts received pursuant to the Lease Agreement to the Trustee for the benefit and security of the owners of the Bonds upon the terms and conditions as set forth in the Indenture.

(b) Lease Agreement (the "Lease Agreement") between the City and the Company, in substantially the form attached hereto as **Exhibit C** and incorporated herein by reference, under which the City will lease the Project and Project Site to the Company pursuant to the terms and conditions in the Lease Agreement, in consideration of rental payments by the Company that will be sufficient to pay the principal of and interest on the Bonds.

(c) Bond Purchase Agreement between the City and the Company, in substantially the form attached hereto as **Exhibit D** and incorporated herein by reference.

(d) Performance Agreement between the City and the Company, in substantially the form attached hereto as **Exhibit E** and incorporated herein by reference.

(e) Special Warranty Deed from the Company to the City, in substantially the form attached hereto as **Exhibit F** and incorporated herein by reference.

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

**Section 7. Ratification of Prior Actions.** All prior actions taken by the City staff and consultants in conjunction with the preparation of the Plan and the City Documents are hereby ratified and confirmed.

**Section 8. Further Authority.** The City shall, and the officials, agents and employees of the City are hereby authorized to, take such further action, and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance and to carry out, comply with and perform the duties of the City with respect to the Bonds and the City Documents. The Mayor or the City Manager are hereby authorized, through the term of the Lease Agreement, to execute all documents on behalf of the City (including documents pertaining to the transfer of property or the financing or refinancing of the Project by the Company) as may be required to carry out and comply with the intent of this Ordinance, the Indenture and the Lease Agreement. The Mayor or the City Manager are further authorized, on behalf of the City, to grant such consents, estoppels and waivers relating to the Bonds, the Indenture, the Lease Agreement or the Performance Agreement as may be requested during the term thereof; provided, such consents, estoppels and/or waivers shall not increase the principal amount of the Bonds, increase the term of the Lease Agreement or the tax exemption as provided for therein, waive an event of default or materially change the nature of the transaction. The City Clerk is authorized to attest to and affix the seal of the City to any document authorized by this Section.

**Section 9. Severability.** If any section of this Ordinance is found by a court of competent jurisdiction to be invalid or unconstitutional, the remaining sections of this Ordinance shall remain valid unless otherwise directed by the court.

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

[Remainder of Page Intentionally Left Blank]

**PASSED, APPROVED, and ADOPTED** this 5th day of December, 2017, by the Council of the City of Nevada, Missouri.

**CITY OF NEVADA, MISSOURI**

By: *Brian L. Leonard*  
Name: Brian L. Leonard  
Title: Mayor

[SEAL]

ATTEST:

*Johnna Williams*  
Johnna Williams, Deputy City Clerk

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**CITY OF NEVADA, MISSOURI**

**PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT**

**FOR THE**

**MARETH ENTERPRISES, LLC PROJECT**

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**October 23, 2017**

**PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT  
FOR THE  
MARETH ENTRPRISES, LLC PROJECT**

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The City of Nevada, Missouri (the “City”) has proposed the following plan for an industrial development project to be carried out pursuant to Article VI, Section 27(b) of the Missouri Constitution, as amended, and Sections 100.010 to 100.200 of the Revised Statutes of Missouri, as amended, for the benefit of Mareth Enterprises, LLC (the “Company”).

1. **Description of the Project.** The Company intends to purchase the real property and improvements thereon located at 1800 North Industrial Parkway, City of Nevada, Vernon County, Missouri (the “Project Site”). The “Project” consists of acquiring and improving the real property and improvements located at the Project Site, then leasing the Project to the Company (with an option to purchase).

The Project will further the economic development and general welfare of the City and the State of Missouri (the “State”).

2. **Estimate of the Cost of the Project.** The Project is expected to cost approximately \$960,000.
3. The Fiscal Cost-Benefit Analysis attached hereto as **Exhibit A**, and incorporated herein by reference, is based on this expected investment.
3. **Source of Funds to be Expended for the Project.** The source of funds to be expended for the Project will be the proceeds of \$960,000 principal amount of Taxable Industrial Development Revenue Bonds (the “Bonds”) issued by the City.
4. **Statement of the Terms upon Which the Project is to be Leased or Otherwise Disposed of by the City.** The Project will be leased (with an option to purchase) to the Company. The lease payments under the lease will equal the principal and interest on the Bonds, plus additional costs. The Company will have the option to purchase the Project at the termination of the lease. The Bonds will be payable solely from the revenues derived by the City from the lease or other disposition of the Project. The Bonds will not be an indebtedness or general obligation, debt or liability of the City.
5. **General Information Concerning the Company.** The Company is a Missouri limited liability company that desires to acquire and improve facilities within the City.

6. **Bond Purchase Arrangements.** It is expected the Company or an affiliated entity will purchase all of the Bonds.
7. **Affected Taxing Districts.** The Nevada R-5 School District (the “School District”), the City, Vernon County Ambulance District, Washington Township, Washington Township Road Department, Vernon County, Missouri (the “County”), and the State are the taxing districts affected by the Project, as shown on the Fiscal Cost-Benefit Analysis attached hereto as **Exhibit A**, and incorporated herein by reference.
8. **Equalized Assessed Valuation.** The most recent equalized assessed valuation of real property at the Project Site is \$776,000, as of January 1, 2017 (no personal property is included in the Project).
9. **Fiscal Cost/Benefit Analysis.** Attached hereto as **Exhibit A**, and incorporated herein by reference, is an analysis of the costs and benefits of the Project on the School District, County, City, and other affected taxing districts, prepared for the benefit of the City by Development Dynamics, LLC, 1001 Boardwalk Springs Place, Suite #50, O’Fallon, Missouri. The projections in the Fiscal Cost/Benefit Analysis are estimates based on numerous assumptions as set forth therein. Therefore, results from the Project may be significantly different from those shown in the Fiscal Cost/Benefit Analysis.

**Exhibit A**

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**CITY OF NEVADA, MISSOURI AND AFFECTED TAX DISTRICTS**

**FISCAL COST/BENEFIT ANALYSIS**

**FOR THE**

**MARETH ENTERPRISES, LLC PROJECT**

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*Development Dynamics, LLC ("D2") prepared this Fiscal Cost/Benefit Analysis of the proposed project by Mareth Enterprises, LLC in the City of Nevada, Vernon County, Missouri. This Fiscal Cost/Benefit Analysis was performed pursuant to Sections 100.010 to 100.200 of the Revised Statutes of Missouri, as amended ("Chapter 100"). The analysis evaluates the fiscal impact to affected tax jurisdictions as part of a Chapter 100 project. This report does not attempt quantify the overall economic impact of the Project.*

## **I. PURPOSE OF THIS ANALYSIS**

The purpose of this fiscal cost/benefit analysis is to provide timely and relevant information to the affected taxing districts to which the report is sent pursuant to Article VI, Section 27(b) of the Missouri Constitution, as amended, and Sections 100.010 to 100.200 of the Revised Statutes of Missouri, as amended, which is most often simply referred to as “Chapter 100” (collectively, the “Act”).

## **II. COMPANY BACKGROUND**

Mareth Enterprises, LLC (the “Company”), is a Missouri limited liability company that desires to acquire and improve certain real property and the improvements thereon located in the City of Nevada, Missouri (the “City”) at 1800 North Industrial Parkway (the “Project Site”).

## **III. DESCRIPTION OF THE PROJECT**

The Company has requested the City issue taxable industrial development revenue bonds (the “Bonds”) in an amount not to exceed \$960,000 to provide funds to pay the costs of acquiring and improving the Project Site (the “Project”).

The City is authorized and empowered under the provisions of the Act to (1) purchase, construct, extend and improve certain tangible personal property for the purposes set forth in the Act; (2) to issue industrial development revenue bonds for the purpose of providing funds to pay the costs of such projects; and (3) 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.

The City is considering adoption of a Plan for an Industrial Development Project (the “Development Plan”) in order to promote the economic well-being and development of the City and other affected taxing jurisdictions.

## **IV. PROJECT OBJECTIVE**

The City’s purchase of the Project and issuance of the Bonds to pay the cost of the Project will promote the economic well-being and industrial development of the City and the taxing districts, and will be in furtherance of the public purposes set forth in the Act. The Project will be leased (with an option to purchase) to the Company. The Bonds shall be limited and special revenue obligations payable solely out of payments, revenues and receipts derived from the lease of the Project by the City to the Company. The Bonds, and the interest thereon, shall not be a debt of the City or the State of Missouri, and neither the City nor the State shall be liable thereon, and the Bonds shall not constitute indebtedness within the meaning of any constitutional or statutory debt limitation or restriction.

The Project is intended to help the Company satisfy demand for its products and services. As a result of the real property tax exemption, the Company intends to establish operations and certain employment for the duration of the tax abatement period at the Project Site.

The City intends, subject to final governing body approval, for the Project to be financed through Bond proceeds and for the Project Site to be tax exempt for the time period the title is held by the City, identified as a maximum of ten (10) years beginning on January 1, 2018. It is the intent of the City, pending approvals, to provide tax savings of 100% on real property and improvements for the duration of the exemption period. Personal property is not included in the Project and shall not be tax exempt.

The City will take an ownership interest in the Project, thus making the Project exempt from taxation for the real property ad valorem taxes that would have been paid on the Project but for the City's ownership thereof. The City will then lease the Project to the Company. The City will also issue Bonds to finance the Project, which shall be purchased by the Company. The Bonds will be secured solely from revenue generated by the Project and from no other source. At the end of the tenth calendar year from the date of acquisition of the Project Site by the Company (excepted to be December 31, 2027), the lease will terminate and the Project will be re-conveyed to the Company.

#### **V. REAL PROPERTY TAX INFORMATION**

The most recent equalized assessed valuation of the real property and improvements for the Project Site is \$776,000, split between commercial and agricultural property classifications. The 2016 real property tax calculation amounted to \$51,185.65. The tax amount represents the actual total real property taxes applicable to the Project Site by all taxing jurisdictions on January 1, 2017. (No tangible personal property is included in the Project.)

#### **VI. IMPACT CALCULATIONS**

The impact on affected taxing jurisdictions was calculated through the evaluation of Project property and tax data. **Figure 1** provides a projection of the Project's real property tax revenues without exemption for the years 2018-2027; **Figure 2** shows a projection of the value of the 100% real property tax exemption to the Company during the term of the abatement (2018-2027); and **Figure 3** demonstrates a compilation of the previous figures.

#### **VII. ASSUMPTIONS**

The following assumptions were used in the preparation of the real property tax calculations:

- A. Project investment estimates are included in the Plan for Industrial Development.
- B. The term of the exemption is intended to begin January 1, 2018 and terminate on December 31, 2027.
- C. Estimated real property assessed values were derived from the existing Project Site assessed value multiplied by an adjustment factor of 32% and the combined 2017 commercial tax rate of \$6.6245 per \$100 of assessed valuation.
- D. The real property calculations assume a one percent bi-annual increase in assessed valuation through the term of the exemption.

- E. All tax estimates are rounded to the nearest dollar.
- F. Tangible personal property taxes related to the Project Site will not be exempt.

The conclusions presented in this report and the financial projections contained herein are based on comprehensive analysis of Project-specific information, information provided by the Company, published government tax tables, and other information sources considered to be reliable. There is an inherent assumption that information provided by these sources is correct, complete, and reliable. Limited steps were taken to verify the accuracy of the aforementioned assumptions; nevertheless, D2 believes they constitute a reasonable basis for the report's preparation.

### **VIII. CONDITIONS**

The tax revenue projections contained herein represent prospective information and estimates. The actual results may vary from the projections described herein. This analysis was prepared to provide timely and relevant information for the use of the School District, County, City, and other taxing jurisdictions to which the report is sent pursuant to Section 100.050 of the Revised Missouri Statutes, as amended. There is an inherent assumption that information provided by these sources is correct, complete, and reliable. The tax revenue projections represent prospective information and estimates. D2 assumes no risk for any events or uncertainties that might occur.

**FIGURE 1: REAL PROPERTY TAX IMPACT – NEW PROJECT INVESTMENT - NO EXEMPTION**

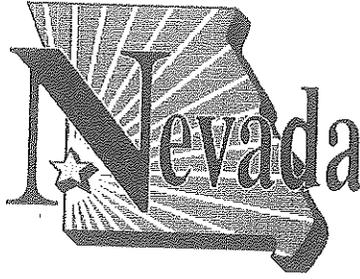
| <b>Mareth Enterprises, LLC</b>              |                 | <b>Real Property Tax Impact</b> |                  |                  |                  |                  |                  |                  |                  |                  |                  |                   |
|---|-----------------|---------------------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|-------------------|
|   |                 | <b>Without Exemption</b>        |                  |                  |                  |                  |                  |                  |                  |                  |                  |                   |
|   |                 | <b>2018</b>                     | <b>2019</b>      | <b>2020</b>      | <b>2021</b>      | <b>2022</b>      | <b>2023</b>      | <b>2024</b>      | <b>2025</b>      | <b>2026</b>      | <b>2027</b>      |                   |
| Estimated Assessed Valuation (Commerical)   |                 | 770,960                         | 778,670          | 778,670          | 786,456          | 786,456          | 794,321          | 794,321          | 802,264          | 802,264          | 810,287          |                   |
| Estimated Assessed Valuation (Agricultural) |                 | 5,040                           | 5,090            | 5,090            | 5,141            | 5,141            | 5,193            | 5,193            | 5,245            | 5,245            | 5,297            |                   |
| <b>Real Property</b>                        | <b>Tax Rate</b> |                                 |                  |                  |                  |                  |                  |                  |                  |                  |                  | <b>Total</b>      |
| Vernon County General                       | 0.17360         | \$ 1,315                        | \$ 1,328         | \$ 1,328         | \$ 1,342         | \$ 1,342         | \$ 1,355         | \$ 1,355         | \$ 1,369         | \$ 1,369         | \$ 1,382         | \$ 13,484         |
| County Health Fund                          | 0.10000         | 758                             | 765              | 765              | 773              | 773              | 781              | 781              | 788              | 788              | 796              | \$ 7,767          |
| Vernon County Ambulance                     | 0.15000         | 1,136                           | 1,148            | 1,148            | 1,159            | 1,159            | 1,171            | 1,171            | 1,183            | 1,183            | 1,194            | \$ 11,651         |
| Washington Township Road Fund               | 0.34750         | 2,633                           | 2,659            | 2,659            | 2,685            | 2,685            | 2,712            | 2,712            | 2,739            | 2,739            | 2,767            | \$ 26,992         |
| Washington Township                         | 0.09930         | 752                             | 760              | 760              | 767              | 767              | 775              | 775              | 783              | 783              | 791              | \$ 7,713          |
| Washington Special Tax                      | 0.35550         | 2,693                           | 2,720            | 2,720            | 2,747            | 2,747            | 2,775            | 2,775            | 2,803            | 2,803            | 2,831            | \$ 27,613         |
| City of Nevada                              | 0.90690         | 6,870                           | 6,939            | 6,939            | 7,009            | 7,009            | 7,079            | 7,079            | 7,149            | 7,149            | 7,221            | \$ 70,443         |
| School - Nevada R - 5                       | 3.75170         | 28,422                          | 28,706           | 28,706           | 28,993           | 28,993           | 29,283           | 29,283           | 29,576           | 29,576           | 29,872           | \$ 291,411        |
| State of Missouri                           | 0.03000         | 227                             | 230              | 230              | 232              | 232              | 234              | 234              | 237              | 237              | 239              | \$ 2,330          |
| Commercial Surcharge                        | 0.71000         | 5,379                           | 5,433            | 5,433            | 5,487            | 5,487            | 5,542            | 5,542            | 5,597            | 5,597            | 5,653            | \$ 55,149         |
| <b>Total</b>                                | <b>6.6245</b>   | <b>\$ 50,186</b>                | <b>\$ 50,687</b> | <b>\$ 50,687</b> | <b>\$ 51,194</b> | <b>\$ 51,194</b> | <b>\$ 51,706</b> | <b>\$ 51,706</b> | <b>\$ 52,223</b> | <b>\$ 52,223</b> | <b>\$ 52,746</b> | <b>\$ 514,554</b> |

**FIGURE 2: REAL PROPERTY TAX IMPACT – NEW PROJECT INVESTMENT - WITH EXEMPTION**

| Mareth Enterprises, LLC       | Real Property Tax Impact    |                  |                  |                  |                  |                  |                  |                  |                  |                  |                   |  |
|-------------------------------|-----------------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|-------------------|--|
|                               | With Exemption (10 - years) |                  |                  |                  |                  |                  |                  |                  |                  |                  |                   |  |
|                               | 2018                        | 2019             | 2020             | 2021             | 2022             | 2023             | 2024             | 2025             | 2026             | 2027             | Total             |  |
| <b>Personal Property</b>      |                             |                  |                  |                  |                  |                  |                  |                  |                  |                  |                   |  |
| Vernon County General         | \$ 1,315                    | \$ 1,328         | \$ 1,328         | \$ 1,342         | \$ 1,342         | \$ 1,355         | \$ 1,355         | \$ 1,369         | \$ 1,369         | \$ 1,382         | \$ 13,484         |  |
| County Health Fund            | 758                         | 765              | 765              | 773              | 773              | 781              | 781              | 788              | 788              | 796              | 7,767             |  |
| Vernon County Ambulance       | 1,136                       | 1,148            | 1,148            | 1,159            | 1,159            | 1,171            | 1,171            | 1,183            | 1,183            | 1,194            | 11,651            |  |
| Washington Township Road Fund | 2,633                       | 2,659            | 2,659            | 2,685            | 2,685            | 2,712            | 2,712            | 2,739            | 2,739            | 2,767            | 26,992            |  |
| Washington Township           | 752                         | 760              | 760              | 767              | 767              | 775              | 775              | 783              | 783              | 791              | 7,713             |  |
| Washington Special Tax        | 2,693                       | 2,720            | 2,720            | 2,747            | 2,747            | 2,775            | 2,775            | 2,803            | 2,803            | 2,831            | 27,613            |  |
| City of Nevada                | 6,870                       | 6,939            | 6,939            | 7,009            | 7,009            | 7,079            | 7,079            | 7,149            | 7,149            | 7,221            | 70,443            |  |
| School - Nevada R - 5         | 28,422                      | 28,706           | 28,706           | 28,993           | 28,993           | 29,283           | 29,283           | 29,576           | 29,576           | 29,872           | 291,411           |  |
| State of Missouri             | 227                         | 230              | 230              | 232              | 232              | 234              | 234              | 237              | 237              | 239              | 2,330             |  |
| Commercial Surcharge          | 5,379                       | 5,433            | 5,433            | 5,487            | 5,487            | 5,542            | 5,542            | 5,597            | 5,597            | 5,653            | 55,149            |  |
| <b>Total</b>                  | <b>\$ 50,186</b>            | <b>\$ 50,687</b> | <b>\$ 50,687</b> | <b>\$ 51,194</b> | <b>\$ 51,194</b> | <b>\$ 51,706</b> | <b>\$ 51,706</b> | <b>\$ 52,223</b> | <b>\$ 52,223</b> | <b>\$ 52,746</b> | <b>\$ 514,554</b> |  |

FIGURE 4: FISCAL COST/BENEFIT ANALYSIS SUMMARY

| <b>Mareth Enterprises, LLC</b> |  |  |                             |
|--------------------------------|--|--|-----------------------------|
| <b>Project Summary</b>         |  |  |                             |
| <b>Tax Jurisdiction</b>        | <b>Real Property Tax Impact<br/>No Exemption</b> | <b>Real Property Tax Impact<br/>With Exemption</b> | <b>Est. Exemption Value</b> |
| Vernon County General          | \$ 13,484  | \$ (13,484)  | \$ 13,484                   |
| County Health Fund             | \$ 7,767   | \$ (7,767)   | \$ 7,767                    |
| Vernon County Ambulance        | \$ 11,651  | \$ (11,651)  | \$ 11,651                   |
| Washington Township Road Fund  | \$ 26,992  | \$ (26,992)  | \$ 26,992                   |
| Washington Township            | \$ 7,713   | \$ (7,713)   | \$ 7,713                    |
| Washington Special Tax         | \$ 27,613  | \$ (27,613)  | \$ 27,613                   |
| City of Nevada                 | \$ 70,443  | \$ (70,443)  | \$ 70,443                   |
| School - Nevada R - 5          | \$ 291,411                                       | \$ (291,411)                                       | \$ 291,411                  |
| State of Missouri              | \$ 2,330   | \$ (2,330)   | \$ 2,330                    |
| Commercial Surcharge           | \$ 55,149  | \$ (55,149)  | \$ 55,149                   |
| <b>Totals</b>                  | <b>\$ 514,554</b>                                | <b>\$ (514,554)</b>                                | <b>\$ 514,554</b>           |



November 1, 2017

CERTIFIED U.S. MAIL,  
RETURN RECEIPT REQUESTED

TO: AFFECTED TAXING DISTRICTS LISTED ON ATTACHED EXHIBIT A

RE: Plan for Industrial Development Project and Fiscal Cost/Benefit Analysis for the Mareth Enterprises, LLC  
Project

Dear Ladies and Gentlemen:

On October 17, 2017, the City Council of the City of Nevada, Missouri, adopted Resolution No. 1503 (the "Intent Resolution") regarding the issuance of its taxable industrial revenue bonds to finance an industrial development project for Mareth Enterprises, LLC, and requested legislation to prepare a Plan for Industrial Development Project related thereto.

A copy of the Intent Resolution, the Plan for Industrial Development Project (the "Plan"), and the Fiscal Cost/Benefit Analysis (the "CBA") are enclosed for your review.

All affected taxing districts are invited to submit comments to the City Council regarding the proposed Plan, CBA, and project, approval of which will be considered by the City Council no sooner than November 21, 2017.

Please feel free to contact JD Kehrman, the City Manager, (417) 448-5101, with any questions.

Sincerely,

Johnna Williams, City Clerk

cc: JD Kehrman (without enclosures)  
Robert Klahr (without enclosures)

Enclosures

**EXHIBIT A**

**PLAN FOR INDUSTRIAL DEVELOPMENT PROJECT AND FISCAL COST/BENEFIT  
ANALYSIS FOR MARETH ENTERPRISES, LLC PROJECT**

**TAXING DISTRICTS**

|  |  |
|--|--|
| Mike Buehler, Vernon County Clerk<br>100 W. Cherry St.<br>Nevada, Missouri 64772   | JD Kehrman, City Manager<br>City of Nevada<br>110 S. Ash St.<br>Nevada, Missouri 64772                     |
| Nevada R-V School District<br>Dr. Tyson Beshore, Superintendent<br>811 West Hickory St.<br>Nevada, Missouri 64772  | Vernon County Health Department<br>301 N. Washington St.<br>Nevada, Missouri 64772                         |
| Joel W. Walters, Director<br>Missouri Department of Revenue<br>Harry S. Truman State Office Building<br>301 West High Street<br>Jefferson City, Missouri 65101 | Vernon County Ambulance District<br>Mike Harris, Chairman<br>515 East Walnut St.<br>Nevada, Missouri 64772 |
| Washington Township Road Department<br>Attn: Ken Jones<br>13964 E. Molly Road<br>Nevada, Missouri 64772  | Washington Special Tax District<br>Attn: Ken Jones<br>13964 E. Molly Road<br>Nevada, Missouri 64772        |
| Washington Township<br>Attn: Ken Jones<br>13964 E. Molly Road<br>Nevada, Missouri 64772  |  |

**RESOLUTION NO. 1503**

**RESOLUTION OF OFFICIAL INTENT OF THE CITY COUNCIL  
OF THE CITY OF NEVADA, MISSOURI, FOR THE ISSUANCE  
OF THE CITY'S INDUSTRIAL DEVELOPMENT REVENUE  
BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO  
EXCEED \$960,000 TO FINANCE A PROJECT FOR THE  
BENEFIT OF MARETH ENTERPRISES, LLC; AND  
AUTHORIZING CERTAIN ACTIONS RELATING THERETO**

**WHEREAS**, the City of Nevada, Missouri (the "City"), is authorized and empowered under the provisions of Article VI, Section 27(b) 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, equip 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**, Mareth Enterprises, LLC, a Missouri limited liability company (the "Company"), is the owner under contract of certain real property located at 1800 North Industrial Parkway, Nevada, Missouri 63901 (the "Project Site"); and

**WHEREAS**, the Company has requested that the City (a) prepare and approve a plan for an industrial development project involving the acquisition of the Project Site and certain improvements at the Project Site (collectively, the "Project"), (b) issue its industrial development revenue bonds (the "Bonds") to provide funds to pay the costs of the Project, and (c) lease the Project to the Company, all in accordance with and pursuant to the Act; and

**WHEREAS**, the Bonds would be payable solely out of payments, revenues and receipts derived from the lease of the Project by the City to the Company; and

**WHEREAS**, the City has determined that it is necessary and desirable to declare the official intent of the City to finance the costs of the Project from the proceeds of the Bonds for such purposes, subject to certain terms and conditions set forth in this Resolution; and

**WHEREAS**, Section 100.050 of the Act requires the City to prepare a plan in connection with any industrial development project proposed to be undertaken pursuant to the Act; and

**WHEREAS**, the City desires to engage and retain Development Dynamics, LLC ("Development Dynamics") to prepare a Plan for an Industrial Development Project and Tax and Cost Impact Analysis (the "Plan"); and

**WHEREAS**, the City desires to engage and retain Armstrong Teasdale LLP ("ATLLP") to act as bond counsel and prepare the necessary documents in connection with the City's issuance of the Bonds; and

**WHEREAS**, Section 100.059 of the Act requires the City Council, not less than twenty days prior to the Council's approval of the Plan, to provide notice of the proposed project to the taxing jurisdictions;

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

**Section 1. Finding of Public Benefit.** The City Council hereby finds and determines that the acquisition of the Project will promote the economic well-being and industrial development of the City and the taxing jurisdictions within which the Project is located, and that the issuance of the Bonds to pay the cost of the Project will be in furtherance of the public purposes set forth in the Act.

