

RESOLUTION NO. 09-09-21C

A RESOLUTION CONSENTING TO THE ASSIGNMENT OF BOND DOCUMENTS IN CONNECTION WITH THE CITY'S TAXABLE INDUSTRIAL REVENUE BONDS (ELHC VII, LLC PROJECT), SERIES 2020, AND AUTHORIZING A COLLATERAL ASSIGNMENT, ESTOPPEL AND SUBORDINATION AGREEMENT

WHEREAS, the City of Edgerton, Kansas (the "City") is a duly organized and existing municipal corporation under the laws of the State of Kansas; and

WHEREAS, the City issued its Taxable Industrial Revenue Bonds (ELHC VII, LLC Project), Series 2020 (the "Bonds"), in the aggregate maximum principal amount of \$45,000,000, pursuant to a Trust Indenture dated as of April 1, 2020 (the "Indenture"), between the City and BOKF, N.A., as trustee (the "Trustee"), for the purpose of providing funds to pay the cost of acquiring, purchasing, constructing, installing and equipping a commercial project, consisting of an approximately 952,000 sq. ft. warehouse and distribution facility, to be located at 30901 W. 185th Street, Edgerton, Kansas (the "Project"); and

WHEREAS, the Project was leased by ELHC VII, LLC, a Kansas limited liability company ("ELHC"), to the City pursuant to a Base Lease Agreement dated as of April 1, 2020 (the "Base Lease"), between ELHC and the City, and the Project was subleased by the City to ELHC pursuant to a Lease Agreement dated as of April 1, 2020 (the "Lease Agreement"), between the City and the Assignor; and

WHEREAS, pursuant to **Section 6.2** of the Base Lease and **Section 13.1** of the Lease Agreement, the Assignor may assign the Base Lease and the Lease Agreement only with the written consent of the City; and

WHEREAS, the Assignor is requesting the City's consent to the assignment of the Assignor's interest under the Base Lease, Lease Agreement, Indenture, the Performance Agreement dated as of April 1, 2020 (the "Performance Agreement"), between the City and Assignor, the Origination Fee Agreement dated as of April 1, 2020 (the "Origination Fee Agreement"), between the City and the Assignor, the Bond Purchase Agreement dated April 21, 2020 (the "Bond Purchase Agreement"), among the City, the Assignor, as purchaser, and the Assignor, as the company, and all other documents executed in connection with the Bonds that are included in the transcript of proceedings for the Bonds (collectively, the "Other Bond Documents"), to IPVII 185 Street LLC, a Delaware limited liability company (the "Assignee"); and

WHEREAS, the City desires to consent to the assignment of the Assignor's interest under the Base Lease, Lease Agreement, Indenture, Performance Agreement, Origination Fee Agreement, the Bond Purchase Agreement and the Other Bond Documents to the Assignee; and

WHEREAS, in connection with the assignment, Assignee has requested that the City deliver a collateral assignment, an estoppel and a subordination agreement, and the City desires to approve such documents;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF EDGERTON, KANSAS, AS FOLLOWS:

Section 1. Consent to Assignment. The Governing Body of the City hereby consents to the assignment of the Base Lease, Lease Agreement, Indenture, Performance Agreement, Origination Fee Agreement, Bond Purchase Agreement and the Other Bond Documents by the Assignor to the Assignee. The foregoing consents are contingent upon the satisfaction of all other requirements for assignments expressly set forth in the Lease Agreement.

Section 2. Authorization and Execution of Consent to Assignment. The Governing Body hereby approves of the form of the Assignment and Assumption of IRB Documents (the "Assignment"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the consent to the Assignment for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the Assignment.

Section 3. Authorization and Execution of Consent to Collateral Assignment. The Governing Body hereby approves of the form of the City consent to Collateral Assignment of IRB Documents (the "Collateral Assignment"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the consent to the Collateral Assignment for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the consent to the Collateral Assignment.

Section 4. Authorization and Execution of Estoppel. The Governing Body hereby approves of the form of the Consent, Agreement and Estoppel Certificate (the "Estoppel"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the Estoppel for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the Estoppel.

Section 5. Authorization and Execution of Subordination. The Governing Body hereby approves of the form of the Subordination/Attornment Agreement (the "Subordination"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the Subordination for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the Subordination.

Section 6. Further Authority. The Mayor is hereby authorized and directed to execute and deliver such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution (copies of said documents shall be filed in the records of the

City) for and on behalf of and as the act and deed of the City. The City Clerk is hereby authorized and directed to attest to and affix the seal of the City to such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution.

Section 7. Effective Date. This Resolution shall take effect and be in full force immediately after its adoption by the Governing Body of the City.

ADOPTED this 9th day of September, 2021.

CITY OF EDGERTON, KANSAS

[SEAL]

By: /s/
Donald Roberts, Mayor

ATTEST:

/s/
Alexandria Clower, City Clerk

EXHIBIT A

Sample Assignment and Assumption of IRB Documents

(Space above reserved for the Register of Deeds' recording information)

Title of Document: Assignment and Assumption of IRB Documents

Date of Document: September ____, 2021

Grantor(s): ELHC XXII, LLC, a Kansas limited liability company

Grantee(s): IPXXII 193 Street LLC, a Delaware limited liability company

Grantee's Address: c/o Ares Management LLC, 3344 Peachtree Road, N.E., Suite
1950, Atlanta, Georgia 30326

Reference Book and Pages: Book 201703, Page 002210
Book 201703, Page 002211

Legal Description: See attached Exhibit A

ASSIGNMENT AND ASSUMPTION OF IRB DOCUMENTS

THIS ASSIGNMENT AND ASSUMPTION OF IRB DOCUMENTS (the “**Assignment**”) entered into on September ____, 2021 (the “**Effective Date**”) is by and between ELHC XXII, LLC, a Kansas limited liability company (the “**Assignor**”), and IPXXII 193 Street LLC, a Delaware limited liability company (the “**Assignee**”).

RECITALS

WHEREAS, the City of Edgerton, Kansas (the “**City**”) has previously issued its \$33,000,000 aggregate maximum principal amount of Industrial Revenue Bonds (ELHC XXII, LLC Project) Series 2017 (the “**Bonds**”) pursuant to a Trust Indenture dated as of March 1, 2017 (the “**Indenture**”), between the City and UMB BANK, N.A., as trustee (the “**Trustee**”), and used the proceeds of the Bonds to construct a Project (as defined in the Indenture);

WHEREAS, Assignor leased the Project to the City pursuant to the Base Lease Agreement dated as of March 1, 2017 (the “**Base Lease**”), between Assignor and the City, a memorandum of which was recorded March 8, 2017, in Book 201703, Page 002210, and the land that is subject to the Base Lease is set forth on **Schedule 1** (the “**Real Property**”);

WHEREAS, the City subleased the Project to Assignor pursuant to a Lease Agreement dated as of March 1, 2017 (the “**Lease Agreement**”), between the City and Assignor, a memorandum of which was recorded March 8, 2017, in Book 201703, Page 002211, which Lease Agreement covers the Real Property;

WHEREAS, the City and Assignor entered into a Performance Agreement dated as of March 1, 2017 (the “**Performance Agreement**”) whereby the parties set forth the terms relating to tax abatement for the Project;

WHEREAS, the City and Assignor entered into an Origination Fee Agreement dated as of March 1, 2017 (the “**Origination Fee Agreement**”) whereby Assignor agreed to make certain origination fee payments to the City over time;

WHEREAS, the City and Assignor entered into a Bond Purchase Agreement dated March 1, 2017 (the “**Bond Purchase Agreement**”) whereby City agreed to issue and Assignor agreed to purchase the Bonds on the terms and conditions set forth therein;

WHEREAS, Assignor now desires to assign and transfer to Assignee all of Assignor’s right, title and interest in and to the Indenture, the Bond Purchase Agreement, the Base Lease, the Lease Agreement, the Performance Agreement, and the Origination Fee Agreement (collectively, the “**IRB Documents**”);

WHEREAS, Assignee desires to accept such assignment subject to the terms and conditions set forth below; and

WHEREAS, the City and the Trustee desire to consent to such assignment and assumption.

AGREEMENT

NOW, THEREFORE, for and in consideration of the promises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Assignment.** As of the Effective Date, Assignor hereby sells, transfers, conveys, assigns, and delivers to Assignee all of Assignor's rights and obligations under the IRB Documents (collectively, the "Assigned Interests").

