

ESCROW AGREEMENT

LESSOR: WEBSTER BANK, NATIONAL ASSOCIATION, a national banking association organized and existing under the laws of the United States of America

LESSEE: CITY OF INDEPENDENCE, MISSOURI, a public body corporate and politic duly organized and existing under the laws of the State of Missouri

ESCROW AGENT: UMB BANK, N.A., a national banking association organized and existing under the laws of the United States of America

DATED DATE: January 17, 2024

THIS ESCROW AGREEMENT, is dated as of the date set forth above, and is among the Lessor named above (“Lessor”), the Lessee named above (“Lessee”), and the Escrow Agent named above (“Escrow Agent”). In consideration of the mutual covenants and agreements herein set forth, the parties hereto do hereby covenant and agree as follows:

1. This Escrow Agreement relates to the Lease Purchase Agreement (the “Lease”), dated as of the date hereof, between Lessor and Lessee.

2. Except as otherwise defined herein, all capitalized terms in this Escrow Agreement that are not otherwise defined herein will have the meaning set forth in the Lease.

3. Lessor, Lessee and Escrow Agent agree that Escrow Agent will act as sole Escrow Agent under the Lease and this Escrow Agreement, in accordance with the terms and conditions set forth in this Escrow Agreement. Escrow Agent will not be deemed to be a party to the Lease, and this Escrow Agreement will be deemed to constitute the entire agreement among Lessor and Lessee and Escrow Agent.

4. There is hereby established in the custody of Escrow Agent a special trust fund designated as set forth on **Exhibit A** hereto (the “Project Fund”) to be held and administered by Escrow Agent in trust in accordance with this Escrow Agreement.

5. Lessor will deposit the amount set forth on **Exhibit A** in the Project Fund at the time of the execution and delivery by Lessor and Lessee of the Lease and this Escrow Agreement. Moneys held by Escrow Agent hereunder will be invested and reinvested by Escrow Agent upon order of a representative of Lessee in Qualified Investments (as hereinafter defined) meeting the requirements of **Section 6** of this Escrow Agreement and maturing or subject to redemption at the option of the holder thereof prior to the date on which it is expected that such funds will be needed. Such investments will be held by Escrow Agent in the Project Fund, and any interest earned on such investments will be deposited in the Project Fund. Escrow Agent may act as purchaser or agent in the making or disposing of any investment.

6. “Qualified Investments” means to the extent the same are at the time legal for investment of the funds being invested: (i) direct general obligations of the United States of America; (ii) obligations the timely payment of the principal of and interest on which is fully and unconditionally guaranteed by the United States of America; (iii) general obligations of the agencies and instrumentalities of the United States of America; (iv) certificates of deposit, time deposits or demand deposits with any bank or savings

institution including the Escrow Agent or any affiliate thereof, provided that such certificates of deposit, time deposits or demand deposits, if not insured by the Federal Deposit Insurance Corporation, are fully secured by obligations described in (i), (ii) or (iii) above; and (v) money market funds registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933, and having a rating by S&P of AAAM-G, AAAM or AAM. In the event that Escrow Agent does not receive written direction with respect to investment of funds in the Project Fund, Escrow Agent is hereby authorized and directed to hold such funds uninvested.

7. Moneys in the Project Fund will be used to pay for Costs of the Improvements (including the costs of acquiring the Land and costs of delivering the Lease). Payment will be made from the Project Fund for the Costs of the Improvements upon presentation to Escrow Agent of a written request and certification in the form attached hereto as **Exhibit B**, signed by a Lessee Representative, and approved in writing by a Lessor Representative (except as provided below). A “Lessee Representative” shall be a person designated in the Certificate of Lessee Representative attached hereto as **Exhibit D**, or on a subsequent Certificate of Lessee Representative actually received and acknowledged by the Escrow Agent. A “Lessor Representative” shall be a person designated in the Certificate of Lessor Representatives attached hereto as **Exhibit E** or on a subsequent Certificate of Lessor Representatives actually received and acknowledged by the Escrow Agent.