**Section 2. Declaration of Intent.** The City Council hereby declares the intent of the City to:

- (a) issue the Bonds in an aggregate principal amount not to exceed \$960,000 as set forth in the Memorandum of Understanding attached hereto as Exhibit A and incorporated herein by reference (the "Memorandum") to provide funds to finance the Project, with such maturities, interest rates, redemption terms and other provisions as may be determined by subsequent resolution or ordinance of the City, subject to the conditions set forth in this Resolution and as set forth in the Memorandum;
- (b) authorize and engage Development Dynamics, as plan consultant, to prepare the Plan;
- (c) authorize and engage ATLLP to serve as bond counsel and to prepare the necessary documents in connection with the City's issuance of the Bonds;
- (d) to effect the foregoing, adopt such resolutions and ordinances authorizing the execution and delivery of such instruments and the taking of such action as may be necessary or advisable for the authorization and issuance of the Bonds and take or cause to be taken such other action as may be required to implement the aforesaid.

**Section 3. Limited Obligations.** The Bonds shall be limited and special revenue obligations payable solely out of payments, revenues and receipts derived from the lease of the Project by the City to the Company, as lessee. The Bonds and the interest thereon shall not be a debt of the City or the State of Missouri, and neither the City nor the State shall be liable thereon, and the Bonds shall not constitute an indebtedness within the meaning of any constitutional, statutory or charter debt limitation or restriction.

**Section 4. Conditions to Issuance of Bonds.** This Resolution constitutes a statement of intent of the City Council. The issuance of the Bonds and the execution and delivery of any documents related to financing the Project are subject, in the sole discretion of the City, to the following conditions:

- (a) approval by the City Council of a plan for industrial development in accordance with Section 100.050 of the Act, which plan will include a tax and cost impact analysis;
- (b) authorization by ordinance of the City Council;
- (c) obtaining any other necessary governmental approvals for the Project;
- (d) agreement by the City, the Company and the purchasers of the Bonds upon (1) mutually acceptable terms for the Bonds and for the sale and delivery thereof and (2) mutually acceptable terms and conditions of any documents related to the issuance of the Bonds and the Project, and execution and delivery to the City by the purchaser of the Bonds of an investment representation letter satisfactory to the City; and

(e) receipt by the City of satisfactory indemnification for all matters relating to the Project.

**Section 5. Notice to Taxing Jurisdictions.** The City Clerk, or designee, shall send a notice to all taxing jurisdictions from which taxable property is included in the Project, which notice shall (a) include a copy of the Plan, (b) state the date that the City Council will first consider approval of the Plan, which date shall be no less than twenty days after such notice is provided to the taxing jurisdictions, and (c) invite such entities to submit comments to the City Council regarding the Plan.

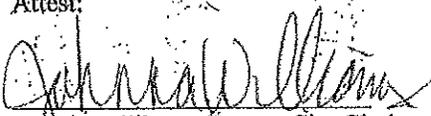
**Section 6. Preparation of Documents.** Counsel to the City, Armstrong Teasdale LLP, as Bond Counsel, and Development Dynamics, as Plan Consultant, together with the officers and employees of the City, are hereby authorized to work with the purchaser of the Bonds, the Company, their respective counsel and others, to prepare for submission to and final action by the City Council all documents necessary to effect the authorization, issuance and sale of the Bonds and other actions contemplated hereunder in connection with the financing of the Project, including, but not limited to, the Plan.

**Section 7. Further Authority.** The City hereby authorizes and empowers the officers and representatives of the City to do all such acts and things and to execute, acknowledge and deliver all such documents as may in their discretion be deemed necessary or desirable in order to carry out or comply with the terms and provisions of this Resolution in connection with the structure and sale of the Bonds. All of the acts and undertakings of such officers and representatives which are in conformity with the intent and purposes of this Resolution, whether heretofore or hereafter taken or done shall be and the same are hereby in all respects, ratified, confirmed and approved.

**Section 8. Effective Date.** This Resolution shall be in full force and effect from and after the date of its adoption.

ADOPTED this 17th day of October, 2017.

  
Brian L. Leonard, Mayor

Attest:  
  
Johnna Williams, Deputy City Clerk

**EXHIBIT A**  
**Memorandum of Understanding**

(see attached)

## MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (this "**Memorandum**"), dated as of October 17, 2017, by and among MARETH ENTERPRISES, LLC, a Missouri limited liability company (the "**Company**"), and the CITY OF NEVADA, MISSOURI, (the "**City**"), describes the intent of the parties to finance the acquisition, construction, improvement, furnishing and equipping of an industrial development project upon real property at 1800 North Industrial Parkway (the "**Project Site**") in the City of Nevada, Missouri, located within Vernon County.

### RECITALS

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

B. The City encourages development in its jurisdiction that enhances both the overall tax base and the services provided to its citizens and supports economic development incentive programs offered at both the state and local level that create jobs and promote investment.

C. The Company is under contract to purchase the Project Site and the facility and improvements located thereon, and desires to extend and improve the Project Site.

D. To facilitate the Company's desires and improvements to the Project Site, the City has offered to work with the Company to secure certain economic development incentives that may be available pursuant to state law (collectively, the "**Incentives**"), including those Incentives arising out of or derived from the Act; provided, however, that the parties acknowledge and agree that the City is not guaranteeing that Company will ever receive any such Incentives.

E. Representatives of the parties hereto have negotiated the business terms of this Memorandum as an expression of intent to proceed with further negotiations. However, except for the confidentiality provisions of Section 6 of this Memorandum, the parties shall not be legally bound hereby, and any legal rights or obligations of the parties shall arise solely out of the subsequent negotiation and execution of agreements between the parties, which have been approved by their authorized representatives. The parties hereto shall not be legally bound to enter into any definitive agreements.

NOW, THEREFORE, the parties intend to negotiate toward entering into legally binding agreements as follows:

1. **Statement of Overall Intent.** The parties hereto intend that the Company will undertake the improvements described below, in exchange for the Incentives. The City shall seek the approval of any other public entities required for the granting of the Incentives in a reasonable time period and shall support the granting of such Incentives.

2. **Company Commitments.** In consideration of the Incentives, the Company intends to make the following commitments:

(a) *Investment.* The Company expects to invest approximately \$960,000 at the Project Site (the "**Project**").

3. **Incentives.** In consideration of the Company's intention to make the commitments noted above, the City agrees to provide assistance to secure the Incentives for the Company, subject to law, legislative approvals and appropriate communications with taxing authorities, as follows:

(a) *Real Property Tax Relief.* The City intends to extend real property tax relief to the Company as follows:

- (i) The City will issue Chapter 100 taxable industrial revenue bonds to finance the Project (the "**Bonds**"), which shall be purchased by the Company. The Bonds will be secured solely from revenue generated by the Project and from no other source.
- (ii) The City will take an ownership interest in the Project, thus making the Project exempt from taxation. The City will then lease the Project to the Company (the "**Lease**"). Commencing on the City's ownership of the Project and continuing through the lease period, the Project will be 100% exempt from the ad valorem real property taxes that would have been paid on the Project, but for the City's ownership thereof for a period of ten (10) years beginning on January 1, 2018. No later than December 31, 2027, the Lease will terminate and the Project will be re-conveyed to the Company.
- (iii) The City and the Company will negotiate the terms and other conditions of the Bonds in conformance with the intent of this Memorandum, the Act, and applicable law, including, but not limited to, the following provisions: (A) the Company will be responsible for all maintenance and insurance costs, taxes attributable to those improvements existing on the Project Site prior to commencement of the Project, if any, payments in lieu of taxes, if any, and all costs related to the operation of the Project during the time the City owns or has an ownership interest therein; and (B) the Company will hold the City harmless to the extent reasonable and customary under such documentation.
- (iv) In the event the Company fails to complete the Project, the City reserves the right to terminate the Lease and the Bonds issued to

finance said Project, to reduce the tax relief granted pursuant to this subsection (a) in proportion to the degree to which the Project is incomplete, or to take any other action reasonably appropriate to reduce the Incentives granted with respect to said Project.

4. **Costs of Issuance.** The Company shall be responsible for all reasonable and customary costs of issuance of the Bonds pursuant to the Act and other Incentives, including attorneys' fees, administrative fees, and reasonable and customary-related expenses; including, but not limited to the following:

- Issuance fee to City (0.5% of Bond principal amount)
- City Attorney fees
- Bond Counsel fees
- Plan Consultant fees
- Trustee fees
- Company Counsel fees

Additionally, the parties agree to enter into a Preliminary Funding Agreement ("**Preliminary Funding Agreement**") that will outline the required payments of fees and costs in connection with the negotiation, preparation, and issuance of the Bonds and Incentives. The City's obligations and performance in connection with the Incentives and Project are subject to and conditioned upon the Company entering into and executing the Preliminary Funding Agreement and performing thereunder.

5. **Corporate and Legislative Approvals.** The mutual statements of intent herein are subject to negotiation of the terms of the Incentives acceptable to all parties, legislative approval of the City, approvals by other legislative bodies as required by law and approval by the authorized representatives of the Company.

6. **Confidentiality.** To the extent permitted by law, the parties agree that each will treat in confidence this Memorandum and all documents, materials and other information which each party shall have obtained during the course of the negotiations leading up to, and its performance of, this Memorandum ("**Confidential Information**"). The Confidential Information shall not be communicated to any third party, including the media, without providing advance notice to the non-disclosing party. Notwithstanding the foregoing, a party may disclose Confidential Information which (i) may become available to a party from a source other than the other party's counsel or representatives, (ii) is or becomes available to the public other than as a result of disclosure by one of the parties or their agents, (iii) is required to be disclosed under applicable law, by a regulatory agency, administrative process or judicial process, but only to the extent it must be disclosed and notice of the required disclosure is provided to the non-disclosing party prior to any disclosure to allow the non-disclosing party to comment thereon and/or to seek a protective order or similar relief, or (iv) a party reasonably deems it necessary to disclose in order to obtain any of the consents or approvals contemplated hereby, provided the disclosing party instructs the recipient of the confidentiality obligations hereunder. The parties further agree to take appropriate action by instruction, agreement or otherwise with its employees who are permitted access to the Confidential Information to notify them of the obligations hereunder.

7. Cooperation. The parties will cooperate with each other in securing the Incentives and will share in the responsibilities associated with approving the Project and issuing the Company Bonds.

8. Indemnity. The Company agrees to indemnify and hold harmless the City from and against any claim, lawsuit, judgment or penalty arising from the transactions described herein and the Incentives contemplated above, including, without limitation, all attorneys' fees incurred in defending same.

9. Execution in Counterparts. This Memorandum 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.

10. Non-Binding. Representatives of the parties hereto have negotiated the business terms of this Memorandum as an expression of intent to proceed with further negotiations. This Memorandum is solely intended to reflect the intent of the parties and is not intended to be a contract binding on any party hereto, including the City. The parties acknowledge the terms and conditions of this Memorandum and that the foregoing shall not be binding unless and until the City and the Company have entered into and executed a fully negotiated Performance Agreement.

*[The remainder of this page is intentionally left blank – signature page(s) to follow]*

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

CITY OF NEVADA, MISSOURI

By: JD Kehrman

Name: [Signature]

Title: City Manager

[SEAL]

ATTEST

[Signature]  
City Clerk

MARETH ENTERPRISES, LLC

By: Lewis Gray

Name: [Signature]

Title: COO

## PRELIMINARY FUNDING AGREEMENT

THIS PRELIMINARY FUNDING AGREEMENT ("Agreement") is made and entered into as of the 27 day of Oct, 2017, by and between the CITY OF NEVADA, MISSOURI, a third-class city organized and existing under the laws of the State of Missouri (the "City") and MARETH ENTERPRISES, LLC, a Missouri limited liability company (the "Company").

### RECITALS

- A. Pursuant to Chapter 100 of the Revised Statutes of Missouri, as amended, the Company desires to submit a proposal (the "Proposal") for a project for industrial development ("Project") in the City of Nevada.
- B. The City desires to explore the feasibility of implementing the Proposal.
- C. Subject to the terms of this Agreement, the City desires the Company to assist the City in considering the Proposal by advancing funds to the City to allow the City to pay certain costs the City will incur in connection with the Proposal; and the Company has agreed to advance such funds in accordance with this Agreement.

NOW THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Advance Funds. Subject to the terms of this Agreement, the Company agrees to pay to the City within five (5) business days of the execution of this Agreement a payment of Thirty Thousand Dollars (\$30,000.00) to be used as preliminary funding in connection with the consideration by the City of the Proposal (the "Preliminary Funds"). The City shall use the Preliminary Funds as a source of payment of actual costs incurred by the City, on or after October 1, 2017, for legal fees, administrative services, economic development consulting services and planning services rendered in connection with evaluating and considering the Proposal, negotiating, preparing and implementing this Agreement and any agreements or documents related to the Proposal including any ordinances and other activities and documentation related to the foregoing (collectively, the "Development Activities").

2. Disbursement. The City shall use and disburse the Preliminary Funds as necessary to pay the actual fees and expenses incurred by the City in connection with the Development Activities, including without limitation, the fees and expenses of legal counsel and economic development consultants.

3. Repayment of Preliminary Funds. Notwithstanding anything to the contrary herein, if the City does not adopt or approve the Proposal or any Development Activities submitted by the Company in connection therewith or if the City and the Company do not execute any agreement applicable thereto, the City shall have no obligation to refund any

Preliminary Funds to the Company, except as provided in Section 5 hereof to the extent of any excess funds remaining after the payment of expenses of the City.

4. Record Keeping. The City shall require itemized invoices by its attorneys and consultants for work performed on Development Activities, consistent with its normal operations. The City shall use reasonable care in ascertaining that all amounts billed as Development Activities are fair and reasonable, consistent with its normal operations. Upon reasonable request of the Company, the City shall provide reasonable documentation that the City has used the Preliminary Funds to pay for actual costs of Development Activities incurred by City, provided, however, that City shall not be obligated to provide copies of any legal invoices, and the City may redact and shall not be obligated to disclose any information that reflects attorney-client communications, privileged or confidential communications, work product materials or items that qualify as closed records under Sections 610.010 to 610.200 of the Revised Statutes of Missouri, as amended.

5. Right of Termination. If the initial advance of Preliminary Funds has been disbursed or committed to be used by City and the Company has not, within fifteen (15) business days after the City gives notice thereof, advanced additional Preliminary Funds in an amount sufficient (as determined by the City in its reasonable discretion) to complete the Development Activities, or if the City rejects or otherwise elects to terminate further consideration of implementation of the Proposal or any Development Activities with the Company, which the City shall have and retain the absolute right to do in its sole and absolute discretion, the City shall have the right to terminate this Agreement, whereupon the City shall refund the balance of the Preliminary Funds remaining after ascertainment and payment by the City of all fees and expenses incurred by the City in connection with Development Activities.

6. No Third Party Beneficiaries. The parties hereby agree that this Agreement shall be a contract solely between the City and the Company and that no third party shall have any beneficial interest in or derived from this Agreement.

7. Notices. All notices and correspondence hereunder shall be in writing and shall be delivered by (a) hand delivery, (b) email transmission followed by a confirmatory notice sent in another manner permitted hereunder, or (c) first class mail, postage prepaid and certified, to the parties as set forth below:

If to the Company:

Mareth Enterprises, LLC  
200 Washington Ave., Suite 4  
Purdy, Missouri 65734  
Attn: Lewis Gray, Chief Operations Officer  
Email: lewis.gray@purdygenesis.com

With a copy to:

Randall, Mastri & Randall, P.C.  
405 E. Broadway Street  
Monett, Missouri 65708

Attn: Jim Randall  
Email: \_\_\_\_\_

If to the City:  
City of Nevada  
110 S. Ash St.  
Nevada, Missouri 64772  
Attn: City Manager  
Email: jdkehrman@nevadamo.gov

With a copy to:  
McCaffree Law Firm  
128 1/2 W. Walnut  
Nevada, Missouri 64772  
Attn: William McCaffree  
Email: wmccaffree@gmail.com

8. Miscellaneous.

a. Governing Law; Counterparts. This Agreement shall be governed by and construed in accordance with the laws of the State of Missouri; and may be signed in counterparts.

b. Severability. If any provision(s) of this Agreement is illegal or unenforceable, then the remainder of this Agreement shall not be affected thereby and shall be enforced as if such provision were not contained herein.

c. No Waiver. Failure of either party to enforce its rights hereunder at any time shall not be deemed a waiver of any such rights.

d. Assignment; Successors and Assigns. This Agreement may not be assigned by any party without the prior written consent of the other party. No assignment, unless specifically provided for in the consent thereto, shall relieve the assigning party of any liability hereunder. This Agreement shall be binding upon the parties hereto and their heirs, successors and permitted assigns.

e. Representations and Warranties. The parties hereby represent and warrant that they have full right and authority to execute and deliver this Agreement; and that this Agreement has been duly executed by them or on their behalf, as the case may be, pursuant to due authorization, and is not in violation of any such party's governing documents, charter or ordinances, as the case may be. The parties further represent and warrant that no consents are necessary for the execution, delivery, and performance of this Agreement by such party, and that this Agreement is valid, binding and enforceable against such party in accordance with its terms.

f. Limitation of Liability. Notwithstanding any provision herein to the contrary, the City, its officers, agents, employees and representatives shall not be liable to the Company for damages or otherwise if this Agreement, the plan for industrial

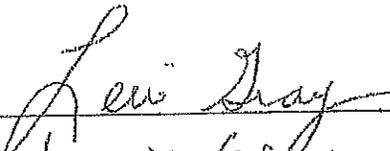
development or any agreement entered into by the City in connection with the Project is declared invalid or unconstitutional in whole or in part by the final judgment of any court of competent jurisdiction (as to which all rights of appeal have expired or have been exhausted), and by reason thereof either the City is prevented from performing any of the covenants and agreements herein or the Company is prevented from enjoying the rights and privileges contemplated hereunder.

*[Remainder of Page Intentionally Left Blank -- Signature Page to Follow]*

IN WITNESS WHEREOF, the parties hereto have caused this Preliminary Funding Agreement to be duly executed as of the date first above written.

**COMPANY:**

Mareth Enterprises, LLC

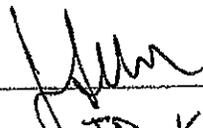
By: 

Name: Lewis Gray

Title: COO

**CITY:**

City of Nevada, Missouri

By: 

Name: JD Kehrman

Title: City Manager

**CITY OF NEVADA, MISSOURI  
TAXABLE INDUSTRIAL REVENUE BONDS  
(MARETH ENTERPRISES, LLC PROJECT)  
SERIES 2017**

**TENTATIVE SCHEDULE OF EVENTS  
(As of October 19, 2017)**

| <b>Status</b> | <b>Date</b> | <b>Event</b>  | <b>Responsible Party</b> |
|---------------|-------------|---|--------------------------|
| X             | 10/12/17    | Finalize Preliminary Funding Agreement, Term Sheet, and Tentative Schedule of Events  | AT                       |
| X             | 10/13/17    | Distribute Inducement Resolution for City Council meeting   | AT                       |
| X             | 10/17/17    | City Council meeting: <ul style="list-style-type: none"> <li>• Overview of Project</li> <li>• Adopt Inducement Resolution authorizing preparation of Plan for Industrial Development and Tax Impact Analysis, approving Memorandum of Understanding, approving Preliminary Funding Agreement, approving Development Dynamics, LLC as plan consultant, and approve Armstrong Teasdale LLP as bond counsel</li> </ul> | ALL                      |
|               | 10/23/17    | Distribute initial draft of Plan for Industrial Development and Tax Impact Analysis   | DD                       |
|               | 10/25/17    | Distribute initial drafts of Bond Documents   | AT                       |
|               | 10/26/17    | Provide comments on initial draft of Plan for Industrial Development and Tax Impact Analysis  | ALL                      |
|               | 10/30/17    | Distribute revised draft of Plan for Industrial Development and Tax Impact Analysis   | DD                       |
|               | 10/31/17    | Provide comments on revised draft of Plan for Industrial Development and Tax Impact Analysis  | ALL                      |
|               | 10/31/17    | Finalize Plan for Industrial Development and Tax Impact Analysis  | DD                       |
|               | 11/1/17     | Distribute Notice & Plan for Industrial Development and Tax Impact Analysis to Taxing Districts   | CITY or AT               |
|               | 11/2/17     | Provide comments on initial drafts of Bond Documents  | ALL                      |
|               | 11/7/17     | Distribute revised drafts of Bond Documents   | AT                       |
|               | 11/10/17    | Provide comments on revised drafts of Bond Documents  | ALL                      |
|               | 11/15/17    | Finalize Bond Documents   | AT                       |
|               | 11/21/17    | City Council meeting: <ul style="list-style-type: none"> <li>• First Reading of Ordinance approving Plan for</li> </ul>   | CITY                     |

Industrial Development and Cost-Benefit Analysis

- First Reading of Ordinance approving Bond Documents

|                       |   |         |
|-----------------------|---|---------|
| 12/1/17               | Distribute initial drafts of Closing Documents  | AT      |
| 12/5/17               | City Council Meeting: <ul style="list-style-type: none"> <li>• Final Passage of Ordinance approving Plan for Industrial Development and Tax Impact Analysis</li> <li>• Final Passage of Ordinance approving Bond Documents</li> </ul> | CITY    |
| On or after 12/6/17   | Real Estate Transaction Closing   | COMPANY |
| 12/8/17               | Provide comments on initial drafts of Closing Documents   | ALL     |
| 12/12/17              | Distribute revised drafts of Closing Documents  | AT      |
| 12/14/17              | Provide comments on revised drafts of Closing Documents   | ALL     |
| 12/15/17              | Finalize Closing Documents  | AT      |
| On or before 12/27/17 | Close Chapter 100 Transaction   | ALL     |

|                |          |   |
|----------------|----------|---|
| Working Group: | CITY:    | City of Nevada, Missouri                                |
|                | WGM:     | William G. McCaffree, McCaffree Law Firm, City Attorney |
|                | COMPANY: | Mareth Enterprises, LLC                                 |
|                | RMR:     | Randall, Masri & Randall, P.C., Company's Counsel       |
|                | AT:      | Armstrong Teasdale LLP, Bond Counsel                    |
|                | DD:      | Development Dynamics, Plan Consultant                   |

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**CITY OF NEVADA, MISSOURI**

**PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT**

**FOR THE**

**MARETH ENTERPRISES, LLC PROJECT**

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**October 31, 2017**

**PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT  
FOR THE  
MARETH ENTERPRISES, LLC PROJECT**

---

The City of Nevada, Missouri (the "City") has proposed the following plan for an industrial development project to be carried out pursuant to Article VI, Section 27(b) of the Missouri Constitution, as amended, and Sections 100.010 to 100.200 of the Revised Statutes of Missouri, as amended, for the benefit of Mareth Enterprises, LLC (the "Company").

