

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE BORROWING OF NOT TO EXCEED \$45,000,000 FROM THE MISSOURI DEVELOPMENT FINANCE BOARD IN CONNECTION WITH THE REFINANCING OF CERTAIN REDEVELOPMENT COSTS DESCRIBED IN THE CRACKERNECK CREEK TAX INCREMENT FINANCING PLAN PREVIOUSLY APPROVED BY THE CITY; APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION OF CERTAIN DOCUMENTS WITH THE MISSOURI DEVELOPMENT FINANCE BOARD; PROVIDING FOR THE ADMINISTRATION OF THE CRACKERNECK CREEK SPECIAL ALLOCATION FUND; PRESCRIBING OTHER MATTERS RELATING THERETO; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Independence, Missouri (the “City”), is a constitutional charter city and political subdivision of the State of Missouri duly created, organized and existing under the constitution and laws of the State of Missouri; and,

WHEREAS, the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 to 99.865 of the Revised Statutes of Missouri, as amended (the “Act”), authorizes municipalities to form tax increment financing commissions, and to undertake redevelopment projects in blighted, conservation or economic development areas, as defined in the Act; and,

WHEREAS, the City passed Ordinance No. 12226 on November 16, 1992, establishing in accordance with the requirements of the Act the City of Independence, Missouri Tax Increment Financing Commission (the “Commission”); and,

WHEREAS, the City has passed Ordinance No. 15874 in connection with various findings and determinations required by the Act, including but not limited to: (i) designation of a “redevelopment area,” as defined in the Act (the “Redevelopment Area”), (ii) adoption of tax increment financing with respect to the Redevelopment Area in order to finance certain costs of developing the Redevelopment Area, (iii) approval of the Crackerneck Creek Tax Increment Financing Plan, as amended (the “Redevelopment Plan”), and (iv) designation of Crackerneck Creek, L.L.C. (the “Developer”) as the developer, to carry out the Redevelopment Plan; and,

WHEREAS, the City and the Developer have entered into a Redevelopment Agreement as may be amended from time to time (the “Redevelopment Agreement”), which provides, among other things, that the City, upon certain terms and conditions, will issue its obligations to be secured by moneys in the Special Allocation Fund (as defined herein) for the purpose of paying a portion of the costs attributable to the Redevelopment Project (as described in the Redevelopment Plan), which costs are identified in the Redevelopment Plan (the “Redevelopment Costs”); and,

WHEREAS, the City has passed Ordinance No. 16301 on March 20, 2006, which approved a loan from the Board in the principal amount of \$14,030,000 (the “Series 2006B Loan”) pursuant to the terms of a Financing Agreement dated as of March 15, 2006 (the “Series 2006B Financing Agreement”) to pay certain of the Redevelopment Costs; and,

WHEREAS, the City has passed Ordinance No. 18099 on April 15, 2013, which approved a loan from the Board in the principal amount of \$14,005,000 (the “Series 2013A Loan”) pursuant to the terms

of a Series 2013A Supplemental Financing Agreement dated as of April 1, 2013 (the “Series 2013A Financing Agreement”) to refinance certain of the Redevelopment Costs; and,

WHEREAS, the City has passed Ordinance No. 18099 on April 15, 2013, which approved a loan from the Board in the principal amount of \$10,835,000 (the “Series 2013B Loan”) pursuant to the terms of a Third Supplemental Financing Agreement dated as of April 1, 2013 (the “Series 2013B Financing Agreement”) to refinance certain of the Redevelopment Costs; and,

WHEREAS, the City has passed Ordinance No. 18491 on September 8, 2015, which approved a loan from the Board in the principal amount of \$47,060,000 (the “Series 2015C Loan”) pursuant to the terms of a Financing Agreement dated as of October 1, 2015 (the “Series 2015C Financing Agreement”) to refinance certain of the Redevelopment Costs; and,

WHEREAS, the City has determined that it is necessary and desirable that the City refinance certain of the Redevelopment Costs (with the Redevelopment Costs also referred to herein as the “Costs of the Project”) by obtaining a loan from the Board in the principal amount of not to exceed \$45,000,000 (the “Series 2021 Loan”) pursuant to the terms of a First Supplemental Financing Agreement between the Board and the City (the “Series 2021 Financing Agreement”); and,

WHEREAS, the City will apply the proceeds of the Series 2021 Loan, together with other funds available to the City, to (1) refund the Refunded Bonds (as defined herein), (2) fund a reserve fund deposit for the Series 2021 Bonds (as defined herein), and (3) pay the costs of incurring the Series 2021 Loan and issuing the Series 2021 Bonds; and,

WHEREAS, it is hereby found and determined that it is necessary and advisable and in the best interest of the City and of its inhabitants that the City obtain the Series 2021 Loan from the Board in the form and manner as hereinafter provided to provide funds for the above-described purposes and to provide for the repayment of said Series 2021 Loan all as more fully described herein;

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

ARTICLE I

DEFINITIONS

Section 101. Definitions of Words and Terms. In addition to words and terms defined elsewhere in this Ordinance, the following capitalized words and terms as used in this Ordinance shall have the following meanings:

“**Act**” means the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 to 99.865, inclusive, of the Revised Statutes of Missouri, as amended.

“**Additional Payments**” shall have the meaning set forth in the Financing Agreements described herein.

“**Bass Pro Lease Agreement**” means the Lease with Options between the City and Bass Pro Outdoor World, L.L.C., dated as of June 16, 2004, as amended by an Amendment to Lease with Options dated December 20, 2004, as further amended by a Second Amendment to Lease With Options dated March 6, 2006, and as further amended from time to time.

“Board” means the Missouri Development Finance Board, a body corporate and politic of the State of Missouri.

“Business Day” means a day other than a Saturday, Sunday or holiday on which the Trustee is scheduled in the normal course of its operations to be open to the public for conduct of its banking operations.

“City” means the City of Independence, Missouri, and any successors or assigns.

“Crackerneck Creek Redevelopment Agreement” means the Crackerneck Creek Redevelopment Agreement described in the Recitals hereto.

“Crackerneck Loans” means the Series 2015C Loan and the Series 2021 Loan.

“District” means the Crackerneck Creek Transportation Development District, a political subdivision organized and existing under the laws of the State of Missouri.

“Economic Activity Tax Account” means the Economic Activity Tax Account in the Special Allocation Fund described in **Section 401**.

“Economic Activity Tax Revenues” means fifty percent (50%) of the total additional revenue from sales taxes which are imposed by the City or other taxing districts, and which are generated by economic activities within the Crackerneck Creek Redevelopment Area over the amount of such taxes generated by economic activities within the Crackerneck Creek Redevelopment Area in the calendar year prior to the adoption of the first TIF Ordinance for the Crackerneck Creek Redevelopment Project, while tax increment financing remains in effect, but excluding (i) taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, licenses, fees or special assessments and (ii) personal property taxes, other than Payments in Lieu of Taxes, all as determined in accordance with the Act.

“Financing Agreements” means the Series 2015C Financing Agreement and the Series 2021 Financing Agreement described in the Recitals hereto.

“Indenture” means the applicable bond trust indenture or supplement thereto under which the Series 2015C Bonds and the Series 2021 Bonds are or were issued.

“Loan Payments” shall have the meaning set forth in the Financing Agreements.

“Ordinance” means this Ordinance as from time to time amended in accordance with the terms hereof.

“Payments in Lieu of Taxes” means, when collected by the City, the payments in lieu of taxes attributable to the increase in the current equalized assessed valuation of each taxable lot, block, tract, or parcel of real property in the Crackerneck Creek Redevelopment Area over and above the certified total initial equalized assessed value of each such unit of property in the Crackerneck Creek Redevelopment Area on the date of the adoption of the first TIF Ordinance with respect to such Redevelopment Area, all as determined in accordance with the Act; *provided that*, with respect to any improvements that did not exist as of January 1, 2021, for the purpose of which the Redevelopment Plan is amended, Payments in Lieu of Taxes shall not include any portion declared as surplus and distributed to the taxing jurisdictions.