Lessor will approve or give Lessee and Escrow Agent written notice of denial of a written request for payment within five (5) Business Days of receipt of the request. Any denial will specify the particular payment being questioned and include an explanation of the reason for denial. All payments requested in Lessee’s written request not specified in a denial notice will be deemed to have been approved by Lessor on the date that is six (6) Business Days following receipt of the written request by Lessor and Escrow Agent. Escrow Agent may rely conclusively on any such certificate and will not be required to make any independent investigation in connection therewith. Escrow Agent will make disbursements to pay Costs of the Improvements within three Business Days following the earlier of (i) receipt of Lessor’s written approval of Lessee’s written request for payment, or (ii) as to payments requested and not otherwise denied by Lessor as described above, the date that is six (6) Business Days following receipt by Lessor and Escrow Agent of the initial written request for payment.

The Escrow Agent shall seek confirmation of the Lessee’s submittal of all Payment Requests by telephone call-back to a Lessee Representative designated for verifying such Payment Requests on **Exhibit D** (such person verifying the request shall be different than the person initiating the request). Lessor and Lessee hereby confirm that any call-back performed by the Escrow Agent to verify a disbursement instruction pursuant to a Payment Request submitted pursuant to this Section before release shall be made to Lessee only and the Escrow Agent shall have no obligation to call back Lessor.

The persons and telephone numbers for Lessee call-backs may be changed only in writing actually received and acknowledged by Escrow Agent. The parties to this Escrow Agreement acknowledge that such security procedure is commercially reasonable.

It is understood that Lessor, the Escrow Agent and the beneficiary’s bank in any funds transfer may rely solely upon any account numbers or similar identifying number provided by any party hereto to identify (i) the beneficiary, (ii) the beneficiary’s bank, or (iii) an intermediary bank.

Notwithstanding the foregoing, Lessor shall not be required to approve any disbursements to pay costs of the Improvements from the Project Fund, except for costs incurred in connection with the execution and delivery of the Lease, costs incurred to acquire the Land, and costs related to the design of the Improvements, until Lessee files with Lessor the items listed on **Exhibit A**.

8. The Project Fund will terminate upon the occurrence of the earlier of (a) the presentation to Lessor and Escrow Agent of a Completion Certificate, a form of which is attached hereto as **Exhibit C**, or (b) the presentation of written notification by Lessor, or, if Lessor has assigned its interest under the Lease, then the assignees or subassignees of all of Lessor's interest under the Lease, that an Event of Default has occurred or that Lessee has terminated the Lease pursuant to **Section 3.3** of the Lease. The Completion Certificate may also state that it is given without prejudice to any rights of Lessee that then exist or may subsequently come into being against third parties. Upon termination as described in (a) or (b), any amount remaining in the Project Fund will be promptly applied by the Escrow Agent, without further authorization, as provided in **Section 5.4** of the Lease.

9. Lessee will comply with the Federal Tax Certificate delivered by Lessee concurrently with entering into the Lease. The Federal Tax Certificate may be amended at any time without the consent of the parties hereto if in the opinion of nationally recognized counsel in the area of tax-exempt obligations of state and local governments satisfactory to Lessee and Lessor, such amendment is necessary or desirable to ensure that the interest components of Rental Payments will remain excluded from gross income for federal income tax purposes.

10. Escrow Agent may at any time resign by giving at least 30 days' written notice to Lessee and Lessor, but such resignation will not take effect until the appointment of a successor Escrow Agent. The substitution of another bank or trust company to act as Escrow Agent under this Escrow Agreement may occur by written agreement of Lessor and Lessee. In addition, Escrow Agent may be removed at any time, with or without cause, by an instrument in writing executed by Lessor and Lessee. In the event of any resignation or removal of Escrow Agent, a successor Escrow Agent will be appointed by an instrument in writing executed by Lessor and Lessee. Such successor Escrow Agent will indicate its acceptance of such appointment by an instrument in writing delivered to Lessor, Lessee and the predecessor Escrow Agent. Thereupon such successor Escrow Agent will, without any further act or deed, be fully vested with all the trusts, powers, rights, duties and obligations of Escrow Agent under this Escrow Agreement, and the predecessor Escrow Agent will deliver all moneys and securities held by it under this Escrow Agreement to such successor Escrow Agent.

11. Escrow Agent incurs no liability to make any disbursements pursuant to this Escrow Agreement except from funds held in the Project Fund. Escrow Agent makes no representations or warranties as to the title to the Project or as to the performance of any obligations of Lessor or Lessee.

12. Escrow Agent makes no representation or admission and assumes no responsibility respecting the ownership, validity, genuineness or value of the fund, instruments, documents, matters or things, or any endorsement or assignment thereof, mentioned in this Escrow Agreement or the Lease.