2. **Assumption.** Assignee accepts all of the Assigned Interests assigned by Assignor in **Section 1** and assumes and agrees to pay, perform, and discharge promptly and fully when and as required all obligations and liabilities under the IRB Documents that accrue on or after the Effective Date.

3. **Delivery of documents; representations.** Pursuant to **Section 13.1(a)** of the Lease Agreement, Assignor represents that all conditions precedent to the assignment have been satisfied. Assignor represents that there has been no damage or destruction to the Project that has not been repaired, restored, and replaced in accordance with the terms of the Lease Agreement.

4. **Consent and release.** Pursuant to **Section 13.1(a)** of the Lease Agreement, the City consents to the Assignment of the IRB Documents from Assignor to Assignee. Pursuant to **Section 206** of the Indenture, the City consents to the assignment and transfer of the Bonds from Assignor to Assignee. The City releases Assignor from all liability under the IRB Documents occurring on and after the Effective Date.

5. **Assignor's Representation.** Assignor represents that Assignor has not transferred, sold, encumbered, or otherwise disposed of the Bonds nor has Assignor assigned the Lease or transferred or encumbered or otherwise disposed of its interest in the Project. Assignor further represents and warrants that Assignor is not aware of any default which exists on this date by it or the counterparty under the IRB Documents.

6. **Successors and Assigns.** This Assignment shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

7. **Counterparts.** This Assignment may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

8. **Governing law.** This Assignment shall be interpreted and construed under the laws of the State of Kansas, excluding any conflict of law or choice-of-law rules that might lead to the application of the internal laws of another jurisdiction.

9. **Recording.** Assignee shall submit this Assignment for recording in the Office of the Register of Deeds of Johnson County, Kansas on or about the Effective Date.

10. **Indemnity.** Assignor hereby indemnifies and holds Assignee harmless from and against all claims, demands, losses, damages, expenses and costs including, but not limited to, reasonable lawyer's fees and expenses actually incurred, arising out of or in connection with Assignor's failure to observe, perform and discharge each and every one of the covenants, obligations, and liabilities of the Assignor under the IRB Documents to be observed, performed, or discharged with respect to the period prior to the Effective Date. Assignee hereby indemnifies and holds Assignor harmless from and against all claims, demands, losses, damages, expenses, and costs including, but not limited to, reasonable lawyer's fees and expenses actually incurred, arising out of or in connection with Assignee's failure, from and after the date of this Assignment, to observe, perform, and discharge all covenants, obligations, and liabilities under the IRB Documents with respect to the period on and after the Effective Date.

11. Direction to Trustee. Assignor, as current sole owner of the Bonds hereby directs the Trustee to provide its acknowledgement of this Assignment. Upon the registration of the Bonds in the name of the Assignee, Assignee hereby provides written notice to the Trustee that it waives its right to actual payment of interest due on the Bonds on each interest payment date, as well as the principal of the Bonds maturing on the maturity date so long as the Assignee is the sole owner of the Bonds.

IN WITNESS WHEREOF, the parties hereto have caused their respective duly authorized representatives to execute this Assignment as of the Effective Date.

ASSIGNOR:

ELHC XXII, LLC,
a Kansas limited liability company

By: NorthPoint Development, LLC
a Missouri limited liability company
Its: Manager

By _____
Nathaniel Hagedorn, Manager

ACKNOWLEDGMENT

STATE OF MISSOURI)
) SS.
COUNTY OF PLATTE)

BE IT REMEMBERED, that on this ____ day of September, 2021, appeared Nathaniel Hagedorn, to me personally known, who being duly sworn did say that he is the Manager of NorthPoint Development, LLC, the Manager of ELHC XXII, LLC, a Kansas limited liability company (the "Company"), and that the foregoing instrument was signed for the purposes therein contained on behalf of the Company and by authority of the Company; and he further acknowledged said instrument to be the free act and deed of the Company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

[SEAL]

Notary Public

My commission expires _____.

ASSIGNEE:

IPXXII 193 Street LLC, a Delaware limited liability company

By: ELHC XXII, LLC,
a Kansas limited liability company, its Member

By: NorthPoint Development, LLC
a Missouri limited liability company,
Its: Manager

By _____
Nathaniel Hagedorn, Manager

ACKNOWLEDGMENT

STATE OF MISSOURI)
) SS.
COUNTY OF PLATTE)

BE IT REMEMBERED, that on this ____ day of September, 2021, appeared Nathaniel Hagedorn, to me personally known, who being duly sworn did say that he is the Manager of NorthPoint Development, LLC, the Manager of ELHC XXII, LLC, a Kansas limited liability company, the Member of IPXXII 193 Street LLC, a Delaware limited liability company (the "Company"), and that the foregoing instrument was signed for the purposes therein contained on behalf of the Company and by authority of the Company; and he further acknowledged said instrument to be the free act and deed of the Company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

[SEAL]

Notary Public

My commission expires _____.

CONSENT OF THE CITY OF EDGERTON, KANSAS

The City hereby acknowledges, consents and agrees to the execution and delivery of this Assignment and Assumption of IRB Documents dated September ____, 2021, between ELHC XXII, LLC, a Kansas limited liability company, and IPXXII 193 Street LLC, a Delaware limited liability company.

CITY OF EDGERTON, KANSAS

[SEAL]

By: _____
Donald Roberts
Mayor

ATTEST:

Alexandria Clower
City Clerk

ACKNOWLEDGMENT

STATE OF KANSAS)
) SS:
COUNTY OF JOHNSON)

BE IT REMEMBERED that on this ____ day of September, 2021, before me, a notary public in and for said county and state, came Donald Roberts, Mayor of the City of Edgerton, Kansas, a municipal corporation duly authorized, incorporated and existing under and by virtue of the Constitution and laws of the State of Kansas, and Alexandria Clower, City Clerk of said City, who are personally known to me to be the same persons who executed, as such officers, the within instrument on behalf of said City, and such persons duly acknowledged the execution of the same to be the act and deed of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

[SEAL]

Notary Public

Typed Name: _____

My commission expires _____.

ACKNOWLEDGMENT OF TRUSTEE

UMB BANK, N.A., as trustee, hereby acknowledges the execution and delivery of this Assignment and Assumption of IRB Documents dated September ____, 2021, between ELHC XXII, LLC, a Kansas limited liability company ("Assignor"), and IPXXII 193 Street LLC, a Delaware limited liability company ("Assignee").

The Trustee represents and warrants to the City of Edgerton, Kansas, Assignor, and Assignee that the Trustee has no knowledge of any default, monetary or otherwise, that has occurred under the terms of the IRB Documents.

UMB BANK, N.A.

By: _____
Sarah Sanchez
Vice President

ACKNOWLEDGMENT

STATE OF MISSOURI)
) SS.
COUNTY OF JACKSON)

On this ____ day of September, 2021 before me appeared Sarah Sanchez, a Vice President of UMB BANK, N.A., a national banking association, to me personally known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same on behalf of said national banking association.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

[SEAL]

Notary Public

Typed Name: _____

My commission expires _____.

SCHEDULE 1

LEGAL DESCRIPTION OF REAL PROPERTY

LOT 2, LOGISTICS PARK KANSAS CITY PHASE III, A SUBDIVISION IN THE CITY OF
EDGERTON, JOHNSON COUNTY, KANSAS.

EXHIBIT B

Sample Collateral Assignment of IRB Documents

(Space above reserved for the Register of Deeds' recording information)

Title of Document: Collateral Assignment of IRB Documents

Date of Document: September ____, 2021

Grantor(s): IPXXII 193 Street LLC, a Delaware limited liability company

Grantee(s): Massachusetts Mutual Life Insurance Company, a Massachusetts corporation

Grantee's Address: c/o Barings, One Financial Plaza, Hartford, Connecticut 06103, Attn: Real Estate Loan Servicing, Loan No. 174031

Reference Book and Pages: Book 201703, Page 002210
Book 201703, Page 002211

Legal Description: See attached Schedule 1

COLLATERAL ASSIGNMENT OF IRB DOCUMENTS

This Collateral Assignment of IRB Documents ("**Assignment**") is executed as of the ____ day of September, 2021, by **IPXXII 193 STREET LLC** a Delaware limited liability company ("**Assignor**"), in favor of **MASSACHUSETTS MUTUAL LIFE INSURANCE COMPANY**, a Massachusetts corporation ("**Lender**").

