



**CITY OF GERING LEASING CORPORATION SPECIAL MEETING**  
**Gering City Hall, 1025 P Street, Gering, NE**

**Thursday, December 26, 2024**  
**5:00 p.m.**

**AGENDA**

1. Call to Order
2. Roll Call
3. **OPEN MEETINGS ACT - NEB.REV.STAT. CHAPTER 84, ARTICLE 14**  
As required by State Law, public bodies shall make available at least one current copy of the Open Meetings Act posted in the meeting room. Agenda items may be moved up or down on the agenda at the discretion of the President. As required by State Law, additions may not be made to this agenda less than 24 hours before the beginning of the meeting unless they are considered under this section of the agenda and Gering Leasing Corp. determines that the matter requires emergency action.
4. Approve and authorize the President to sign Satisfaction Of Agreement by and between the City of Gering Leasing Corporation and the City of Gering regarding a 1996 Lease Purchase Agreement for a new municipal golf course and related facilities
5. Approve and authorize the President to sign a Warranty Deed related to property described in the Warranty Deed and commonly described as portions of Monument Shadows Golf Course, City of Gering, Scotts Bluff County, NE

**Closed Session:** (The Gering Leasing Corporation reserves the right to enter into closed session if deemed necessary.)

**OPEN COMMENT:** Discussion or action by the Gering Leasing Corp. regarding unscheduled business will not take place. This section is for citizen comment only.

6. Adjourn

**Agenda Item Summary**

**For the meeting of:** December 26, 2024

**Agenda item title:** Approve and authorize the President to sign Satisfaction of Agreement regarding a 1996 Lease Purchase Agreement by and between the City of Gering Leasing Corporation and the City of Gering for a new municipal golf course and related facilities

**Submitted by:** Pat Heath, City Administrator

**Explanation of the agenda item:** In 1996, the Gering Leasing Corp. and the City of Gering entered into a Lease Purchase Agreement regarding the provision of a new municipal golf course and related facilities. The bond associated with the golf course and related facilities has been paid in full and was released on December 12, 2024. This Agreement is stating that both parties are acknowledging that the 1996 Agreement is fully satisfied and conveyance of the municipal golf course property to the City of Gering is appropriate.

**Board/Commission/Staff recommendation:** Approve and authorize the President to sign the Satisfaction of Agreement.

<b>Does this item require the expenditure of funds?</b>	_____	<b>Yes</b>	<b>X</b>	<b>no</b>
<b>Are funds budgeted?</b>	_____	<b>Yes</b>	_____	<b>no</b>

If no, comments:

**Estimated Amount** \_\_\_\_\_

**Amount Budgeted** \_\_\_\_\_

**Department** \_\_\_\_\_

**Account** \_\_\_\_\_

**Account Description** \_\_\_\_\_

**Approval of funds available:** \_\_\_\_\_

**City Treasurer/Finance Director**

<b>Does this item require a resolution or an ordinance?</b>	_____	<b>yes</b>	<b>X</b>	<b>no</b>
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If a resolution or ordinance is required, it must be attached.

**Approved for submittal:** *Pat Heath, City Administrator*

**Mayor, City Administrator or City Department Head**

**Referred to:** \_\_\_\_\_ **Committee**

All Agenda Item Summaries and the required attachments are due by Noon on the Wednesday prior to the Council meeting. If the Wednesday prior to the City Council is a holiday, the deadline is Tuesday at Noon.

**SATISFACTION OF AGREEMENT**

<b>BY:</b> City of Gering Leasing Corporation Kent Ewing President 1025 P Street Gering, NE 69341	City of Gering, Nebraska Kent Ewing Mayor 1025 P Street Gering, NE 69341
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The City of Gering Leasing Corporation and the City of Gering, Nebraska entered into a Lease Purchase Agreement which was attested by the Secretary of the City of Gering Leasing Corporation and the City Clerk of the City of Gering, Nebraska on May 1<sup>st</sup>, 1996 regarding the provision of a new municipal golf course and related facilities, which Agreement is attached hereto and incorporated herein by reference (the "1996 Agreement"). Upon mutual consent and agreement of the City of Gering Leasing Corporation and the City of Gering, Nebraska and pursuant to Article XIX of the 1996 Agreement, the parties hereto acknowledge that the 1996 Agreement is fully satisfied and conveyance of the municipal golf course property to the City of Gering, Nebraska is appropriate. Now, therefore, the 1996 Agreement including all amendments thereto being fully satisfied shall be considered from this date terminated, all parties to the 2016 Agreement and its amendments are released from their respective obligations thereto, and conveyance of the property to the City of Gering, Nebraska shall be effectuated.