1. **Description of the Project.** The Company intends to acquire and improve the real property and existing improvements thereon located at 1800 North Industrial Parkway, City of Nevada, Vernon County, Missouri (the "Project Site"). The "Project" consists of acquiring and improving the real property and existing improvements located at the Project Site, then leasing the Project to the Company (with an option to purchase).

The Project will further the economic development and general welfare of the City and the State of Missouri (the "State").

2. **Estimate of the Cost of the Project.** The Project is expected to cost approximately \$960,000.
3. The Fiscal Cost-Benefit Analysis attached hereto as **Exhibit A**, and incorporated herein by reference, is based on this expected investment.
3. **Source of Funds to be Expended for the Project.** The source of funds to be expended for the Project will be the proceeds of \$960,000 principal amount of Taxable Industrial Development Revenue Bonds (the "Bonds") issued by the City.
4. **Statement of the Terms upon Which the Project is to be Leased or Otherwise Disposed of by the City.** The Project will be leased (with an option to purchase) to the Company. The lease payments under the lease will equal the principal and interest on the Bonds, plus additional costs. The Company will have the option to purchase the Project at the termination of the lease. The Bonds will be payable solely from the revenues derived by the City from the lease or other disposition of the Project. The Bonds will not be an indebtedness or general obligation, debt or liability of the City.
5. **General Information Concerning the Company.** The Company is a Missouri limited liability company that desires to acquire and improve facilities within the City.

6. **Bond Purchase Arrangements.** It is expected the Company or an affiliated entity will purchase all of the Bonds.
7. **Affected Taxing Districts.** The Nevada R-5 School District (the “School District”), the City, Vernon County Ambulance District, Washington Township, Washington Township Road Department, Vernon County, Missouri (the “County”), and the State are the taxing districts affected by the Project, as shown on the Fiscal Cost-Benefit Analysis attached hereto as **Exhibit A**, and incorporated herein by reference.
8. **Equalized Assessed Valuation.** The most recent equalized assessed valuation of real property at the Project Site is \$776,000, as of January 1, 2017 (no personal property is included in the Project).
9. **Fiscal Cost/Benefit Analysis.** Attached hereto as **Exhibit A**, and incorporated herein by reference, is an analysis of the costs and benefits of the Project on the School District, County, City, and other affected taxing districts, prepared for the benefit of the City by Development Dynamics, LLC, 1001 Boardwalk Springs Place, Suite #50, O’Fallon, Missouri. The projections in the Fiscal Cost/Benefit Analysis are estimates based on numerous assumptions as set forth therein. Therefore, results from the Project may be significantly different from those shown in the Fiscal Cost/Benefit Analysis.

**Exhibit A**

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**CITY OF NEVADA, MISSOURI AND AFFECTED TAX DISTRICTS**

**FISCAL COST/BENEFIT ANALYSIS**

**FOR THE**

**MARETH ENTERPRISES, LLC PROJECT**

---

*Development Dynamics, LLC ("DD") prepared this Fiscal Cost/Benefit Analysis of the proposed project by Mareth Enterprises, LLC in the City of Nevada, Vernon County, Missouri. This Fiscal Cost/Benefit Analysis was performed pursuant to Sections 100.010 to 100.200 of the Revised Statutes of Missouri, as amended ("Chapter 100"). The analysis evaluates the fiscal impact to affected tax jurisdictions as part of a Chapter 100 project. This report does not attempt quantify the overall economic impact of the Project.*

## **I. PURPOSE OF THIS ANALYSIS**

The purpose of this fiscal cost/benefit analysis is to provide timely and relevant information to the affected taxing districts to which the report is sent pursuant to Article VI, Section 27(b) of the Missouri Constitution, as amended, and Sections 100.010 to 100.200 of the Revised Statutes of Missouri, as amended, which is most often simply referred to as “Chapter 100” (collectively, the “Act”).

## **II. COMPANY BACKGROUND**

Mareth Enterprises, LLC (the “Company”), is a Missouri limited liability company that desires to acquire and improve certain real property and the existing improvements thereon located in the City of Nevada, Missouri (the “City”) at 1800 North Industrial Parkway (the “Project Site”).

## **III. DESCRIPTION OF THE PROJECT**

The Company has requested the City issue taxable industrial development revenue bonds (the “Bonds”) in an amount not to exceed \$960,000 to provide funds to pay the costs of acquiring and improving the Project Site (the “Project”).

The City is authorized and empowered under the provisions of the Act to (1) purchase, construct, extend and improve certain tangible personal property for the purposes set forth in the Act; (2) to issue industrial development revenue bonds for the purpose of providing funds to pay the costs of such projects; and (3) 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.

The City is considering adoption of a Plan for an Industrial Development Project (the “Development Plan”) in order to promote the economic well-being and development of the City and other affected taxing jurisdictions.

## **IV. PROJECT OBJECTIVE**

The City’s purchase of the Project and issuance of the Bonds to pay the cost of the Project will promote the economic well-being and industrial development of the City and the taxing districts, and will be in furtherance of the public purposes set forth in the Act. The Project will be leased (with an option to purchase) to the Company. The Bonds shall be limited and special revenue obligations payable solely out of payments, revenues and receipts derived from the lease of the Project by the City to the Company. The Bonds, and the interest thereon, shall not be a debt of the City or the State of Missouri, and neither the City nor the State shall be liable thereon, and the Bonds shall not constitute indebtedness within the meaning of any constitutional or statutory debt limitation or restriction.

The Project is intended to help the Company satisfy demand for its products and services. As a result of the real property tax exemption, the Company intends to establish operations for the duration of the tax abatement period at the Project Site.

The City intends, subject to final governing body approval, for the Project to be financed through Bond proceeds and for the Project Site to be tax exempt for the time period the title is held by the City, identified as a maximum of ten (10) years beginning on January 1, 2018. It is the intent of the City, pending approvals, to provide tax savings of 100% on real property and improvements for the duration of the exemption period. Personal property is not included in the Project and shall not be tax exempt.

The City will take an ownership interest in the Project, thus making the Project exempt from taxation for the real property ad valorem taxes that would have been paid on the Project but for the City's ownership thereof. The City will then lease the Project to the Company. The City will also issue Bonds to finance the Project, which shall be purchased by the Company or an affiliate entity. The Bonds will be secured solely from revenue generated by the Project and from no other source. At the end of the tenth calendar year from the date of acquisition of the Project Site by the Company (expected to be December 31, 2027), the lease will terminate and the Project will be re-conveyed to the Company.

#### **V. REAL PROPERTY TAX INFORMATION**

The most recent equalized assessed valuation of the real property and improvements for the Project Site is \$776,000, split between commercial and agricultural property classifications. The 2016 real property tax calculation amounted to \$51,185.65. The tax amount represents the actual total real property taxes applicable to the Project Site by all taxing jurisdictions on January 1, 2017. (No tangible personal property is included in the Project.)

#### **VI. IMPACT CALCULATIONS**

The impact on affected taxing jurisdictions was calculated through the evaluation of Project property and tax data. **Figure 1** provides a projection of the Project's real property tax revenues without exemption for the years 2018-2027; **Figure 2** shows a projection of the value of the 100% real property tax exemption to the Company during the term of the abatement (2018-2027); and **Figure 3** demonstrates a compilation of the previous figures.

#### **VII. ASSUMPTIONS**

The following assumptions were used in the preparation of the real property tax calculations:

- A. Project investment estimates are included in the Plan for Industrial Development.
- B. The term of the exemption is intended to begin January 1, 2018 and terminate on December 31, 2027.
- C. Estimated real property assessed values were derived from the existing Project Site assessed value multiplied by an adjustment factor of 32% for real property classified as commercial and the combined 2017 commercial tax rate of \$6.6245 per \$100 of assessed valuation and multiplied by an adjustment factor of 12% for real property classified as

agricultural and the combined 2017 agricultural tax rate of \$5.9145 per \$100 of assessed valuation.

- D. The real property calculations assume a one percent bi-annual increase in assessed valuation through the term of the exemption.
- E. All tax estimates are rounded to the nearest dollar.
- F. Tangible personal property taxes related to the Project Site will not be exempt.

The conclusions presented in this report and the financial projections contained herein are based on comprehensive analysis of Project-specific information, information provided by the Company, published government tax tables, and other information sources considered to be reliable. There is an inherent assumption that information provided by these sources is correct, complete, and reliable. Limited steps were taken to verify the accuracy of the aforementioned assumptions; nevertheless, D2 believes they constitute a reasonable basis for the report's preparation.

#### **VIII. CONDITIONS**

The tax revenue projections contained herein represent prospective information and estimates. The actual results may vary from the projections described herein. This analysis was prepared to provide timely and relevant information for the use of the School District, County, City, and other taxing jurisdictions to which the report is sent pursuant to Section 100.050 of the Revised Missouri Statutes, as amended. There is an inherent assumption that information provided by these sources is correct, complete, and reliable. The tax revenue projections represent prospective information and estimates. D2 assumes no risk for any events or uncertainties that might occur.

FIGURE 1: REAL PROPERTY TAX IMPACT – NEW PROJECT INVESTMENT - NO EXEMPTION

|   |                 | Real Property Tax Impact |                  |                  |                  |                  |                  |                  |                  |                  |                  |
|---|-----------------|--------------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|
|   |                 | Without Exemption        |                  |                  |                  |                  | With Exemption   |                  |                  |                  |                  |
|   |                 | 2018                     | 2019             | 2020             | 2021             | 2022             | 2023             | 2024             | 2025             | 2026             | 2027             |
| Estimated Assessed Valuation (Commercial)   |                 | 770,960                  | 778,670          | 778,670          | 786,456          | 786,456          | 794,321          | 794,321          | 802,264          | 802,264          | 810,287          |
| Estimated Assessed Valuation (Agricultural) |                 | 5,040                    | 5,090            | 5,090            | 5,141            | 5,141            | 5,193            | 5,193            | 5,245            | 5,245            | 5,297            |
| <b>Real Property</b>                        |                 |                          |                  |                  |                  |                  |                  |                  |                  |                  |                  |
|   | <b>Tax Rate</b> |                          |                  |                  |                  |                  |                  |                  |                  |                  |                  |
| Vernon County General                       | 0.17360         | \$ 1,347                 | \$ 1,361         | \$ 1,361         | \$ 1,374         | \$ 1,374         | \$ 1,388         | \$ 1,388         | \$ 1,402         | \$ 1,402         | \$ 1,416         |
| County Health Fund                          | 0.10000         | 776                      | 784              | 784              | 792              | 792              | 800              | 800              | 808              | 808              | 816              |
| Vernon County Ambulance                     | 0.15000         | 1,164                    | 1,176            | 1,176            | 1,187            | 1,187            | 1,199            | 1,199            | 1,211            | 1,211            | 1,223            |
| Washington Township Road Fund               | 0.34750         | 2,697                    | 2,724            | 2,724            | 2,751            | 2,751            | 2,778            | 2,778            | 2,806            | 2,806            | 2,834            |
| Washington Township                         | 0.09930         | 771                      | 778              | 778              | 786              | 786              | 794              | 794              | 802              | 802              | 810              |
| Washington Special Tax                      | 0.35550         | 2,759                    | 2,786            | 2,786            | 2,814            | 2,814            | 2,842            | 2,842            | 2,871            | 2,871            | 2,899            |
| City of Nevada                              | 0.90690         | 7,038                    | 7,108            | 7,108            | 7,179            | 7,179            | 7,251            | 7,251            | 7,323            | 7,323            | 7,397            |
| School - Nevada R - 5                       | 3.75170         | 29,113                   | 29,404           | 29,404           | 29,698           | 29,698           | 29,995           | 29,995           | 30,295           | 30,295           | 30,598           |
| State of Missouri                           | 0.03000         | 233                      | 235              | 235              | 237              | 237              | 240              | 240              | 242              | 242              | 245              |
| Commercial Surcharge                        | 0.71000         | 5,474                    | 5,529            | 5,529            | 5,584            | 5,584            | 5,640            | 5,640            | 5,696            | 5,696            | 5,753            |
| <b>Total</b>                                | <b>6.6245</b>   | <b>\$ 51,370</b>         | <b>\$ 51,884</b> | <b>\$ 51,884</b> | <b>\$ 52,403</b> | <b>\$ 52,403</b> | <b>\$ 52,927</b> | <b>\$ 52,927</b> | <b>\$ 53,456</b> | <b>\$ 53,456</b> | <b>\$ 53,991</b> |



**FIGURE 4: FISCAL COST/BENEFIT ANALYSIS SUMMARY**

| <b>Mareth Enterprises, LLC</b> |  |  |                             |
|--------------------------------|--|--|-----------------------------|
| <b>Project Summary</b>         |  |  |                             |
| <b>Tax Jurisdiction</b>        | <b>Real Property Tax Impact<br/>No Exemption</b> | <b>Real Property Tax Impact<br/>With Exemption</b> | <b>Est. Exemption Value</b> |
| Vernon County General          | \$ 13,812  | \$ (13,812)  | \$ 13,812                   |
| County Health Fund             | \$ 7,956   | \$ (7,956)   | \$ 7,956                    |
| Vernon County Ambulance        | \$ 11,935  | \$ (11,935)  | \$ 11,935                   |
| Washington Township Road Fund  | \$ 27,648  | \$ (27,648)  | \$ 27,648                   |
| Washington Township            | \$ 7,901   | \$ (7,901)   | \$ 7,901                    |
| Washington Special Tax         | \$ 28,285  | \$ (28,285)  | \$ 28,285                   |
| City of Nevada                 | \$ 72,156  | \$ (72,156)  | \$ 72,156                   |
| School - Nevada R - 5          | \$ 298,498                                       | \$ (298,498)                                       | \$ 298,498                  |
| State of Missouri              | \$ 2,387   | \$ (2,387)   | \$ 2,387                    |
| Commercial Surcharge           | \$ 56,123  | \$ (56,123)  | \$ 56,123                   |
| <b>Totals</b>                  | <b>\$ 526,701</b>                                | <b>\$ (526,701)</b>                                | <b>\$ 526,701</b>           |



**CERTIFICATE AS TO CLOSING PRICE**

relating to

**\$960,000**

**(AGGREGATE MAXIMUM PRINCIPAL AMOUNT)**

**CITY OF NEVADA, MISSOURI**

**TAXABLE INDUSTRIAL REVENUE BONDS**

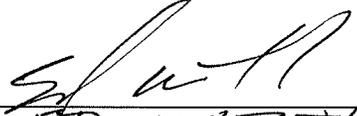
**(MARETH ENTERPRISES, LLC PROJECT)**

**SERIES 2017**

Pursuant to **Section 2** of the Bond Purchase Agreement dated as of December 1, 2017, between the City of Nevada, Missouri and Mareth Enterprises, LLC (the "Purchaser"), the Purchaser hereby certifies that the Closing Price with respect to the above-referenced bonds is \$ 650,500.00.

Dated: December 18, 2017

**MARETH ENTERPRISES, LLC**

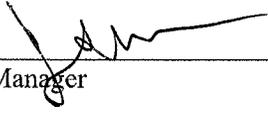
By: 

Name: ED MARETH

Title: Authorized Agent

The Closing Price set forth above is hereby agreed to on the date first above written.

**CITY OF NEVADA, MISSOURI**

By:   
Title: City Manager

[Certificate as to Closing Price]

**COMPANY'S CLOSING CERTIFICATE**

I, the undersigned, hereby certify that I am the duly qualified and acting *Authorized Agent* of Mareth Enterprises, LLC, a Missouri limited liability company (the "Company"), and as such I am familiar with the books and records of the Company. In connection with the issuance of Taxable Industrial Revenue Bonds (Mareth Enterprises, LLC Project), Series 2017, in the maximum principal amount of \$960,000 (the "Bonds"), by the City of Nevada, Missouri (the "City"), I hereby further certify as follows:

**1. ORGANIZATION AND AUTHORITY**

**1.1. Due Organization.** The Company is a limited liability company, validly existing and in good standing under the laws of the State of Missouri. Attached hereto as **Exhibit A** is a certificate of good standing from the Secretary of State of Missouri.

**1.2. Articles of Organization.** Attached hereto as **Exhibit B** is a true, complete and correct copy of the Articles of Organization of the Company, filed with the Secretary of State of Missouri, and said Articles of Organization are in full force and effect as of the date hereof.

**1.3 Operating Agreement.** Attached hereto as **Exhibit C** is a true, complete and correct copy of the Operating Agreement of the Company on file with the Company, and the Operating Agreement is in full force and effect as of the date hereof.

**1.4. Resolutions.** Attached hereto as **Exhibit D** is a true and correct copy of the resolutions (the "Resolutions") duly adopted by the governing body of the Company evidencing the authority of the company representatives to execute the hereinafter-defined Company Documents. The Resolutions have not been amended, altered or repealed and are in full force and effect as of the date hereof.

**1.5 Incumbency of Officers; Authorized Company Representative.** The individuals named below were on the date or dates of the execution of the documents listed in **Section 2.2** below, and are on this date, duly appointed or elected, qualified and acting officers of the Company, holding the offices set opposite their name. The Company hereby appoints each of the individuals named below as an Authorized Company Representative as defined in the Trust Indenture dated as of December 1, 2017, between the City and BOKF, N.A., as trustee:

| <u>Name</u>      | <u>Title</u>            | <u>Signature</u>  |
|------------------|-------------------------|---|
| <i>ED MARETH</i> | <i>Authorized Agent</i> |  |

**2. BOND TRANSCRIPTS AND LEGAL DOCUMENTS**

**2.1. Transcript of Proceedings.** The Transcript furnished to the Company and on file in the official records of the City includes a true and correct copy of the proceedings had by the Company and other records, proceedings and documents relating to the issuance of the Bonds; said Transcript is, to the best of my knowledge, information and belief, full and complete; such proceedings of the Company shown in said Transcript have not been modified, amended or repealed and are in full force and effect as of the date hereof.

**2.2. Execution of Documents.** The following documents (collectively, the “Company Documents”) have been executed and delivered in the name and on behalf of the Company pursuant to and in full compliance with the Resolutions; the copies of said documents delivered at closing are true, complete and correct copies or counterparts of said documents as executed and delivered by the Company; and said documents have not been amended, modified or rescinded and are in full force and effect as of the date hereof:

- (a) Bond Purchase Agreement dated as of December 1, 2017, between the City and the Company.
- (b) Lease Agreement dated as of December 1, 2017, between the City and the Company, and a memorandum thereof to be recorded in the real property records of Vernon County, Missouri.
- (c) Performance Agreement dated as of December 1, 2017, between the City and the Company.
- (d) Special Warranty Deed dated December 1, 2017, from the Company to the City to be recorded in the real property records of Vernon County, Missouri.

**2.3. Representations and Warranties in Company Documents.** Each of the representations and warranties of the Company set forth in the Company Documents is true and correct in all material respects as of the date hereof, as if made on the date hereof, and all covenants and conditions to be complied with and obligations to be performed by the Company under the Company Documents have been complied with and performed in all material respects and no condition, event or act has occurred which constitutes an event of default, or with notice or lapse of time, or both, would constitute an event of default under the Company Documents.

**2.4. Non Litigation.** No action or proceeding against and naming the Company is pending or overtly threatened by written communication to the Company before any court, governmental authority or arbitrator, which (a) will adversely affect the transactions described in the Company Documents, (b) will adversely affect or question the payments required to be made under the Company Documents, (c) will adversely affect the execution, issuance, delivery, validity or enforceability of the Bonds or the Company Documents, (d) will in any way contest the due organization, existence or powers of the Company, (e) will in any way adversely affect the amounts to be received by the City pursuant to the Indenture, (f) will call into question the validity or enforceability of the Company Documents, or (g) could reasonably be expected to materially adversely affect the condition, financial or otherwise, of the Company.

**2.5. Authorization of Documents.** The Company has duly authorized, by all necessary action, the execution, delivery and due performance of the Company Documents and any and all such other agreements and documents as may be required to be executed, delivered and received by the Company in order to carry out, give effect to and consummate the transactions contemplated by the Company Documents. The Company Documents, as executed and delivered, constitute legal, valid and binding obligations of the Company, enforceable in accordance with their respective terms (except insofar as the enforcement thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws or equitable principles of general application affecting the rights and remedies of creditors and secured parties). The execution and delivery by the Company of the Company Documents and the consummation by the Company of its obligations thereunder are within the

Company's corporate power and have been duly authorized by all necessary corporate action on the part of the Company.

**2.6. Approvals.** No material consent, approval, authorization or other action by, and no notice to or filing with, any Federal or Missouri State governmental authority or regulatory body pursuant to any Federal or Missouri State statute as applicable to the Company in a transaction of this type, is required for the due execution, delivery and consummation by the Company of its obligations under the Company Documents, except for such consents, approvals, filings or registrations that have been obtained or made on or prior to the date hereof and are in full force and effect.

**2.7. Compliance with Existing Covenants.** The execution and delivery by the Company of the Company Documents and the consummation by the Company of its obligations thereunder do not result in (a) any conflict with or violation by the Company of (i) the provisions of the Articles of Organization or the Operating Agreement, (ii) any provision of applicable Federal or Missouri state statute or regulation, or (iii) any order, writ, judgment or decree of any Federal or Missouri State court or governmental authority or regulatory body having jurisdiction over the Company or any of its subsidiaries or any of their material properties that names or is specifically directed to the Company or any such subsidiary, or (b) a breach or default or require the creation or imposition of any security interest or lien upon any of the Company's properties pursuant to any material agreement, contract or instrument known to us to which the Company is a party or by which it is bound, any rights of set-off or other liens in favor of the Financing Parties arising under any of the Company Documents or applicable law.

**2.8. No Event of Default.** At the date of this Certificate, no event of default under the Company Documents has occurred and is continuing and no event has occurred and is continuing which with notice or lapse of time, or both, would constitute an event of default under the Company Documents.

### **3. THE PROJECT**

**3.1. Description and Location of Project.** The proceeds of the Bonds are to be used by the City for the purpose of acquiring, constructing, improving and equipping a manufacturing facility located at 1800 North Industrial Parkway in the City.

### **4. LEGAL COUNSEL**

**4.1. Legal Counsel.** We have been counseled by the Company's legal counsel as to the purpose of the foregoing certifications and the meanings of the matters set forth in the foregoing certifications. We understand that such certifications will be relied upon by the City in the issuance of the Bonds, Randall, Masri & Randall, P.C. in rendering its opinion, and by the law firm of Armstrong Teasdale LLP in rendering its opinion as to validity of the issuance of the Bonds.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, I have hereunto set my hand this December 18, 2017.