13. Escrow Agent will be liable as a depository only and will not be responsible for the sufficiency or accuracy of the form, execution or validity of the documents herein referred to or deposited hereunder, nor will it be liable in any respect on account of the identity, authority or rights of the persons executing or delivering, or purporting to execute or deliver any such document, paper, matter or thing.

14. The decision of Escrow Agent reached by it in good faith by its officer and/or counsel that the stipulations in this Escrow Agreement have been complied with or not complied with will be binding upon the parties to this Escrow Agreement and upon all persons interested in the Project Fund, instrument, documents, matters or things, and Escrow Agent will not be liable for any loss, expense, claim or damage that may result or be claimed to result to any such part(ies) by reason of this Escrow Agreement acting upon the basis of such decision.

15. Escrow Agent is under no obligation whatsoever to superintend or monitor the Improvements.

16. Lessee, to the extent permitted by law and without waiver of sovereign immunity, will indemnify and hold Escrow Agent harmless from any and all loss or damage of whatsoever kind and from any suits, claims or demands, including Escrow Agent's reasonable legal fees and expenses on account of any matter or thing arising out of this Escrow Agreement or in connection therewith, except for such suits, claims or demands resulting from Escrow Agent's own gross negligence or willful misconduct or violation of the terms of this Escrow Agreement by Escrow Agent.

17. Lessee and Lessor understand and agree that Escrow Agent is not the agent or representative of either party and this Agreement will not be construed to make Escrow Agent liable to materialmen, contractors, subcontractors, craftsmen, laborers or others for goods or services delivered or provided by them upon the Improvements or for debts or claims accruing to Lessee or Lessor against the Improvements, and it is distinctly understood and agreed that there is no contractual relationship, either express or implied, between Escrow Agent and any materialman, contractor, subcontractor, craftsman, laborer, or any other persons supplying any work, labor or material in the construction of the Improvements.

18. Lessee will be responsible for payment of all reasonable fees and expenses of Escrow Agent for its services under this Escrow Agreement, which will include but not be limited to, \$ _____ as an initial setup fee and \$ _____ per year that this Escrow Agreement is in effect. Lessor will have no responsibility for fees or expenses of the Escrow Agent.

19. This Escrow Agreement will be governed by and construed in accordance with the laws of the State of Missouri.

20. In the event any provision of this Escrow Agreement will be held invalid or unenforceable by any court of competent jurisdiction, such holding will not invalidate or render unenforceable any other provision hereof.

21. This Escrow Agreement may not be amended except by a written instrument executed by Lessor, Lessee and Escrow Agent.

22. This Escrow Agreement may be executed in several counterparts, and each counterpart so executed will be an original. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents will be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law. The parties agree that the transaction described herein may be conducted and related documents may be stored by electronic means.

23. Pursuant to Section 34.600 of the Revised Statutes of Missouri, as amended (the "Act"), by entering into this Escrow Agreement the Escrow Agent certifies that it and its parent company, wholly or majority-owned subsidiaries, and other affiliates, if any, are not currently engaged in, or for the duration of this Escrow Agreement will not engage in, a boycott of goods or services from the State of Israel; companies doing business in or with Israel or authorized by, licensed by, or organized under the laws of the State of Israel; or persons or entities doing business in the State of Israel. The Escrow Agent understands that "boycott" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations, but does not include an action made for ordinary business purposes.

24. This written agreement is a final expression of the agreement between the parties hereto and such agreement may not be contradicted by evidence of any prior oral agreement or of a contemporaneous oral agreement between the parties hereto. No unwritten oral agreement between the parties exists.

25. All notices hereunder shall be in writing, sent by certified mail, return receipt requested, or by mutually recognized overnight carrier addressed to the other party at its respective address shown below or at such other address as such party shall from time to time designate in writing to the other parties; and shall be effective on the date of receipt:

- (a) If to Lessor: Webster Bank, National Association
500 Seventh Avenue, 3rd Floor
New York, NY 10018
Attention: Public Sector Finance
- (b) If to Lessee: City of Independence, Missouri
111 E. Maple
Independence, MO 64050
Attention: City Clerk
- (c) If to Escrow Agent: UMB Bank, N.A.
928 Grand Boulevard, 12th Floor
Kansas City, MO 64106
Attention: Corporate Trust Department

[The remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, Lessor, Lessee and Escrow Agent have caused this Escrow Agreement to be executed by their duly authorized representatives.