W I T N E S S E T H

WHEREAS, the City of Edgerton, Kansas (the "**City**") has previously issued its \$33,000,000 aggregate maximum principal amount of Industrial Revenue Bonds (ELHC XXII, LLC Project) Series 2017 (the "**Bonds**") pursuant to a Trust Indenture dated as of March 1, 2017 (the "**Indenture**"), between the City and UMB BANK, N.A., as trustee (the "**Trustee**"), and used the proceeds of the Bonds to construct a Project (as defined in the Indenture);

WHEREAS, ELHC XXII, LLC, a Kansas limited liability company ("**Seller**"), leased the Project to the City pursuant to the Base Lease Agreement dated as of March 1, 2017 (the "**Base PILOT Lease**"), between Seller and the City, a memorandum of which was recorded March 8, 2017, in Book 201703, Page 002210, and the land that is subject to the Base PILOT Lease is set forth on **Schedule 1** (the "**Real Property**").

WHEREAS, the City subleased the Project to Seller pursuant to a Lease Agreement dated as of March 1, 2017 (the "**Sub PILOT Lease**"), between the City and Seller, a memorandum of which was recorded March 8, 2017, in Book 201703, Page 002211, which Sub PILOT Lease was subsequently collaterally assigned to Trustee pursuant to that certain Assignment of Lease Agreement dated March 2, 2017, which was recorded on March 8, 2017, in Book 201703, Page 002212, which Sub PILOT Lease covers the Real Property.

WHEREAS, the City and Seller entered into a Performance Agreement dated as of March 1, 2017 (the "**Performance Agreement**") whereby the parties set forth the terms relating to tax abatement for the Project;

WHEREAS, the City and Seller entered into an Origination Fee Agreement dated as of March 1, 2017 (the "**Origination Fee Agreement**") whereby Seller agreed to make certain origination fee payments to the City over time;

WHEREAS, the City and Seller entered into a Bond Purchase Agreement dated March 1, 2017 (the "**Bond Purchase Agreement**") whereby City agreed to issue and Seller agreed to purchase the Bonds on the terms and conditions set forth therein;

WHEREAS, Seller has negotiated the Bonds to Assignor, and, pursuant to that certain Assignment and Assumption of IRB Documents of even date herewith by and between Seller and Assignor, Seller assigned and transferred and Assignor has assumed all of Seller's interest in and to the Bonds, the Indenture, the Bond Purchase Agreement, the Base PILOT Lease, the Sub PILOT Lease, the Performance Agreement and the Origination Fee Agreement (collectively, the "**IRB Documents**") to Assignor;

WHEREAS, on or prior to the date hereof, the City has reissued the Bonds in the name of Assignor;

WHEREAS, pursuant to that certain Amended, Restated and Consolidated Promissory Note, dated of even date herewith, executed by Property Owner and a certain other borrowers (collectively, "**Borrower**"), and payable to the order of Lender in the original principal amount of \$ _____ (together with all replacements, renewals, modifications, increases, splits, and extensions thereof, the "**Note**"), Borrower has become indebted, and may from time to time be further indebted, to Lender with respect to a loan ("**Loan**") which is governed by, among other things, that certain Loan Agreement by and between Borrower and Lender of even date herewith (the "**Loan Agreement**") and secured, in part, by the lien and security interest of that certain Amended, Restated and Consolidated Mortgage, Assignment of Leases and Rents, Security Agreement, and Fixture Filing from Borrower for the benefit of Lender of even date herewith (the "**Mortgage**"), and further evidenced, secured or governed by other instruments and documents now or hereinafter executed in connection with the Loan (together with the Note, the Loan Agreement and the Mortgage, the "**Loan Documents**"); and

WHEREAS, one condition to Lender's agreement to extend credit to Assignor is that Lender must be provided a first priority perfected collateral assignment of IRB Documents;

NOW, THEREFORE, as an inducement to cause Lender to extend the Loan to Assignor, and for other valuable consideration, the receipt and sufficiency of which are acknowledged, it is agreed as follows:

1. Affirmation of Recitals. The recitals set forth above are true and correct and are incorporated herein by this reference.
2. Capitalized Terms. Capitalized terms, used but not defined herein, shall have the meaning attributed to them in the Loan Agreement.
3. Security Interest; Assignment. To secure the payment of the Indebtedness, Assignor does hereby collaterally assign, pledge, mortgage, convey, and set over unto Lender and grants Lender a security interest in all of Assignor's right, title, and interest in, to, and under the IRB Documents. Notwithstanding anything to the contrary contained herein, until such time as an Event of Default occurs, Assignor shall have a revocable license to exercise, subject to the other provisions of this Assignment and the Loan Documents, all of its rights and privileges under the IRB Documents.
4. Negotiation of Collateral Note; Perfection. Assignor shall negotiate the Bonds to Lender by endorsing an assignment of the Bonds in blank (without restriction or qualification) and delivering such endorsement to Lender. Lender shall retain such endorsement, and Trustee shall, as agent and bailee for Lender, retain possession of the Bonds to perfect Lender's security interest therein, subject to Lender's rights pursuant to the acknowledgment of the Trustee attached hereto; provided, however, that Trustee shall not be responsible for and makes no representation as to the value or condition of such Bonds or as to the validity or first priority status of Lender's security interest in such Bonds and pursuant to the Indenture shall be protected in acting upon the written direction of the registered owner of the Bonds. By its acknowledgement hereto, the Trustee agrees it shall not release or otherwise deliver the Bonds at the direction of the Assignor at any time prior to the full repayment of the Indebtedness or the term of the IRB Documents has expired absent the receipt of written consent of the Lender.
5. Financing Statements. Assignor hereby irrevocably authorizes Lender at any time, and from time to time, to file in any jurisdiction any initial financing statements and amendments thereto without the signature of Assignor that indicate that the IRB Documents are collateral for the Loan.
6. Termination. Upon full payment, performance and observance by Assignor of all Indebtedness or the expiration of the term of the IRB Documents, this Assignment and the lien or charge created hereby or resulting herefrom shall automatically terminate and cease to exist and Lender shall,

upon Assignor's request and at Assignor's expense, execute and deliver to Assignor such instruments of re-assignment or termination as shall be reasonably necessary to effectuate such termination and cause Trustee to, if the term of the IRB Documents has expired, deliver a copy of the cancelled Bonds to the Assignor, and if full payment, performance, and observance has been made by the Assignor of all obligations related to the Indebtedness but the Bonds remain outstanding, deliver the Bonds to the Assignor at the written request of the Assignor.

7. Assignor's Representations, Warranties, and Covenants. Assignor represents, warrants, and covenants to Lender that:

(a) Except in connection with this Assignment and the other Loan Documents, Assignor has not and shall not sell, transfer, assign, pledge, encumber or mortgage the IRB Documents or any interest therein without the prior written consent of Lender, and shall use commercially reasonable efforts to prevent anything that materially impairs the enjoyment of its rights under the IRB Documents or the security intended to be afforded by this Assignment. Except as set forth in Section 6 hereof, Assignor shall not amend, modify or terminate (other than termination by expiration of the term of the Bonds) any of the IRB Documents without the prior written consent of Lender.

(b) Assignor shall reimburse Lender for all actual out-of-pocket costs, expenses and fees, including court costs and reasonable attorneys' fees, incurred for any action taken by Lender to remedy a default of Assignor under this Assignment, together with interest on all said amounts at a per annum rate equal to the Default Rate from and after the date such amounts are incurred by Lender.

(c) Until the Indebtedness is repaid, Assignor shall remain liable for all costs, fees and expenses which may be or become due and payable under the IRB Documents and for all responsibilities of the ownership of the Real Property.

8. Limitation of Lender's Liability. Notwithstanding anything to the contrary contained in any of the IRB Documents, the interest of Assignor therein is assigned and transferred to Lender by way of collateral security only, and Lender shall not be deemed to have assumed or become liable for any of the obligations or liabilities of Assignor under the IRB Documents by Lender's acceptance hereof, whether provided for by the terms thereof, arising by operation of law or otherwise. Assignor hereby acknowledges that Assignor shall remain liable for the due performance of Assignor's obligations under the IRB Documents to the same extent as though this Assignment had not been made. It is expressly intended, understood and agreed that this Assignment, the Loan Agreement, the Note, the Mortgage, and the other Loan Documents are made and entered into for the sole protection and benefit of Lender and Assignor, and their respective successors and assigns (but in the case of assigns of Assignor, only to the extent permitted hereunder), and no other person or persons shall have any right of action hereunder or rights to the proceeds of the Loan at any time; that no third party shall under any circumstances be entitled to any equitable lien on the undisbursed proceeds of the Loan at any time. The relationship between Lender and Assignor is solely that of a lender and borrower, and nothing contained herein shall in any manner be construed as making the parties hereto partners or joint venturers or creating any other relationship other than lender and borrower.