AGREED AND EXECUTED THIS \_\_\_\_\_ DAY OF DECEMBER, 2024.

\_\_\_\_\_  
City of Gering Leasing Corporation  
Kent Ewing  
Mayor  
2525 Circle Drive  
Scottsbluff, NE 69361

ATTEST:

\_\_\_\_\_  
Secretary (seal)

\_\_\_\_\_  
City of Gering, Nebraska  
Kent Ewing  
Mayor  
1025 P Street  
Gering, NE 69341

ATTEST:

\_\_\_\_\_  
City Clerk (seal)

## LEASE PURCHASE AGREEMENT

THIS LEASE PURCHASE AGREEMENT, made and entered into as of the 1st day of May, 1996, by and between CITY OF GERING LEASING CORPORATION, a not-for-profit corporation existing under the laws of the State of Nebraska (the "Lessor" or "Corporation"), and the CITY OF GERING, NEBRASKA (the "Lessee" or "City"),

**WITNESSETH:** That

Lessee is a city of the State of Nebraska with full, lawful power and authority to enter into this Lease Purchase Agreement acting by and through its Mayor and City Council pursuant to the authority granted by Section 19-2421, Reissue Revised Statutes of Nebraska, 1943, as amended, and

Lessor has been organized and exists for the purpose of acquiring property of any kind and nature, usable or useful to the City in performing its governmental functions and leasing the same to the City, and

Lessor and Lessee have agreed upon the terms of this Lease Purchase Agreement to provide the City with a new municipal golf course and related facilities, the following words and phrases used in this Lease Purchase Agreement to have the following meanings, unless the context or use indicates another or different meaning or intent.

"Acquisition Fund" shall mean the fund created by Section 6.1 of the Indenture into which the proceeds of the sale of the Bonds shall be deposited and disbursed as provided in Article VI of the Indenture.

"Agreement" shall mean this Lease Purchase Agreement and all amendments and supplements thereto.

"Bond Fund" shall mean the fund created Section 5.2 of the Indenture into which basic rentals payable under the Agreement shall be deposited as provided by Article V hereof.

"Bonds" shall mean "City of Gering Leasing Corporation Golf Course Lease Rental Revenue Building Bonds" authorized to be issued pursuant to the Indenture and shall include the 1996 Bonds.

"Code" shall mean the Internal Revenue Code of 1986, as amended from time to time, and the applicable regulations from time to time promulgated or proposed thereunder.

"Costs of Acquisition" shall mean with respect to the Project:

- (a) Obligations incurred for labor and material and to contractors, builders and materialmen in connection with the Project or any part thereof;

(b) The cost of acquiring rights, rights-of-way, easements or other interests in land as may be deemed necessary or convenient for the construction and operation of the Project;

(c) Taxes or other municipal or governmental charges lawfully levied or assessed against the Project or against any property acquired therefor, or payments required in lieu thereof, in each case during the period of construction, and premiums on insurance;

(d) Costs of installation of utility services or connections thereto or relocation thereof;

(e) Costs of fidelity and indemnity bonds;

(f) Costs of fixed and moveable equipment;

(g) Expenses incurred in enforcing any remedy against a contractor or subcontractor in respect of default;

(h) Costs of site acquisition, preparation and landscaping;

(i) Fees and expenses of architects, engineers, consultants, surveyors, and inspectors and costs of issuance of the Bonds.

(j) Any other costs directly incurred in the acquisition, purchase, construction, equipping, furnishing and completion of the Project.

"Government Securities" shall mean direct and general obligations of the United States of America or those which are unconditionally guaranteed as to principal and interest by the United States of America.

"Indenture" shall mean the Trust Indenture dated concurrently herewith, between Lessor and the Trustee governing the issuance of the Bonds.

"Original Purchaser" shall mean Kirkpatrick Pettis, Omaha, Nebraska, the underwriter of the 1996 Bonds.