“PILOTS Account” means the PILOTS Account in the Special Allocation Fund described in **Section 401** hereof.

“Redevelopment Area” means the Crackerneck Creek Redevelopment Area, with the governing body of the City having adopted tax increment financing therefore in accordance with the Act.

“Redevelopment Costs” means the “redevelopment project costs,” as defined in the Act, that may be paid through tax increment financing and which the City has agreed to pay under the Crackerneck Creek Redevelopment Agreement.

“Refunded Bonds” means, collectively, the Series 2006B Refunded Bonds, the Series 2013A Refunded Bonds and the Series 2013B Refunded Bonds, as described in **Section 701** hereof.

“Series 2006B Bonds” means the \$14,030,000 Taxable Infrastructure Facilities Revenue Bonds (City of Independence, Missouri – Crackerneck Creek Project), Series 2006B, issued by the Board.

“Series 2006B Loan” means the loan from the Board to the City of the proceeds of the Series 2006B Bonds pursuant to the Series 2006B Financing Agreement as described in the recitals hereto.

“Series 2013A Bonds” means the \$14,005,000 Taxable Infrastructure Facilities Refunding Revenue Bonds (City of Independence, Missouri – Crackerneck Creek Project) Series 2013A, issued by the Board.

“Series 2013A Loan” means the loan from the Board to the City made pursuant to the Series 2013A Financing Agreement as described in the recitals hereto.

“Series 2013B Bonds” means the \$10,835,000 Infrastructure Facilities Refunding Revenue Bonds (City of Independence, Missouri – Crackerneck Creek Project) Series 2013B, issued by the Board.

“Series 2013B Loan” means the loan from the Board to the City made pursuant to the Series 2013B Financing Agreement as described in the recitals hereto.

“Series 2015C Bonds” means the \$47,060,000 Infrastructure Facilities Refunding Revenue Bonds (City of Independence, Missouri – Crackerneck Creek Project) Series 2015C, issued by the Board.

“Series 2015C Loan” means the loan from the Board to the City made pursuant to the Series 2015C Financing Agreement as described in the recitals hereto.

“Series 2021 Bonds” means the Infrastructure Facilities Refunding Revenue Bonds (City of Independence, Missouri – Crackerneck Creek Project) Series 2021, to be issued by the Board, with such series letter designation as is assigned to such bonds by the Board.

“Series 2021 Loan” means the loan from the Board to the City made pursuant to the Series 2021 Financing Agreement as described in the recitals hereto.

“Special Allocation Fund” means the Crackerneck Creek Special Allocation Fund ratified and confirmed by **Section 401** hereof.

“State” means the State of Missouri.

“State TIF Revenues” means payments received from the State under the Act for paying Costs of the Crackerneck Creek Redevelopment Project.

“TDD Revenues” means 7/8 of the moneys received by the City from the Crackerneck Creek Transportation Development District which are derived from the sales tax levied by the District for the payment of project costs related to the Crackerneck Creek Redevelopment Project, and which are subject to annual appropriation by the District.

“TIF Ordinance” means, for any Redevelopment Project, an ordinance passed by the City pursuant to which the City has commenced the 23-year period contained in the Act, which for the Crackerneck Creek project include Ordinance Nos. 15928, 15929, 15930, 15931 and 15932 of the City.

ARTICLE II - AUTHORIZATION FOR THE SERIES 2021 LOAN

Section 201. Authorization for the Series 2021 Loan. The City is hereby authorized to borrow from the Board an aggregate sum not to exceed \$45,000,000 in order to provide funds, together with other funds available to the City, for the City to (1) refund the Refunded Bonds, (2) fund a reserve fund for the Series 2021 Bonds, and (3) pay the costs of incurring the Series 2021 Loan and issuing the Series 2021 Bonds. The repayment terms of the Series 2021 Loan will be as set forth in the Series 2021 Financing Agreement, and will correspond to the repayment of the Series 2021 Bonds issued by the Board as described therein. The authorization for the Series 2021 Loan is conditional on the terms of the Series 2021 Bonds being reflected in the Indenture related to the Series 2021 Bonds and the below-described Bond Purchase Agreement consistent with the following:

- (a) The maximum principal amount of the Series 2021 Bonds shall not exceed \$45,000,000.
- (b) The True Interest Cost of the Series 2021 Bonds shall not exceed 4.25%.
- (c) The weighted average maturity of the Series 2021 Bonds shall be between 16 years and 21 years.
- (d) The final maturity date of the Series 2021 Bonds shall be not later than the year 2051.
- (e) The Underwriter’s discount shall not exceed 1.85% of the principal amount of the Series 2021 Bonds.
- (f) The Series 2021 Bonds shall be subject to optional redemption prior to maturity beginning not later than September 1, 2031.

Section 202. Authorization of Documents. In connection with the Series 2021 Loan the City is hereby authorized to execute and deliver the following documents:

- (a) Series 2021 Financing Agreement;
- (b) Tax Compliance Agreement relating to the Series 2021 Bonds (the “Tax Compliance Agreement”) among the Board, the City and UMB Bank, N.A., as trustee (the “Trustee”);
- (c) Continuing Disclosure Undertaking with respect to the Series 2021 Bonds (the “Series 2021 Continuing Disclosure Undertaking”);
- (d) Bond Purchase Agreement (the “Bond Purchase Agreement”) among the City, the Board and the underwriter to be named therein, related to the purchase of the Series 2021 Bonds;

- (e) Escrow Trust Agreement (the “Escrow Agreement”) relating to the refunding of the Refunded Bonds; and
- (f) Official Statement relating to the Series 2021 Bonds

(the “Series 2021 City Documents”) in substantially the form presented to and reviewed by the City Council (copies of which documents shall be filed in the records of the City), with such changes therein as shall be approved by the officers executing such documents, such officers’ signatures thereon being conclusive evidence of their approval thereof.

Section 203. Limited Obligations. Except as provided herein in **Article III** hereof, the City obligation to make Loan Payments and Additional Payments under the Financing Agreements shall be subject to annual appropriation and shall not constitute a debt, liability or indebtedness within the meaning of any constitutional, statutory or charter debt limitation or restriction, all as more fully provided in the Financing Agreements.

Section 204. Execution of Documents. The City Manager, Finance Director and the City Clerk are hereby authorized and directed to execute and deliver the Series 2021 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 205. Ratification of Approvals and Designations.

On October 18, 2004, the City passed Ordinance No. 15874 approving the Redevelopment Plan, approving the Redevelopment Project, designating the Redevelopment Area, designating the Developer as the developer, and authorizing the execution of a redevelopment agreement with the Developer to carry out the Redevelopment Plan. On December 20, 2004, the City passed ordinance numbers 15928, 15929, 15930, 15931 and 15932 activating Tax Increment Financing in the Redevelopment Area. The City hereby ratifies and confirms such approvals and designations and represents that Ordinance Nos. 15874, 15928, 15929, 15930, 15931 and 15932 remain in full force and effect.

ARTICLE III - SECURITY FOR THE CRACKERNECK LOANS

Section 301. Security for the Crackerneck Loans.

(a) Except as provided in the following paragraph, the City’s obligation to make Loan Payments and Additional Payments pursuant to the Financing Agreements shall be subject to annual appropriation as provided in the Financing Agreements.