9. Legal and Binding Agreement. Assignor warrants that to the best of its knowledge the execution and performance of this Assignment will not violate any judicial or administrative order or governmental law or regulation binding on Assignor, and that this Assignment is valid, binding and enforceable in every respect according to its terms.

10. Remedies Upon Default. Immediately upon the occurrence of an Event of Default, the license granted herein to Assignor shall automatically be revoked upon notice from Lender to Assignor,

and Lender may pursue any or all of the following remedies without notice to Assignor except as required below:

(a) Notice to the City. Lender may notify the City and the Trustee to make payments due to Assignor and give notices pertaining to the IRB Documents directly to Lender.

(b) Rights of Holder. Lender may exercise any or all rights of the holder of the Bonds and Assignor's interest under the IRB Documents. Without limiting the foregoing, Lender may initiate any administrative or judicial proceeding that it may deem necessary in the course of enforcing any rights under the IRB Documents. Any administrative or judicial action or other action taken by Lender pursuant to the IRB Documents may be taken by Lender in its own name or in Assignor's name. Lender may enter into any amendment or extension of the IRB Documents and may grant any indulgences with respect thereto that Lender may deem appropriate in the course of exercising its rights under the IRB Documents. Assignor hereby appoints Lender Assignor's attorney-in-fact to take any action authorized by this Assignment upon default. Assignor acknowledges that this power of attorney is coupled with an interest and is irrevocable.

(c) Sale of Bonds. Lender may sell the Bonds pursuant to Lender's rights under applicable law. Any such sale may be either public or private. If public, the sale may be postponed by announcement at the scheduled time and place and adjourned to another time or place, or both. It is agreed that ten (10) days' notice of any sale is commercially reasonable notice thereof. Any public sale may be adjourned to a different time, place, or both by announcement at the advertised time and place of sale, without further publication. Any advertised sale may be canceled in Lender's discretion, either before or after the opening of bidding. Lender shall transfer the Bonds to any purchaser thereof by endorsing the assignment in blank of the Bonds to the purchaser's order, without warranty or recourse on the part of Lender and in connection therewith shall assign to said purchaser its interest in the other IRB Documents. Notwithstanding anything to the contrary herein, any future sale or other transfer of the Bonds shall be subject at all times to the requirements of the Indenture.

(d) Setoff. Lender may exercise its lien upon and right of setoff against any monies, items, credits, deposits or instruments that Lender may have in its possession and which belong to Assignor or any other person or entity liable for the payments of any or all of the Indebtedness.

(e) Other Remedies. Lender may pursue any other remedies available under any other document evidencing or securing the Indebtedness or otherwise available to Lender at law or equity.

(f) Application of Proceeds. All amounts received by Lender for Assignor's account by exercise of its remedies hereunder shall be applied first, to the payment of all expenses incurred by Lender in exercising its rights hereunder, including reasonable out-of-pocket attorney's fees, and any other expenses due Lender from Assignor, and thereafter, as set forth in Section 2.7 of the Loan Agreement.

11. Notices. All notices and demands which are required or permitted to be given or served hereunder shall be deemed sufficiently served when delivered in the manner and to the persons described in the Loan Agreement.

12. Successors and Assigns. This Assignment shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

13. Counterparts. This Assignment may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

14. Governing law. This Assignment shall be interpreted and construed under the laws of the State of Kansas, excluding any conflict of law or choice-of-law rules that might lead to the application of the internal laws of another jurisdiction.

15. Recording. Lender shall submit this Assignment for recording in the Office of the Register of Deeds of Johnson County, Kansas on or about the Effective Date.

16. Indemnity. Assignor hereby agrees that no liability shall be asserted or enforced by Assignor against Lender in its exercise of the powers and rights herein granted, all such liability being hereby expressly waived and released by Assignor except to the extent arising from Lender's gross negligence or willful misconduct. Assignor hereby indemnifies, defends and holds Lender harmless from and against all claims, demands, losses, damages, expenses and costs including, but not limited to, reasonable lawyer's fees and expenses actually incurred, arising out of or in connection with Assignor's failure to observe, perform and discharge each and every one of the covenants, obligations, and liabilities of the Assignor under the IRB Documents to be observed, performed, or discharged with respect to the period prior to Lender obtaining title to the Real Property.

17. Direction to Trustee. Assignor, as current sole owner of the Bonds hereby directs the Trustee to provide its acknowledgement of this Assignment.

[signatures on following page]

IN WITNESS WHEREOF, the parties hereto have caused their respective duly authorized representatives to execute this Assignment as of the Effective Date.

ASSIGNOR:

IPXXII 193 STREET LLC, a Delaware limited liability company

By _____
Howard Huang, Vice President

ACKNOWLEDGMENT

STATE OF GEORGIA)
) SS.
COUNTY OF FULTON)

BE IT REMEMBERED, that on this ____ day of September, 2021, appeared Howard Huang, to me personally known, who being duly sworn did say that he is the Vice President of IPXXII 193 Street LLC, a Delaware limited liability company (the "Company"), and that the foregoing instrument was signed for the purposes therein contained on behalf of the Company and by authority of the Company; and he further acknowledged said instrument to be the free act and deed of the Company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

[SEAL]

Notary Public

My commission expires _____.

LENDER:

**MASSACHUSETTS MUTUAL LIFE INSURANCE
COMPANY**, a Massachusetts corporation

By: Barings, LLC,
as Investment Adviser

By: _____
Name: _____
Its: _____

ACKNOWLEDGMENT

STATE OF _____)
) SS.
COUNTY OF _____)

BE IT REMEMBERED, that on this ____ day of _____, 2021, appeared _____, to me personally known, who being duly sworn did say that he is the _____ of Barings LLC, the Investment Adviser of Massachusetts Mutual Life Insurance Company, a Massachusetts corporation (the "**Company**"), and that the foregoing instrument was signed for the purposes therein contained on behalf of the Company and by authority of the Company; and he further acknowledged said instrument to be the free act and deed of the Company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

[SEAL]

Notary Public

My commission expires _____.

CONSENT OF THE CITY OF EDGERTON, KANSAS

The City hereby acknowledges, consents and agrees to the execution and delivery of this Collateral Assignment of IRB Documents dated September ____, 2021, by IPXXII 193 Street LLC, a Delaware limited liability company, in favor of Massachusetts Mutual Life Insurance Company, a Massachusetts corporation.

Moreover, pursuant to Section 10.4 of the Sub PILOT Lease, the City hereby acknowledges that Assignor has the right to assign its rights and interest in the Sub PILOT Lease to Lender (or its designee or nominee) without the consent of the City. The City hereby consents to the assignment of the other IRB Documents by Assignor to Lender. The City further acknowledges that in the event Lender or a Purchaser (as defined in that certain Subordination/Attornment Agreement of even date herewith by and between the City, Assignor, and Lender), as the case may be, acquires ownership of the Real Property, Lender or a Purchaser, as the case may be, shall have the further right to assign the IRB Documents without the consent of the City. Notwithstanding the provisions of Section 206 of the Indenture, the City consents to any and all assignments and transfers of the IRB Documents from Assignor to Lender or a Purchaser, as the case may be, and from Lender or a Purchaser, as the case may be, to any future assignee on the condition that the Project be used in the same manner that it is now used.

The City hereby further acknowledges that the interest of Assignor in the IRB Documents is assigned and transferred to Lender by way of collateral security only, and Lender shall not be deemed to have assumed or become liable for any of the obligations or liabilities of Assignor under the IRB Documents by Lender's acceptance hereof, whether provided for by the terms thereof, arising by operation of law or otherwise.

CITY OF EDGERTON, KANSAS

[SEAL]

By: _____
Donald Roberts
Mayor

ATTEST:

Alexandria Clower
City Clerk

ACKNOWLEDGMENT

STATE OF KANSAS)
) SS:
COUNTY OF JOHNSON)

BE IT REMEMBERED that on this _____ day of September, 2021, before me, a notary public in and for said county and state, came Donald Roberts, Mayor of the City of Edgerton, Kansas, a municipal corporation duly authorized, incorporated and existing under and by virtue of the Constitution and laws of the State of Kansas, and Alexandria Clower, City Clerk of said City, who are personally known to me to be the same persons who executed, as such officers, the within instrument on behalf of said City, and such persons duly acknowledged the execution of the same to be the act and deed of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

[SEAL]

Notary Public

Typed Name: _____

My commission expires _____.