"Outstanding" or "Bonds Outstanding" shall mean all Bonds which have been authenticated, issued and delivered under the Indenture except:

(a) Bonds cancelled because of payment;

(b) Bonds for the payment of which cash funds or Government Securities shall have been theretofore deposited with the Trustee, whether upon or prior to the maturity date of any of said Bonds; and

(c) Bonds in lieu of which others have been authenticated as provided under Article II of the Indenture.

"Project" shall mean the municipal golf course and related facilities and improvements which are to be acquired, purchased, constructed and installed on the Site with the proceeds of the 1996 Bonds.

"Project Manager" shall mean the person designated by the Mayor and City Council pursuant to Article IV of this Agreement.

"Redemption Fund" shall mean the Redemption Fund created and established by Section 5.7 of the Indenture.

"Site" shall mean the real estate described on Exhibit A hereto in which the Corporation will acquire an ownership or leasehold interest for completion of the Project.

"Trustee" shall mean Gering State Bank and Trust Co., Gering, Nebraska, and any corporate successor in trust under the Indenture.

"1996 Bonds" shall mean the \$2,800,000 in aggregate principal amount of Bonds, Series 1996, issued pursuant to the Indenture.

WHEREFORE, IN CONSIDERATION of the premises and the mutual covenants and agreements herein set forth, Lessor and Lessee do hereby covenant and agree as follows:

#### ARTICLE I

##### GRANTING OF LEASEHOLD

The Lessor does hereby lease the Site and the Project to be completed thereon to the Lessee for a term beginning May 1, 1996 and ending December 1, 2012 provided

(a) that, except as hereinafter provided, such term shall not end as long as any Bonds are Outstanding; and

(b) that at such times as all Bonds have been paid in full or provision made for such payment, this Agreement may be terminated at the option of the Lessee.

At such time as the principal of and interest on all Bonds have been paid in full or provision for the payment thereof made pursuant to Article VIII of the Indenture, the Site and the Project shall become the property of the Lessee and the Lessor shall assign all of its right, title and interest in and to the Project to Lessee.

Throughout the term of this Agreement the Project, as constructed on the Site, shall be and remain the property of the Lessor and shall not be considered part of the Site but rather the separate personal property of Lessor.

## ARTICLE II

### RENT

Section 2.1 Lessee shall pay to Lessor basic rent during the term hereof in the amounts and on or prior to the dates set forth in Exhibit B hereto attached and made a part hereof. It is the intention of Lessor and Lessee that the basic rent herein specified shall be net to Lessor in each year during the term of this Agreement, that all costs, expenses and obligations of every kind (except as otherwise specifically provided in this Agreement) which may arise or become due with respect to the Project during the term of this Agreement shall be paid by Lessee and that Lessor shall be indemnified by Lessee against all such costs, expenses and obligations. In addition to basic rent, Lessee agrees to pay as additional rent the items set forth in Section 2.2 hereof.

Section 2.2 Lessee shall pay as additional rent:

- (a) the fees and expenses of the Trustee under the Indenture, at least semiannually or annually as statements are rendered by said Trustee and furnished to Lessee;
- (b) all impositions (as defined in Article VI hereof), costs, expenses, liabilities, obligations and other payments of whatever nature which Lessee has agreed to pay or assume under the provisions of this Agreement;
- (c) any expenses incurred in making any audit of Lessor requested by Lessee; and
- (d) all taxes and fees required to be paid by Lessor to the State of Nebraska or any other government to keep the Lessor a corporation in good standing during the term of this Agreement.

If at any time any amount paid by Lessee to Lessor or the Trustee as additional rent is or becomes in excess of the amount required for the purpose for which it was paid, such excess amount shall be refunded to the Lessee.

Section 2.3 All payments of basic rent and additional rent shall be made by Lessee on or before the date the same shall become due, without notice or demand, and without abatement or setoff, irrespective of whether the Lessee shall have taken possession of any part of the Project, or of the right of temporary use of all or part thereof, change in Lessor's legal organization or status, or any loss or damage to the Project Facilities from any cause whatsoever, none of which shall relieve Lessee of the liability for payment of basic and additional rent as herein provided, except as condemnation proceeds may be applied on basic rent as herein specifically permitted.