The City currently intends to appropriate in each year moneys sufficient to pay all the Loan Payments and reasonably estimated Additional Payments under the Financing Agreements with respect to the Crackerneck Creek Loans for the next succeeding Fiscal Year, to the extent sufficient funds are not available from pledged sources, as described in this **Section 301**. In preparing the City’s annual budget the City Manager or Acting City Manager shall include or cause to be included in each budget submitted to the City Council such appropriation. Notwithstanding the foregoing, the decision of whether or not to appropriate is solely within the discretion of the City Council. In the event the City Council votes to not appropriate such amounts, the City shall immediately notify in writing the following persons of such Event of Nonappropriation: (i) the Board, (ii) UMB Bank, N.A., as trustee for the Series 2015C Bonds and the Series 2021 Bonds, (iii) the Municipal Securities Rulemaking Board through the Electronic

Municipal Market Access (“EMMA”) system (or successor thereto), and (iv) each nationally recognized rating agency which currently maintains a rating on any of the City’s bonds.

Notwithstanding the foregoing, Payments in Lieu of Taxes deposited into the Special Allocation Fund are not subject to annual appropriation and are hereby pledged by the City pursuant to this **Section 301** to secure the Loan Payments and Additional Payments pursuant to the Financing Agreements.

(b) As additional security for the City’s obligation to make Loan Payments and Additional Payments pursuant to the Financing Agreements, such payments shall be payable from and secured as to the payment of principal and interest by (a) a pledge of the Payments in Lieu of Taxes deposited in the PILOTS Account of the Special Allocation Fund relating to the Crackerneck Creek Redevelopment Project, (b) subject to annual appropriation by the City Council as provided herein, the Economic Activity Tax Revenues deposited in the Economic Activity Tax Account of the Special Allocation Fund relating to the Crackerneck Creek Redevelopment Project. The taxing power of the City is not pledged to the payment of the Crackerneck Loans either as to principal or interest. The Crackerneck Loans shall not constitute a general obligation of the City, nor shall any of the Crackerneck Loans constitute an indebtedness of the City within the meaning of any constitutional, statutory or charter provision, limitation or restriction.

The moneys and securities held in, and moneys and securities to be deposited in, the Special Allocation Fund relating to the Crackerneck Creek Redevelopment Project are hereby pledged to the payment of the Crackerneck Loans; provided, however Economic Activity Taxes deposited therein shall remain subject to annual appropriation as described herein.

The City currently intends to appropriate in each year the Economic Activity Tax Revenues in the Special Allocation Fund relating to the Crackerneck Creek Redevelopment Project to the repayment of the Crackerneck Loans. In preparing the City’s annual budget the City Manager or Acting City Manager shall include or cause to be included in each budget submitted to the City Council such appropriation. Notwithstanding the foregoing, the decision of whether or not to appropriate is solely within the discretion of the City Council. In the event the City Council votes to not appropriate such Economic Activity Tax Revenues, the City shall immediately notify in writing the following persons of such Event of Nonappropriation: (i) the Board, (ii) UMB Bank, N.A., as trustee for the Series 2006B Bonds, the Series 2013A Bonds, the Series 2015C Bonds and the Series 2021 Bonds, (iii) the Municipal Securities Rulemaking Board through the Electronic Municipal Market Access (“EMMA”) system (or successor thereto), and (iv) each nationally recognized rating agency which currently maintains a rating on any of the City’s bonds.

In the event Bond Counsel delivers to the City an opinion to the effect that Missouri law no longer requires that the pledge of the Economic Activity Tax Revenues be subject to annual appropriation, the City agrees to amend this Ordinance to delete such requirement.

The City also pledges the State TIF Revenues (if any) and the TDD Revenues (if any) to secure the Crackerneck Loans.

(c) The pledge of Economic Activity Tax Revenues (subject to annual appropriation), State TIF Revenues, TDD Revenues and Payments in Lieu of Taxes described herein to the payment of the Series 2021 Loan shall be on parity with the pledge of such revenues securing the payment of the Series 2015C Loan and the Loan Payments and Additional Payments relating thereto. The State TIF Revenues and TDD Revenues shall be aggregated with Economic Activity Taxes and Payments in Lieu of Taxes and applied in the same manner and at the same time as Economic Activity Tax Revenues as set forth in **Section 401**.

(d) The rentals paid to the City pursuant to the Bass Pro Lease Agreement shall not be used for the repayment of the Series 2015C Loan and are not pledged to the repayment of the Series 2021 Loan.

(e) The City shall not pledge Economic Activity Tax Revenues, State TIF Revenues, TDD Revenues or Payments in Lieu of Taxes to any bond or other obligation on a basis that is senior to the pledge of such revenues to the payment of the Series 2021 Loan or the Series 2015C Loan and the Loan Payments and Additional Payments relating thereto.

ARTICLE IV - SPECIAL ALLOCATION FUND

Section 401. Crackerneck Creek Special Allocation Fund. The moneys in the Crackerneck Creek Special Allocation Fund shall be administered and applied solely for the purposes and in the manner provided in this Ordinance. At any time moneys are to be withdrawn, transferred or paid from the Crackerneck Creek Special Allocation Fund pursuant to this Ordinance, such withdrawals, transfers or payment shall be made from (i) the PILOTS Account, and (ii) the Economic Activity Tax Account in that order.

The City hereby agrees to deposit into the Crackerneck Creek Special Allocation Fund as received all Economic Activity Taxes and Payments in Lieu of Taxes. The Economic Activity Taxes and Payments in Lieu of Taxes shall be determined, collected and applied in the manner provided by law. Payments in Lieu of Taxes from the Crackerneck Creek Redevelopment Area shall be deposited into the PILOTS Account of the Crackerneck Creek Special Allocation Fund, and subject to annual appropriation as provided in **Section 301** hereof, all Economic Activity Tax Revenues from the Crackerneck Creek Redevelopment Area shall, as and when received by the City, be deposited into the Economic Activity Tax Account of the Crackerneck Creek Special Allocation Fund. All interest earnings on moneys in the Crackerneck Creek Special Allocation Fund shall be credited to and deposited in the Crackerneck Creek Special Allocation Fund.

The Crackerneck Creek Special Allocation Fund shall be administered by the City as follows:

(a) Not later than the last business day of each February and August, the City shall transfer to the Trustee from the Crackerneck Creek Special Allocation Fund, to the extent available, an aggregate amount equal to the Loan Payments due under the Financing Agreements relating to the Series 2015C Bonds and the Series 2021 Bonds and any other financing agreement relating to Additional Bonds secured on a parity with the with the Series 2015C Bonds and the Series 2021 Bonds. In the event such moneys shall be insufficient to make such Loan Payments, such deposits shall be made pro rata into the various accounts within the Debt Service Fund for the Series 2015C Bonds and the Series 2021 Bonds and any bonds issued on a parity with such Bonds.

(b) Upon receipt by the City of written notice from the Trustee that the balance in the applicable account of the Debt Service Reserve Fund (as defined in the Indenture) is less than the Debt Service Reserve Requirement for the Series 2015C Bonds and the Series 2021 Bonds (as defined in the Indenture) or any bonds issued on a parity with the Series 2015C Bonds and the Series 2021 Bonds, the City shall transfer to the Trustee from the Crackerneck Creek Special Allocation Fund, to the extent available, an aggregate amount equal to the Additional Payments necessary to restore the accounts in the applicable Debt Service Reserve Fund to an amount equal to such Debt Service Reserve Requirement. In the event such moneys shall be insufficient to fully restore the balance therein to the applicable Debt Service Reserve Requirement such deposits shall be made pro rata into the various accounts with the Debt Service Reserve Fund for the Series 2015C Bonds and the Series 2021 Bonds and any bonds issued on a parity therewith.