**MARETH ENTERPRISES, LLC**

By: 

Name: ED MARETT

Title: Authorized Agent

[Company's Closing Certificate]

**EXHIBIT A**

**CERTIFICATE OF GOOD STANDING**

# STATE OF MISSOURI



**John R. Ashcroft**  
**Secretary of State**

CORPORATION DIVISION  
CERTIFICATE OF GOOD STANDING

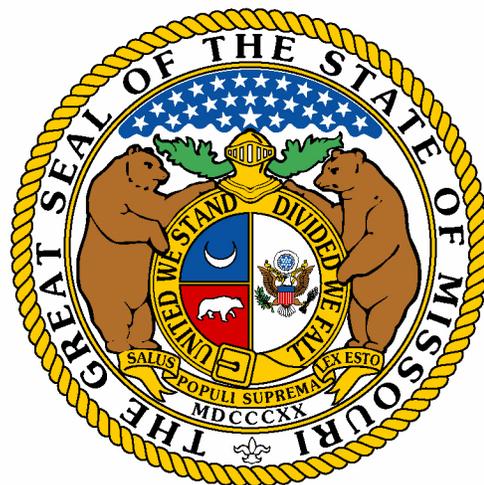
I, JOHN R. ASHCROFT, Secretary of State of the STATE OF MISSOURI, do hereby certify that the records in my office and in my care and custody reveal that

*Mareth Enterprises, LLC*  
*LC0841381*

was created under the laws of this State on the 10th day of September, 2007, and is active, having fully complied with all requirements of this office.

IN TESTIMONY WHEREOF, I hereunto set my hand and cause to be affixed the GREAT SEAL of the State of Missouri. Done at the City of Jefferson, this 3rd day of October, 2017.

  
Secretary of State



Certification Number: CERT-10032017-0027

**EXHIBIT B**

**ARTICLES OF ORGANIZATION**

RECEIVED

JUN 28 2004

ARTICLES OF ORGANIZATION  
OF  
MARETH ENTERPRISES LLC

Utah Div. Of Corp. & Comm. Code



06-28-04A08:21 RCVD

The undersigned persons hereby establish a Limited Liability Company (the "Company") pursuant to the Utah Limited Liability Company Act (the "Act"), and adopt the following Articles of Organization:

- FIRST: The name of the Company is Mareth Enterprises, LLC
- SECOND: The period of duration shall be fifty (50) years.
- THIRD: The Company is organized for all legal and lawful purposes permitted by the Utah Limited Liability Company Act.
- FOURTH: The address of the initial designated and registered office of the Company is 1450 Military Way, Salt Lake City, UT 84103 The name of its initial Registered Agent at such address is Don A. Stringham.
- FIFTH: The Company shall be managed by one (1) Manager. The name and address of the Manager which shall serve, for the period and upon the terms set forth in the Operating Agreement is:

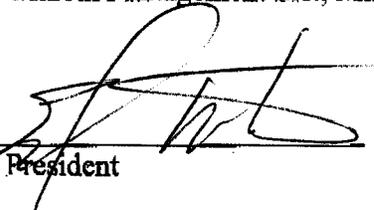
Mareth Management Inc.  
Atten: Ed Mareth  
P.O. Box 478  
Monett, MO 65708

- SIXTH: The Director of the Division of Corporations and Commercial Code is appointed as the agent of the Company for service of process if the agent has resigned, the agent's authority has been revoked, or the agent cannot be found or served with the exercise of reasonable diligence.

Dated this 13<sup>th</sup> day of February 2004

Mareth Enterprises LLC, A Utah Limited  
Liability Company,  
By Mareth Management Inc., Manager

P.O. Box 478  
Monett, MO 65708

by   
Its President

Brittany D. Mareth  
Rt. 3 P.O. Box 223A  
Monett, MO 65708

Brittany Mareth  
Brittany Mareth  
By: Julia Mareth  
Member

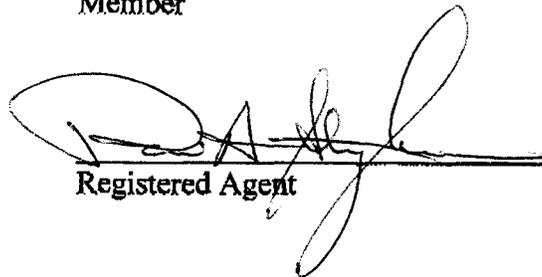
Alexander K. Mareth  
Rt. 3 P.O. Box 223A  
Monett, MO 65708

Alexander Mareth  
Alexander K. Mareth  
By: Julia Mareth  
Member

Emma G. Mareth  
Rt. 3 P.O. Box 223A  
Monett, MO 65708

Emma Mareth  
Emma G. Mareth  
By: Julia Mareth  
Member

Don A. Stringham  
1450 Military Way  
Salt Lake City, Utah 84103

  
Registered Agent

Date: 06/28/2004  
Receipt Number: 1186246  
Amount Paid: \$52.00

**EXHIBIT C**  
**OPERATING AGREEMENT**

**OPERATING AGREEMENT  
FOR  
MARETH ENTERPRISES, LLC**

THIS OPERATING AGREEMENT is made and entered into this 13<sup>th</sup> day of February 2004, by and among MARETH Management Inc., a Utah Corporation, as "MANAGER"; and Brittany D. Mareth, Alexander K. Mareth and Emma G. Mareth as "MEMBERS," pursuant to Title 48, Chapter 2(b), Utah Code Annotated (1953) as amended, known as the Utah Limited Liability Company Act, and all other pertinent laws of the State of Utah and its political subdivisions, the undersigned agree and covenant as follows:

1. DEFINITIONS: The terms used in this Agreement shall have the following meanings:
  - a. "Act" means the Utah Limited Liability Company Act, Title 48, Chapter 2(b), Utah Code Annotated (1964), as amended.
  - b. "Company" means Mareth Enterprises LLC, a Utah Limited Liability Company.
  - c. "Manager" means Mareth Management , Inc.
  - d. "Member" means the Members named above and each party hereafter executing or entering into this Agreement as a Member.
  - e. "Member's Interest in the Company" means a Member's share of the Company profits, surplus or losses. In addition, rights, powers and liabilities of the Members shall apply fully as set forth by the laws of the State of Utah, except as expressly limited or restricted herein.
  
2. NAME, PLACE OF BUSINESS: The name and initial address of the Company is:

P.O. Box 478  
Monett, MO 65708

The Company name shall not be changed except by written consent of a majority of the Members, with the consent of the Manager. The Company business shall be conducted at the above address and/or at such other place or places as the Manager, in the Manager's discretion, may determine.

3. MEMBERS: The name, address, and interest of the Members in the total initial capital of the Company and ongoing profits and losses of the Company are:

| <u>NAME</u>            | <u>ADDRESS</u>                          | <u>INTEREST</u> |
|------------------------|---|-----------------|
| Brittany D. Mareth     | Rt. 3 P.O. Box 223A<br>Monett, MO 65708 | 33%             |
| Alexander K. Mareth    | Rt. 3 P.O. Box 223A<br>Monett, MO 65708 | 33%             |
| Emma G. Mareth         | Rt. 3 P.O. Box 223A<br>Monett, MO 65708 | 33%             |
| Mareth Management Inc. | P.O. Box 478<br>Monett, MO 65708        | 1%              |

4. INITIAL CONTRIBUTIONS: The following assets constitute the total initial capital contribution of the Members to the Company:

| <u>NAME</u>            | <u>CONTRIBUTION</u> |
|------------------------|---------------------|
| Brittany D. Mareth     | \$33.00             |
| Alexander K. Mareth    | \$33.00             |
| Emma G. Mareth         | \$33.00             |
| Mareth Management Inc. | \$ 1.00             |
| TOTAL                  | <u>\$100.00</u>     |

5. SUBSEQUENT CONTRIBUTIONS: From time to time, upon approval of the Manager, each Member may contribute additional cash and other properties to the Company.

6. RESPONSIBILITIES AND POWERS OF MANAGER: The Manager shall be primarily responsible for the management of the properties and business of the Company, including but not limited to: development, operation, lease, rental, sale, encumbrance and all other dealings with Company properties; keeping all books and records and filing all reports required by the State of Utah and all other applicable governmental subdivisions; dealing with customers, tenants, suppliers and other third parties who may deal with the Company; hiring, firing and supervising all employees and agents of the Company; dealing with all governmental agencies and authorities in connection with the Company's business; and contracting with engineers, accountants, attorneys, and other professionals for and on behalf of the Company.

7. MANAGER AS A FIDUCIARY: The Managers shall account to the Company and to the Members and shall hold in a fiduciary capacity any profits derived from any transaction connected with the formation, conduct or liquidation of the Company or from any use by the Managers of the Company property. Such duty extends to the personal representatives of

any deceased Member involved in the liquidation of the Company. All management, investments, accounting and distributions shall be conducted by the Managers, subject to the obligations, duties, and liabilities of fiduciaries in general.

8. APPOINTMENT AND REMOVAL OF MANAGER: Manager shall continue to serve until the Manager's death, dissolution, resignation, or removal by a vote of Members owning more than eighty percent (80%) of the interests in the profits of the Company. Upon any change in Manager, the Members or the new Manager shall cause the execution and filing of the necessary documents to comply with the requirements of the Act.

9. CAPITAL ACCOUNTS: An individual capital account shall be maintained for each Member and shall be credited with all contributions made by that Member and debited and credited in accordance with this paragraph and with Paragraph 3. No interest shall be paid on the initial contribution to the capital of the Company or on any subsequent contribution of capital.

10. DRAWING ACCOUNTS: The Manager shall establish an individual drawing account to be maintained for each Member, which account shall be debited with all withdrawals made for the benefit of such Member.

11. CLOSING OF ACCOUNTS: As soon as practicable after the close of each fiscal year, but in no event later than three and one half (3-1/2) months after the close of the fiscal year, the drawing accounts shall be closed to the capital accounts.

12. METHODS OF ACCOUNTING: The Company shall keep accounts on the cash method. The accounts shall readily disclose items which the Members take into account separately for income tax purposes. As to matters of accounting not provided for in this Agreement, generally accepted accounting principles shall govern.

13. YEAR END ACCOUNTING: The fiscal year of the Company shall be on a calendar year basis commencing January 1 and ending December 31 of each year. The Manager shall cause the books to be closed and balanced at the end of each year. A report and statement shall be furnished each Member as soon as possible after the close of the fiscal year, but in no event later than three and one-half (3-1/2) months after the close of the fiscal year.

14. COMPENSATION: The Manager may receive reasonable compensation for their management and supervision of the Company business, but in no event to exceed compensation ordinarily paid for comparable services rendered by uninterested Manager in similar businesses. Likewise, the Manager may hire and compensate third party employees on terms determined by the Manager.

15. DISTRIBUTIVE SHARES: The profits and losses of the Company shall be distributable or chargeable, as the case may be, in accordance with the provisions of this Agreement relating to the Member's percentage share in profits and losses, provided, however, that the maximum limit of a Member's liability shall be the amount of the Member's investment in the Company.

16. DISTRIBUTIONS OF PROFIT: Distribution of profits and losses from the Company may be made annually or more often to each of the Members or their legal representatives as determined by the Manager. Amounts of income may, however, be retained in the Company at the discretion of the Manager, to be used for the reasonable needs of the Company business.

17. DISTRIBUTION FROM CAPITAL ACCOUNTS: The initial capital contributions provided for in this Agreement, and any additional capital contributions that are made pursuant to this Agreement, shall remain in the respective capital accounts of the Members for the use of the Company. A Member shall have the right to withdraw any, or all of the capital account of that Member only upon the Manager's consent. If, in the judgment of the Manager such withdrawal will jeopardize or seriously impair the business of the Company, the requested withdrawal of capital may, at the sole discretion of the Manager, be denied.

18. INDEMNIFICATION: The Company shall promptly indemnify each Member and the Manager for payments reasonably made and personal liabilities reasonably incurred in the ordinary conduct of Company business, or in the preservation of the business or property of the Company.

19. BOOKS AND RECORDS OF ACCOUNT: The Company books and records shall be kept at the principal place of business of the Company. Every Member and the duly authorized representative, attorney or accountant of a Member shall, upon reasonable request, have access to and may inspect and copy any such books and records.

20. BANK ACCOUNTS: Funds and money received by the Company shall be deposited in such bank account or accounts, as the Manager shall determine. Checks or other withdrawals from any such bank account or accounts shall be made upon the signature of the duly authorized representatives of the Manager or upon such signatures as the Manager may designate.

21. RIGHT OF FIRST REFUSAL AND PURCHASE UPON DEATH OR DISSOLUTION OF A MEMBER:

a. If any Member desires to sell or transfer any part of its interest in the Company, that Member shall first deliver to the Manager, for and on behalf of the Company, and to the other Members, a written notice (the "Notice") specifying the name and address of the proposed purchaser or transferee (who must have made a bona fide offer) and the terms of the offer, which must provide for payment in money. The Company shall have thirty (30) days after receipt of the Notice to purchase that offered interest on the same terms contained in the Notice. If the Company does not elect to purchase that offered interest, the other Members shall, proportionate to their respective percentages of interest in the Company, have the right for an additional thirty (30) days after receipt of the Notice, to purchase the offered interest on the same terms and conditions contained in the Notice. If both the Company and the other Members do not elect to purchase the offered interest within the times provided herein, the selling Member may then complete the sale to the third-party specified in the Notice, as long as

the sale and transfer is completed within 120 days from the date of delivery of the Notice. The provisions of this subparagraph shall not apply to any transfer by a Member of an economic interest in the Company to a Member of the immediate family of a Member or an entity under common control of the Member, for tax or estate planning purposes. Unless otherwise accepted by the Managers, no transferee shall become a substitute Member hereunder.

b. Upon the death, dissolution or receipt by the Manager of notice of bankruptcy (each of which is an "Operative Event") of a Member, the Company shall have the right and option, by written notice to that Member or to the Member's surviving spouse or legal representative, no later than one hundred eighty (180) days after the Operative Event, to elect to purchase that Member's interest in the Company. Upon exercise of this option to purchase, the purchase price shall be an amount equal to the net book value of the interest of the Member in the Company, as determined by generally accepted accounting principals. The portion of the purchase price not in excess of Fifty Thousand Dollars (\$50,000) shall be paid in full no later than one hundred twenty (120) days after the exercise of the option. The balance, if any, of the purchase price shall be payable in twenty equal consecutive quarterly installments of principal, plus accrued interest thereon, with the first payment payable on the first day of the calendar quarter following the Operative Event and the balance each quarter thereafter until paid in full. Interest shall accrue on the unpaid balance at the Base Rate, calculated as of the first day of each month. "Base Rate" is deemed to mean an index which is determined by the published commercial loan variable rate index held by Wells Fargo Bank, N.A. The Company may prepay any portion of the purchase price at any time without penalty.

22. CAUSES OF DISSOLUTION: Termination and dissolution of the Company shall occur upon the happening of any of the following events:

- a. Fifty (50) years from the date of original filing of the Articles of Organization of the Company with the Utah Division of Corporations and Commercial Code.
- b. Upon the unanimous agreement of all Members to dissolve.
- c. Dissolution according to law.

23. WINDING UP AND LIQUIDATION: Upon dissolution, the Manager shall wind up and liquidate the business of the Company as rapidly as business circumstances will permit. The assets shall be applied and distributed in the order provided by the Act.

24. METHOD OF DISTRIBUTION OF ASSETS: To the extent feasible, all distributions in liquidation shall be made pro rata to the Members in kind. Distribution of specific assets shall be determined solely by the Manager.

25. POWER OF ATTORNEY:

a. Each Member hereby makes, constitutes and appoints the Manager, and each successor Manager, with full power of substitution, the Member's true and lawful attorney-in-fact for the Member and in the name of the Member, place and stead and for the use and benefit of the Member, to sign, execute, certify, acknowledge, swear to, file and record the Articles of Organization for the Company as now or hereafter amended, which the Manager may deem necessary, desirable, or appropriate, including, without limitation, amendments or changes to reflect: (1) the exercise by the Manager of any power granted to the Manager under this Agreement; (2) any amendments adopted by the Members in accordance with this Agreement; (3) the change of any Managers and; (4) and any other certificates, instruments, and documents as may be required by, or appropriate under, the laws of the State of Utah or any other state or jurisdiction in which the Company does or intends to do business.

b. Each Member authorizes the Manager to take any further action which such attorney-in-fact shall consider necessary or advisable in connection with any of the foregoing provisions, hereby giving such attorney-in-fact full power and authority to do and perform each and every act and thing whatsoever requisite or advisable to be done in connection with the foregoing as fully as such Member might or could do personally, and hereby ratifying and confirming all that such attorney-in-fact shall lawfully do or cause to be done by virtue hereof.

c. The power of attorney granted by this Paragraph 25:

(i) is a special power of attorney coupled with an interest and is irrevocable;

(ii) may be exercised by such attorney-in-fact by listing the Members executing any agreement, certificate, instrument, or other document with the single signature of such attorney-in-fact on behalf of the Members;

(iii) shall survive the death, disability, legal incapacity, bankruptcy, insolvency, dissolution, or cessation of existence of a Member and shall survive the delivery of an assignment by a Member of the whole or a portion of the interest of a Member in the Company, except that where the assignment is of such Member's entire interest in the Company and the assignee, with the consent of the Manager, is admitted as a substitute Member, that power of attorney shall survive the delivery of such assignment for the sole purpose of enabling the attorney-in-fact to effect such substitution.

26. NOTICES: All notices or other communication among Members, except as provided elsewhere in this Agreement, shall be in writing delivered in person or by certified or registered mail to the Member, or the duly authorized representative of such Member, at the last known address of that Member and shall be deemed received upon actual receipt or upon the expiration of seven (7) days after mailing, whichever is earlier. Any notice may be waived in writing by the person entitled to receive such notice.

27. UTAH LAW TO GOVERN: This Agreement has been prepared for the purpose of governing a Limited Liability Company operating pursuant to the Laws of the State of Utah.

28. BINDING ON SUCCESSORS IN INTEREST: This Agreement shall bind the Members, their heirs, agents, successors, assigns and personal representatives.

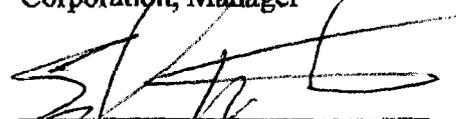
29. NUMBER AND GENDER: As used in this Agreement, the masculine, feminine or neuter gender, and the singular or plural number, shall each be deemed to include the others whenever the context so indicates.

30. PARAGRAPH HEADINGS: The paragraph and subparagraph headings and numbers used herein are for purposes of convenience and shall not be considered in the interpretation of this Agreement.

31. PARTIAL INVALIDITY: If any portions of this Agreement shall be held invalid or inoperative, then, insofar as it is reasonable and possible, the remainder of this Agreement shall be considered valid and operative, and effect shall be given to the intent manifested by the portion held invalid or inoperative.

EXECUTED as of the day and year first hereinabove written.

Mareth Enterprises LLC, a Utah  
Limited Liability Company, by  
Mareth Management Inc., a Utah  
Corporation, Manager

  
Its President

Member

P.O. Box 478  
Monett, MO 65708

Rt. 3 P.O. Box 223A  
Monett, MO 65708

Brittany Mareth  
Brittany D. Mareth  
By: Julia Mareth  
Member

Rt. 3 P.O. Box 223A  
Monett, MO 65708

Alexander Mareth  
Alexander K. Mareth  
By: Julia Mareth  
Member

Rt. 3 P.O. Box 223A  
Monett, MO 65708

Emma Mareth  
Emma G. Mareth  
By: *Juha Mareth*  
Member

Don A. Stringham  
1450 Military Way  
Salt Lake City, Utah 84103

*Don A. Stringham*  
Registered Agent

**EXHIBIT D**  
**RESOLUTIONS**

**CERTIFIED COPY OF MINUTES OF MARETH ENTERPRISES, LLC**

On December 14, 2017 a meeting of all members of Mareth Enterprises, LLC (hereinafter “the Company”) was held pursuant to consent of all members. Julia Mareth was unanimously elected to be Secretary of the meeting. Upon motions made, duly seconded and unanimously approved, the following resolutions were passed.

**WHEREAS**, the City Council of the City of Nevada, Missouri (the “City”) passed an ordinance (the “**Ordinance**”) authorizing the City to issue its Taxable Industrial Revenue Bonds (Mareth Enterprises, LLC Project), Series 2017, in the maximum principal amount of \$960,000 (the “**Bonds**”), for the purpose of acquiring certain real property located at 1800 North Industrial Parkway (the “**Project Site**”) and improving the Project Site and the existing improvements thereon, (iii) lease the Project Site and the existing improvements thereon (collectively, the “**Project**”); and

**WHEREAS**, pursuant to Sections 100.010 to 100.200, inclusive, of the Revised Statutes of Missouri, as amended, and in accordance with the terms and conditions of the Ordinance, the City has issued or intends to issue the Bonds (the “**Chapter 100**” and any and all documents evidencing the issuance of the Bonds or the implementation of the Chapter 100 in such form as any Authorized Agent (as defined below) may deem appropriate are hereby referred to as the “**Chapter 100 Documents**”); and

**WHEREAS**, the Members deem it advisable and in the best interest of the Company and its Members to execute, deliver and perform the Chapter 100 Documents by and among the Company and the City; and

**WHEREAS**, the Members deem it advisable and in the best interest of its Members to authorize Edward Mareth as “Authorized Agent”, to execute and deliver any and all documents on behalf of the Company which the Company is required to execute in connection with the Bonds, Chapter 100, and Project in such form as any Authorized Agent may deem appropriate, and to take all such further action as deemed necessary, desirable, advisable, or appropriate by any Authorized Agent to consummate, effectuate, and carry out the terms and conditions of the Chapter 100 Documents, the issuance of the Bonds, and the completion of the Project.

**NOW THEREFORE, BE IT RESOLVED**, that the execution, delivery and performance of the Chapter 100 Documents by and among the Company and the City is hereby authorized and approved.

**BE IT FURTHER RESOLVED**, that each Authorized Agent, acting singly or jointly, is hereby fully authorized and directed, for and on behalf of, and in the name of the Company, to execute and deliver any and all documents that the Company is required to execute in connection with the Bonds, Chapter 100, and Project, and to take all such further action as deemed necessary, desirable, advisable, or appropriate by any Authorized Agent to consummate, effectuate, and carry out the terms and conditions of the Chapter 100 Documents, the issuance of the Bonds, and the completion of the Project.

**BE IT FURTHER RESOLVED**, that any actions previously taken by any Member or Authorized Agent in connection with the foregoing resolutions and/or the execution and delivery of any of the documents required for the consummation of the Chapter 100, issuance of the Bonds, or the completion of the Project, are hereby ratified, confirmed and approved in all respects as the duly authorized acts of the Company.

**BE IT FURTHER RESOLVED**, that each Authorized Agent is, acting singly or jointly, hereby authorized and directed, for and in the name of the Company, to take any and all steps and do any and all things that such Authorized Agent may deem necessary or advisable in order to effectuate the purposes of each and all of the foregoing resolutions; the execution, delivery or filing by any such Authorized Agent

of any of certificates, agreements or other documents, the taking by any such Authorized Agent of any such step, or the doing by any such Authorized Agent of any act in connection with the foregoing matters

shall conclusively establish such Authorized Agent's determination of such necessity or appropriateness and shall conclusively establish such Authorized Agent's authority therefor from the Members and the approval and ratification of the undersigned of the terms and conditions of the certificates, agreements or other documents so executed and the action so taken.

**BE IT FURTHER RESOLVED**, that whenever it is provided in these resolutions that any Authorized Agent may execute, deliver or file any document or other instrument or take such other action as he or she may or shall approve, the fact that such Authorized Agent shall execute, deliver or file such document or other instrument or take such other action shall be conclusive evidence of such Authorized Agent's authority as conferred hereby.

**BE IT FURTHER RESOLVED**, that the omission from these resolutions of any agreement or other arrangement contemplated by any of the agreements or instruments described in the foregoing resolutions or any action to be taken in accordance with any requirements of any of the agreements or instruments described in the foregoing resolutions shall in no manner derogate from the authority of the Authorized Agents to take all actions necessary, desirable, advisable or appropriate to consummate, effectuate, carry out or further the transactions contemplated by and the intent and purposes of the foregoing resolutions.

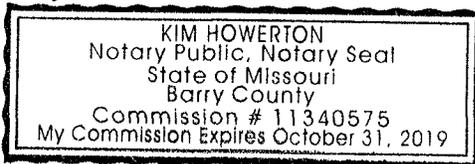
**BE IT FURTHER RESOLVED**, that any photocopy, electronic copy, or facsimile of this consent shall be deemed an original for all purposes.