Section 2.4 Payments of basic rent shall be made to Lessor by Lessee remitting the same directly to the Trustee, for the account of Lessor, and Lessor shall cause the Trustee to deposit all such payments in the trust account provided for in the Indenture and designated "Bond Fund," to be used and applied by the Trustee as provided in the Indenture. Payments of additional rent specified in Section 2.2 hereof shall be made to Lessor by Lessee remitting the same directly to the respective payees for the account of the Lessor.

Section 2.5 Lessee may at any time prepay all or any part of the basic rent provided for hereunder and cause Bonds to be redeemed prior to maturity thereof, in whole or in part as provided by Article III of the Indenture. Lessee may also prepay rent at any time by causing all or any part of the Bonds to be deemed paid under Article VIII of the Indenture. All payments of basic rent in excess of the amounts required to be paid pursuant to Sections 2.1 and 2.4 hereof shall be deposited in the Redemption Fund to be used and applied in accordance with the provisions of Section 5.7 of the Indenture. In such event, Lessee shall continue to pay Trustee's fees and the additional rent items as specified in Section 2.2 hereof until all Bonds are fully paid.

### ARTICLE III

#### ISSUANCE AND SALE OF BONDS

Section 3.1 Lessor shall issue and sell as soon as possible hereafter the 1996 Bonds in the principal amount of Two Million Eight Hundred Thousand Dollars (\$2,800,000) which shall be sold to the Original Purchaser for 98.25% of the principal amount thereof plus accrued interest to date of delivery and payment. The terms and conditions of the 1996 Bonds are specified in the Indenture and Lessee does hereby approve and consent to the issuance of the 1996 Bonds by Lessor as provided in said Indenture.

Section 3.2 Upon receipt of the proceeds of the sale of the 1996 Bonds, Lessor shall promptly pay such proceeds, including the full amount of accrued interest, if any, received upon such sale, to the Trustee to be held and applied for the payment of costs of the Project as provided in Article IV hereof.

Section 3.3 Lessor shall cause the Trustee to invest and reinvest the monies from time to time in the Bond Fund, the Redemption Fund and the Acquisition Fund in the manner and to the extent and with such application of the income therefrom as provided in the Indenture.

Section 3.4 Additional Bonds of Other Series may be issued by Lessor from time to time as provided in the Indenture.



## ARTICLE IV

### ACQUISITION OF PROJECT

Section 4.1 Lessor agrees to complete acquisition, purchase, construction, equipping and installation of the Project for Lessee on the Site in accordance with final plans and specifications to be approved by the Mayor and City Council of the Lessee, acting on behalf of the Lessor.

Lessor hereby appoints Lessee as its agent for purposes of acquisition, purchase, construction, equipping and installation of the Project. Lessee shall, upon completion of the final plans and specifications, proceed to take bids and award contracts.

Lessee hereby acknowledges that the Project may exceed in cost the amount of monies to be in the Acquisition Fund held by the Trustee, which fund contains and will contain monies only from the proceeds of sale of the 1996 Bonds issued by Lessor. Lessee currently anticipates that it will have on hand funds sufficient to make up any difference between the cost for completing the Project and the monies in the Acquisition Fund. Lessee agrees that it shall pay as additional rent from its own funds any amounts necessary to make up any difference between the total amount of such estimated cost and the monies in the Acquisition Fund. Such additional rent shall be paid in accordance with the provisions of Section 2.4 hereof.

Lessee agrees that any contractor for work on the Project shall provide performance and payment bonds and builders' risk insurance, all as specified in Article VI of the Indenture.

Lessee, acting as Lessor's agent, is hereby granted the right to make change orders in the work contemplated by any construction contract, but Lessor shall not be obligated to pay for any work, whether by change order or otherwise, in excess of the funds in the Acquisition Fund held by the Trustee.

An ownership interest in and to the Project, including any and all improvements and other property, shall vest in the Lessor as such property becomes a part of the Project, and the Lessor shall continue to have such interest therein until the Lessee has satisfied all of its obligations to the Lessor under this Agreement and the Project has been conveyed to the Lessee.

Upon completion of the Project, the Lessee shall furnish to the Lessor a complete description of all property, both real and personal, covered by this Agreement. The Lessee hereby confirms the Lessor's interest in such property regardless of whether such property may be initially purchased by the Lessee.