(c) Moneys remaining in the Crackerneck Creek Special Allocation Fund, after making the payments described in **Section 401(a)** and **Section 401(b)**, shall be expended in the following order of priority:

(i) For deposit into any business interruption reserve fund established with the Trustee for a series of bonds secured on parity with the Series 2015C Bonds and the Series 2021 Bonds, until such time as the amount on deposit therein equals the business interruption reserve fund requirement (as set out in the indentures relating to such bonds) or to restore the amount on deposit therein to such business interruption reserve fund requirement (as defined in the indentures relating to such bonds);

(ii) Any Excess Tax Revenues shall be transferred by the City to the Trustee for the purpose of prepaying that portion of the Series 2015C Loan or the Series 2021 Loan that the City has elected to prepay. "Excess Tax Revenues" means the amount of (i) Economic Activity Taxes and Payments in Lieu of Taxes, and (ii) any State TIF Sales Tax revenues, collected by the City (in increments of \$5,000) which the City determines are in excess of the amounts needed to make Loan Payments under the Financing Agreements relating to regularly scheduled payments of principal and interest on the Series 2015C Bonds, the Series 2021 Bonds and any Additional Bonds issued on a parity with the Series 2015C Bonds and the Series 2021 Bonds.

(iii) For the purpose of prepaying any Loan Payments or Additional Payments due under the Financing Agreements relating to the Series 2015C Bonds and the Series 2021 Bonds or any other financing agreement relating to Additional Bonds secured on a parity with the Series 2015C Bonds and the Series 2021 Bonds.

(d) Moneys remaining in the Crackerneck Creek Special Allocation Fund, after making the payments described in **Section 401(a)**, **Section 401(b)** and **Section 401(c)**, shall be expended in the following order of priority:

(i) Not later than the last business day of each February and August, the City shall transfer to the Trustee from the Crackerneck Creek Special Allocation Fund, to the extent available, an aggregate amount equal to the Loan Payments due under the financing agreement(s) relating to any bonds secured on a basis subordinate to the Series 2015C Bonds and the Series 2021 Bonds with respect to the pledge of Economic Activity Tax Revenues, State TIF Revenues, TDD Revenues and Payments in Lieu of Taxes (currently including the Financing Agreements relating to the Series 2006B Bonds and the Series 2013A Bonds). In the event such moneys shall be insufficient to make such Loan Payments, such deposits shall be made pro rata into the various accounts within the Debt Service Fund for such bonds.

(ii) Upon receipt by the City of written notice from the Trustee that the balance in the applicable account of any debt service reserve fund established for any bonds secured on a basis subordinate to the Series 2015C Bonds and the Series 2021 Bonds with respect to the pledge of Economic Activity Tax Revenues, State TIF Revenues, TDD Revenues and Payments in Lieu of Taxes (which does not currently include any outstanding bonds) is less than the debt service reserve requirement for such bonds, the City shall transfer to the Trustee from the Crackerneck Creek Special Allocation Fund, to the extent available, an aggregate amount equal to the Additional Payments necessary to restore the accounts in the debt service reserve fund to an amount equal to the debt service reserve requirement. In the event such moneys shall be insufficient to fully restore the balance therein to the applicable debt service reserve requirement such deposits shall be made pro rata into the various accounts with the debt service reserve fund for such bonds.

(e) Moneys remaining in the Crackerneck Creek Special Allocation Fund, after making the payments described in **Section 401(a)**, **Section 401(b)**, **Section 401(c)** and **Section 401(d)**, shall be expended in the following order of priority:

(i) for the purpose of establishing such additional reserves as may be deemed necessary by the City; or

(ii) for the purpose of reimbursing the City for any transfer of any legally available funds to the Crackerneck Creek Special Allocation Fund; or

(iii) for any other purpose set forth in the Redevelopment Agreement for the Redevelopment Project as may be authorized under the Act.

Section 402. Investments. Moneys in the Special Allocation Fund shall be continuously and adequately secured as provided by the laws of the State.

ARTICLE VII - MISCELLANEOUS PROVISIONS

Section 701. Refunding of Prior Bonds. The Series 2021 Loan is being made for the purpose of prepaying in whole or in part certain prior loans from the Board to the City related to the Crackerneck Creek project. The loans, or portions thereof, to be prepaid were funded by the following bond issues of the Board (the “Refunded Bonds”):

- (i) The entire outstanding principal amount of the Series 2006B Bonds, with a stated maturity of March 1, 2026, in the aggregate principal amount of \$14,030,000 (the “Series 2006B Refunded Bonds”);
- (ii) The entire outstanding principal amount of the Series 2013A Bonds, with stated maturities of March 1 in the years 2025, 2027, 2028, in the aggregate principal amount of \$13,905,000 (the “Series 2013A Refunded Bonds”); and
- (iii) The entire outstanding principal amount of the Series 2013B Bonds, with a stated maturity of March 1, 2029, in the aggregate principal amount of \$10,835,000 (the “Series 2013B Refunded Bonds”).

The officers of the City are hereby authorized and directed to take such actions as are necessary to use certain proceeds of the Series 2021 Loan to effect the refunding of the outstanding amounts of the applicable Refunded Bonds and to prepay the corresponding loan payments under the applicable prior Financing Agreements between the Board and the City associated with the Refunded Bonds.

The City hereby appoints Goldman Sachs & Co. LLC as the “Independent Investment Banker” for purposes of determining the redemption price of the Series 2006B Bonds, in accordance with the terms of the bond trust indenture under which the Series 2006B Bonds were issued.

Section 702. Continuing Disclosure Policy. In order to promote ongoing compliance with federal securities laws relating to the City’s outstanding and future obligations, the policy attached hereto as **Exhibit A** is hereby approved as the official policy of the City relating to continuing disclosure.

Section 703. Further Authority. The officers of the City, including the City Manager, Finance Director and the City Clerk, are hereby authorized and directed to execute all documents, and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and to make any changes or additions the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they determine to be in the City’s best interest, and the execution or taking of such action shall be conclusive evidence of such determination.

Section 704. Severability. If any section or other part of this Ordinance, whether large or small, is for any reason held invalid, the invalidity thereof shall not affect the validity of the other provisions of this Ordinance.

Section 705. Governing Law. This Ordinance shall be governed exclusively by and constructed in accordance with the applicable laws of the State.

Section 706. Effective Date. This Ordinance shall take effect and be in full force from and after its passage by the City Council.

Section 707. Emergency. This Ordinance, in the judgment of the Council, is deemed to be of an urgent nature and its immediate passage is necessary for the preservation of the public peace, property, health, safety and welfare of the residents of the City of Independence and should become effective immediately upon the date of its passage for the reason that immediate action is necessary to enable the Board to accept an offer to purchase the Series 2021 Bonds while the offer is still valid.

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PASSED AS AN EMERGENCY THIS _____ DAY OF _____, 2021, BY
THE CITY COUNCIL OF THE CITY OF INDEPENDENCE, MISSOURI.

Presiding Officer of the City Council
of the City of Independence, Missouri

ATTEST:

City Clerk

APPROVED AS TO FORM AND LEGALITY:

City Counselor

REVIEWED BY:

City Manager

Exhibit A

Continuing Disclosure Policy

CITY OF INDEPENDENCE, MISSOURI
CONTINUING DISCLOSURE COMPLIANCE POLICY

Dated as of May 17, 2021

CONTINUING DISCLOSURE COMPLIANCE POLICY

ARTICLE I

DEFINITIONS

Section 1.1. Definitions. Capitalized words and terms used in this Disclosure Policy have the following meanings:

“Annual Report” means the information, consisting of annual financial information and operating data, required by the Continuing Disclosure Obligation to be filed annually on EMMA.

“Bonds” means any outstanding bond, note, lease or other obligation in connection with the issuance of which the Issuer entered into or enters into a Continuing Disclosure Obligation. A list of all Bonds outstanding and subject to this Disclosure Policy as of the date hereof, is included on **Exhibit A**.

“Bond Counsel” means a law firm selected by the Issuer to provide a legal opinion regarding the tax status of interest on tax-exempt bonds as of the issue date or other counsel experienced in federal securities law matters.