ACKNOWLEDGMENT OF TRUSTEE

UMB BANK, N.A., as trustee, hereby acknowledges to the execution and delivery of this Collateral Assignment of IRB Documents dated September ___, 2021, by IPXXII 193 Street LLC, a Delaware limited liability company in favor of Massachusetts Mutual Life Insurance Company, a Massachusetts corporation.

Subject to the terms of the Indenture, the Trustee further acknowledges that it shall hold possession of the Bonds as agent and bailee for Lender pursuant to Article 9 of the Uniform Commercial Code of the State of Kansas; provided, however, that Trustee shall not be responsible for and makes no representation as to the value or condition of such Bonds or as to the validity or first priority status of Lender's security interest in such Bonds. The Trustee agrees that it will upon request promptly deliver the Bonds to Lender.

The Trustee represents and warrants to the City of Edgerton, Kansas, Assignor, and Lender that the Trustee has no knowledge of any default, monetary or otherwise, that has occurred under the terms of the IRB Documents.

UMB BANK, N.A.

By: _____
Sarah Sanchez
Vice President

ACKNOWLEDGMENT

STATE OF MISSOURI)
) SS.
COUNTY OF JACKSON)

On this ____ day of September, 2021 before me appeared Sarah Sanchez, a Vice President of UMB BANK, N.A., a national banking association, to me personally known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same on behalf of said national banking association.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

[SEAL]

Notary Public

Typed Name: _____

My commission expires _____.

SCHEDULE 1

LEGAL DESCRIPTION OF REAL PROPERTY

LOT 2, LOGISTICS PARK KANSAS CITY PHASE III, A SUBDIVISION IN THE CITY OF
EDGERTON, JOHNSON COUNTY, KANSAS.

EXHIBIT C

Sample Consent, Agreement and Estoppel Certificate

CONSENT, AGREEMENT AND ESTOPPEL CERTIFICATE

(City of Edgerton, Kansas and, for limited purposes as set forth below, UMB BANK, N.A.)

TO: IPXXII 193 Street LLC, a Delaware limited liability company (“**PURCHASER**”)
Massachusetts Mutual Life Insurance Company,
a Massachusetts corporation (“**LENDER**”)
ELHC XXII, LLC, a Kansas limited liability company (“**DEVELOPER**”)

RE: **INDUSTRIAL REVENUE BONDS (ELHC XXII, LLC PROJECT), SERIES 2017 (CITY OF EDGERTON, KANSAS).**

DATE: September __, 2021 (the “**Effective Date**”).

In connection with (a) the proposed sale by Developer to Purchaser of Developer’s fee interest in the industrial property known as 32901 W. 193rd Street, Edgerton, Kansas (the “**Property**”), and (b) the associated assignment by Developer and assumption by Purchaser of Developer’s rights and obligations under that certain: (i) Base Lease Agreement dated as of March 1, 2017 by and between Developer and the City of Edgerton, Kansas (“**City**”) with respect to the Property (the “**IRB Base Lease**”); (ii) Lease Agreement dated as of March 1, 2017 by and between Developer and City (the “**IRB Lease**”); (iii) Performance Agreement dated as of March 1, 2017 by and between Developer and City (the “**Performance Agreement**”); (iv) Origination Fee Agreement dated as of March 1, 2017 by and between Developer and City (the “**Origination Fee Agreement**”); (v) Bond Purchase Agreement dated March 1, 2017 by and between Developer and City (“**Bond Purchase Agreement**”); and (vi) Trust Indenture dated as of March 1, 2017, by and between UMB BANK, N.A., as Trustee (the “**Trustee**”) and City, as Issuer (the “**Indenture**”), and (c) the associated transfer to Purchaser of all outstanding bonds issued by the City pursuant to the Indenture and designated as \$33,000,000 (Aggregate Maximum Principal Amount) City of Edgerton, Kansas Industrial Revenue Bonds (ELHC XXII, LLC Project), Series 2017 (the “**Bonds**”), City and Trustee (but as to Trustee, solely for the purpose of agreeing to the provisions of the Section 10) hereby consent, agree with and certifies to Purchaser, Lender and Developer, and their respective successors and assigns, as follows:

1. **Definition of IRB Documents.** The Bonds, Bond Purchase Agreement, Indenture, IRB Base Lease, IRB Lease, Performance Agreement and Origination Fee Agreement are collectively referred to as the “**IRB Documents.**” Capitalized terms used but not defined herein shall have the meaning ascribed thereto pursuant to the IRB Documents.

2. **IRB Base Lease.** Attached hereto as **Exhibit A** is a true, correct, and complete copy of the IRB Base Lease. The IRB Base Lease has not been assigned, modified, supplemented or amended in any way, except for those assignments, modifications, supplements or amendments, if any, attached hereto as part of **Exhibit A**. The IRB Base Lease is in full force and effect.

3. **IRB Lease.** Attached hereto as **Exhibit B** is a true, correct, and complete copy of the IRB Lease. The IRB Lease has not been assigned, modified, supplemented or amended in

any way, except for those assignments, modifications, supplements or amendments, if any, attached hereto as part of **Exhibit B**. The IRB Lease is in full force and effect.

4. **Performance Agreement**. Attached hereto as **Exhibit C** is a true, correct, and complete copy of the Performance Agreement. The Performance Agreement has not been modified, supplemented or amended in any way, except for those assignments, modifications, supplements or amendments, if any, attached hereto as part of **Exhibit C**. The Performance Agreement is in full force and effect.

5. **Origination Fee Agreement**. Attached hereto as **Exhibit D** is a true, correct, and complete copy of the Origination Fee Agreement. The Origination Fee Agreement has not been modified, supplemented or amended in any way, except for those assignments, modifications, supplements or amendments, if any, attached hereto as part of **Exhibit D**. The Origination Fee Agreement is in full force and effect.

6. **Indenture**. Attached hereto as **Exhibit E** is a true, correct, and complete copy of the Indenture. The Indenture has not been modified, supplemented or amended in any way, except for those assignments, modifications, supplements or amendments, if any, attached hereto as part of **Exhibit E**. The Indenture is in full force and effect.

7. **Bond Purchase Agreement**. Attached hereto as **Exhibit F** is a true, correct, and complete copy of the Bond Purchase Agreement. The Bond Purchase Agreement has not been modified, supplemented or amended in any way, except for those assignments, modifications, supplements or amendments, if any, attached hereto as part of **Exhibit F**. The Bond Purchase Agreement is in full force and effect.

8. **Assignment and Assumption Agreement related to IRB Documents**. City hereby consents to the assignment to, and assumption by, Purchaser, of Developer's rights and obligations under the Bond Purchase Agreement, Indenture, IRB Base Lease, IRB Lease, Performance Agreement, and Origination Fee Agreement in accordance with the Assignment and Assumption of IRB Documents to be entered into between Developer, as assignor, and Purchaser, as assignee, substantially in form and content attached hereto as **Exhibit G** (the "**Assignment and Assumption Agreement**"), and such assignment does not constitute a default, breach or violation on the part of Developer under or of any agreement, contract, document, instrument or undertaking or obligation entered into by and between City and Developer (alone or with additional parties) with respect to the development, construction, financing, operation or maintenance of the Project (as defined in the Indenture), including without limitation, the IRB Documents. City further acknowledges and agrees that Purchaser is a permitted assignee pursuant to the IRB Lease.

9. **Transfer of the Bonds**. As long as Purchaser provides to City a Representation Letter substantially in form and content attached hereto as **Exhibit H** contemporaneously with Developer's transfer of the Bonds to Purchaser, City hereby consents to Purchaser's transfer of the Bonds to Purchaser and confirms that such transfer does not constitute a default, breach or violation on the part of Developer under or of any agreement, contract, document, instrument or undertaking or obligation entered into by and between City and Developer (alone or with

additional parties) with respect to the development, construction, financing, operation or maintenance of the Project, including without limitation, the IRB Documents.

10. **Waiver of Bond Payments.** City and Trustee each agrees that so long as Purchaser is both the tenant under the IRB Lease and the Bondowner (as defined in the Indenture) of all of the outstanding Bonds on the applicable interest payment date (as set forth in the Indenture) and, with respect to repayment of principal, on the maturity date (as set forth in the Indenture), Purchaser shall have the right to waive, provided the Purchaser provides written notice to the City and Trustee of its exercise of such right, actual payment of interest due on the Bonds on such interest payment date, as well as the principal of the Bonds maturing on the maturity date, in which event it shall be deemed that Purchaser, as tenant under the IRB Lease, had paid all Basic Rent due under the IRB Lease on such interest payment date or maturity date, as applicable, and that Purchaser, as owner of all of the outstanding Bonds on such date, had received the full payment due on such outstanding Bonds on such date provided the Bonds are presented to the Trustee for cancellation on the maturity date.