WEBSTER BANK, NATIONAL ASSOCIATION
Lessor

By: _____
Name: _____
Title: _____

CITY OF INDEPENDENCE, MISSOURI
Lessee

By: _____
Name: Zachary Walker
Title: City Manager

UMB BANK, N.A.
Escrow Agent

By: _____
Name: _____
Title: _____

**EXHIBIT A
TO THE ESCROW AGREEMENT**

PROJECT FUND PROVISIONS

Name of Project Fund: City of Independence, Missouri, Project Fund

Deposit to Project Fund: \$20,000,000

Items required to be delivered to Lessor prior to disbursements from Project Fund to pay Costs of the Improvements (with the exception of Costs of Improvements relating to acquiring the Land and costs of delivering the Lease, which are to be paid on the Issuance Date):

- (A) The leasehold policy of title insurance required by **Section 7.1** of the Lease;
- (B) If construction of the Improvements has commenced, certificates of insurance evidencing compliance with the requirements of **Section 7.1(a)** and **(b)** of the Lease;
- (C) If construction of the Improvements has commenced, performance and labor and material payment bonds, together with dual obligee rider, required by **Section 7.1(e)** of the Lease; and
- (D) Construction Contract.

**EXHIBIT B
TO THE ESCROW AGREEMENT**

**WRITTEN REQUEST FOR DISBURSEMENT FROM
PROJECT FUND**

Request No. _____

Date: _____

To: UMB BANK, N.A., as Escrow Agent
928 Grand Boulevard, 12th Floor
Kansas City, MO 64106
Attention: Corporate Trust Department

Webster Bank, National Association
Email: jarndt@websterbank.com; lmostoff@websterbank.com

Ladies and Gentlemen:

Pursuant to **Section 7** of the Escrow Agreement, dated as of January 17, 2024 (the “Escrow Agreement”), among Webster Bank, National Association, as lessor, City of Independence, Missouri, as lessee (the “Lessee”), and UMB Bank, N.A., as Escrow Agent, Lessee hereby requests payment in accordance with this request and said **Section 7** and hereby states and certifies as follows:

(a) All terms in this request are used with the meanings used in the Escrow Agreement.

(b) The names of the persons, firms or corporations to whom the payments requested hereby are due, the amounts to be paid and the general classification and description of the Costs of the Improvements for which each obligation requested to be paid hereby was incurred are as set forth on **Attachment I** hereto.

(c) The amounts requested either have been paid by Lessee, or are justly due to contractors, subcontractors, materialmen, engineers, architects or other persons (whose names and addresses are stated on **Attachment I** hereto) who have performed necessary and appropriate work or furnished necessary and appropriate materials, equipment or furnishings in the acquisition, construction and installation of the Improvements or represent certain costs of entering into the Lease or costs of acquisition of the Land.

(d) No part thereof has been or is being made the basis for the withdrawal of any moneys in any previous or pending request under the Escrow Agreement.

(e) The amount remaining to be paid from the Project Fund will, together with other funds of the Lessee identified for such purpose, after payment of the amounts requested, be sufficient to pay the Costs of the Improvements in accordance with the Construction Contract and in accordance with any related Plans and Specifications.

(f) This certificate contains no request for payment on account of any retained percentage which Lessee is on the date hereof entitled to retain.

(g) There has not been filed with or served upon Lessee any notice of any lien, right to a lien or attachment upon or claim affecting the right of any person, firm or corporation to receive payment of the amounts requested which has not been released or will not be released simultaneously with the payment of such obligation.

(h) Lien waivers for all services or materials furnished by subcontractors or suppliers related to the amounts requested are on file with Lessee and will be provided to Lessor upon request.

(i) *Attached hereto* are invoices, statements, vouchers or bills supporting the amounts requested.

Pursuant to **Section 7** of the Escrow Agreement, Lessee hereby states and certifies that (a) each of Lessee's representations contained in the Lease or the Base Lease is true, correct and not misleading as though made as of the date hereof, and (b) no event exists that constitutes, or with the giving of notice of the passage of time or both would constitute, an Event of Default.