**BE IT FURTHER RESOLVED**, that any electronic signatures, whether digital or encrypted, of the signatories hereto are intended to authenticate this writing and to have the same force and effect as manual signatures; electronic signature means any electronic sound, symbol, or process attached to or logically associated with a record and executed and adopted by a person or entity with the intent to sign such record, including facsimile or email electronic signatures pursuant to applicable law.

Julia Mareth  
Julia Mareth, Secretary

Subscribed and sworn to before me by Julia Mareth, on December 19, 2017.

Kim Howerton  
Notary Public





# EVIDENCE OF PROPERTY INSURANCE

DATE (MM/DD/YYYY)  
12/21/2017

THIS EVIDENCE OF PROPERTY INSURANCE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE ADDITIONAL INTEREST NAMED BELOW. THIS EVIDENCE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS EVIDENCE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE ADDITIONAL INTEREST.

|  |   |  |   |  |
|--|---|--|---|--|
| AGENCY<br>Specialty Risk Insurance<br>2023 S. Garrison<br>Carthage, MO 64836 |   | PHONE<br>(A/C, No, Ext): (417) 359-5470      | COMPANY<br>Mt. Hawley Insurance Company<br>PO Box 3961<br>Peoria, IL 61612-3961 |  |
| FAX<br>(A/C, No): (417) 359-8590   |   | E-MAIL ADDRESS: debbiegates@prevent-risk.com |   |  |
| CODE:  | SUB CODE:   |  |   |  |
| AGENCY CUSTOMER ID #: MAREENT-01   |   |  |   |  |
| INSURED  | Mareth Enterprises, LLC<br>P O Box 416<br>Purdy, MO 65734 |  | LOAN NUMBER   | POLICY NUMBER<br>MCP0164696                                    |
|  |   | EFFECTIVE DATE<br>4/2/2017                   | EXPIRATION DATE<br>4/2/2018   | <input type="checkbox"/> CONTINUED UNTIL TERMINATED IF CHECKED |
| THIS REPLACES PRIOR EVIDENCE DATED:  |   |  |   |  |

### PROPERTY INFORMATION

|  |
|--|
| LOCATION/DESCRIPTION<br>Loc # 6, Bldg # 1, 1800 N US 71, Nevada, MO 64772, Warehouse |
|--|

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS EVIDENCE OF PROPERTY INSURANCE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

### COVERAGE INFORMATION

| PERILS INSURED  | BASIC | BROAD | SPECIAL | AMOUNT OF INSURANCE | DEDUCTIBLE |
|---|-------|-------|---------|---------------------|------------|
| Loc # 6, Bldg # 1<br>Building, Special (Including theft) - Detail |       |       |         | \$9,160,000         | 10,000     |

### REMARKS (Including Special Conditions)

**Special Conditions:**  
The certificate holder and BOKF, N.A., as trustee, are named as additional insureds in regards to loation #6 - 1800 N. US 71, Nevada, MO

### CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

### ADDITIONAL INTEREST

|  |                                     |                    |                          |                       |                          |            |
|--|-------------------------------------|--------------------|--------------------------|-----------------------|--------------------------|------------|
| NAME AND ADDRESS<br><br>City of Nevada<br>Attn: City Manager<br>110 S Ash St<br>Nevada, MO 64772 | <input checked="" type="checkbox"/> | ADDITIONAL INSURED | <input type="checkbox"/> | LENDER'S LOSS PAYABLE | <input type="checkbox"/> | LOSS PAYEE |
|  |                                     | MORTGAGEE          |                          |                       |                          |            |
|  | LOAN #                              |                    |                          |                       |                          |            |
| AUTHORIZED REPRESENTATIVE<br><i>Cadric Cortez Jr</i>   |                                     |                    |                          |                       |                          |            |



## PURCHASER'S RECEIPT AND REPRESENTATION LETTER

City of Nevada, Missouri  
110 S. Ash St.  
Nevada, Missouri 64772  
ATTN: City Manager

BOKF, N.A.  
200 N. Broadway, Suite 1710  
St. Louis, Missouri 63102  
ATTN: Corporate Trust Department

Re: \$960,000 Maximum Principal Amount of Taxable Industrial Revenue Bonds (Mareth Enterprises, LLC Project), Series 2017 of the City of Nevada, Missouri

Ladies and Gentlemen:

In connection with the purchase of the above-referenced Bonds (the "Bonds"), the undersigned purchaser of the Bonds hereby represents, warrants and agrees as follows:

1. The undersigned fully understands that (a) the Bonds have been issued under and pursuant to a Trust Indenture dated as of December 1, 2017 (the "Indenture"), between the City of Nevada, Missouri (the "City") and BOKF, N.A., as trustee (the "Trustee"), and (b) the Bonds are payable solely out of certain rents, revenues and receipts to be derived from the leasing or sale of the Project (as defined in the Indenture) to Mareth Enterprises, LLC, a Missouri limited liability company (the "Company"), under a Lease Agreement dated as of December 1, 2017 (the "Lease"), between the City and the Company, with certain of such rents, revenues and receipts being pledged and assigned by the City to the Trustee under the Indenture to secure the payment of the principal of and interest on the Bonds.

2. The undersigned understands that the Bonds are transferable only in the manner provided for in the Indenture and discussed below and warrants that it is acquiring the Bonds for its own account with the intent of holding the Bonds as an investment, and the acquisition of the Bonds is not made with a view toward its distribution or for the purpose of offering, selling or otherwise participating in a distribution of the Bonds.

3. The undersigned agrees not to attempt to offer, sell, hypothecate or otherwise distribute the Bonds to others unless authorized by the terms of the Indenture and, if requested by the City, upon receipt of an opinion of counsel reasonably acceptable to the City, the Company and the purchaser that all registration and disclosure requirements of the Securities and Exchange Commission and all other appropriate federal and Missouri securities laws and the securities law of any other applicable state are complied with.

4. The Company has (a) furnished to the undersigned such information about itself as the undersigned deems necessary in order for it to make an informed investment decision with respect to the purchase of the Bonds, (b) made available to the undersigned, during the course of this transaction, ample opportunity to ask questions of, and to receive answers from, appropriate officers of the City and the

terms and conditions of the offering of the Bonds, and (c) provided to the undersigned all additional information which it has requested.

5. The undersigned is now, and was when it agreed to purchase the Bonds, familiar with the operations of the Company and fully aware of terms and risks of the Bonds. The undersigned believes that the Bonds which it is acquiring is a security of the kind that it wishes to purchase and hold for investment and that the nature and amount thereof are consistent with its investment program.

6. The undersigned is fully aware of and satisfied with (a) the current status of the title to the Project and any issues related thereto and (b) the terms, amounts and providers of the insurance maintained pursuant to **Article VII** of the Lease, and the undersigned is purchasing the Bonds with full knowledge of such matters.

7. The undersigned understands and agrees that the interest on the Bonds *is* subject to federal and state income taxation.

8. The undersigned hereby directs the Trustee to hold the Bonds in trust pursuant to **Section 204(c)** of the Indenture.

9. The undersigned is (i) the lessee under the Lease, (ii) a “qualified institutional buyer” under Rule 144A promulgated under the Securities Act of 1933, or (iii) a general business corporation or enterprise with total assets in excess of \$100,000,000.

*[Remainder of Page Intentionally Left Blank – Signature Page to Follow]*

Dated: December 18, 2017

**MARETH ENTERPRISES, LLC**

By: *[Signature]*  
Name: ED MARETH  
Title: Authorized Agent

[Purchaser's Receipt and Representation Letter]

COMPANY'S AFFIDAVIT

STATE OF MISSOURI )  
 ) SS  
COUNTY OF BARRY )

I, the undersigned, am over the age of 18 years and have personal knowledge of the matters stated herein.

I am a duly authorized officer of Mareth Enterprises, LLC, a Missouri limited liability company (the "Company"), and am authorized by the Company to attest to the matters set forth herein.

I hereby affirm the enrollment and participation of HR Professional Solutions, LLC on behalf of the Company in a "federal work authorization program" as defined in Section 285.525 of the Revised Statutes of Missouri, as amended.

The Company does not knowingly employ any person who is an "unauthorized alien" as defined in Section 285.525 of the Revised Statutes of Missouri, as amended.

Further Affiant Sayeth Not.

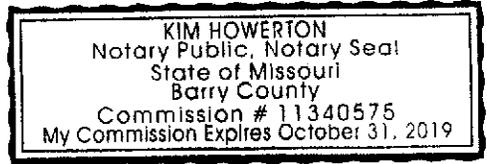
MARETH ENTERPRISES, LLC

By: [Signature]  
Name: ED MARETH  
Title: Managing member

Subscribed and sworn to before me this 22 day of December, 2017.

[Signature]  
Notary Public

My commission expires on: October 31, 2017



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**THE E-VERIFY  
MEMORANDUM OF UNDERSTANDING  
FOR EMPLOYERS**

**ARTICLE I  
PURPOSE AND AUTHORITY**

The parties to this agreement are the Department of Homeland Security (DHS) and the HR Professional Solutions, LLC (Employer). The purpose of this agreement is to set forth terms and conditions which the Employer will follow while participating in E-Verify.

E-Verify is a program that electronically confirms an employee's eligibility to work in the United States after completion of Form I-9, Employment Eligibility Verification (Form I-9). This Memorandum of Understanding (MOU) explains certain features of the E-Verify program and describes specific responsibilities of the Employer, the Social Security Administration (SSA), and DHS.

Authority for the E-Verify program is found in Title IV, Subtitle A, of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. 104-208, 110 Stat. 3009, as amended (8 U.S.C. § 1324a note). The Federal Acquisition Regulation (FAR) Subpart 22.18, "Employment Eligibility Verification" and Executive Order 12989, as amended, provide authority for Federal contractors and subcontractors (Federal contractor) to use E-Verify to verify the employment eligibility of certain employees working on Federal contracts.

**ARTICLE II  
RESPONSIBILITIES**

**A. RESPONSIBILITIES OF THE EMPLOYER**

1. The Employer agrees to display the following notices supplied by DHS in a prominent place that is clearly visible to prospective employees and all employees who are to be verified through the system:
  - a. Notice of E-Verify Participation
  - b. Notice of Right to Work
2. The Employer agrees to provide to the SSA and DHS the names, titles, addresses, and telephone numbers of the Employer representatives to be contacted about E-Verify. The Employer also agrees to keep such information current by providing updated information to SSA and DHS whenever the representatives' contact information changes.
3. The Employer agrees to grant E-Verify access only to current employees who need E-Verify access. Employers must promptly terminate an employee's E-Verify access if the employer is separated from the company or no longer needs access to E-Verify.

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4. The Employer agrees to become familiar with and comply with the most recent version of the E-Verify User Manual.
  5. The Employer agrees that any Employer Representative who will create E-Verify cases will complete the E-Verify Tutorial before that individual creates any cases.
    - a. The Employer agrees that all Employer representatives will take the refresher tutorials when prompted by E-Verify in order to continue using E-Verify. Failure to complete a refresher tutorial will prevent the Employer Representative from continued use of E-Verify.
  6. The Employer agrees to comply with current Form I-9 procedures, with two exceptions:
    - a. If an employee presents a "List B" identity document, the Employer agrees to only accept "List B" documents that contain a photo. (List B documents identified in 8 C.F.R. § 274a.2(b)(1)(B)) can be presented during the Form I-9 process to establish identity.) If an employee objects to the photo requirement for religious reasons, the Employer should contact E-Verify at 888-464-4218.
    - b. If an employee presents a DHS Form I-551 (Permanent Resident Card), Form I-766 (Employment Authorization Document), or U.S. Passport or Passport Card to complete Form I-9, the Employer agrees to make a photocopy of the document and to retain the photocopy with the employee's Form I-9. The Employer will use the photocopy to verify the photo and to assist DHS with its review of photo mismatches that employees contest. DHS may in the future designate other documents that activate the photo screening tool.
- Note: Subject only to the exceptions noted previously in this paragraph, employees still retain the right to present any List A, or List B and List C, document(s) to complete the Form I-9.
7. The Employer agrees to record the case verification number on the employee's Form I-9 or to print the screen containing the case verification number and attach it to the employee's Form I-9.
  8. The Employer agrees that, although it participates in E-Verify, the Employer has a responsibility to complete, retain, and make available for inspection Forms I-9 that relate to its employees, or from other requirements of applicable regulations or laws, including the obligation to comply with the antidiscrimination requirements of section 274B of the INA with respect to Form I-9 procedures.
    - a. The following modified requirements are the only exceptions to an Employer's obligation to not employ unauthorized workers and comply with the anti-discrimination provision of the INA: (1) List B identity documents must have photos, as described in paragraph 6 above; (2) When an Employer confirms the identity and employment eligibility of newly hired employee using E-Verify procedures, the Employer establishes a rebuttable presumption that it has not violated section 274A(a)(1)(A) of the Immigration and Nationality Act (INA) with respect to the hiring of that employee; (3) If the Employer receives a final nonconfirmation for an employee, but continues to employ that person, the Employer must notify DHS and the Employer is subject to a civil money penalty between \$550 and \$1,100 for each failure to notify DHS of continued employment following a final nonconfirmation; (4) If the Employer continues to employ an employee after receiving a final nonconfirmation, then the Employer is subject to a rebuttable presumption that it has knowingly

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employed an unauthorized alien in violation of section 274A(a)(1)(A); and (5) no E-Verify participant is civilly or criminally liable under any law for any action taken in good faith based on information provided through the E-Verify.

b. DHS reserves the right to conduct Form I-9 compliance inspections, as well as any other enforcement or compliance activity authorized by law, including site visits, to ensure proper use of E-Verify.

9. The Employer is strictly prohibited from creating an E-Verify case before the employee has been hired, meaning that a firm offer of employment was extended and accepted and Form I-9 was completed. The Employer agrees to create an E-Verify case for new employees within three Employer business days after each employee has been hired (after both Sections 1 and 2 of Form I-9 have been completed), and to complete as many steps of the E-Verify process as are necessary according to the E-Verify User Manual. If E-Verify is temporarily unavailable, the three-day time period will be extended until it is again operational in order to accommodate the Employer's attempting, in good faith, to make inquiries during the period of unavailability.

10. The Employer agrees not to use E-Verify for pre-employment screening of job applicants, in support of any unlawful employment practice, or for any other use that this MOU or the E-Verify User Manual does not authorize.

11. The Employer must use E-Verify for all new employees. The Employer will not verify selectively and will not verify employees hired before the effective date of this MOU. Employers who are Federal contractors may qualify for exceptions to this requirement as described in Article II.B of this MOU.

12. The Employer agrees to follow appropriate procedures (see Article III below) regarding tentative nonconfirmations. The Employer must promptly notify employees in private of the finding and provide them with the notice and letter containing information specific to the employee's E-Verify case. The Employer agrees to provide both the English and the translated notice and letter for employees with limited English proficiency to employees. The Employer agrees to provide written referral instructions to employees and instruct affected employees to bring the English copy of the letter to the SSA. The Employer must allow employees to contest the finding, and not take adverse action against employees if they choose to contest the finding, while their case is still pending. Further, when employees contest a tentative nonconfirmation based upon a photo mismatch, the Employer must take additional steps (see Article III.B. below) to contact DHS with information necessary to resolve the challenge.

13. The Employer agrees not to take any adverse action against an employee based upon the employee's perceived employment eligibility status while SSA or DHS is processing the verification request unless the Employer obtains knowledge (as defined in 8 C.F.R. § 274a.1(l)) that the employee is not work authorized. The Employer understands that an initial inability of the SSA or DHS automated verification system to verify work authorization, a tentative nonconfirmation, a case in continuance (indicating the need for additional time for the government to resolve a case), or the finding of a photo mismatch, does not establish, and should not be interpreted as, evidence that the employee is not work authorized. In any of such cases, the employee must be provided a full and fair opportunity to contest the finding, and if he or she does so, the employee may not be terminated or suffer any adverse employment consequences based upon the employee's perceived employment eligibility status

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(including denying, reducing, or extending work hours, delaying or preventing training, requiring an employee to work in poorer conditions, withholding pay, refusing to assign the employee to a Federal contract or other assignment, or otherwise assuming that he or she is unauthorized to work) until and unless secondary verification by SSA or DHS has been completed and a final nonconfirmation has been issued. If the employee does not choose to contest a tentative nonconfirmation or a photo mismatch or if a secondary verification is completed and a final nonconfirmation is issued, then the Employer can find the employee is not work authorized and terminate the employee's employment. Employers or employees with questions about a final nonconfirmation may call E-Verify at 1-888-464-4218 (customer service) or 1-888-897-7781 (worker hotline).

14. The Employer agrees to comply with Title VII of the Civil Rights Act of 1964 and section 274B of the INA as applicable by not discriminating unlawfully against any individual in hiring, firing, employment eligibility verification, or recruitment or referral practices because of his or her national origin or citizenship status, or by committing discriminatory documentary practices. The Employer understands that such illegal practices can include selective verification or use of E-Verify except as provided in part D below, or discharging or refusing to hire employees because they appear or sound "foreign" or have received tentative nonconfirmations. The Employer further understands that any violation of the immigration-related unfair employment practices provisions in section 274B of the INA could subject the Employer to civil penalties, back pay awards, and other sanctions, and violations of Title VII could subject the Employer to back pay awards, compensatory and punitive damages. Violations of either section 274B of the INA or Title VII may also lead to the termination of its participation in E-Verify. If the Employer has any questions relating to the anti-discrimination provision, it should contact OSC at 1-800-255-8155 or 1-800-237-2515 (TDD).

15. The Employer agrees that it will use the information it receives from E-Verify only to confirm the employment eligibility of employees as authorized by this MOU. The Employer agrees that it will safeguard this information, and means of access to it (such as PINS and passwords), to ensure that it is not used for any other purpose and as necessary to protect its confidentiality, including ensuring that it is not disseminated to any person other than employees of the Employer who are authorized to perform the Employer's responsibilities under this MOU, except for such dissemination as may be authorized in advance by SSA or DHS for legitimate purposes.

16. The Employer agrees to notify DHS immediately in the event of a breach of personal information. Breaches are defined as loss of control or unauthorized access to E-Verify personal data. All suspected or confirmed breaches should be reported by calling 1-888-464-4218 or via email at [E-Verify@dhs.gov](mailto:E-Verify@dhs.gov). Please use "Privacy Incident – Password" in the subject line of your email when sending a breach report to E-Verify.

17. The Employer acknowledges that the information it receives from SSA is governed by the Privacy Act (5 U.S.C. § 552a(i)(1) and (3)) and the Social Security Act (42 U.S.C. 1306(a)). Any person who obtains this information under false pretenses or uses it for any purpose other than as provided for in this MOU may be subject to criminal penalties.

18. The Employer agrees to cooperate with DHS and SSA in their compliance monitoring and evaluation of E-Verify, which includes permitting DHS, SSA, their contractors and other agents, upon

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reasonable notice, to review Forms I-9 and other employment records and to interview it and its employees regarding the Employer's use of E-Verify, and to respond in a prompt and accurate manner to DHS requests for information relating to their participation in E-Verify.

19. The Employer shall not make any false or unauthorized claims or references about its participation in E-Verify on its website, in advertising materials, or other media. The Employer shall not describe its services as federally-approved, federally-certified, or federally-recognized, or use language with a similar intent on its website or other materials provided to the public. Entering into this MOU does not mean that E-Verify endorses or authorizes your E-Verify services and any claim to that effect is false.

20. The Employer shall not state in its website or other public documents that any language used therein has been provided or approved by DHS, USCIS or the Verification Division, without first obtaining the prior written consent of DHS.

21. The Employer agrees that E-Verify trademarks and logos may be used only under license by DHS/USCIS (see [M-795 \(Web\)](#)) and, other than pursuant to the specific terms of such license, may not be used in any manner that might imply that the Employer's services, products, websites, or publications are sponsored by, endorsed by, licensed by, or affiliated with DHS, USCIS, or E-Verify.

22. The Employer understands that if it uses E-Verify procedures for any purpose other than as authorized by this MOU, the Employer may be subject to appropriate legal action and termination of its participation in E-Verify according to this MOU.

## **B. RESPONSIBILITIES OF FEDERAL CONTRACTORS**

1. If the Employer is a Federal contractor with the FAR E-Verify clause subject to the employment verification terms in Subpart 22.18 of the FAR, it will become familiar with and comply with the most current version of the E-Verify User Manual for Federal Contractors as well as the E-Verify Supplemental Guide for Federal Contractors.

2. In addition to the responsibilities of every employer outlined in this MOU, the Employer understands that if it is a Federal contractor subject to the employment verification terms in Subpart 22.18 of the FAR it must verify the employment eligibility of any "employee assigned to the contract" (as defined in FAR 22.1801). Once an employee has been verified through E-Verify by the Employer, the Employer may not create a second case for the employee through E-Verify.

- a. An Employer that is not enrolled in E-Verify as a Federal contractor at the time of a contract award must enroll as a Federal contractor in the E-Verify program within 30 calendar days of contract award and, within 90 days of enrollment, begin to verify employment eligibility of new hires using E-Verify. The Employer must verify those employees who are working in the United States, whether or not they are assigned to the contract. Once the Employer begins verifying new hires, such verification of new hires must be initiated within three business days after the hire date. Once enrolled in E-Verify as a Federal contractor, the Employer must begin verification of employees assigned to the contract within 90 calendar days after the date of enrollment or within 30 days of an employee's assignment to the contract, whichever date is later.

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b. Employers enrolled in E-Verify as a Federal contractor for 90 days or more at the time of a contract award must use E-Verify to begin verification of employment eligibility for new hires of the Employer who are working in the United States, whether or not assigned to the contract, within three business days after the date of hire. If the Employer is enrolled in E-Verify as a Federal contractor for 90 calendar days or less at the time of contract award, the Employer must, within 90 days of enrollment, begin to use E-Verify to initiate verification of new hires of the contractor who are working in the United States, whether or not assigned to the contract. Such verification of new hires must be initiated within three business days after the date of hire. An Employer enrolled as a Federal contractor in E-Verify must begin verification of each employee assigned to the contract within 90 calendar days after date of contract award or within 30 days after assignment to the contract, whichever is later.

c. Federal contractors that are institutions of higher education (as defined at 20 U.S.C. 1001(a)), state or local governments, governments of Federally recognized Indian tribes, or sureties performing under a takeover agreement entered into with a Federal agency under a performance bond may choose to only verify new and existing employees assigned to the Federal contract. Such Federal contractors may, however, elect to verify all new hires, and/or all existing employees hired after November 6, 1986. Employers in this category must begin verification of employees assigned to the contract within 90 calendar days after the date of enrollment or within 30 days of an employee's assignment to the contract, whichever date is later.

d. Upon enrollment, Employers who are Federal contractors may elect to verify employment eligibility of all existing employees working in the United States who were hired after November 6, 1986, instead of verifying only those employees assigned to a covered Federal contract. After enrollment, Employers must elect to verify existing staff following DHS procedures and begin E-Verify verification of all existing employees within 180 days after the election.

e. The Employer may use a previously completed Form I-9 as the basis for creating an E-Verify case for an employee assigned to a contract as long as:

- i. That Form I-9 is complete (including the SSN) and complies with Article II.A.6,
- ii. The employee's work authorization has not expired, and
- iii. The Employer has reviewed the Form I-9 information either in person or in communications with the employee to ensure that the employee's Section 1, Form I-9 attestation has not changed (including, but not limited to, a lawful permanent resident alien having become a naturalized U.S. citizen).

f. The Employer shall complete a new Form I-9 consistent with Article II.A.6 or update the previous Form I-9 to provide the necessary information if:

- i. The Employer cannot determine that Form I-9 complies with Article II.A.6,
- ii. The employee's basis for work authorization as attested in Section 1 has expired or changed, or
- iii. The Form I-9 contains no SSN or is otherwise incomplete.