11. **No Default under IRB Documents or other Agreements with City.**

(a) **IRB Documents.** City has not been notified of any default and to the best of City's information and belief as of the Effective Date, neither City nor Developer is in default under the IRB Documents, and, to the best of City's information and belief, no event has occurred and no condition exists that might, with the giving of notice or the passage of time, or both, constitute a default by City or Developer under the IRB Documents, or would otherwise permit a termination or modification by City under the IRB Documents.

(b) **Other City Agreements.** City, Edgerton Land Holding Company, LLC, a Kansas limited liability company, an affiliate of Developer ("ELHC"), and BNSF Railway Company, a Delaware corporation ("BNSF"), entered into that certain Amended and Restated Public Infrastructure Financing Plan (the "Financing Plan") dated as of July 15, 2015, that certain Amended and Restated Project Agreement (the "Project Agreement") dated as of July 15, 2015, and certain other related agreements (the "Other City Agreements"). The City has not been notified of any default and to the best of City's information and belief as of the Effective Date, neither City, ELHC, nor BNSF is in default under the Other City Agreements, and, to the best of City's information and belief, no event has occurred and no condition exists that might, with the giving of notice or the passage of time, or both, constitute a default by City, ELHC, or BNSF under the Other City Agreements, or would otherwise permit a termination or modification by City or BNSF under the Other City Agreements.

12. **Additional City Certifications.** Without limiting the generality of the foregoing certifications, City also hereby certifies that, as of the Effective Date:

(a) The final Certificate of Occupancy for the Property has been issued by City and is in full force and effect as of the Effective Date, and there are no further obligations to City on the part of Developer or any other person or entity to cause design, construction, completion or modification of, nor incur any additional costs associated with, the construction of the Project or to comply with the IRB Documents.

(b) City has been advised by the Trustee under the Indenture that the total principal amount of the outstanding Bonds as of the Effective Date is \$22,780,796. The amount held in the Bond Fund (as such term is defined in the IRB Documents) is \$0. There are no funds remaining in the Construction Fund (as such term is defined in the IRB Documents).

(c) City has not asserted any claim for indemnification from Developer under any of the IRB Documents, and City is not aware of and has not been notified of, as of the Effective Date, any fact, event or circumstance that could be the basis of any such claim for indemnification.

(d) There is no suit, action, proceeding or audit pending or, to the knowledge of City, threatened against or affecting City or the Property under the IRB Documents, at law or in equity, or before or by any court, administrative agency, or other governmental authority which brings into question the validity of the IRB Documents.

(e) Developer has provided to City all reports, certifications, notices or similar documents required to be submitted by Developer under the IRB Documents through the Effective Date.

(f) To the best of City's information and belief, the Project has been completed in accordance with the IRB Documents and all applicable laws and requirements and is being lawfully occupied. The City has received any and all notices and certificates required pursuant to Section 4.5 of the IRB Lease.

(g) There are no outstanding or unpaid fees, costs, charges, assessments or other amounts owed by Developer to City with respect to the Project or the IRB Documents.

(h) City deems this Consent, Agreement and Estoppel Certificate as constituting any and all notices of the transactions described herein that might otherwise be required under the IRB Documents.

(i) City agrees that upon and after full execution of the Assignment and Assumption Agreement, Developer shall be relieved of any liability associated with the Project, the Bonds, and the IRB Documents.

(j) City hereby confirms that the City's assignment of the City's rights and obligations under the IRB Lease to Trustee pursuant to that certain Assignment of Lease Agreements by and between City and the Trustee terminates upon full payment or cancellation of the Bonds.

13. **City Authority.** City represents and warrants that it has all right, power, and authority to bind itself, and to execute and deliver this Consent, Agreement and Estoppel Certificate.

14. **City Consents, Representations, and Covenants related to Lender.** City further agrees in favor of Lender as follows:

(a) City acknowledges that neither the execution nor delivery of the Amended, Restated and Consolidated Mortgage and Security Agreement (the “**Security Instrument**”), nor any modification thereof or assignment of the beneficial interests thereunder, will be a default under the IRB Documents.

(b) City consents to Purchaser's collateral assignment to Lender of all of Purchaser's right, title and interest in and to the IRB Documents and agrees that if Lender shall exercise its remedies under its loan documents, the party that acquires Purchaser's interest in the Project through foreclosure or other exercise of remedies under the Lender's loan documents (the “**Successor Tenant**”) and such Successor Tenant's assignee shall be a permitted assignee of the IRB Documents without further consent of City. City consent to Purchaser's transfer to Lender of all of Purchaser's right, title and interest in and to the Bonds and agrees that so long as the Successor Tenant provides a Representation Letter substantially in form and content of Exhibit A of the Indenture and attached hereto as **Exhibit H**, the Successor Tenant shall be a permitted transferee of the Bonds without further consent of City. Notwithstanding the foregoing, Lender and any Successor Tenant shall use, and permit only the use of, the Property for the Project in the same manner it is used now, unless City consents to such other use, such consent not to be unreasonably withheld.

(c) Upon and during the continuance of a default under Lender's loan documents, Lender shall have the right to exercise all rights of Purchaser under the IRB Documents.

(d) The Successor Tenant shall not be required to assume obligations under the IRB Documents, but shall be deemed to have agreed to perform all of Developer's obligations under the IRB Documents only from and after Successor Tenant's assumption of the Developer's obligations under the IRB Documents.

(e) City acknowledges that, in the event of damage to the improvements on the Property due to casualty or condemnation, the casualty insurance proceeds or condemnation proceeds, as the case may be, may be required by Lender to be applied to reduce the then balance of the Loan or may be required by Lender to be used for, and used by the tenant under the IRB Lease for, restoration of the improvements on the Property. In the event of any conflict between the provisions of the IRB Lease and the provisions of the Security Instrument with respect to application of casualty and condemnation proceeds, the provisions of the Security Instrument shall control.

(f) Notwithstanding any provisions of the IRB Documents to the contrary, no default or event of default under the Security Instrument or any other document or instrument evidencing or securing the Loan will, in and of itself, constitute a default or event of default under the IRB Documents.

(g) City shall send to Lender copies of all default or termination notices hereafter given by City to Purchaser under the IRB Documents concurrently with the sending of such notices to Purchaser and no such notice shall be effective against Lender until delivered to Lender; City shall accept from Lender a cure of any default. City will send all notices to Lender at the below address (or such other address as Lender may provide from time to time):

Massachusetts Mutual Life Insurance Company
c/o Barings
One Financial Plaza
Hartford, Connecticut 06103
Attention: Real Estate Loan Servicing
Loan No. 174031

With a copy to:

Midland Loan Services
10851 Mastin, Suite 300
Overland Park, Kansas 66210
Attention: Barings Servicing Group
Loan No. 174031

And to:

Massachusetts Mutual Life Insurance Company
c/o Barings
One Financial Plaza
Hartford, Connecticut 06103
Attention: Legal Department
Loan No. 174031

(k) City shall not agree to any amendment, modification, surrender, cancellation or termination of the IRB Documents without the prior written consent of Lender.

City, and Trustee with respect to the provisions of Section 10, make the above agreements and certifications to and for the benefit and protection of Purchaser, Developer and Lender, and with the intent and understanding that they will be justifiably relied upon by them or any of them. Developer, as current sole owner of the Bonds hereby directs the Trustee to execute this Consent, Agreement and Estoppel Certificate.

[SIGNATURE PAGE FOLLOWS]

Dated: September __, 2021.