“Compliance Date” means the date of the first Continuing Disclosure Obligation executed by the Issuer and its non-profit corporations, if applicable, after February 27, 2019 in connection with the issuance of Municipal Securities or Debt Obligations that are subject to the Rule.

“Continuing Disclosure Compliance File” means documents and records which may consist of paper and electronic medium, maintained for the Bonds and related obligations of the Issuer, consisting of the following:

- (a) List of Bonds;
- (b) Description of the deadline applicable to each Annual Report;
- (c) Description of the financial information and operating data required to be included in each Annual Report;
- (d) List of events requiring an Event Notice under the Continuing Disclosure Obligation for each series of Bonds;
- (e) List of Financial Obligations, as defined in, and related events requiring an Event Notice under, the Continuing Disclosure Obligation for a respective series of Bonds, effective as of the Compliance Date; and
- (f) Information about the Issuer’s compliance during the prior five years with the Continuing Disclosure Obligation then in effect.

“Continuing Disclosure Obligation” means the Continuing Disclosure Agreement(s), Continuing Disclosure Undertaking(s), Continuing Disclosure Instructions or other written certification(s) or agreement(s) entered into by the Issuer in connection with the issuance of the Bonds for the purpose of assisting the underwriters of such Bonds in complying with the Rule.

“Covered Obligation(s)” means Municipal Securities as to which a final official statement has been provided to the MSRB consistent with the Rule.

“Debt Obligation” means each contract of the Issuer that has sufficient characteristics of debt so that it is included in the Issuer’s financial statements as a long-term liability of the Issuer, including, but not limited to bonds, notes, and similar instruments used by the Issuer for borrowing purposes.

“Financial Obligation” means: (i) a Debt Obligation; (ii) a derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned Debt Obligation; or (iii) a guarantee of (i) or (ii). The term Financial Obligation shall not include Covered Obligations.

“Disclosure Compliance Officer” means the Issuer’s Director of Finance or, if the position of Director of Finance is vacant, the person filling the responsibilities of the Director of Finance for the Issuer.

“Disclosure Policy” means this Continuing Disclosure Compliance Policy.

“EMMA” means the Electronic Municipal Market Access system for municipal securities disclosures established and maintained by the MSRB, which can be accessed at www.emma.msrb.org, or any successor system designated as the means through which municipal securities disclosures are submitted to the MSRB.

“Event Notice” means information about the occurrence of an event for which notice is required by the Continuing Disclosure Obligation to be filed on EMMA.

“Governing Body” means the City Council of the Issuer.

“Issuer” means the City of Independence, Missouri.

“Material” has the definition given in **Section 3.1(e)** of this Disclosure Policy.

“Material Event” means any event requiring an Event Notice under the Continuing Disclosure Obligation for a series of Bonds.

“MSRB” means the Municipal Securities Rulemaking Board, or any successor repository designated as such by the Securities and Exchange Commission in accordance with the Rule.

“Municipal Securities” means securities which are direct obligations of, or obligations guaranteed as to principal or interest by, a State or any political subdivision thereof, or any agency or instrumentality of a State or any political subdivision thereof, or any municipal corporate instrumentality of one or more States and any other municipal securities described by Section 3(a)(29) of the Securities Exchange Act of 1934, as the same may be amended from time to time.

“Obligated Person” means any person, including an issuer of Municipal Securities, who is either generally or through an enterprise, fund, or account of such person committed by contract or other arrangement to support payment of all or part of the obligations on the Municipal Securities to be sold in the offering (other than providers of municipal bond insurance, applicable letters of credit, or other liquidity facilities); furthermore, for purposes of this Disclosure Policy, the Issuer is an Obligated Person.

“Primary Disclosure Document” means any official statement or offering document relating to an offering or remarketing of Bonds by or on behalf of the Issuer after the date of this Disclosure Policy.

“Rule” means Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended.

“Terms Affecting Security Holders” means a Material agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the Issuer that affects security holders.

ARTICLE II

PURPOSE AND SCOPE

Section 2.1. Purpose of Disclosure Policy.

(a) Disclosure Responsibilities. The Issuer recognizes that the issuance of Bonds through the public capital markets involves certain obligations arising out of the federal securities laws, including entering into a Continuing Disclosure Obligation and properly communicating with investors.

(b) Issuer Commitment. The Issuer is committed to full compliance with applicable securities law requirements for all of its outstanding and future financings. This Disclosure Policy is adopted by the Governing Body to improve and promote securities law compliance and documentation.

Section 2.2. Scope of Disclosure Policy; Conflicts. This Disclosure Policy applies to all Bonds currently outstanding and all Bonds issued in the future. If the provisions of this Disclosure Policy conflict with a Continuing Disclosure Obligation or any other specific written instructions of counsel, the terms of the Continuing Disclosure Obligation or specific written instructions of counsel will supersede and govern in lieu of this Disclosure Policy.

Section 2.3. Amendments and Preservation of Disclosure Policy. This Disclosure Policy may be amended from time-to-time by the Governing Body. Copies of this Disclosure Policy and any amendments will be included in the permanent records of the Issuer.

ARTICLE III

DISCLOSURE COMPLIANCE OFFICER; TRAINING

Section 3.1. Disclosure Compliance Officer Duties.

(a) Responsibility for Disclosure Policy. The Disclosure Compliance Officer is responsible for implementing this Disclosure Policy. The Disclosure Compliance Officer will consult with Bond Counsel, other counsel, accountants, and other outside consultants to the extent necessary to carry out the purposes of this Disclosure Policy.

(b) Solicitation of Relevant Information. In the performance of its duties under this Disclosure Policy, the Disclosure Compliance Officer shall be responsible for soliciting any relevant information from other employees, officials or departments within the internal organization of the Issuer, including public statements made by officials of the Issuer that the Disclosure Compliance Officer is made aware of and reasonably believes will reach investors or trading markets generally. The Disclosure Compliance Officer is additionally responsible for obtaining any documentation prepared by an outside source that may be necessary to assist the Disclosure Compliance Officer in carrying out this Disclosure Policy. The Disclosure Compliance Officer shall undertake a thorough review of the form and content of

each of the Issuer's Annual Report filings, and any Event Notice filings, as required pursuant to this Disclosure Policy.

(c) Public Statements Regarding Financial Information. Whenever an officer or employee of the Issuer makes material statements or releases information relating to the Issuer's financial condition to the public that is reasonably expected to reach investors and the trading markets (including, without limitation, all Event Notices, statements in a comprehensive annual financial report, and other financial reports and statements of the Issuer), the Disclosure Compliance Officer shall be responsible for ensuring that such statements are complete, true, and accurate in all Material aspects and available to all investors. The Disclosure Compliance Officer will work with other officers of the Issuer to ensure that financially related public statements and information released by the Issuer are accurate and are not misleading in all Material aspects.

(d) Issuance of Debt Obligations. Whenever the Issuer prepares or participates in the preparation of an Primary Disclosure Document, the Disclosure Compliance Officer, in addition to any other officers selected by the Issuer, shall review all certifications that may be required to the effect that such Primary Disclosure Document does not contain any untrue statement of Material fact or omit to state any Material fact necessary to make the information contained in such documents, in the light of the circumstances under which it was provided, not misleading.

Such determination by the Disclosure Compliance Officer shall only be made after coordination with the Issuer's attorney or other administrative officer having ultimate responsibility with respect to the Issuer's operations, risks and litigation, to ensure that any current, pending or threatened losses, investigations or litigation, and any settlement or court orders that are Material to the Issuer are properly identified.