The Lessee agrees that no delay, failure or insufficiency, for any reason whatsoever (including, in particular, but without limitation, an insufficiency in the amount of Bond proceeds to pay the cost of the Project), in the acquisition, purchase, construction, improvement, equipping or operation of the Project or any part thereof,

shall entitle the Lessee to terminate this Agreement or operate in any way to suspend, abate or reduce the rental payments due or to become due under the terms of Article II of this Agreement.

Section 4.2 Lessor and Lessee agree that all Costs of Acquisition shall be paid out of the Acquisition Fund. Disbursement requisitions to any contractor for construction of the Project or to any provider of equipment and furnishings, including the final requisition, shall be approved by the Mayor and City Council of Lessee and such requisitions and evidence of approval thereof shall be submitted to the Trustee for payment as provided in Article VI of the Indenture. Disbursement requisitions for Costs of Acquisition shall be executed by the Project Manager of Lessee, as designated from time to time by resolution of the Mayor and City Council of Lessee, and shall be accompanied by an architect's certificate if the requisition is for a payment due to any contractor. Requisitions for bond issuance expenses and liability insurance premiums shall be signed by the Project Manager and the President of the Corporation.

Section 4.3 Upon completion of the Project and acceptance thereof by Lessee, the fact of such completion and acceptance shall be evidenced by a Certificate of Completion signed by the Mayor and City Council of Lessee. Upon such completion and acceptance, any amount remaining in the Acquisition Fund, after payment of all costs of completion of the Project, shall be transferred to the Bond Fund and applied as provided in the Indenture.

Section 4.4 Any dispute with any contractor concerning the construction of the Project or interpretation of any contract shall be adjusted and settled by Lessee and Lessee shall be liable and make payment to said contractor and all other persons for any judgment, claim or liability in connection with the Project in excess of the monies in the Acquisition Fund held by the Trustee.

## ARTICLE V

### COVENANTS OF LESSEE

Section 5.1 Lessee covenants that it is a duly existing city of the State of Nebraska with full and lawful power and authority to enter into this Agreement pursuant to Section 19-2421, Reissue Revised Statutes of Nebraska, 1943, as amended, and that it has taken all actions necessary to validly enter into this Agreement.

Section 5.2 Lessee represents, covenants and warrants that the rentals payable under this Agreement constitute full faith and credit general obligations of Lessee, do not exceed any limitation imposed by law, and that such rentals are not such as may reasonably be expected to require Lessee to levy taxes in excess of its legal mill levy limit.

Section 5.3 Until the Bonds and interest are fully paid or payment provided for by the Trustee being furnished with funds to pay all Bonds and interest thereon to the date they shall become due, Lessee covenants and agrees to make and continue to make

for so long as permitted by law an annual levy on all the taxable property of the City, except intangible property, which will be sufficient along with any other funds of Lessee available for the purpose to enable Lessee to pay all basic and additional rent as and when the same become due. Lessee shall continue to be responsible to raise funds to pay and to take all actions required to provide funds to make rental payments as herein required from any power and source lawfully available to it.

Section 5.4 Lessee covenants and agrees that throughout the term of this Agreement it will observe all budget and spending limitations now or hereafter imposed by law in such a manner that a sufficient portion of its tax levy or other monies shall be lawfully available to pay all rentals due under this Agreement.

## ARTICLE VI

### IMPOSITIONS

Lessee shall pay all taxes and assessments, general and special, on the Project, or any part thereof, which become due or payable or are assessed during the term of this Agreement, and all water and sewer charges, assessments and other governmental charges and impositions whatsoever, foreseen and unforeseen (all of which are herein called "Impositions"). Lessor shall promptly forward to Lessee any notice, bill or other advice received by Lessor concerning any Imposition.

## ARTICLE VII

### REPAIR, MAINTENANCE AND ALTERATIONS

Section 7.1 Lessee shall keep the Project and all parts thereof in good and tenantable condition and repair during the term of this Agreement.

Section 7.2 Lessee agrees to pay for and indemnify and save Lessor harmless against any and all costs, expenses, liabilities or damages relating to all gas, electric light and power, water, sewer and other utility charges for the operation, maintenance, use and upkeep of the Project, and shall obtain all required permits and licenses.