CITY OF EDGERTON, KANSAS

By: _____
Donald Roberts, Mayor

ATTEST:

By: _____
Alexandria Clower, City Clerk

UMB BANK, N.A., as Trustee

By: _____

Sarah Sanchez
Vice President

EXHIBIT A

IRB Base Lease

EXHIBIT B

IRB Lease

EXHIBIT C

Performance Agreement

EXHIBIT D

Origination Fee Agreement

EXHIBIT E

Indenture

EXHIBIT F

Bond Purchase Agreement

EXHIBIT G

Assignment and Assumption of IRB Documents

EXHIBIT H

Form of Representation Letter

EXHIBIT D

Sample Subordination/Attornment Agreement

(Space above reserved for the Register of Deeds' recording information)

Title of Document: Subordination/Attornment Agreement

Date of Document: September __, 2021

Grantor(s): City of Edgerton, Kansas and IPXXII 193 Street LLC, a Delaware limited liability company

Grantee(s): Massachusetts Mutual Life Insurance Company, a Massachusetts corporation

Grantee's Address: c/o Barings, One Financial Plaza, Hartford, Connecticut 06103,
Attn: Real Estate Loan Servicing, Loan No. 174031

Reference Book and Pages: Book 201703, Page 002210
Book 201703, Page 002211

Legal Description: See attached Schedule 1

SUBORDINATION/ATTORNMENT AGREEMENT

This Subordination/Attornment Agreement (this "**Agreement**") is made as of the ____ day of September, 2021, by and among the City of Edgerton, Kansas (the "**City**"), **IPXXII 193 STREET LLC**, a Delaware limited liability company ("**Property Owner**") and **MASSACHUSETTS MUTUAL LIFE INSURANCE COMPANY**, a Massachusetts corporation ("**Lender**").

RECITALS

A. The City of Edgerton, Kansas (the "**City**") has previously issued its \$33,000,000 aggregate maximum principal amount of Industrial Revenue Bonds (ELHC XXII, LLC Project) Series 2017 (the "**Bonds**") pursuant to a Trust Indenture dated as of March 1, 2017 (the "**Indenture**"), between the City and UMB BANK, N.A., as trustee ("**Trustee**"), and used the proceeds of the Bonds to construct a Project (as defined in the Indenture).

B. ELHC XXII, LLC, a Kansas limited liability company ("**Seller**"), leased the Project to the City pursuant to the Base Lease Agreement dated as of March 1, 2017 (the "**Base PILOT Lease**"), between Seller and the City, a memorandum of which was recorded March 8, 2017, in Book 201703, Page 002210, and the legal description of the land that is subject to the Base PILOT Lease is set forth on **Schedule 1** (the "**Property**").

C. The City subleased the Project to Seller pursuant to a Lease Agreement dated as of March 1, 2017 (the "**Sub PILOT Lease**"), between the City and Seller, a memorandum of which was recorded March 8, 2017, in Book 201703, Page 002211, and the Sub PILOT Lease was subsequently collaterally assigned to Trustee pursuant to that certain Assignment of Lease Agreements dated March 2, 2017, which was recorded on March 8, 2017, in Book 201703, Page 002212, which Sub PILOT Lease covers the Property.

D. The City and Seller entered into a Performance Agreement dated as of March 1, 2017 (the "**Performance Agreement**") whereby the parties set forth the terms relating to tax abatement for the Project.

E. The City and Seller entered into an Origination Fee Agreement dated as of March 1, 2017 (the "**Origination Fee Agreement**") whereby Seller agreed to make certain origination fee payments to the City over time.

F. The City and Seller entered into a Bond Purchase Agreement dated March 1, 2017 (the "**Bond Purchase Agreement**") whereby City agreed to issue and Seller agreed to purchase the Bonds on the terms and conditions set forth therein.

G. Pursuant to that certain Assignment and Assumption of IRB Documents of even date herewith by and between Seller and Property Owner, Seller has agreed to assign and transfer to Property Owner and Property Owner has agreed to assume all of Seller's interest in and to the Bonds, the Indenture, the Bond Purchase Agreement, the Base PILOT Lease, the Sub PILOT Lease, the Performance Agreement and the Origination Fee Agreement (collectively, the "**IRB Documents**").

H. On or prior to the date hereof, the City has reissued the Bonds in the name of Assignor;

I. Amended, Restate and Consolidated Promissory Note, dated of even date herewith, executed by Property Owner and a certain other borrowers (collectively, "**Borrower**"), and payable to the

order of Lender in the original principal amount of \$_____ (together with all replacements, renewals, modifications, increases, splits, and extensions thereof, the "**Note**"), Borrower has become indebted, and may from time to time be further indebted, to Lender with respect to a loan ("**Loan**") which is governed by, among other things, that certain Loan Agreement by and between Borrower and Lender of even date herewith (the "**Loan Agreement**") and secured, in part, by the lien and security interest of that certain Amended, Restated and Consolidated Mortgage, Assignment of Leases and Rents, Security Agreement, and Fixture Filing from Borrower for the benefit of Lender of even date herewith (the "**Mortgage**"), and further evidenced, secured, or governed by other instruments and documents now or hereinafter executed in connection with the Loan (together with the Note, the Loan Agreement and the Mortgage, the "**Loan Documents**").

J. In connection with the Loan, pursuant to that certain Collateral Assignment of IRB Documents of even date herewith by and between Property Owner and Lender and consented to by the City and the Trustee (the "**Collateral Assignment**"), Property Owner has collaterally assigned all of its rights and interest in the IRB Documents to Lender.

K. Lender wishes to have the City and Property Owner confirm the priority of the Mortgage over the Base PILOT Lease and the Sub PILOT Lease (collectively, the "**Leases**").

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth herein, the parties hereto agree as follows:

1. The recitals set forth above are true and correct and are incorporated herein by this reference.

2. The City and Property Owner hereby covenant and agree that all rights and interests whatsoever under the Leases shall be and shall remain subject and subordinate to the lien of the Mortgage, to all of the rights and interests of Lender under the Mortgage and to all the terms, conditions and provisions thereof, to all advances made or to be made thereunder or under the Note, and to any increases, renewals, extensions, modifications, substitutions, consolidations or replacements thereof or of the Note.

3. If the interest of Property Owner under the Leases shall be acquired by Lender or any purchaser ("**Purchaser**") by reason of exercise of the power of sale or the foreclosure of the Mortgage or other proceedings brought to enforce the rights of the holder thereof, by deed in lieu of foreclosure or by any other method, and Lender or Purchaser succeeds to the interest of Property Owner under the Leases, unless Lender or Purchaser, as the case may be, elects to terminate the IRB Documents pursuant to Section 4 hereof, the Base Lease shall not be terminated by said foreclosure or other proceedings, and City and Property Owner agree that Lender or Purchaser, as the case may be, shall be entitled to all of the rights and benefits of Property Owner under the Leases, and the City shall attorn to Lender or Purchaser, as the case may be, as its lessor under the Base PILOT Lease and recognize Lender or Purchaser, as the case may be, as lessee under the Sub PILOT Lease, provided that Lender or Purchaser, as the case may be, provide, within five (5) days following its acquisition of title to the Property, notice to the City of its election to assume the rights and duties under the Leases and a Representation Letter substantially in the form attached hereto as **Exhibit A**, and the Leases shall in such event continue in accordance with their respective terms. Moreover, Lender or Purchaser, as the case may be, shall have the right to further assign the Leases pursuant to Section 10.4(c) of the Sub PILOT Lease.

4. Notwithstanding anything in Section 3 to the contrary, the City hereby agrees that Lender or Purchaser, as the case may be, shall have the option within five (5) days after foreclosure of the Mortgage or any conveyance of the Property by deed-in-lieu of foreclosure upon written notice to the City

to (i) terminate the IRB Documents, in which event Lender or Purchaser, as the case may be, shall have no obligation to the City or any other party with respect to any amounts due or accruing prior, or subsequent, to the date of such foreclosure or deed-in-lieu of foreclosure or (ii) continue the IRB Documents upon all of the terms and provisions provided therein.

5. Notwithstanding anything to the contrary contained in the IRB Documents or herein, if Lender or Purchaser, as the case may be, shall succeed to the interest of Property Owner under the IRB Documents, Lender or Purchaser, as the case may be, other than for Basic Rent and Additional Rent due and payable under the Sub PILOT Lease, shall have no personal liability as successor to Property Owner, and the City shall look only to the estate and property of Lender or Purchaser, as the case may be, in the Property for the satisfaction of the City's remedies for the collection of a judgment requiring the payment of money in the event of any default under the IRB Documents.

6. In the event that the Leases terminate prior to expiration of the Lease Term (as defined in the Sub PILOT Lease), Lender shall have the right to require the City to execute new leases pursuant to Section 10.4(d)(viii) of the Sub PILOT Lease.