(e) Determination of Material Information. The Issuer understands that determining materiality requires a complete review of facts and circumstances (which may include a review of outstanding Debt Obligations). Each determination of materiality made by the Disclosure Compliance Officer shall be made on a case-by-case basis. The Disclosure Compliance Officer will seek the advice of the employees and officials of the Issuer, as appropriate, as well as the advice of the consultants and counsel to the Issuer, as to whether a material event has occurred and whether an Event Notice shall be filed with the MSRB consistent with the Rule.

For purposes of this Disclosure Policy, information is "Material" if there is a substantial likelihood that the disclosure of that information would be viewed by a reasonable investor as having significantly altered the total mix of information made available in making an informed investment decision. Materiality for the purposes of this Disclosure Policy and compliance with the Rule may be different than materiality considerations or determinations under accounting guidance.

Section 3.2. Change in Disclosure Compliance Officer. Any time an individual acting as the Disclosure Compliance Officer passes the responsibilities for carrying out the provisions of this Disclosure Policy to another individual, the Issuer will ensure the incoming individual acting as Disclosure Compliance Officer is trained to implement the policies and procedures included in this Disclosure Policy to ensure the Issuer's continued compliance with the provisions of this Disclosure Policy.

Section 3.2. Training of Disclosure Compliance Officer and Other Issuer Employees. The Disclosure Compliance Officer shall have at least a general familiarity with the content of the Rule, and in furtherance thereof receive appropriate training regarding the Issuer's disclosure obligations in accordance with federal securities laws, state regulations and the Rule. When appropriate, the Disclosure

Compliance Officer and/or other Issuer employees and officials will attend training programs offered by the SEC or other industry professionals regarding disclosure policies and procedures developed in the context of the Rule that are relevant to the Issuer. Each person acting in the capacity of a Disclosure Compliance Officer shall receive such training as may be necessary for the person to perform competently the duties and responsibilities of Disclosure Compliance Officer to ensure the Issuer's compliance with the provisions of this Disclosure Policy.

ARTICLE IV

CONTINUING DISCLOSURE COMPLIANCE FILE

Section 4.1. Compilation and Maintenance of Continuing Disclosure Compliance File. The Disclosure Compliance Officer shall compile and maintain the Continuing Disclosure Compliance File.

Section 4.2. Annual Review of Continuing Disclosure Compliance File. Annually, the Disclosure Compliance Officer will review the Continuing Disclosure Compliance File to confirm that Annual Reports and Event Notices are being filed in accordance with the Continuing Disclosure Obligation. In addition, the Disclosure Compliance Officer shall conduct an evaluation of the policies set forth in this Disclosure Policy no less often than annually, and promptly after completing the evaluation the Disclosure Compliance Officer shall prepare an annual report of the Issuer's compliance. An internal audit will be conducted every three years to determine if the materiality standards are reviewed annually.

Section 4.3. Remedying Non-Compliance. If the Disclosure Compliance Officer identifies any non-compliance with the Continuing Disclosure Obligation as a result of the annual review or otherwise, the Disclosure Compliance Officer shall promptly take steps to remedy the noncompliance, including by making any necessary remedial filings. In the event the Disclosure Compliance Officer identifies any such noncompliance, the Disclosure Compliance Officer shall update the Continuing Disclosure Compliance File to reflect the noncompliance in the Issuer's five-year history of compliance.

ARTICLE V

FUTURE BONDS AND CONTINUING DISCLOSURE OBLIGATIONS

Section 5.1. Review Continuing Disclosure Obligations. The Disclosure Compliance Officer will review each Continuing Disclosure Obligation related to a new issuance of Bonds. If necessary, the Disclosure Compliance Officer will confer with Bond Counsel or other counsel regarding the meaning and scope of each obligation contained in the Continuing Disclosure Obligation.

Section 5.2. Update Continuing Disclosure Compliance File. As soon as practicable after the issuance of any new Bonds, the Disclosure Compliance Officer will be responsible for updating the Continuing Disclosure Compliance File to reflect the issuance of such new Bonds and the requirements of the new Continuing Disclosure Obligation.

ARTICLE VI

ANNUAL REPORT AND EVENT NOTICE FILING

Section 6.1. Annual Report Preparation and Submission. The Disclosure Compliance Officer will prepare or cause the preparation of the Annual Report each year. The Disclosure Compliance Officer will cause the Annual Report to be filed with the MSRB on EMMA each year before the deadline

required by the Continuing Disclosure Obligation. If the Issuer has engaged a third-party to submit the Annual Report on the Issuer's behalf, the Disclosure Compliance Officer will request and review confirmation that such filing has been timely made as required.

Section 6.2. Event Notice Submissions. As necessary, the Disclosure Compliance Officer shall coordinate with those other employees and agents of the Issuer most likely to become aware of the occurrence of a Material Event to ensure such employee or agent promptly notifies the Disclosure Compliance Officer upon the occurrence of a Material Event, by reference to Exhibit B and the respective Continuing Disclosure Obligations. Promptly upon obtaining knowledge of the occurrence of any event that the Disclosure Compliance Officer believes may constitute a Material Event requiring an Event Notice, the Disclosure Compliance Officer will consult with Bond Counsel to assist with the determination of whether an Event Notice is required under the Continuing Disclosure Obligation. If it is determined that an Event Notice is required, or if the Disclosure Compliance Officer knows without consulting Bond Counsel that an Event Notice is required, the Disclosure Compliance Officer will cause an Event Notice to be filed on EMMA.

ADOPTED BY THE CITY COUNCIL
OF THE CITY OF INDEPENDENCE, MISSOURI
May 17, 2021

EXHIBIT A

LIST OF BONDS INITIALLY COVERED BY THIS DISCLOSURE POLICY

Power and Light Fund

Original Principal			
<u>Amount</u>	<u>Issuer</u>	<u>Issue Name</u>	<u>Series</u>
\$55,185,000	MDFB	Infrastructure Facilities Leasehold Revenue Bonds	2012A
52,525,000	MDFB	Infrastructure Facilities Leasehold Improvement and Refunding Revenue Bonds	2012F
47,180,000	MDFB	Infrastructure Facilities Leasehold Revenue Bonds	2016D

Water Fund

Original Principal			
<u>Amount</u>	<u>Issuer</u>	<u>Issue Name</u>	<u>Series</u>
\$36,240,000	MDFB	Infrastructure Facilities Leasehold Refunding Revenue	2013D

Events Center

Original Principal			
<u>Amount</u>	<u>Issuer</u>	<u>Issue Name</u>	<u>Series</u>
\$11,815,000	MDFB	Infrastructure Facilities Revenue Bonds	2011A
68,945,000	MDFB	Infrastructure Facilities Revenue Bonds	2012C
12,005,000	MDFB	Infrastructure Facilities Refunding Revenue Bonds	2016A

Hartman Heritage TIF Project

Original Principal			
<u>Amount</u>	<u>Issuer</u>	<u>Issue Name</u>	<u>Series</u>
\$6,720,000	MDFB	Infrastructure Facilities Revenue Bonds	2011B

Drumm Farm TIF Project

Original Principal			
<u>Amount</u>	<u>Issuer</u>	<u>Issue Name</u>	<u>Series</u>
\$2,285,000	MDFB	Infrastructure Facilities Refunding Revenue Bonds	2016C

Crackerneck Creek TIF Project

Original Principal			
<u>Amount</u>	<u>Issuer</u>	<u>Issue Name</u>	<u>Series</u>
\$47,060,000	MDFB	Infrastructure Facilities Refunding Revenue Bonds	2015C

Centerpoint TIF Project

Original Principal			
<u>Amount</u>	<u>Issuer</u>	<u>Issue Name</u>	<u>Series</u>
\$12,050,000	MDFB	Infrastructure Facilities Revenue Bonds	2012D
2,030,000	MDFB	Infrastructure Facilities Revenue Bonds	2014B
17,275,000	MDFB	Infrastructure Facilities Refunding Revenue Bonds	2016B