Section 7.3 Lessee shall have the right, at its own expense, to make additions, alterations and changes in or to the Project and to construct any improvements on the leased premises. All alterations, additions and improvements shall be deemed a part of the Project subject to this Agreement and, upon termination of this Agreement, shall be surrendered to Lessor, subject to the provisions of Article XIX hereof concerning conveyance to Lessee.

Section 7.4 It is the intention of the parties that Lessor shall have no obligation for any cost in connection with the Project beyond the monies in the Acquisition Fund as described in Article IV hereof and that the basic rentals shall be net to Lessor, and this Agreement shall be construed accordingly.

## ARTICLE VIII

### INSURANCE

Section 8.1 Throughout the term of this Agreement, Lessee shall, at Lessee's expense, keep the Project insured against loss or damage by fire and extended coverage perils in an amount not less than the full insurable value thereof and in any event not less than the sum of the amount of Bonds issued by Lessor which are Outstanding, with such insurance to be under policies issued by responsible insurers authorized to do business in the State of Nebraska; provided, however, that such insurance policy or policies may provide that no payment shall be made thereon for any claims thereunder of less than \$5,000. Such insurance policies shall name Lessor and Lessee as insureds as their respective interests may appear, but so long as the Lessee is not in default hereunder, any loss shall be adjusted by and paid to the Lessee. During the construction of the Project, the insurance required by this Section 8.1 may be in the form of "Builder's Risk Insurance" meeting the requirements of this Section 8.1.

Section 8.2 Upon occurrence of any damage covered by the insurance required by Section 8.1 hereof, the proceeds of such insurance shall be used to repair, replace or reconstruct the Project as may be directed by Lessee. Lessee agrees that if the available proceeds are insufficient to fully restore the Project to the condition existing prior to the loss, such insufficiency shall not constitute any default of Lessor and Lessor shall have no responsibility to provide funds for such purpose beyond the funds available from such insurance, and further provided that such insufficiency shall not relieve Lessee of the responsibility for payment of all basic rent and additional rent as provided hereunder, unless Lessee shall elect to provide to the Trustee funds sufficient to redeem all Bonds then Outstanding in accordance with the Indenture.

Section 8.3 At or prior to the commencement of any use and occupancy of the Project, Lessee shall obtain at Lessee's expense, a comprehensive insurance policy or policies no more restrictive than the standard form, in protection of the Lessor and the Lessee and their officers, executives, agents, servants and employees, insuring said parties against all direct or contingent loss or liability for damage for personal injury or death or damage to property, including loss of use thereof, occurring on or in any way related to the Project or any part thereof, or occasioned by reason of the occupancy by and the operations of the Lessee upon, in and around the Project or any part thereof, with insurance of \$1,000,000 combined single limit, each occurrence, for personal injury or death or damage to property (or such greater amounts as may be determined by the Lessor and the Lessee). Such policies shall cover the entire Project including elevators, boilers and escalators therein, and any sidewalks, streets or other public ways adjoining the Project.

Section 8.4 Lessee hereby agrees to provide such evidence of the insurance required by Section 8.1 hereof as may be requested by Lessor or the Trustee.

## ARTICLE IX

### INSPECTION OF PROJECT BY LESSOR

Lessee shall permit Lessor to inspect the Project during usual business hours for purposes of inspections which may be reasonably necessary for the protection of the Lessor's interest. Lessee shall permit Lessor or its authorized representative to enter the Project at any time for the performance of any work therein made necessary by reason of Lessee's default under any of the provisions of this Agreement.

Lessor may, during the progress of construction of the Project and any other work which it is authorized to perform on the Project, keep and store in the Project or on the Site all necessary materials, supplies and equipment, and shall not be liable for inconvenience, annoyance, disturbance, loss of business, or other damage to Lessee suffered by reason of the performance of such work or the storage of materials, supplies and equipment.

## ARTICLE X

### USE OF PREMISES

Lessor and Lessee agree that Lessee may use the Project for any purpose permitted by law as may be desired by Lessee. Lessee shall, during the term of this Agreement, promptly comply with all valid statutes, laws, ordinances, orders, judgments, decrees, regulations, directions, and requirements of all federal, state, local, and other government or governmental authorities, now or hereafter applicable to the Project or to any adjoining public ways, as to the manner of use or the condition of the Project or of adjoining public ways.