Note: If Section 1 of Form I-9 is otherwise valid and up-to-date and the form otherwise complies with

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Article II.C.5, but reflects documentation (such as a U.S. passport or Form I-551) that expired after completing Form I-9, the Employer shall not require the production of additional documentation, or use the photo screening tool described in Article II.A.5, subject to any additional or superseding instructions that may be provided on this subject in the E-Verify User Manual.

g. The Employer agrees not to require a second verification using E-Verify of any assigned employee who has previously been verified as a newly hired employee under this MOU or to authorize verification of any existing employee by any Employer that is not a Federal contractor based on this Article.

3. The Employer understands that if it is a Federal contractor, its compliance with this MOU is a performance requirement under the terms of the Federal contract or subcontract, and the Employer consents to the release of information relating to compliance with its verification responsibilities under this MOU to contracting officers or other officials authorized to review the Employer's compliance with Federal contracting requirements.

### **C. RESPONSIBILITIES OF SSA**

1. SSA agrees to allow DHS to compare data provided by the Employer against SSA's database. SSA sends DHS confirmation that the data sent either matches or does not match the information in SSA's database.

2. SSA agrees to safeguard the information the Employer provides through E-Verify procedures. SSA also agrees to limit access to such information, as is appropriate by law, to individuals responsible for the verification of Social Security numbers or responsible for evaluation of E-Verify or such other persons or entities who may be authorized by SSA as governed by the Privacy Act (5 U.S.C. § 552a), the Social Security Act (42 U.S.C. 1306(a)), and SSA regulations (20 CFR Part 401).

3. SSA agrees to provide case results from its database within three Federal Government work days of the initial inquiry. E-Verify provides the information to the Employer.

4. SSA agrees to update SSA records as necessary if the employee who contests the SSA tentative nonconfirmation visits an SSA field office and provides the required evidence. If the employee visits an SSA field office within the eight Federal Government work days from the date of referral to SSA, SSA agrees to update SSA records, if appropriate, within the eight-day period unless SSA determines that more than eight days may be necessary. In such cases, SSA will provide additional instructions to the employee. If the employee does not visit SSA in the time allowed, E-Verify may provide a final nonconfirmation to the employer.

Note: If an Employer experiences technical problems, or has a policy question, the employer should contact E-Verify at 1-888-464-4218.

### **D. RESPONSIBILITIES OF DHS**

1. DHS agrees to provide the Employer with selected data from DHS databases to enable the Employer to conduct, to the extent authorized by this MOU:

a. Automated verification checks on alien employees by electronic means, and

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- b. Photo verification checks (when available) on employees.
2. DHS agrees to assist the Employer with operational problems associated with the Employer's participation in E-Verify. DHS agrees to provide the Employer names, titles, addresses, and telephone numbers of DHS representatives to be contacted during the E-Verify process.
3. DHS agrees to provide to the Employer with access to E-Verify training materials as well as an E-Verify User Manual that contain instructions on E-Verify policies, procedures, and requirements for both SSA and DHS, including restrictions on the use of E-Verify.
4. DHS agrees to train Employers on all important changes made to E-Verify through the use of mandatory refresher tutorials and updates to the E-Verify User Manual. Even without changes to E-Verify, DHS reserves the right to require employers to take mandatory refresher tutorials.
5. DHS agrees to provide to the Employer a notice, which indicates the Employer's participation in E-Verify. DHS also agrees to provide to the Employer anti-discrimination notices issued by the Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC), Civil Rights Division, U.S. Department of Justice.
6. DHS agrees to issue each of the Employer's E-Verify users a unique user identification number and password that permits them to log in to E-Verify.
7. DHS agrees to safeguard the information the Employer provides, and to limit access to such information to individuals responsible for the verification process, for evaluation of E-Verify, or to such other persons or entities as may be authorized by applicable law. Information will be used only to verify the accuracy of Social Security numbers and employment eligibility, to enforce the INA and Federal criminal laws, and to administer Federal contracting requirements.
8. DHS agrees to provide a means of automated verification that provides (in conjunction with SSA verification procedures) confirmation or tentative nonconfirmation of employees' employment eligibility within three Federal Government work days of the initial inquiry.
9. DHS agrees to provide a means of secondary verification (including updating DHS records) for employees who contest DHS tentative nonconfirmations and photo mismatch tentative nonconfirmations. This provides final confirmation or nonconfirmation of the employees' employment eligibility within 10 Federal Government work days of the date of referral to DHS, unless DHS determines that more than 10 days may be necessary. In such cases, DHS will provide additional verification instructions.

### **ARTICLE III**

#### **REFERRAL OF INDIVIDUALS TO SSA AND DHS**

##### **A. REFERRAL TO SSA**

1. If the Employer receives a tentative nonconfirmation issued by SSA, the Employer must print the notice as directed by E-Verify. The Employer must promptly notify employees in private of the finding and provide them with the notice and letter containing information specific to the employee's E-Verify

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case. The Employer also agrees to provide both the English and the translated notice and letter for employees with limited English proficiency to employees. The Employer agrees to provide written referral instructions to employees and instruct affected employees to bring the English copy of the letter to the SSA. The Employer must allow employees to contest the finding, and not take adverse action against employees if they choose to contest the finding, while their case is still pending.

2. The Employer agrees to obtain the employee's response about whether he or she will contest the tentative nonconfirmation as soon as possible after the Employer receives the tentative nonconfirmation. Only the employee may determine whether he or she will contest the tentative nonconfirmation.
3. After a tentative nonconfirmation, the Employer will refer employees to SSA field offices only as directed by E-Verify. The Employer must record the case verification number, review the employee information submitted to E-Verify to identify any errors, and find out whether the employee contests the tentative nonconfirmation. The Employer will transmit the Social Security number, or any other corrected employee information that SSA requests, to SSA for verification again if this review indicates a need to do so.
4. The Employer will instruct the employee to visit an SSA office within eight Federal Government work days. SSA will electronically transmit the result of the referral to the Employer within 10 Federal Government work days of the referral unless it determines that more than 10 days is necessary.
5. While waiting for case results, the Employer agrees to check the E-Verify system regularly for case updates.
6. The Employer agrees not to ask the employee to obtain a printout from the Social Security Administration number database (the Numident) or other written verification of the SSN from the SSA.

## **B. REFERRAL TO DHS**

1. If the Employer receives a tentative nonconfirmation issued by DHS, the Employer must promptly notify employees in private of the finding and provide them with the notice and letter containing information specific to the employee's E-Verify case. The Employer also agrees to provide both the English and the translated notice and letter for employees with limited English proficiency to employees. The Employer must allow employees to contest the finding, and not take adverse action against employees if they choose to contest the finding, while their case is still pending.
2. The Employer agrees to obtain the employee's response about whether he or she will contest the tentative nonconfirmation as soon as possible after the Employer receives the tentative nonconfirmation. Only the employee may determine whether he or she will contest the tentative nonconfirmation.
3. The Employer agrees to refer individuals to DHS only when the employee chooses to contest a tentative nonconfirmation.
4. If the employee contests a tentative nonconfirmation issued by DHS, the Employer will instruct the

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employee to contact DHS through its toll-free hotline (as found on the referral letter) within eight Federal Government work days.

5. If the Employer finds a photo mismatch, the Employer must provide the photo mismatch tentative nonconfirmation notice and follow the instructions outlined in paragraph 1 of this section for tentative nonconfirmations, generally.
6. The Employer agrees that if an employee contests a tentative nonconfirmation based upon a photo mismatch, the Employer will send a copy of the employee's Form I-551, Form I-766, U.S. Passport, or passport card to DHS for review by:
  - a. Scanning and uploading the document, or
  - b. Sending a photocopy of the document by express mail (furnished and paid for by the employer).
7. The Employer understands that if it cannot determine whether there is a photo match/mismatch, the Employer must forward the employee's documentation to DHS as described in the preceding paragraph. The Employer agrees to resolve the case as specified by the DHS representative who will determine the photo match or mismatch.
8. DHS will electronically transmit the result of the referral to the Employer within 10 Federal Government work days of the referral unless it determines that more than 10 days is necessary.
9. While waiting for case results, the Employer agrees to check the E-Verify system regularly for case updates.

## **ARTICLE IV SERVICE PROVISIONS**

### **A. NO SERVICE FEES**

1. SSA and DHS will not charge the Employer for verification services performed under this MOU. The Employer is responsible for providing equipment needed to make inquiries. To access E-Verify, an Employer will need a personal computer with Internet access.

## **ARTICLE V MODIFICATION AND TERMINATION**

### **A. MODIFICATION**

1. This MOU is effective upon the signature of all parties and shall continue in effect for as long as the SSA and DHS operates the E-Verify program unless modified in writing by the mutual consent of all parties.
2. Any and all E-Verify system enhancements by DHS or SSA, including but not limited to E-Verify checking against additional data sources and instituting new verification policies or procedures, will be covered under this MOU and will not cause the need for a supplemental MOU that outlines these changes.

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## B. TERMINATION

1. The Employer may terminate this MOU and its participation in E-Verify at any time upon 30 days prior written notice to the other parties.
2. Notwithstanding Article V, part A of this MOU, DHS may terminate this MOU, and thereby the Employer's participation in E-Verify, with or without notice at any time if deemed necessary because of the requirements of law or policy, or upon a determination by SSA or DHS that there has been a breach of system integrity or security by the Employer, or a failure on the part of the Employer to comply with established E-Verify procedures and/or legal requirements. The Employer understands that if it is a Federal contractor, termination of this MOU by any party for any reason may negatively affect the performance of its contractual responsibilities. Similarly, the Employer understands that if it is in a state where E-Verify is mandatory, termination of this by any party MOU may negatively affect the Employer's business.
3. An Employer that is a Federal contractor may terminate this MOU when the Federal contract that requires its participation in E-Verify is terminated or completed. In such cases, the Federal contractor must provide written notice to DHS. If an Employer that is a Federal contractor fails to provide such notice, then that Employer will remain an E-Verify participant, will remain bound by the terms of this MOU that apply to non-Federal contractor participants, and will be required to use the E-Verify procedures to verify the employment eligibility of all newly hired employees.
4. The Employer agrees that E-Verify is not liable for any losses, financial or otherwise, if the Employer is terminated from E-Verify.

## ARTICLE VI PARTIES

- A. Some or all SSA and DHS responsibilities under this MOU may be performed by contractor(s), and SSA and DHS may adjust verification responsibilities between each other as necessary. By separate agreement with DHS, SSA has agreed to perform its responsibilities as described in this MOU.
- B. Nothing in this MOU is intended, or should be construed, to create any right or benefit, substantive or procedural, enforceable at law by any third party against the United States, its agencies, officers, or employees, or against the Employer, its agents, officers, or employees.
- C. The Employer may not assign, directly or indirectly, whether by operation of law, change of control or merger, all or any part of its rights or obligations under this MOU without the prior written consent of DHS, which consent shall not be unreasonably withheld or delayed. Any attempt to sublicense, assign, or transfer any of the rights, duties, or obligations herein is void.
- D. Each party shall be solely responsible for defending any claim or action against it arising out of or related to E-Verify or this MOU, whether civil or criminal, and for any liability wherefrom, including (but not limited to) any dispute between the Employer and any other person or entity regarding the applicability of Section 403(d) of IIRIRA to any action taken or allegedly taken by the Employer.
- E. The Employer understands that its participation in E-Verify is not confidential information and may be disclosed as authorized or required by law and DHS or SSA policy, including but not limited to,

Company ID Number: 128111

Congressional oversight, E-Verify publicity and media inquiries, determinations of compliance with Federal contractual requirements, and responses to inquiries under the Freedom of Information Act (FOIA).

F. The individuals whose signatures appear below represent that they are authorized to enter into this MOU on behalf of the Employer and DHS respectively. The Employer understands that any inaccurate statement, representation, data or other information provided to DHS may subject the Employer, its subcontractors, its employees, or its representatives to: (1) prosecution for false statements pursuant to 18 U.S.C. 1001 and/or; (2) immediate termination of its MOU and/or; (3) possible debarment or suspension.

G. The foregoing constitutes the full agreement on this subject between DHS and the Employer.

**To be accepted as an E-Verify participant, you should only sign the Employer's Section of the signature page. If you have any questions, contact E-Verify at 1-888-464-4218.**

Company ID Number: 128111

**Approved by:**

|  |                    |
|--|--------------------|
| <b>Employer</b><br>HR Professional Solutions, LLC              |                    |
| Name (Please Type or Print)<br>Lora C Saffer                   | Title              |
| Signature<br>Electronically Signed                             | Date<br>06/17/2008 |
| <b>Department of Homeland Security – Verification Division</b> |                    |
| Name (Please Type or Print)<br>USCIS Verification Division     | Title              |
| Signature<br>Electronically Signed                             | Date<br>06/17/2008 |

Company ID Number: 128111

| <b>Information Required for the E-Verify Program</b> |  |
|--|--|
| <b>Information relating to your Company:</b>         |  |
| Company Name   | HR Professional Solutions, LLC           |
| Company Facility Address                             | 55 Plymouth Hills Dr<br>Monett, MO 65708 |
| Company Alternate Address                            | PO Box 86<br>Monett, MO 65708            |
| County or Parish                                     | BARRY                                    |
| Employer Identification Number                       | 201946202                                |
| North American Industry Classification Systems Code  | 311                                      |
| Parent Company                                       | HR Professional Solutions, LLC           |
| Number of Employees                                  | 100 to 499                               |
| Number of Sites Verified for                         | 3  |

Company ID Number: 128111

**Are you verifying for more than 1 site? If yes, please provide the number of sites verified for in each State:**

|          |           |
|----------|-----------|
| ARKANSAS | 1 site(s) |
| MISSOURI | 2 site(s) |

Company ID Number: 128111

**Information relating to the Program Administrator(s) for your Company on policy questions or operational problems:**

Name Aaron R Ingle  
Phone Number (417) 235 - 4584  
Fax Number (417) 235 - 5323  
Email Address aringle@hrprosolutions.com

Name Jim D Ingle  
Phone Number (417) 235 - 2404 ext. 338  
Fax Number (417) 235 - 5303  
Email Address jingle@hrprosolutions.com

Company ID Number: 128111

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# TRUSTEE'S CLOSING CERTIFICATE

relating to

CITY OF NEVADA, MISSOURI

\$960,000

(AGGREGATE MAXIMUM PRINCIPAL AMOUNT)

TAXABLE INDUSTRIAL REVENUE BONDS

(MARETH ENTERPRISES, LLC PROJECT)

SERIES 2017

The undersigned, a duly authorized officer of BOKF, N.A., a national banking association organized under the laws of the United States of America (the "Trustee"), as trustee under the Trust Indenture dated as of December 1, 2017 (the "Indenture"), between the Trustee and the City of Nevada, Missouri (the "City"), authorizing the issuance of \$960,000 aggregate maximum principal amount of Taxable Industrial Revenue Bonds (Mareth Enterprises, LLC Project), Series 2017 (the "Bonds"), does hereby certify as follows:

- 1. Power and Authority of Trustee.** The Trustee is a national banking association duly organized and existing under the laws of the United States of America, is authorized and empowered to execute and deliver the Indenture and has full power and authority to act as Trustee as provided in the Indenture.
- 2. Execution of Indenture.** The Indenture has been duly executed on behalf of the Trustee by a duly authorized officer of the Trustee, and said person was at the time of the execution of the Indenture and now is the duly elected or appointed, qualified and acting incumbent of such office.
- 3. Receipt of Documents.** The Trustee hereby acknowledges receipt of the documents referred to in **Section 208(c)** of the Indenture, which are required to be filed with the Trustee prior to or simultaneously with the delivery of the Bonds.
- 4. Authentication of Bonds.** Pursuant to and in accordance with the provisions of **Section 205** of the Indenture and the written request and authorization of the City, prior to the delivery of the Bonds, the Certificate of Authentication on the Bonds so delivered was signed on behalf of the Trustee by a duly authorized signatory of the Trustee, who was at the time of the authentication of the Bonds and still is at the date hereof a duly elected or appointed, qualified and acting signatory of the Trustee.
- 5. Delivery of Bonds.** The Trustee acknowledges that pursuant to **Section 204(c)** of the Indenture, Mareth Enterprises, LLC, the purchaser of the Bonds, has requested that the Bonds and the original **Schedule I** thereto be held by the Trustee in trust.
- 6. Receipt of Closing Price of the Bonds and Costs of Issuance.** The Trustee on this date received on behalf of the City from Mareth Enterprises, LLC, the closing price of the Bonds, and funds to be deposited by the Trustee in the Costs of Issuance Fund to be used to pay costs of issuance pursuant to **Section 505** of the Indenture.

**7. Deposit of Bond Proceeds in the Project Fund.** The Trustee on this date, in accordance with the requirements of the Indenture, deposited the required amount of proceeds of the Bonds into the Project Fund established under the Indenture.

**8. Authorization of Officers.** The officer of the Trustee referred to in paragraphs (2) and (4) hereof was at the time of the acts above-mentioned, and is at the date hereof, a duly elected or appointed, qualified and acting officer of the Trustee and duly authorized to perform the acts referred to in such paragraphs.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Trustee has caused this certificate to be executed this 22 day of December, 2017.

BOKF, N.A., as Trustee

By: M. Debra K. J.  
Title: Authorized Officer

[Trustee's Closing Certificate]

## PRELIMINARY FUNDING AGREEMENT

THIS PRELIMINARY FUNDING AGREEMENT ("Agreement") is made and entered into as of the 27 day of Oct, 2017, by and between the CITY OF NEVADA, MISSOURI, a third-class city organized and existing under the laws of the State of Missouri (the "City") and MARETH ENTERPRISES, LLC, a Missouri limited liability company (the "Company").

### RECITALS

- A. Pursuant to Chapter 100 of the Revised Statutes of Missouri, as amended, the Company desires to submit a proposal (the "Proposal") for a project for industrial development ("Project") in the City of Nevada.
- B. The City desires to explore the feasibility of implementing the Proposal.
- C. Subject to the terms of this Agreement, the City desires the Company to assist the City in considering the Proposal by advancing funds to the City to allow the City to pay certain costs the City will incur in connection with the Proposal; and the Company has agreed to advance such funds in accordance with this Agreement.

NOW THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Advance Funds. Subject to the terms of this Agreement, the Company agrees to pay to the City within five (5) business days of the execution of this Agreement a payment of Thirty Thousand Dollars (\$30,000.00) to be used as preliminary funding in connection with the consideration by the City of the Proposal (the "Preliminary Funds"). The City shall use the Preliminary Funds as a source of payment of actual costs incurred by the City, on or after October 1, 2017, for legal fees, administrative services, economic development consulting services and planning services rendered in connection with evaluating and considering the Proposal, negotiating, preparing and implementing this Agreement and any agreements or documents related to the Proposal including any ordinances and other activities and documentation related to the foregoing (collectively, the "Development Activities").

2. Disbursement. The City shall use and disburse the Preliminary Funds as necessary to pay the actual fees and expenses incurred by the City in connection with the Development Activities, including without limitation, the fees and expenses of legal counsel and economic development consultants.

3. Repayment of Preliminary Funds. Notwithstanding anything to the contrary herein, if the City does not adopt or approve the Proposal or any Development Activities submitted by the Company in connection therewith or if the City and the Company do not execute any agreement applicable thereto, the City shall have no obligation to refund any

Preliminary Funds to the Company, except as provided in Section 5 hereof to the extent of any excess funds remaining after the payment of expenses of the City.

4. Record Keeping. The City shall require itemized invoices by its attorneys and consultants for work performed on Development Activities, consistent with its normal operations. The City shall use reasonable care in ascertaining that all amounts billed as Development Activities are fair and reasonable, consistent with its normal operations. Upon reasonable request of the Company, the City shall provide reasonable documentation that the City has used the Preliminary Funds to pay for actual costs of Development Activities incurred by City, provided, however, that City shall not be obligated to provide copies of any legal invoices, and the City may redact and shall not be obligated to disclose any information that reflects attorney-client communications, privileged or confidential communications, work product materials or items that qualify as closed records under Sections 610.010 to 610.200 of the Revised Statutes of Missouri, as amended.

5. Right of Termination. If the initial advance of Preliminary Funds has been disbursed or committed to be used by City and the Company has not, within fifteen (15) business days after the City gives notice thereof, advanced additional Preliminary Funds in an amount sufficient (as determined by the City in its reasonable discretion) to complete the Development Activities, or if the City rejects or otherwise elects to terminate further consideration of implementation of the Proposal or any Development Activities with the Company, which the City shall have and retain the absolute right to do in its sole and absolute discretion, the City shall have the right to terminate this Agreement, whereupon the City shall refund the balance of the Preliminary Funds remaining after ascertainment and payment by the City of all fees and expenses incurred by the City in connection with Development Activities.

6. No Third Party Beneficiaries. The parties hereby agree that this Agreement shall be a contract solely between the City and the Company and that no third party shall have any beneficial interest in or derived from this Agreement.

7. Notices. All notices and correspondence hereunder shall be in writing and shall be delivered by (a) hand delivery, (b) email transmission followed by a confirmatory notice sent in another manner permitted hereunder, or (c) first class mail, postage prepaid and certified, to the parties as set forth below:

If to the Company:

Mareth Enterprises, LLC  
200 Washington Ave., Suite 4  
Purdy, Missouri 65734  
Attn: Lewis Gray, Chief Operations Officer  
Email: lewis.gray@purdygenesis.com

With a copy to:

Randall, Masri & Randall, P.C.  
405 E. Broadway Street  
Monett, Missouri 65708

Attn: Jim Randall  
Email: \_\_\_\_\_

If to the City:  
City of Nevada  
110 S. Ash St.  
Nevada, Missouri 64772  
Attn: City Manager  
Email: jdkehrman@nevadamo.gov

With a copy to:  
McCaffree Law Firm  
128 1/2 W. Walnut  
Nevada, Missouri 64772  
Attn: William McCaffree  
Email: wmccaffree@gmail.com

8. Miscellaneous.

a. Governing Law; Counterparts. This Agreement shall be governed by and construed in accordance with the laws of the State of Missouri; and may be signed in counterparts.

b. Severability. If any provision(s) of this Agreement is illegal or unenforceable, then the remainder of this Agreement shall not be affected thereby and shall be enforced as if such provision were not contained herein.

c. No Waiver. Failure of either party to enforce its rights hereunder at any time shall not be deemed a waiver of any such rights.

d. Assignment; Successors and Assigns. This Agreement may not be assigned by any party without the prior written consent of the other party. No assignment, unless specifically provided for in the consent thereto, shall relieve the assigning party of any liability hereunder. This Agreement shall be binding upon the parties hereto and their heirs, successors and permitted assigns.

e. Representations and Warranties. The parties hereby represent and warrant that they have full right and authority to execute and deliver this Agreement; and that this Agreement has been duly executed by them or on their behalf, as the case may be, pursuant to due authorization, and is not in violation of any such party's governing documents, charter or ordinances, as the case may be. The parties further represent and warrant that no consents are necessary for the execution, delivery, and performance of this Agreement by such party, and that this Agreement is valid, binding and enforceable against such party in accordance with its terms.

f. Limitation of Liability. Notwithstanding any provision herein to the contrary, the City, its officers, agents, employees and representatives shall not be liable to the Company for damages or otherwise if this Agreement, the plan for industrial

development or any agreement entered into by the City in connection with the Project is declared invalid or unconstitutional in whole or in part by the final judgment of any court of competent jurisdiction (as to which all rights of appeal have expired or have been exhausted), and by reason thereof either the City is prevented from performing any of the covenants and agreements herein or the Company is prevented from enjoying the rights and privileges contemplated hereunder.

*[Remainder of Page Intentionally Left Blank -- Signature Page to Follow]*

IN WITNESS WHEREOF, the parties hereto have caused this Preliminary Funding Agreement to be duly executed as of the date first above written.

**COMPANY:**

Mareth Enterprises, LLC

By: Lewis Gray

Name: Lewis Gray

Title: COO

**CITY:**

City of Nevada, Missouri

By: JD Kehrman

Name: JD Kehrman

Title: City Manager



# OWNER'S POLICY OF TITLE INSURANCE

ISSUED BY

## *First American Title Insurance Company*

Any notice of claim and any other notice or statement in writing required to be given to the Company under this policy must be given to the Company at the address shown in Section 18 of the Conditions.