Eastland Center TIF Project

Original Principal			
<u>Amount</u>	<u>Issuer</u>	<u>Issue Name</u>	<u>Series</u>
3,965,000	MDFB	Infrastructure Facilities Revenue Bonds	2012E
4,855,000	MDFB	Infrastructure Facilities Refunding Revenue Bonds	2014A
9,725,000	MDFB	Infrastructure Facilities Refunding Revenue Bonds	2017A

Santa Fe TIF Project

Original Principal			
<u>Amount</u>	<u>Issuer</u>	<u>Issue Name</u>	<u>Series</u>
\$5,225,000	MDFB	Infrastructure Facilities Revenue Bonds	2015A
3,545,000	MDFB	Taxable Infrastructure Facilities Revenue Bonds	2015B

Other Bonds

Original Principal			
<u>Amount</u>	<u>Issuer</u>	<u>Issue Name</u>	<u>Series</u>
\$37,035,000	MDFB	Infrastructure Facilities Revenue Bonds	2012B
43,800,000	MDFB	Infrastructure Facilities Revenue Bonds	2013C
21,170,000	MDFB	Infrastructure Facilities Revenue Bonds	2014C
2,390,000	MDFB	Infrastructure Facilities Revenue Bonds	2015D

EXHIBIT B

DISCLOSURE FILINGS FOR EVENT NOTICES

Disclosure Filings For Event Notices 1-16. The Disclosure Compliance Officer shall determine whether an event included below has occurred with respect to the Issuer. If the Disclosure Compliance Officer determines that notice of the following events should be provided to the MSRB pursuant to a Continuing Disclosure Obligation, the Disclosure Compliance Officer will cause the appropriate notice to be filed with the MSRB on EMMA, in a timely manner, not in excess of ten (10) Business Days after the occurrence of the event:

- (1) Principal and interest payment delinquencies;
- (2) Non-payment related defaults, if material;
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) Substitution of credit or liquidity providers, or their failure to perform;
- (6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security;
- (7) Modifications to rights of security holders, if material;
- (8) Bond calls, if material, and tender offers;
- (9) Defeasances;
- (10) Release, substitution, or sale of property securing repayment of the securities, if material;
- (11) Rating changes;
- (12) Bankruptcy, insolvency, receivership or similar event of the Obligated Person;
- (13) The consummation of a merger, consolidation, or acquisition involving an Obligated Person or the sale of all or substantially all of the assets of the Obligated Person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
- (14) Appointment of a successor or additional trustee or the change of name of a trustee, if material;
- (15) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the Obligated Person, any of which reflect financial difficulties; and
- (16) Incurrence of a Financial Obligation of the Obligated Person, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the Obligated Person, any of which affect security holders.

For the purposes of the event identified as item (12) above, the event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for an Obligated Person in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Obligated Person, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Obligated Person.

Event 15: Incurrence of a Material Financial Obligation or Terms Affecting Security Holders.

(a) Event 15. Beginning on the Compliance Date and continuing thereafter, the Disclosure Compliance Officer shall determine whether an Event 15, described in item (15) above, has occurred with respect to the Issuer. If the Disclosure Compliance Officer determines that an Event 15 has occurred, the Disclosure Compliance Officer shall file, or cause to be filed, notice of such Event 15 with the MSRB through EMMA in a timely manner, not in excess of ten (10) Business Days after the date of incurrence.

The stated purpose of the SEC in adding Event 15 to the Rule is to provide the secondary market with information regarding all debt, debt-like or debt-related Financial Obligations or Terms Affecting Security Holders incurred by the Issuer. The incurrence of Financial Obligations or Terms Affecting Security Holders may occur outside the issuance of Municipal Securities and therefore engagement by the Disclosure Compliance Officer with counsel and other consultants experienced in compliance issues related to the Rule may be necessary to determine whether it is necessary to file an Event Notice for Event 15 with the MSRB through EMMA.

(b) Financial Obligations and Terms Affecting Security Holders Subject to Disclosure. The Disclosure Compliance Officer shall first determine whether a contract or obligation incurred by the Issuer is a Financial Obligation or Terms Affecting Security Holders subject to disclosure under Event 15. The Disclosure Compliance Officer will consider the facts and circumstances surrounding the Issuer's incurrence of each type of contract and obligation, as well as the factors set forth below, among others, in making an Event 15 determination:

- i. Whether the contract or obligation could affect, or contains provisions or triggers that may impair, the Issuer's liquidity, overall creditworthiness or an existing security holders' rights;
- ii. Whether the contract or obligation is a private placement of debt with a financial institution, letter of credit, standby line of credit, or a similar "credit agreement" that relates to a Debt Obligation;
- iii. Whether the contract or obligation is not an ordinary financial and operating liability incurred in the Issuer's normal course of business;
- iv. Whether the contract or obligation contains acceleration provisions or restrictive debt service covenants that could affect the rights of existing security holders;

- v. Whether the contract or obligation is a short or long-term Debt Obligation of the Issuer under the terms of an indenture, loan agreement, capital lease, or other similar contract such as a line of credit;
- vi. Whether the contract or obligation is an operating lease or a capital lease that operates like a vehicle to borrow money with characteristics that may include up-front payments or other initial consideration that is paid back over time (e.g. a lease-purchase agreement). For purposes of this Disclosure Policy, factors relevant to determining whether a lease is a vehicle for borrowing money (i.e., a Financial Obligation) are included in Appendix A attached hereto;
- vii. Whether the contract or obligation represents competing debt with the Issuer's prior Debt Obligations that may affect the rights of the existing security holders;
- viii. Whether the contract or obligation is a derivative instrument entered into in connection with a pledge as security or source of payment for an existing or planned Debt Obligation, which may include any swap, security-based swap, futures contract, forward contract, option, a combination of the foregoing or any similar instrument;
- ix. Whether the contract or obligation is a derivative instrument designed to mitigate risk; or
- x. Whether the contract or obligation is a guarantee provided by the Issuer as a guarantor for the benefit of a third party.

The Disclosure Compliance Officer will consult with appropriate legal counsel, accountants, municipal advisors, financial advisors and other outside consultants to the extent necessary in making a determination as to whether a contract or obligation incurred by the Issuer is a Financial Obligation or Terms Affecting Security Holders subject to the disclosure requirements of Event 15.

(c) List of Financial Obligations. The Disclosure Compliance Officer will maintain a list of Financial Obligations, in substantially the form of Exhibit A, which list will exclude Covered Obligations. The Disclosure Compliance Officer will, as and when the Disclosure Compliance Officer deems necessary or appropriate, confer with legal counsel, accountants, municipal advisors, financial advisors and other outside consultants concerning the scope of items to be included in the list of Financial Obligations.

(d) Determination of Material Event 15. If the Disclosure Compliance Officer determines that the Issuer has incurred a Financial Obligation or Terms Affecting Security Holders subject to Event 15, the Disclosure Compliance Officer shall determine whether such Financial Obligation or Terms Affecting Security Holders are Material. The same practice used by the Issuer for determining whether a particular piece of information is Material in connection with preparing a disclosure document for an offering set forth in Section 3.1(e) should be used for purposes of Event 15.

The Disclosure Compliance Officer shall determine whether a Financial Obligation or Terms Affecting Security Holders are Material upon the incurrence of the Financial Obligation or the Terms Affecting Security Holders, taking into account all relevant facts and circumstances. Relevant facts and circumstances may include, but are not limited to:

- i. The principal amount of the Financial Obligation, including the aggregate par amount of a series of related Financial Obligations, and the method of setting or adjusting the interest rate thereof;
- ii. The Issuer's overall balance sheet and the size of its existing Debt Obligations;
- iii. The source of security pledged for repayment of the Financial Obligation and the rights associated with such pledge;
- iv. The length of time that the Financial Obligation is to remain outstanding; and
- v. Other appropriate terms of a Financial Obligation that will impact the Issuer's financial condition and/or existing security holders in a manner deemed Material by the Disclosure Compliance Officer.