Lessee covenants that the Project which is subject to this Agreement is for the exclusive use of Lessee.

## ARTICLE XI

### INDEMNIFICATION BY LESSEE

Lessee shall indemnify and save Lessor and the Trustee harmless, against and from all claims by or on behalf of any person, firm, or corporation, including Lessee itself, arising from Lessor's acquisition and ownership of the Project or the issuance of Bonds to acquire the Project, including but not limited to:

- (a) any condition of the Project;
- (b) any breach or default on the part of Lessee in the performance of any of its obligations under this Agreement, including specifically, but without limitation, its obligations specified in Section 20.5 hereof;

(c) any act or negligence of Lessee or of its officers, agents, contractors, servants, employees, or licensees;

(d) any accident, injury, or death of any person or damage to any property occurring in or about the Project;

(e) the failure of the Lessee to comply with any requirement of any governmental authority;

(f) any mechanic's lien or security agreement filed against the Project or any part thereof; or

(g) the Lessor's or Trustee's performance, or the failure of the Lessor or Trustee to perform, any obligation to be performed hereunder or under the Indenture.

Lessee shall indemnify and save Lessor and the Trustee harmless from and against all costs and expenses incurred in or in connection with any such claim arising as aforesaid; or in connection with any action or proceeding brought thereon, and upon notice from Lessor or the Trustee, Lessee shall defend them or either of them in any such action or proceeding.

In addition to the foregoing and notwithstanding anything contained in this Agreement or in the Indenture which might be construed to the contrary, Lessee covenants and agrees to indemnify and save Lessor and the Trustee harmless, to the extent permitted by law, with respect to any pecuniary liability to which Lessor or the Trustee might become subject as a consequence of the performance by the Lessor, the Lessee or the Trustee of any act in compliance with the terms and provisions of this Agreement or of the Indenture.

## ARTICLE XII

### LESSOR'S PERFORMANCE OF LESSEE'S OBLIGATIONS

If Lessee shall fail to keep or perform any of its obligations as provided for in this Agreement, then Lessor may (but shall not be obligated to do so) upon the continuance of such failure on Lessee's part for thirty (30) days after written notice to Lessee, and without waiving or releasing Lessee from any obligation, as an additional but not exclusive remedy, make any payment or perform any obligation, and all sums paid by Lessor in performing such obligation shall be deemed additional rent and shall be paid to Lessor on demand or, at the option of Lessor, may be added to any installment of basic rent thereafter falling due, and if not so paid by Lessee, Lessor shall have the same rights and remedies as in the case of default by Lessee in the payment of basic rent.

## ARTICLE XIII

### DAMAGE OR DESTRUCTION

Section 13.1 If the Project shall be damaged from any cause whatsoever, Lessee shall, at Lessee's expense, promptly and with reasonable diligence proceed to repair, replace or reconstruct the Project to the extent required so that, in the judgment of the Lessee, the Project shall be suitable for use for its purpose as required by Lessee. Insurance money may be used for such repair, replacement or reconstruction as provided in Article VIII hereof, or for the redemption of Bonds as provided by Section 3.3 of the Indenture.

Section 13.2 No damage to or destruction of the Project or any part thereof from any cause whatsoever shall reduce or affect Lessee's obligation to pay basic and additional rental as provided in this Agreement, unless the Lessee shall provide to the Trustee funds sufficient to redeem all Bonds then Outstanding in accordance with the Indenture.

## ARTICLE XIV

### CONDEMNATION

Section 14.1 If during the term hereof, the title to, or the right to temporary use of, any part of the Project shall be taken by the exercise of the right of eminent domain and if in the opinion of Lessee, the utilization of the Project by Lessee is not impaired by such taking, neither the terms nor any of the obligations of either party under this Agreement shall be reduced or affected in any way and the net award or payment for such taking shall be paid to Lessee and neither Lessor nor Trustee shall have any claim to such award or payment, unless the Lessee shall elect to have all Bonds redeemed as provided by the Indenture.