### COVERED RISKS

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B AND THE CONDITIONS, FIRST AMERICAN TITLE INSURANCE COMPANY, a Nebraska corporation (the "Company") insures, as of Date of Policy and, to the extent stated in Covered Risks 9 and 10, after Date of Policy, against loss or damage, not exceeding the Amount of Insurance, sustained or incurred by the Insured by reason of:

1. Title being vested other than as stated in Schedule A.
2. Any defect in or lien or encumbrance on the Title. This Covered Risk includes but is not limited to insurance against loss from
  - (a) A defect in the Title caused by
    - (i) forgery, fraud, undue influence, duress, incompetency, incapacity, or impersonation;
    - (ii) failure of any person or Entity to have authorized a transfer or conveyance;
    - (iii) a document affecting Title not properly created, executed, witnessed, sealed, acknowledged, notarized, or delivered;
    - (iv) failure to perform those acts necessary to create a document by electronic means authorized by law;
    - (v) a document executed under a falsified, expired, or otherwise invalid power of attorney;
    - (vi) a document not properly filed, recorded, or indexed in the Public Records including failure to perform those acts by electronic means authorized by law; or
    - (vii) a defective judicial or administrative proceeding.
  - (b) The lien of real estate taxes or assessments imposed on the Title by a governmental authority due or payable, but unpaid.
  - (c) Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land. The term "encroachment" includes encroachments of existing improvements located on the Land onto adjoining land, and encroachments onto the Land of existing improvements located on adjoining land.
3. Unmarketable Title.
4. No right of access to and from the Land.
5. The violation or enforcement of any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
  - (a) the occupancy, use, or enjoyment of the Land;
  - (b) the character, dimensions, or location of any improvement erected on the Land;
  - (c) the subdivision of land; or
  - (d) environmental protectionif a notice, describing any part of the Land, is recorded in the Public Records setting forth the violation or intention to enforce, but only to the extent of the violation or enforcement referred to in that notice.
6. An enforcement action based on the exercise of a governmental

police power not covered by Covered Risk 5 if a notice of the enforcement action, describing any part of the Land, is recorded in the Public Records, but only to the extent of the enforcement referred to in that notice.

7. The exercise of the rights of eminent domain if a notice of the exercise, describing any part of the Land, is recorded in the Public Records.
8. Any taking by a governmental body that has occurred and is binding on the rights of a purchaser for value without Knowledge.
9. Title being vested other than as stated in Schedule A or being defective
  - (a) as a result of the avoidance in whole or in part, or from a court order providing an alternative remedy, of a transfer of all or any part of the title to or any interest in the Land occurring prior to the transaction vesting Title as shown in Schedule A because that prior transfer constituted a fraudulent or preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws; or
  - (b) because the instrument of transfer vesting Title as shown in Schedule A constitutes a preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws by reason of the failure of its recording in the Public Records
    - (i) to be timely, or
    - (ii) to impart notice of its existence to a purchaser for value or to a judgment or lien creditor.
10. Any defect in or lien or encumbrance on the Title or other matter included in Covered Risks 1 through 9 that has been created or attached or has been filed or recorded in the Public Records subsequent to Date of Policy and prior to the recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

The Company will also pay the costs, attorneys' fees, and expenses incurred in defense of any matter insured against by this policy, but only to the extent provided in the Conditions.

### *First American Title Insurance Company*

Dennis J. Gilmore  
President

Jeffrey S. Robinson  
Secretary

## EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
  - (i) the occupancy, use, or enjoyment of the Land;
  - (ii) the character, dimensions, or location of any improvement erected on the Land;
  - (iii) the subdivision of land; or
  - (iv) environmental protection;or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
  - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
  - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
  - (c) resulting in no loss or damage to the Insured Claimant;
  - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risks 9 and 10); or
  - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Title.
4. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction vesting the Title as shown in Schedule A, is
  - (a) a fraudulent conveyance or fraudulent transfer; or
  - (b) a preferential transfer for any reason not stated in Covered Risk 9 of this policy.
5. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

## CONDITIONS

### 1. DEFINITION OF TERMS

The following terms when used in this policy mean:

- (a) "Amount of Insurance": The amount stated in Schedule A, as may be increased or decreased by endorsement to this policy, increased by Section 8(b), or decreased by Sections 10 and 11 of these Conditions.
- (b) "Date of Policy": The date designated as "Date of Policy" in Schedule A.
- (c) "Entity": A corporation, partnership, trust, limited liability company, or other similar legal entity.
- (d) "Insured": The Insured named in Schedule A.
  - (i) The term "Insured" also includes
    - (A) successors to the Title of the Insured by operation of law as distinguished from purchase, including heirs, devisees, survivors, personal representatives, or next of kin;
    - (B) successors to an Insured by dissolution, merger, consolidation, distribution, or reorganization;
    - (C) successors to an Insured by its conversion to another kind of Entity;
    - (D) a grantee of an Insured under a deed delivered without payment of actual valuable consideration conveying the Title
      - (1) if the stock, shares, memberships, or other equity interests of the grantee are wholly-owned by the named Insured,
      - (2) if the grantee wholly owns the named Insured,
      - (3) if the grantee is wholly-owned by an affiliated Entity of the named Insured, provided the affiliated Entity and the named Insured are both wholly-owned by the same person or Entity, or
      - (4) if the grantee is a trustee or beneficiary of a trust created by a written instrument established by the Insured named in Schedule A for estate planning purposes.

- (ii) With regard to (A), (B), (C), and (D) reserving, however, all rights and defenses as to any successor that the Company would have had against any predecessor Insured.
- (e) "Insured Claimant": An Insured claiming loss or damage.
- (f) "Knowledge" or "Known": Actual knowledge, not constructive knowledge or notice that may be imputed to an Insured by reason of the Public Records or any other records that impart constructive notice of matters affecting the Title.
- (g) "Land": The land described in Schedule A, and affixed improvements that by law constitute real property. The term "Land" does not include any property beyond the lines of the area described in Schedule A, nor any right, title, interest, estate, or easement in abutting streets, roads, avenues, alleys, lanes, ways, or waterways, but this does not modify or limit the extent that a right of access to and from the Land is insured by this policy.
- (h) "Mortgage": Mortgage, deed of trust, trust deed, or other security instrument, including one evidenced by electronic means authorized by law.
- (i) "Public Records": Records established under state statutes at Date of Policy for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without Knowledge. With respect to Covered Risk 5(d), "Public Records" shall also include environmental protection liens filed in the records of the clerk of the United States District Court for the district where the Land is located.
- (j) "Title": The estate or interest described in Schedule A.
- (k) "Unmarketable Title": Title affected by an alleged or apparent matter that would permit a prospective purchaser or lessee of the Title or lender on the Title to be released from the obligation to purchase, lease, or lend if there is a contractual condition requiring the delivery of marketable title.

### 2. CONTINUATION OF INSURANCE

The coverage of this policy shall continue in force as of Date of Policy in favor of an Insured, but only so long as the Insured retains an estate or interest in the Land, or holds an obligation secured by a purchase money Mortgage given by a purchaser from the Insured, or only so long as the Insured shall have liability by reason of warranties in any transfer or conveyance of the Title. This policy shall not continue in force in favor of any purchaser from the Insured of either (i) an estate or interest in the Land, or (ii) an obligation secured by a purchase money Mortgage given to the Insured.

### 3. NOTICE OF CLAIM TO BE GIVEN BY INSURED CLAIMANT

The Insured shall notify the Company promptly in writing (i) in case of any litigation as set forth in Section 5(a) of these Conditions, (ii) in case Knowledge shall come to an Insured hereunder of any claim of title or interest that is adverse to the Title, as insured, and that might cause loss or damage for which the Company may be liable by virtue of this policy, or (iii) if the Title, as insured, is rejected as Unmarketable Title. If the Company is prejudiced by the failure of the Insured Claimant to provide prompt notice, the Company's liability to the Insured Claimant under the policy shall be reduced to the extent of the prejudice.

### 4. PROOF OF LOSS

In the event the Company is unable to determine the amount of loss or damage, the Company may, at its option, require as a condition of payment that the Insured Claimant furnish a signed proof of loss. The proof of loss must describe the defect, lien, encumbrance, or other matter insured against by this policy that constitutes the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage.

### 5. DEFENSE AND PROSECUTION OF ACTIONS

- (a) Upon written request by the Insured, and subject to the options contained in Section 7 of these Conditions, the Company, at its own cost and without unreasonable delay, shall provide for the defense of an Insured in litigation in which any third party asserts a claim covered by this policy adverse to the Insured. This obligation is limited to only those stated causes of action alleging matters insured against by this policy. The Company shall have the right to select counsel of its choice (subject to the right of the Insured to object for reasonable cause) to represent the Insured as to those stated causes of action. It shall not be liable for and will not pay the fees of any other counsel. The Company will not pay any fees, costs, or expenses incurred by the Insured in the defense of those causes of action that allege matters not insured against by this policy.
- (b) The Company shall have the right, in addition to the options contained in

Section 7 of these Conditions, at its own cost, to institute and prosecute any action or proceeding or to do any other act that in its opinion may be necessary or desirable to establish the Title, as insured, or to prevent or reduce loss or damage to the Insured. The Company may take any appropriate action under the terms of this policy, whether or not it shall be liable to the Insured. The exercise of these rights shall not be an admission of liability or waiver of any provision of this policy. If the Company exercises its rights under this subsection, it must do so diligently.

- (c) Whenever the Company brings an action or asserts a defense as required or permitted by this policy, the Company may pursue the litigation to a final determination by a court of competent jurisdiction, and it expressly reserves the right, in its sole discretion, to appeal any adverse judgment or order.

#### 6. DUTY OF INSURED CLAIMANT TO COOPERATE

- (a) In all cases where this policy permits or requires the Company to prosecute or provide for the defense of any action or proceeding and any appeals, the Insured shall secure to the Company the right to so prosecute or provide defense in the action or proceeding, including the right to use, at its option, the name of the Insured for this purpose. Whenever requested by the Company, the Insured, at the Company's expense, shall give the Company all reasonable aid (i) in securing evidence, obtaining witnesses, prosecuting or defending the action or proceeding, or effecting settlement, and (ii) in any other lawful act that in the opinion of the Company may be necessary or desirable to establish the Title or any other matter as insured. If the Company is prejudiced by the failure of the Insured to furnish the required cooperation, the Company's obligations to the Insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such cooperation.
- (b) The Company may reasonably require the Insured Claimant to submit to examination under oath by any authorized representative of the Company and to produce for examination, inspection, and copying, at such reasonable times and places as may be designated by the authorized representative of the Company, all records, in whatever medium maintained, including books, ledgers, checks, memoranda, correspondence, reports, e-mails, disks, tapes, and videos whether bearing a date before or after Date of Policy, that reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the Insured Claimant shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect, and copy all of these records in the custody or control of a third party that reasonably pertain to the loss or damage. All information designated as confidential by the Insured Claimant provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the Insured Claimant to submit for examination under oath, produce any reasonably requested information, or grant permission to secure reasonably necessary information from third parties as required in this subsection, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this policy as to that claim.

#### 7. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS; TERMINATION OF LIABILITY

In case of a claim under this policy, the Company shall have the following additional options:

- (a) To Pay or Tender Payment of the Amount of Insurance.  
To pay or tender payment of the Amount of Insurance under this policy together with any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment or tender of payment and that the Company is obligated to pay. Upon the exercise by the Company of this option, all liability and obligations of the Company to the Insured under this policy, other than to make the payment required in this subsection, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.
- (b) To Pay or Otherwise Settle With Parties Other Than the Insured or With the Insured Claimant.
- (i) To pay or otherwise settle with other parties for or in the name of an Insured Claimant any claim insured against under this policy. In addition, the Company will pay any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay; or
- (ii) To pay or otherwise settle with the Insured Claimant the loss or damage provided for under this policy, together with any costs,

attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay.

Upon the exercise by the Company of either of the options provided for in subsections (b)(i) or (ii), the Company's obligations to the Insured under this policy for the claimed loss or damage, other than the payments required to be made, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.

#### 8. DETERMINATION AND EXTENT OF LIABILITY

This policy is a contract of indemnity against actual monetary loss or damage sustained or incurred by the Insured Claimant who has suffered loss or damage by reason of matters insured against by this policy.

- (a) The extent of liability of the Company for loss or damage under this policy shall not exceed the lesser of
- (i) the Amount of Insurance; or
- (ii) the difference between the value of the Title as insured and the value of the Title subject to the risk insured against by this policy.
- (b) If the Company pursues its rights under Section 5 of these Conditions and is unsuccessful in establishing the Title, as insured,
- (i) the Amount of Insurance shall be increased by 10%, and
- (ii) the Insured Claimant shall have the right to have the loss or damage determined either as of the date the claim was made by the Insured Claimant or as of the date it is settled and paid.
- (c) In addition to the extent of liability under (a) and (b), the Company will also pay those costs, attorneys' fees, and expenses incurred in accordance with Sections 5 and 7 of these Conditions.

#### 9. LIMITATION OF LIABILITY

- (a) If the Company establishes the Title, or removes the alleged defect, lien, or encumbrance, or cures the lack of a right of access to or from the Land, or cures the claim of Unmarketable Title, all as insured, in a reasonably diligent manner by any method, including litigation and the completion of any appeals, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused to the Insured.
- (b) In the event of any litigation, including litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals, adverse to the Title, as insured.
- (c) The Company shall not be liable for loss or damage to the Insured for liability voluntarily assumed by the Insured in settling any claim or suit without the prior written consent of the Company.

#### 10. REDUCTION OF INSURANCE; REDUCTION OR TERMINATION OF LIABILITY

All payments under this policy, except payments made for costs, attorneys' fees, and expenses, shall reduce the Amount of Insurance by the amount of the payment.

#### 11. LIABILITY NONCUMULATIVE

The Amount of Insurance shall be reduced by any amount the Company pays under any policy insuring a Mortgage to which exception is taken in Schedule B or to which the Insured has agreed, assumed, or taken subject, or which is executed by an Insured after Date of Policy and which is a charge or lien on the Title, and the amount so paid shall be deemed a payment to the Insured under this policy.

#### 12. PAYMENT OF LOSS

When liability and the extent of loss or damage have been definitely fixed in accordance with these Conditions, the payment shall be made within 30 days.

#### 13. RIGHTS OF RECOVERY UPON PAYMENT OR SETTLEMENT

- (a) Whenever the Company shall have settled and paid a claim under this policy, it shall be subrogated and entitled to the rights of the Insured Claimant in the Title and all other rights and remedies in respect to the claim that the Insured Claimant has against any person or property, to the extent of the amount of any loss, costs, attorneys' fees, and expenses paid by the Company. If requested by the Company, the Insured Claimant shall execute documents to evidence the transfer to the Company of these rights and remedies. The Insured Claimant shall permit the Company to sue, compromise, or settle in the name of the Insured Claimant and to use the name of the Insured Claimant in any transaction or litigation involving these rights and remedies.

If a payment on account of a claim does not fully cover the loss of the Insured Claimant, the Company shall defer the exercise of its right to recover until after the Insured Claimant shall have recovered its loss.

(b) The Company's right of subrogation includes the rights of the Insured to indemnities, guaranties, other policies of insurance, or bonds, notwithstanding any terms or conditions contained in those instruments that address subrogation rights.

(d) Each endorsement to this policy issued at any time is made a part of this policy and is subject to all of its terms and provisions. Except as the endorsement expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsement, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance.

**14. ARBITRATION (DOES NOT APPLY IN STATE OF MISSOURI)**

Either the Company or the Insured may demand that the claim or controversy shall be submitted to arbitration pursuant to the Title Insurance Arbitration Rules of the American Land Title Association ("Rules"). Except as provided in the Rules, there shall be no joinder or consolidation with claims or controversies of other persons. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Insured arising out of or relating to this policy, any service in connection with its issuance or the breach of a policy provision, or to any other controversy or claim arising out of the transaction giving rise to this policy. All arbitrable matters when the Amount of Insurance is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Insured. All arbitrable matters when the Amount of Insurance is in excess of \$2,000,000 shall be arbitrated only when agreed to by both the Company and the Insured. Arbitration pursuant to this policy and under the Rules shall be binding upon the parties. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court of competent jurisdiction.

**15. LIABILITY LIMITED TO THIS POLICY; POLICY ENTIRE CONTRACT**

- (a) This policy together with all endorsements, if any, attached to it by the Company is the entire policy and contract between the Insured and the Company. In interpreting any provision of this policy, this policy shall be construed as a whole.
- (b) Any claim of loss or damage that arises out of the status of the Title or by any action asserting such claim shall be restricted to this policy.
- (c) Any amendment of or endorsement to this policy must be in writing and authenticated by an authorized person, or expressly incorporated by Schedule A of this policy.

**16. SEVERABILITY**

In the event any provision of this policy, in whole or in part, is held invalid or unenforceable under applicable law, the policy shall be deemed not to include that provision or such part held to be invalid, but all other provisions shall remain in full force and effect.

**17. CHOICE OF LAW; FORUM**

- (a) Choice of Law: The Insured acknowledges the Company has underwritten the risks covered by this policy and determined the premium charged therefor in reliance upon the law affecting interests in real property and applicable to the interpretation, rights, remedies, or enforcement of policies of title insurance of the jurisdiction where the Land is located. Therefore, the court or an arbitrator shall apply the law of the jurisdiction where the Land is located to determine the validity of claims against the Title that are adverse to the Insured and to interpret and enforce the terms of this policy. In neither case shall the court or arbitrator apply its conflicts of law principles to determine the applicable law.
- (b) Choice of Forum: Any litigation or other proceeding brought by the Insured against the Company must be filed only in a state or federal court within the United States of America or its territories having appropriate jurisdiction.

**18. NOTICES, WHERE SENT**

Any notice of claim and any other notice or statement in writing required to be given to the Company under this policy must be given to the Company at 1 First American Way, Santa Ana, CA 92707, Attn: Claims Department.

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## ***POLICY OF TITLE INSURANCE***



## SCHEDULE A

### *First American Title Insurance Company*

Name and Address of the issuing Title Insurance Company:

First American Title Insurance Company  
1201 Walnut Street, Suite 700  
Kansas City, MO 64106

File No.: **NCS-869803-KCTY**

Policy No.: **869803 O**

Address Reference: 1800 US 71 Highway, Nevada, MO 64772

Amount of Insurance: \$650,000.00

Total Charge: \$1,575.00

Date of Policy: November 06, 2017 at 10:24:48 A.M.

Premium: \$394.00

1. Name of Insured:

Mareth Enterprises, LLC

2. The estate or interest in the Land that is insured by this policy is:

Fee Simple

3. Title is vested in:

Mareth Enterprises, LLC, a Missouri limited liability company

4. The Land referred to in this policy is described as follows:

TRACT 1:

ALL THAT PART OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION THIRTY-FOUR (34), TOWNSHIP THIRTY-SIX (36) NORTH, RANGE THIRTY-ONE (31) WEST, LYING WEST OF THE MISSOURI PACIFIC RAILROAD RIGHT-OF-WAY AND EAST OF THE RIGHT-OF-WAY OF U. S. HIGHWAY 71 AND U.S. HIGHWAY 71 PROPOSED BY-PASS (AS SET FORTH BY RIGHT-OF-WAY DEED RECORDED IN BOOK 290 AT PAGE 147 IN THE RECORDER'S OFFICE, VERNON COUNTY, MISSOURI), EXCEPT THE NORTH 424 FEET THEREOF; AND ALL THAT PART OF THE NORTHWEST QUARTER (NW 1/4) OF THE NORTHWEST QUARTER (NW 1/4), (OTHERWISE KNOWN AS THE WEST HALF OF LOT TWO OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION THREE (3), TOWNSHIP THIRTY-FIVE (35) NORTH, RANGE THIRTY-ONE (31) WEST, LYING WEST OF THE MISSOURI PACIFIC RAILROAD RIGHT-OF-WAY AND EAST OF U. S. HIGHWAY 71 PROPOSED BY-PASS (AS SET FORTH BY RIGHT-OF-WAY DEED RECORDED IN BOOK 290 AT PAGE 147 IN THE RECORDER'S OFFICE, VERNON COUNTY, MISSOURI.)

TRACT 2:

THE EAST 227 FEET OF THE NORTH 424 FEET OF THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 36 NORTH, RANGE 31 WEST, VERNON COUNTY, MISSOURI, LYING WEST OF THE RIGHT-OF-WAY OF THE MISSOURI PACIFIC RAILROAD, EXCEPT THE NORTH 30 FEET, AND EXCEPT A TRACT DESCRIBED AS: BEGINNING IN THE WEST RIGHT-OF-WAY LINE OF THE MISSOURI PACIFIC RAILROAD AT A POINT 30 FEET SOUTH OF THE NORTH LINE OF THE SOUTHWEST QUARTER OF SECTION 34; RUN SOUTH 200 FEET; THENCE WEST 177 FEET; THENCE NORTH 200 FEET; THENCE EAST 177 FEET TO THE POINT OF BEGINNING.

## SCHEDULE B

File No.: **NCS-869803-KCTY**

Policy No.: **869803 O**

### EXCEPTIONS FROM COVERAGE

This Policy does not insure against loss or damage, and the Company will not pay costs, attorneys' fees, or expenses that arise by reason of:

1. Right or claims of parties in possession not shown by the Public Records.
2. Easements, or claims of easements, not shown by the Public Records.
3. Any encroachment, encumbrance, violation, variation or adverse circumstances affecting Title that would be disclosed by an accurate and complete survey of the Land or that could be ascertained by an inspection of the Land.
4. Taxes and assessments for the year 2017 and subsequent years, none now due and payable.
5. Zoning Ordinance to the City of Nevada, Missouri dated June 15, 1965 and recorded February 2, 1968 in Book 298 at Page 119 in the Recorder's Office, Vernon County, Missouri. (Tracts 1 & 2)
6. Missouri Public Service Co. Easement for Gas and Water recorded in Book 255 at Page 161, as amended by Quit Claim Deed from Missouri Public Service Co. to Irma L. Pohl recorded in Book 299 at Page 268, making partial release of said easement as to all land in caption of this commitment, except a strip of land 90 feet in width measured easterly and westerly located adjacent to and parallel with and extending along the entire westerly and southwesterly boundary land thereof. Said easement was assigned in favor of the Empire District Gas Company, a Kansas corporation by way of Assignment dated June 1, 2006 and recorded June 5, 2006 in Book 479 at Page 369 in the Recorder's Office, Vernon County, Missouri. (Tract 1)
7. City of Nevada Sewer Easement recorded in Book 290 at Page 101 lying in the West half of the Southwest quarter of said Section 34. (Tract 1)
8. The terms, conditions and permanent easements contained in the Deed to the Missouri State Highway Department dated July 20, 1966 and recorded September 1, 1966 in Book 290 at Page 147 which restricts abutter rights and subject to the modifications recorded in Book 299 at Page 236 and in Book 299 at Page 243 in the Recorder's Office, Vernon County, Missouri. (Tract 1)
9. Terms and Conditions of an Easement Deed from Irma L. Pohl to the State of Missouri for the use and benefit of the State Highway Commission dated October 31, 1968 and recorded December 5, 1968 in Book 299 at Page 234 in the Recorder's Office, Vernon County, Missouri. (Tract 1)
10. Highway Deed from Missouri Public Service Company to the State of Missouri dated January 8, 1969 and recorded January 14, 1969 in Book 299 at Page 423 in the Recorder's Office, Vernon County, Missouri. (Tracts 1 and 2)
11. Easement and Agreement dated February 18, 1975 and recorded February 21, 1975 in Book 316 at Page 662 in the Recorder's Office, Vernon County, Missouri. (Tracts 1 and 2)

12. Easement from Crane Co. to Skelly Oil Company, dated June 28, 1976 and recorded July 2, 1976 in Book 326 at Page 36 in the Recorder's Office, Vernon County, Missouri. (Tracts 1 and 2)
13. Assignment of Easement rights from Missouri Public Service Co. to the City of Nevada, Missouri, dated November 19, 1980 and recorded November 20, 1980 in Book 342 at Page 434 in the Recorder's Office, Vernon County, Missouri. (Tracts 1 and 2)
14. Easement reserved in Corporation Warranty Deed from Nelly Don, Inc., to Crane Co., an Illinois corporation, dated October 17, 1969 and recorded January 19, 1970 in Book 304 at Page 131 in the Recorder's Office, Vernon County, Missouri, for ingress and egress over the North 20 feet of the West 50 feet of Tract 2. (Tract 2)
15. Railroad rights-of-way, switch tracks, spur tracks, and all easements, licenses or servitudes within, appurtenant to or serving such rights-of-way or easements, including but not limited to, electric and telephone transmission lines, broadband transmission lines, video and multi-channel video, pipelines and any facilities in support of telephony, communication or transportation.
16. Subject to any part taken or used for road, street or highway purposes, including but not limited to any part lying in Click Road along the North side of Tract 1, and the West side of Tract 2, as shown on the Assessor's Map of Vernon County, Missouri.