The Disclosure Compliance Officer, in consultation with the governing body of the Issuer, bond counsel, legal counsel to the Issuer (including designated disclosure counsel, if any), accountants, municipal advisors, financial advisors and other outside consultants of the Issuer, to the extent necessary, shall no less often than annually set reasonable standards of materiality with respect to Debt Obligations incurred by the Issuer, which may include, but are not limited to, a monetary threshold that, in connection with other relevant facts and circumstances, is the basis for the determination of materiality for Financial Obligations or Terms Affecting Security Holders of the Issuer.

(e) Incurrence. A Financial Obligation and Terms Affecting Security Holders is considered to be incurred by the Issuer on the date that such Financial Obligation or Terms Affecting Security Holders is enforceable against the Issuer. As a filing under Event 15 is required to be made in a timely manner, not in excess of ten (10) Business Days after date of incurrence, the Disclosure Compliance Officer shall begin the process of assessing whether a particular Financial Obligation or Terms Affecting Security Holders should be disclosed as far in advance of its incurrence as possible.

(f) Exemption of Municipal Securities as to Which a Final Official Statement Has Been Provided. The Disclosure Compliance Officer is not obligated to disclose, as a Financial Obligation or Terms Affecting Security Holders subject to Event 15, Covered Obligations, which is defined as Municipal Securities as to which a final official statement has been provided to the MSRB consistent with the Rule. The Disclosure Compliance Officer recognizes that this exclusion from the definition of "Financial Obligation" does not extend to Debt Obligations, contingent or otherwise, related to such Covered Obligations that may be disclosed or referenced in such final official statements.

(g) Exemption of Monetary Obligations Resulting From Legal Proceedings. The Disclosure Compliance Officer is not required to disclose monetary obligations resulting from a judicial, administrative, or arbitration proceeding as an Event Notice.

(h) Subjecting Debt Obligations to Annual Appropriation not Determinative. The Disclosure Compliance Officer understands that qualifying Debt Obligations or Financial Obligations such that payment is subject to annual appropriation may remove the “debt” designation for state constitutional or statutory purposes; however, this qualification alone will not be determinative as to whether the Issuer or Obligated Person has incurred a Material Financial Obligation; rather, when analyzing Debt Obligations and Financial Obligations that are subject to annual appropriation, the Disclosure Compliance Officers shall determine whether such Financial Obligation is Material, as described in section (e) of “Duties of Disclosure Compliance Officers”, taking into account all relevant facts and circumstances as described in this section.

(i) Form of Event 15 Event Notice. Upon review of the factors outlined above, if the Disclosure Compliance Officer affirmatively determines that a Debt Obligation incurred by the Issuer is a Financial Obligation or Terms Affecting Security Holders that are Material and not exempt under this section entitled “Event 15: Incurrence of a Material Financial Obligation or Terms Affecting Security Holders,” and therefore subject to Event 15, the Disclosure Compliance Officer shall file or cause to be filed with the MSRB through EMMA a notice not in excess of ten (10) Business Days of the date of the incurrence of the Financial Obligations or Terms Affecting Security Holders. The Disclosure Compliance Officer shall include a description of the Material terms of the Financial Obligation or Terms Affecting Security Holders within the Event 15 Event Notice. Terms considered Material for Event 15 may include, but are not limited to:

- i. The date of incurrence;
- ii. Principal amount;
- iii. Maturity and amortization;
- iv. Interest rate, if fixed, or method of computation and any default rates, if variable;
or
- v. Other appropriate terms deemed material by the Disclosure Compliance Officer, the inclusion of which would help further the availability of information to assist investors in making more informed investment decisions in connection with such incurrence of Financial Obligations or Terms Affecting Security Holders.

The Disclosure Compliance Officer shall determine, based on the facts and circumstances, whether to submit to the MSRB a description of the Material terms of the Financial Obligation or the Terms Affecting Security Holders, or alternatively or in addition, submit related materials such as transaction documents prepared in connection with the Financial Obligation or the Terms Affecting Security Holders that set forth the material terms of the Financial Obligation or the Terms Affecting Security Holders. The Disclosure Compliance Officer shall not include, and shall take actions to redact, confidential information such as account numbers or other personally identifiable information and any information that contains confidential, proprietary, or privileged information exempt from public disclosure (but not information relating to an interest rate or other pricing data). Should the Disclosure Compliance Officer determine that filing one or more of the transaction documents prepared in connection with the Financial Obligation or the

Terms Affecting Security Holders is appropriate under this subsection, the Disclosure Compliance Officer may redact any confidential or personally identifiable information from the Event 15 Event Notice.

Event 16: Events Under the Terms of a Financial Obligation Which Reflect Financial Difficulties.

(a) Event 16. Beginning on the Compliance Date and continuing thereafter, the Disclosure Compliance Officer shall determine whether an Event 16, described in item (16) in the section entitled “Disclosure Filings For Event Notices 1-16” above, has occurred with respect to the Issuer. If the Disclosure Compliance Officer determines that an Event 16 has occurred with respect to the Issuer, the Disclosure Compliance Officer will file or cause to be filed with the MSRB through EMMA a notice of Event 16, whether Material or not, provided the occurrence reflects financial difficulties of the Issuer. The Disclosure Compliance Officer shall file an Event 16 Event Notice even where the underlying Financial Obligation was incurred before the Compliance Date.

(b) Reflection of Financial Difficulty of Obligated Person. The Disclosure Compliance Officer shall disclose to the MSRB the occurrence of an event listed in Event 16 only if the Disclosure Compliance Officer, in consultation with the governing body of the Issuer, appropriate counsel to the Issuer, accountants, municipal advisors, financial advisors and other outside consultants to the Issuer, to the extent necessary, determines that the occurrence of the event reflects financial difficulties of the Issuer.

(c) Events Subject to Event 16 Filing. The Disclosure Compliance Officer will disclose any occurrence in connection with the terms of a Financial Obligation that reflects financial difficulties of the Issuer. Such occurrences may include, but are not limited to the following types of events:

- i. Monetary defaults or events of non-appropriation where the Issuer has failed to pay principal, interest, or other funds due, or a non-payment related default where the Issuer has failed to comply with specified covenants;
- ii. An event of acceleration exercised by a trustee or counterparty as the result of an event of default or other applicable remedy provision;
- iii. A modification of terms that reflects financial difficulties of the Issuer;
- iv. A written or verbal waiver of an agreement provision that is a departure from what was agreed to under the original terms of such agreement; and
- v. Other events under the terms of a Financial Obligation that reflect financial difficulties of the Issuer and share similar characteristics with the specific types of events in Event 16.

(d) Form of Event 16 Event Notice. Upon review of the factors outlined above, if the Disclosure Compliance Officers affirmatively determines that, in connection with the terms of a Financial Obligation of the Issuer, the Issuer is experiencing financial difficulties pursuant to Event 16, the Disclosure Compliance Officer shall file or cause to be filed with the MSRB through EMMA an Event 16 notice filing within ten (10) Business Days of the date of such occurrence containing a description of the

relevant terms of the Financial Obligation. Terms considered relevant to an Event 16 notice filing may include, but are not limited to:

- i. The provisions within the Financial Obligation giving rise to the occurrence under Event 16;
- ii. The nexus between the terms of such Financial Obligation giving rise to the occurrence under Event 16 and the existing or potentially forthcoming financial difficulties resulting therefrom;
- iii. A description of the Issuer's current financial status; and
- iv. Other appropriate facts deemed material by the Disclosure Compliance Officer, the inclusion of which would help further the availability of information to assist investors in making more informed investment decisions in connection with the occurrence of events relating to a Financial Obligation that reflect financial difficulties.