CITY OF INDEPENDENCE, MISSOURI

By: _____
Authorized Lessee Representative

Name: _____
Title: _____

APPROVED FOR PAYMENT:

WEBSTER BANK, NATIONAL ASSOCIATION

By: _____
Name: _____
Title: _____

ATTACHMENT I
TO WRITTEN REQUEST FOR DISBURSEMENT
FROM PROJECT FUND

SCHEDULE OF PAYMENTS REQUESTED

<u>Payee and Address</u>	<u>Amount</u>	<u>Description</u>
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**EXHIBIT C
TO ESCROW AGREEMENT
COMPLETION CERTIFICATE**

To: UMB BANK, N.A., as Escrow Agent
928 Grand Boulevard, 12th Floor
Kansas City, MO 64106
Attention: Corporate Trust Department

Webster Bank, National Association
Email: jarndt@websterbank.com; lmostoff@websterbank.com

Re: Lease Purchase Agreement, dated as of January 17, 2024 (the "Lease"), between Webster Bank, National Association, as lessor, and City of Independence, Missouri, as lessee

Ladies and Gentlemen:

Pursuant to **Section 8** of the Escrow Agreement, dated as of January 17, 2024 (the "Escrow Agreement"), among Webster Bank, National Association, as lessor, City of Independence, Missouri, as lessee, and UMB Bank, N.A., as Escrow Agent, the undersigned hereby certify (a) all terms in this certificate are used with the meanings used in said Escrow Agreement, (b) the Improvements were completed on _____, 20__, (c) all other facilities necessary in connection with the Improvements have been acquired, constructed, equipped and installed, (d) the Improvements and such other facilities have been acquired, constructed, equipped and installed in accordance with the Construction Contract and any related Plans and Specifications and in conformance with all applicable zoning, planning, building, environmental and other similar governmental regulations, and (e) all Costs of the Improvements have been paid. This certificate is given without prejudice to any rights of Lessee that now exist or may subsequently come into being against third parties.

Pursuant to the Escrow Agreement, Lessee hereby states and certifies that (a) each of Lessee's representations contained in the Lease and the Base Lease is true, correct and not misleading as though made as of the date hereof, and (b) no event exists that constitutes, or with the giving of notice of the passage of time or both would constitute, an Event of Default.

Date: _____, 20__.

CITY OF INDEPENDENCE, MISSOURI

By: _____
Authorized Lessee Representative
Name: _____
Title: _____

ACKNOWLEDGED:

WEBSTER BANK, NATIONAL ASSOCIATION

By: _____
Name: _____
Title: _____

**EXHIBIT D
TO ESCROW AGREEMENT
AUTHORIZED LESSEE REPRESENTATIVES
FOR ESCROW AGREEMENT**

The undersigned officers of City of Independence, Missouri (“Lessee”) hereby certify that the persons listed below are each designated as an authorized representative of Lessee for purposes of the Escrow Agreement dated January 17, 2024 (the “Escrow Agreement”), among Lessee, Webster Bank, National Association (“Lessor”) and UMB Bank, N.A., as escrow agent (the “Escrow Agent”), including but not limited to initiating and approving transactions under the Escrow Agreement and confirming such approvals through call-backs from Lessor relating thereto, all on behalf of Lessee. Each such person is the current holder of the office or title indicated, and the signature set forth opposite the name of each such authorized representative is the true and correct specimen of such person’s signature:

Name and Title:	Specimen Signature:
Telephone:	Email Address:

Name and Title:	Specimen Signature:
Telephone:	Email Address:

Dated: January 17, 2024.

CITY OF INDEPENDENCE, MISSOURI

By: _____
 Name: Zachary Walker
 Title: City Manager

**EXHIBIT E
TO ESCROW AGREEMENT
AUTHORIZED LESSOR REPRESENTATIVES
FOR ESCROW AGREEMENT**

The undersigned officer of Webster Bank, National Association (“Lessee”) hereby certifies that the persons listed below are each designated as an authorized representative of Lessor for purposes approving or confirming approval of payment requests (as indicated below) pursuant to the Escrow Agreement dated January 17, 2024 (the “Escrow Agreement”), among Lessee, Webster Bank, National Association (“Lessor”) and UMB Bank, N.A., as escrow agent (the “Escrow Agent”). Each such person is the current holder of the office or title indicated, and the signature set forth opposite the name of each such authorized representative is the true and correct specimen of such person’s signature:

Name and Title:	Specimen Signature:	Authority: <input checked="" type="checkbox"/> Approval
Telephone:	Email Address:	

Dated: January 17, 2024.

**WEBSTER BANK, NATIONAL
ASSOCIATION**

By: _____
Name: _____
Title: _____