## First American Title

### Privacy Information

#### We Are Committed to Safeguarding Customer Information

In order to better serve your needs now and in the future, we may ask you to provide us with certain information. We understand that you may be concerned about what we will do with such information - particularly any personal or financial information. We agree that you have a right to know how we will utilize the personal information you provide to us. Therefore, together with our subsidiaries we have adopted this Privacy Policy to govern the use and handling of your personal information.

#### Applicability

This Privacy Policy governs our use of the information that you provide to us. It does not govern the manner in which we may use information we have obtained from any other source, such as information obtained from a public record or from another person or entity. First American has also adopted broader guidelines that govern our use of personal information regardless of its source. First American calls these guidelines its Fair Information Values.

#### Types of Information

Depending upon which of our services you are utilizing, the types of nonpublic personal information that we may collect include:

- Information we receive from you on applications, forms and in other communications to us, whether in writing, in person, by telephone or any other means;
- Information about your transactions with us, our affiliated companies, or others; and
- Information we receive from a consumer reporting agency.

#### Use of Information

We request information from you for our own legitimate business purposes and not for the benefit of any nonaffiliated party. Therefore, we will not release your information to nonaffiliated parties except: (1) as necessary for us to provide the product or service you have requested of us; or (2) as permitted by law. We may, however, store such information indefinitely, including the period after which any customer relationship has ceased. Such information may be used for any internal purpose, such as quality control efforts or customer analysis. We may also provide all of the types of nonpublic personal information listed above to one or more of our affiliated companies. Such affiliated companies include financial service providers, such as title insurers, property and casualty insurers, and trust and investment advisory companies, or companies involved in real estate services, such as appraisal companies, home warranty companies and escrow companies. Furthermore, we may also provide all the information we collect, as described above, to companies that perform marketing services on our behalf, on behalf of our affiliated companies or to other financial institutions with whom we or our affiliated companies have joint marketing agreements.

#### Former Customers

Even if you are no longer our customer, our Privacy Policy will continue to apply to you.

#### Confidentiality and Security

We will use our best efforts to ensure that no unauthorized parties have access to any of your information. We restrict access to nonpublic personal information about you to those individuals and entities who need to know that information to provide products or services to you. We will use our best efforts to train and oversee our employees and agents to ensure that your information will be handled responsibly and in accordance with this Privacy Policy and First American's Fair Information Values. We currently maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

#### Information Obtained Through Our Web Site

First American Financial Corporation is sensitive to privacy issues on the Internet. We believe it is important you know how we treat the information about you we receive on the Internet.

In general, you can visit First American or its affiliates' Web sites on the World Wide Web without telling us who you are or revealing any information about yourself. Our Web servers collect the domain names, not the e-mail addresses, of visitors. This information is aggregated to measure the number of visits, average time spent on the site, pages viewed and similar information. First American uses this information to measure the use of our site and to develop ideas to improve the content of our site.

There are times, however, when we may need information from you, such as your name and email address. When information is needed, we will use our best efforts to let you know at the time of collection how we will use the personal information. Usually, the personal information we collect is used only by us to respond to your inquiry, process an order or allow you to access specific account/profile information. If you choose to share any personal information with us, we will only use it in accordance with the policies outlined above.

#### Business Relationships

First American Financial Corporation's site and its affiliates' sites may contain links to other Web sites. While we try to link only to sites that share our high standards and respect for privacy, we are not responsible for the content or the privacy practices employed by other sites.

#### Cookies

Some of First American's Web sites may make use of "cookie" technology to measure site activity and to customize information to your personal tastes. A cookie is an element of data that a Web site can send to your browser, which may then store the cookie on your hard drive.

[FirstAm.com](http://FirstAm.com) uses stored cookies. The goal of this technology is to better serve you when visiting our site, save you time when you are here and to provide you with a more meaningful and productive Web site experience.

#### Fair Information Values

**Fairness** We consider consumer expectations about their privacy in all our businesses. We only offer products and services that assure a favorable balance between consumer benefits and consumer privacy.

**Public Record** We believe that an open public record creates significant value for society, enhances consumer choice and creates consumer opportunity. We actively support an open public record and emphasize its importance and contribution to our economy.

**Use** We believe we should behave responsibly when we use information about a consumer in our business. We will obey the laws governing the collection, use and dissemination of data.

**Accuracy** We will take reasonable steps to help assure the accuracy of the data we collect, use and disseminate. Where possible, we will take reasonable steps to correct inaccurate information. When, as with the public record, we cannot correct inaccurate information, we will take all reasonable steps to assist consumers in identifying the source of the erroneous data so that the consumer can secure the required corrections.

**Education** We endeavor to educate the users of our products and services, our employees and others in our industry about the importance of consumer privacy. We will instruct our employees on our fair information values and on the responsible collection and use of data. We will encourage others in our industry to collect and use information in a responsible manner.

**Security** We will maintain appropriate facilities and systems to protect against unauthorized access to and corruption of the data we maintain.

**RECORDING MEMORANDUM**

**RELATING TO**

**CITY OF NEVADA, MISSOURI**

**\$960,000**

**(AGGREGATE MAXIMUM PRINCIPAL AMOUNT)**

**TAXABLE INDUSTRIAL REVENUE BONDS**

**(MARETH ENTERPRISES, LLC PROJECT)**

**SERIES 2017**

**Real Estate Recordings**

The following documents were recorded in the Office of the Recorder of Deeds of Vernon County, Missouri, as follows:

| <u>Document</u>   | <u>Date</u> | <u>Book</u> | <u>Page</u> |
|---|-------------|-------------|-------------|
| Special Warranty Deed between Mareth Enterprises, LLC and the City of Nevada, Missouri dated as of December 1, 2017                                 | 12/26/2017  | 2017        | 2880        |
| Memorandum of Lease Agreement between the City of Nevada, Missouri and Mareth Enterprises, LLC dated as of December 1, 2017                         | 12/26/2017  | 2017        | 2881        |
| Memorandum of Performance Agreement between Mareth Enterprises, LLC and the City of Nevada, Missouri dated as of December 1, 2017                   | 12/26/2017  | 2017        | 2882        |
| Special Warranty Deed between Mareth Enterprises, LLC and the City of Nevada, Missouri dated as of January 1, 2018                                  | 2/7/2018    | 2018        | 311         |
| Special Warranty Deed between the City of Nevada, Missouri and Mareth Enterprises, LLC dated as of January 1, 2018                                  | 2/7/2018    | 2018        | 312         |
| First Amendment to Memorandum of Lease Agreement between the City of Nevada, Missouri and Mareth Enterprises, LLC dated as of January 1, 2018       | 2/7/2018    | 2018        | 313         |
| First Amendment to Memorandum of Performance Agreement between Mareth Enterprises, LLC and the City of Nevada, Missouri dated as of January 1, 2018 | 2/7/2018    | 2018        | 314         |

\* \* \*

Requisition No. 1  
Date: 12/22/2017

**REQUISITION CERTIFICATE**

**TO: BOKF, N.A., AS TRUSTEE UNDER A TRUST INDENTURE DATED AS OF DECEMBER 1, 2017, BETWEEN THE CITY OF NEVADA, MISSOURI, AND THE TRUSTEE, AND THE LEASE AGREEMENT DATED AS OF DECEMBER 1, 2017, BETWEEN THE CITY OF NEVADA, MISSOURI, AND MARETH ENTERPRISES, LLC**

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

1. A total of \$ 650,500.00 is requested to pay for Project Costs. The total amount of this requisition and all prior requisitions are as follows:

| <u><i>Date and Type of Project Costs</i></u> | <u><i>Amount Submitted in this Requisition</i></u> | <u><i>Requisitions Submitted to Date (Including this Requisition)</i></u> |
|--|--|---|
| <u>12/22/2017</u> - Project Site/Project     | \$ <u>650,500.00</u>                               | \$ <u>650,500.00</u>  |
| <b>Total</b>                                 | \$ <u><u>650,500.00</u></u>                        | \$ <u><u>650,500.00</u></u>   |

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

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

4. As of this date, except for the amounts referred to above, to the best of my knowledge there are no outstanding disputed statements for which payment is requested for labor, wages, materials, supplies or services in connection with the purchase and construction of the Project which, if unpaid, might become the basis of a vendors', mechanics', laborers' or materialmen's statutory or similar lien upon the Project or any part thereof.

[Remainder of Page Intentionally Left Blank – Signature Page to Follow]

**MARETH ENTERPRISES, LLC**

By:  \_\_\_\_\_  
Authorized Company Representative

Approved this 18 day of December, 2017.

**CITY OF NEVADA, MISSOURI**

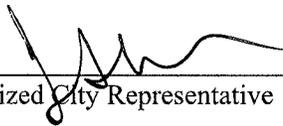
By: \_\_\_\_\_  
Authorized City Representative

**MARETH ENTERPRISES, LLC**

By: \_\_\_\_\_  
Authorized Company Representative

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

**CITY OF NEVADA, MISSOURI**

By:  \_\_\_\_\_  
Authorized City Representative

[Requisition Certificate]

**SCHEDULE 1 TO REQUISITION CERTIFICATE**

**PROJECT COSTS**

| <u>Payee and Address</u>   | <u>Description</u>          | <u>Amount</u> |
|--|-----------------------------|---------------|
| Mareth Enterprises, LLC<br>P.O. Box 416<br>Purdy, Missouri 65734<br>Attn: Lewis Gray,<br>Chief Operating Officer | Acquisition of Project Site | \$650,500.00  |

**\$960,000**  
**(AGGREGATE MAXIMUM PRINCIPAL AMOUNT)**  
**TAXABLE INDUSTRIAL REVENUE BONDS**  
**(MARETH ENTERPRISES, LLC PROJECT)**  
**SERIES 2017**

**OF THE**

**CITY OF NEVADA, MISSOURI**

**CLOSING MEMORANDUM**

On or before the morning of Friday, December 22, 2017, the following transactions shall occur:

1. Mareth Enterprises, LLC (the "Company") shall deliver fully-executed documents to Armstrong Teasdale LLP, including all documents required for the Company to transfer title to the Project Site to the City.

2. In accordance with the Preliminary Funding Agreement dated October 27, 2017, the Company shall have transferred the sum of \$39,800.00 (consisting of the initial \$30,000.00 deposited with the City and an additional \$9,800.00 to be deposited with the City before closing) to the City to be held in escrow pending authorization from Armstrong Teasdale LLP to disburse as provided herein.

3. BOKF, N.A. shall endorse Schedule A to the Bond in the original principal amount of \$960,000.00.

4. Upon confirmation that the above activities and all other required actions have occurred, the transaction shall be deemed closed.

5. Promptly following the closing of the transaction, the City shall disburse funds as follows:

| <b><u>Payee</u></b>   | <b><u>Purpose</u></b>               | <b><u>Amount</u></b> |
|---|-------------------------------------|----------------------|
| <b>Armstrong Teasdale LLP</b><br><i>(see attached invoice for wire instructions)</i>    | Bond Counsel<br>fees and expenses   | \$27,500.00          |
| <b>BOKF, N.A.</b><br><i>(see attached invoice for wire instructions)</i>                | Trustee fee<br>(Initial/first year) | \$2,000.00           |
| <b>Development Dynamics, LLC</b><br><i>(see attached invoice for wire instructions)</i> | Plan Consultant fee                 | \$5,500.00           |
| <b>City of Nevada, Missouri</b>   | Issuance Fee                        | \$4,800.00           |

\* \* \*



December 22, 2017

Mayor and City Council  
Hannibal, Missouri

Mareth Enterprises, LLC  
Purdy, Missouri

---

BOKF, N.A., as Trustee  
St. Louis, Missouri

Re: \$960,000 Maximum Principal Amount of the City of Nevada, Missouri, Taxable Industrial Revenue Bonds (Mareth Enterprises, LLC Project), Series 2017 (the "Bonds");

Ladies and Gentlemen:

We have acted as Bond Counsel in connection with the issuance by the City of Nevada, Missouri (the "City"), of the above-referenced Bonds. The Bonds will bear interest, will mature and will be subject to redemption and payment prior to maturity as set forth in the Trust Indenture dated as of December 1, 2017 (the "Indenture"), between the City and BOKF, N.A., as trustee.

The Bonds have been authorized and issued under and pursuant to Article VI, Section 27(b) of the Missouri Constitution, as amended, Sections 100.010 through 100.200 of the Revised Statutes of Missouri, as amended (collectively the "Act"), the City Charter, as amended, and the Indenture for the purpose of providing funds to pay part of the costs of purchasing, constructing, equipping, improving, and expanding the Project described in the Indenture.

We have examined a certified transcript of proceedings relating to the authorization and issuance of the Bonds, which transcript includes, among other documents and proceedings, the following documents, which are collectively referred to herein as the "Bond Documents":

- (a) Indenture;
- (b) Lease Agreement dated as of December 1, 2017 (the "Lease") between the City, as lessor, and Mareth Enterprises, LLC (the "Company"), as lessee;
- (c) Performance Agreement dated as of December 1, 2017, between the City and the Company;
- (d) Bond Purchase Agreement dated as of December 1, 2017 between the City and the Company, as the purchaser of the Bonds;

- (e) Special Warranty Deed dated as of December 1, 2017, from the Company, as grantor, to the City, as grantee.

We have also examined the Act, insofar as the same relates to the authorization and issuance of the Bonds and the authorization, execution and delivery of the Bond Documents.

Reference is made to the opinion of counsel to the Company, of even date herewith, with respect to, among other matters, (a) the due organization of the Company, (b) the good standing and qualification to do business of the Company, (c) the power of the Company to enter into and perform its obligations under the applicable Bond Documents to which it is a party, and (d) the due authorization, execution and delivery of the respective Bond Documents to which the Company is a party and the binding effect and enforceability thereof against the Company.

---

Based upon such examination, we are of the opinion, as of the date hereof, as follows:

1. The City is a constitutional charter city and political subdivision of the State of Missouri and has lawful power and authority to issue the Bonds and to enter into the Bond Documents and to perform its obligations thereunder.
2. The Bonds are in proper form and have been duly authorized in accordance with the Constitution and statutes of the State of Missouri, including the Act, and constitute a valid and legally binding special obligation of the City, payable from the sources described in the Indenture and the Bonds.
3. The Bond Documents have been duly authorized, executed and delivered by the City and constitute valid and legally binding agreements of the City, enforceable against the City in accordance with the respective provisions thereof.

The rights of the owners of the Bonds and the enforceability of the Bonds and the Bond Documents may be subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted and their enforcement may be subject to the exercise of judicial discretion in accordance with general principles of equity.

Very truly yours,

*Armstrong Teasdale LLP*

**RANDALL, MASRI & RANDALL, P.C.**

*Law Office*

405 Broadway, P.O. Box 151  
Monett, Missouri 65708  
TEL: (417) 235-8688  
FAX: (417) 235-4244

Attorneys

James J. Randall  
Fares H. Masri  
James J. Randall, IV

Title Agents

Michelle Bohanan  
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Jamie L. Randall-Arell,  
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December 22, 2017

Mayor and City Council  
Nevada, Missouri

Armstrong Teasdale LLP  
St. Louis, Missouri

BOKF, N.A., as Trustee  
St. Louis, Missouri

Mareth Enterprises, LLC  
Purdy, Missouri

Re: \$960,000 Maximum Principal Amount of Taxable Industrial Revenue Bonds (Mareth Enterprises, LLC Project), Series 2017, of the City of Nevada, Missouri

Ladies and Gentlemen:

We have acted as counsel for Mareth Enterprises, LLC, a Missouri limited liability company (the "Company"). As counsel for the Company, we have examined the following in connection with the issuance and sale of the above-referenced bonds (the "Bonds"):

- (a) Organizational documents of the Company and minutes of the meetings of the governing body of the Company;
- (b) Lease Agreement dated as of December 1, 2017 (the "Lease Agreement"), between the City of Nevada, Missouri (the "City"), as lessor, and the Company, as lessee;
- (c) Bond Purchase Agreement dated as of December 1, 2017 (the "Bond Purchase Agreement"), between the City and the Company, as purchaser;
- (d) Performance Agreement dated as of December 1, 2017 (the "Performance Agreement"), between the City and the Company;
- (e) Special Warranty Deed dated as of December 1, 2017 (the "Special Warranty Deed"), from the Company, as grantor, to the City, as grantee and
- (f) such other records and instruments of the Company, together with applicable certificates of public officials and such other documents as we deem relevant in rendering this opinion.

Based upon such examination, we are of the opinion that:

1. The Company is a limited liability company in good standing under the laws of the State of Missouri.

2. The Lease Agreement, the Bond Purchase Agreement, the Performance Agreement, and Special Warranty Deed (collectively, the "Company Documents") have been duly authorized by all requisite action on the part of the Company, and each such document has been duly executed and delivered by or on behalf of the Company by duly authorized officers of the Company, and constitute the Company's valid and binding obligations, enforceable in accordance with their respective terms (except as such enforceability may be limited by any bankruptcy, insolvency, moratorium, reorganization or other laws affecting creditors' rights generally or any general principles of equity, including without limitation, the exercise of judicial discretion in connection with any grant of specific performance).

3. The execution, delivery and compliance with the provisions of the Company Documents by the Company have not and will not (with the passage of time or the giving of notice, or both) result in or constitute a breach of or default under any indenture, mortgage, deed of trust, lease or other agreement or instrument to which the Company is a party or by which it or any of its property is bound, or violate any provision of the organizational documents of the Company, or any constitutional or statutory provision applicable to the Company or its property, or any order, rule or regulation of any court or governmental authority applicable to the Company or its property.

4. All consents, approvals, authorizations or orders of, or registrations or filings with, any court or governmental agency or body required with respect to the Company for the valid execution and delivery by the Company or the performance of its obligations under the Company Documents have been obtained or made.

5. To our knowledge, there is no action, suit or other proceeding pending or threatened against the Company, at law or in equity or before any governmental authority, which might adversely affect the validity or enforceability of the Company Documents or the ability of the Company to perform its obligations under the Company Documents or which might materially and adversely affect the condition, financial or otherwise, of the Company.

This opinion is limited in the following respects: (i) opinions expressed in this letter are limited to matters of the law of the State of Missouri and the federal laws of the United States of America as they exist on the date of this opinion, and we express no opinion as to the laws of any state or jurisdiction (except as to the Company's organization, existence and good standing under the laws of the State of Missouri); (ii) enforceability of the Company Documents may be limited by the subsequent course of dealings between the parties; and (iii) we express no opinion with respect to any state or federal securities laws.

We express no opinion as to the enforceability of any term or provision of the Company Documents: (i) stating that enumerated remedies are not exclusive or that a party has the right to pursue multiple remedies without regard to other remedies elected or that all remedies are cumulative; and (ii) providing for recovery of attorneys' fees or other fees, to the extent such fees exceed amounts deemed reasonable in the discretion of any court having jurisdiction or deemed by such court to constitute a penalty.

This opinion is based on the state of the law as of the date hereof and we specifically disclaim any obligation to update this opinion as a result of any change in law or fact after the date hereof.

This opinion is delivered to you for your use only and it may not be used or relied upon by, or published or communicated to, any third party for any purpose whatsoever without our prior written consent.

Very truly yours,  


WILLIAM G. McCAFFREE

ATTORNEY AT LAW

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December 22, 2017

Mayor and City Council  
Nevada, Missouri

Armstrong Teasdale LLP  
St. Louis, Missouri

BOKF, N.A., as Trustee  
St. Louis, Missouri

Mareth Enterprises, LLC  
Purdy, Missouri

Re: \$960,000 Maximum Principal Amount of Taxable Industrial Revenue Bonds (Mareth Enterprises, LLC Project), Series 2017, of the City of Nevada, Missouri

Ladies and Gentlemen:

We have acted as counsel to the City of Nevada, Missouri (the "City"), and as such, we have examined the following in connection with the issuance and sale of the above-referenced bonds (the "Bonds"):

- (a) Ordinance No. 8193 of the City Council authorizing the issuance, sale and delivery of the Bonds (the "Bond Ordinance");
- (b) Lease Agreement dated as of December 1, 2017 (the "Lease Agreement"), between the City, as lessor, and Mareth Enterprises, LLC (the "Company"), as lessee;
- (c) Trust Indenture dated as of December 1, 2017 (the "Indenture"), between the City and BOKF, N.A., as trustee, pursuant to which the Bonds will be issued;
- (d) Bond Purchase Agreement dated as of December 1, 2017 (the "Bond Purchase Agreement"), between the City and the Company, as purchaser of the Bonds;
- (e) Performance Agreement dated as of December 1, 2017 (the "Performance Agreement"), between the City and the Company;
- (f) Special Warranty Deed dated as of December 1, 2017 (the "Special Warranty Deed"), from the Company, as grantor, to the City, as grantee; and
- (g) such other records and instruments of the City, together with applicable certificates of public officials and such other documents as we deem relevant in rendering this opinion.

As to questions of fact material to our opinion, we have relied upon the certified proceedings and other certifications of public officials and others furnished to us without undertaking to verify the same by independent investigation.

Based upon and subject to the foregoing, we are of the following opinions:

1. The City is a constitutional charter city and political subdivision of the State of Missouri.
2. The Bond Ordinance has been duly adopted by the City Council.
3. The Lease Agreement, the Indenture, the Bond Purchase Agreement, the Performance Agreement, and the Special Warranty Deed (collectively, the "City Documents") have been duly authorized, executed and delivered by, for and on behalf of the City and constitute valid and binding agreements of the City, enforceable in accordance with their respective terms, subject, however, to any applicable bankruptcy, reorganization, insolvency, moratorium or other laws affecting the enforcement of creditors' rights generally or against entities such as the City from time to time in effect, and to applicable principles of equity.
4. The Bonds have been duly authorized, executed and delivered by the City and are valid and legally binding revenue bonds of the City secured solely by revenues received from the Lease Agreements authorized by the Bond Ordinance.
5. No additional or further approval, consent or authorization of any governmental or public agency or authority or person not already obtained is required by the City in connection with the issuance and sale of the Bonds or the execution and delivery or the performance of its obligations under the City Documents.
6. There is no action, suit, proceeding, inquiry or investigation at law or in equity or by any court, public board or body pending or, to our knowledge, threatened against or affecting the City, or, to our knowledge, any basis for any such action, suit, proceeding, or investigation, in any way contesting or affecting the validity of the Bond Ordinance, or which questions the authority of the City in connection with the issuance of the Bonds or the validity of the Bonds or the City Documents, or wherein any unfavorable decision, ruling or finding would adversely affect the transactions contemplated by the Indenture or the validity or enforceability of the Bonds, the Bond Ordinance or the City Documents or which would materially adversely affect the transactions contemplated by the Bonds, the Bond Ordinance or the City Documents.

This letter expresses our legal opinion as to the matters set forth herein and is based upon our professional knowledge and judgment at this time; however it is not to be construed as a guaranty, nor is it a warranty that a court considering such matters would not rule in a manner contrary to the opinions set forth herein.

Very truly yours,



Wm. G. McCaffree