7. Notwithstanding anything to the contrary contained in the IRB Documents or herein, Lender or Purchaser, as the case may be, shall not be liable to the City for any liability or obligation of Property Owner under the IRB Documents unless and until Lender or Purchaser, as the case may be, shall take title to the Property and notify the City that it has assumed the obligations of Property Owner under the IRB Documents as provided above, and thereafter, upon the assignment, sale or other transfer by Lender or Purchaser, as the case may be, of its interest under the IRB Documents, Lender or Purchaser, as the case may be, shall be released from liability under the IRB Documents as of the effective date of such assignment, sale or transfer, provided that the assignee agrees to be bound by the terms and conditions of the IRB Documents for the periods of ownership by Lender or Purchaser, as the case may be.

8. The City and Property Owner shall not by agreement amend, modify, surrender, cancel or terminate any of the IRB Documents without Lender's prior written consent. Lender or Purchaser, as the case may be, shall not be bound by any agreement or modification of the IRB Documents made without Lender's or Purchaser's written consent. Notwithstanding the foregoing, upon full payment, performance and observance by Property Owner of all obligations under the Loan or the expiration of the term of the IRB Documents, this Agreement shall automatically terminate and cease to exist and Lender shall, upon Property Owner's request and at Property Owner's expense, execute and deliver to Property Owner such instruments of termination as shall be reasonably necessary to effectuate such termination and cause Trustee to, if the term of the IRB Documents has expired, deliver a copy of the cancelled Bonds to the Property Owner, and if full payment, performance, and observance has been made by Property Owner of all obligations under the Loan but the Bonds are still outstanding, deliver the Bonds to the Property Owner at the written request of the Property Owner.

9. The City hereby covenants and agrees that no notice of default given to Property Owner, and no exercise of any remedy by the City as a result of any such default under the Leases and the IRB Documents, shall be effective unless such notice shall have been sent to Lender, and Lender shall have failed to remedy such act or omission within such period of time equal to Property Owner's applicable cure period plus (i) twenty (20) days with respect to monetary defaults or (ii) the additional period of time offered "leasehold mortgage" under Sections 10.4(d)(iv) and (vii) of the Sub PILOT Lease with respect to non-monetary defaults. Any default under any of the IRB Documents which by its nature is incapable of being cured by Lender or Purchaser, as the case may be, shall be waived by the City as between the City and Lender or Purchaser, as the case may be.

10. The City acknowledges that neither the execution nor delivery of the Loan Documents, nor any modification thereof or assignment of the beneficial interests thereunder, will be a default under the IRB Documents.

11. The City acknowledges that, in the event of damage to the improvements on the Property due to casualty or condemnation, the casualty insurance proceeds or condemnation proceeds, as the case may be, may be required by Lender to be applied to reduce the Indebtedness (as defined in the Mortgage) or may be required by Lender to be used for, and used by the tenant under the Leases for, restoration of the improvements on the Property. In the event of any conflict between the provisions of the Leases and the provisions of the Loan Documents with respect to application of casualty and condemnation proceeds, the provisions of the Loan Documents shall control.

12. This Agreement shall serve as notice from Lender to the City under Section 10.4(d) of the Sub PILOT Lease of the making of the Loan, and the name and address of Lender; which are as follows:

Massachusetts Mutual Life Insurance Company
c/o Barings
One Financial Plaza
Hartford, Connecticut 06103
Attention: Real Estate Loan Servicing
Loan No. 214091

With a copy to:

Midland Loan Services
10851 Mastin, Suite 300
Overland Park, Kansas 66210
Attention: Barings Servicing Group
Loan No. 214091

And to:

Massachusetts Mutual Life Insurance Company
c/o Barings
One Financial Plaza
Hartford, Connecticut 06103
Attention: Legal Department
Loan No. 214091

The City acknowledges that Lender has complied with all requirements under Section 10.4(d) of the Sub PILOT Lease, and Lender shall be entitled to all rights, privileges, and protections afforded to "mortgagees" or "leasehold mortgagees" under the Leases (including, without limitation, under Section 10.4 of the Sub PILOT Lease). To the extent there is any conflict between the Leases and this Agreement, the provisions of this Agreement shall control.

13. Lender may at any time, without the consent of the City or Property Owner, sell, assign participate or securitize all or any portion of the Loan. This Agreement shall inure to the benefit of and shall be binding upon the City, the Property Owner and Lender, and their respective heirs, personal representatives, successors and assigns. This Agreement may not be altered, modified or amended except in writing signed by all of the parties hereto. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such

invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, but this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein. This Agreement shall be governed by and construed according to the laws of the state where the Property is located.

14. Notwithstanding anything in this Agreement to the contrary, in the event Lender forecloses on the Mortgage or acquires the Property by deed-in-lieu of foreclosure, any Tax Payments (as defined in the Performance Agreement) due and payable under Section 2.3 of the Performance Agreement at the time of such foreclosure or acquisition by deed-in-lieu of foreclosure shall be the responsibility of Lender, even if Lender terminates the IRB Documents. By contrast, any Origination Fee payments that are due and payable under the IRB Documents at the time of such foreclosure or acquisition by deed-in-lieu of foreclosure shall be the responsibility of Lender only if Lender chooses not to terminate the IRB Documents.

15. Property Owner, as current sole owner of the Bonds hereby directs the Trustee to provide its acknowledgement of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused their respective duly authorized representatives to execute this Agreement as of the date hereof.

PROPERTY OWNER:

IPXXII 193 STREET LLC, a Delaware limited liability company

By _____
Howard Huang, Vice President

ACKNOWLEDGMENT

STATE OF GEORGIA)
) SS.
COUNTY OF FULTON)

BE IT REMEMBERED, that on this ____ day of September, 2021, appeared Howard Huang, to me personally known, who being duly sworn did say that he is the Vice President of IPXXII 193 Street LLC, a Delaware limited liability company (the "Company"), and that the foregoing instrument was signed for the purposes therein contained on behalf of the Company and by authority of the Company; and he further acknowledged said instrument to be the free act and deed of the Company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

[SEAL]

Notary Public

My commission expires _____.

CITY OF EDGERTON, KANSAS

[SEAL]

By: _____
Donald Roberts
Mayor

ATTEST:

Alexandria Clower
City Clerk

ACKNOWLEDGMENT

STATE OF KANSAS)
) SS:
COUNTY OF JOHNSON)

BE IT REMEMBERED that on this _____ day of September, 2021, before me, a notary public in and for said county and state, came Donald Roberts, Mayor of the City of Edgerton, Kansas, a municipal corporation duly authorized, incorporated and existing under and by virtue of the Constitution and laws of the State of Kansas, and Alexandria Clower, City Clerk of said City, who are personally known to me to be the same persons who executed, as such officers, the within instrument on behalf of said City, and such persons duly acknowledged the execution of the same to be the act and deed of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

[SEAL]

Notary Public

Typed Name: _____

My commission expires _____.

LENDER:

**MASSACHUSETTS MUTUAL LIFE INSURANCE
COMPANY**, a Massachusetts corporation

By: Barings LLC,
As Investment Adviser

By: _____
Name: _____
Its: _____

ACKNOWLEDGMENT

STATE OF _____)
) SS.
COUNTY OF _____)

BE IT REMEMBERED, that on this ____ day of _____, 2021, appeared _____, to me personally known, who being duly sworn did say that he is the _____ of Barings LLC, the Investment Adviser of Massachusetts Mutual Life Insurance Company, a Massachusetts corporation (the "**Company**"), and that the foregoing instrument was signed for the purposes therein contained on behalf of the Company and by authority of the Company; and he further acknowledged said instrument to be the free act and deed of the Company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

[SEAL]

Notary Public

My commission expires _____.

ACKNOWLEDGMENT OF TRUSTEE

UMB BANK, N.A., as trustee, hereby acknowledges the receipt of this Subordination/Attornment Agreement dated September ___, 2021, by IPXXII 193 Street LLC, a Delaware limited liability company in favor of Massachusetts Mutual Life Insurance Company, a Massachusetts corporation.

UMB BANK, N.A.

By: _____
Sarah Sanchez
Vice President

ACKNOWLEDGMENT

STATE OF MISSOURI)
) SS.
COUNTY OF JACKSON)

On this ___ day of September, 2021 before me appeared Sarah Sanchez, a Vice President of UMB BANK, N.A., a national banking association, to me personally known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same on behalf of said national banking association.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

[SEAL]

Notary Public

Typed Name: _____

My commission expires _____.

Schedule 1

Legal Description of Property

LOT 2, LOGISTICS PARK KANSAS CITY PHASE III, A SUBDIVISION IN THE CITY OF
EDGERTON, JOHNSON COUNTY, KANSAS.

Exhibit A

Form of Representation Letter

[attached]