Section 14.2 If during the term of this Agreement, the title to, or the right to temporary use of, sufficient of the Project shall be taken by eminent domain that in the opinion of Lessee the use of the Project for Lessee's purposes shall be impaired, the net award or payment from such eminent domain taking may be applied in either of the following ways, at Lessee's option:

(a) The net award or payment may be paid to the Trustee and held by it in the Redemption Fund and in such case the amount so held in the Redemption Fund shall be considered as an advance payment by Lessee on the basic rent payable under this Agreement, or

(b) The net award or payment may be applied as directed by Lessee toward the acquisition of additional or replacement facilities to replace or supplement the portions of the Project so taken.

In any event, the taking of all or any portion of the Project by the right of eminent domain by any governmental body shall not affect or reduce Lessee's obligation to make payments of basic and additional rent as provided in this Agreement, unless the Lessee shall elect to have all Bonds redeemed as provided by the Indenture.

#### ARTICLE XV

##### ASSIGNMENTS AND SUBLEASES

Lessee may not assign its rights under this Agreement or sublet the Project or any part thereof during the term of this Agreement unless Lessee has received the written consent of the Trustee to such assignment or subletting, which consent of the Trustee shall be based upon an opinion of recognized bond counsel that the assignment or subletting proposed will not cause the interest on the Bonds to be included in the gross income of the recipient thereof for federal income tax purposes.

#### ARTICLE XVI

##### DEFAULT PROVISIONS

This Agreement is made on condition that if:

(a) Lessee defaults in the due and punctual payment of basic rent or additional rent and such default continues for a period of five (5) days after Lessee's receipt of notice of such nonpayment from Lessor or the Trustee; or

(b) Lessee defaults in the keeping or performance of any other covenant or obligation herein contained on Lessee's part to be kept or performed, and Lessee fails to remedy the same within thirty (30) days after Lessor or the Trustee has given Lessee written notice specifying such default (or within such additional period, if any, as may be reasonably required to cure such default if it is of such nature that it cannot be cured within said thirty (30) day period because of any cause beyond the control of the Lessee),

then Lessor may, at Lessor's election (but until the Bonds and interest thereon are fully paid, only with the written consent of the Trustee) then or at any time thereafter while such event of default shall continue, give Lessee written notice of intention to terminate this Agreement and the term herein provided for on a date specified therein, which date shall not be earlier than thirty (30) days after such notice is given, and if all defaults have not been cured on the date so specified, then Lessee's rights to possession of the Project shall cease and the term and this Agreement shall thereupon be terminated, and Lessor may re-enter and take possession of the Project as of Lessor's former estate; or, as an alternative remedy, Lessor may, without terminating the term of this Agreement, re-enter as above provided or take possession pursuant to legal proceeding or pursuant to any notice provided for by law and thereafter shall use reasonable diligence to relet the Project, or part thereof, for such term or terms, and at such reasonable rental or rentals and upon such other terms and conditions as Lessor may deem advisable, with



the right to make alterations and repairs to the Project; and no such re-entry or taking of possession of the Project by Lessor shall be construed as an election on Lessor's part to terminate this Agreement unless the termination thereof be decreed by a court of competent jurisdiction, and no such repossession by Lessor shall relieve Lessee of its obligation to pay basic rent and additional rent or of any of its other obligations under this Agreement, all of which shall survive such repossession, and Lessee shall continue to pay the basic rent and all additional rent provided for in this Agreement until the end of the term and whether or not the Project shall have been relet, less the net proceeds, if any, of any reletting of the Project after deduction of all of Lessor's expenses in or in connection with such reletting, including without limitation all repossession costs, brokerage commissions, legal expenses, attorney's fees, expenses of employees, alteration costs, and expenses of preparation for reletting. Having elected to re-enter or take possession of the Project without terminating this Agreement or the term herein provided for, Lessor may (but until the Bonds and interest thereon are fully paid, only with the written consent of the Trustee), by notice to Lessee given at any time thereafter while Lessee is in default in the payment of basic rent or additional rent or in the performance of any other obligation under this Agreement; elect to terminate this Agreement and the term then in effect on a date to be specified in such notice, which date shall be not earlier than ten (10) days after the giving of such notice, and if all defaults of Lessee shall not have been cured, on the date so specified, then the term and this Agreement shall thereupon be terminated.

If, in accordance with any of the foregoing provisions of this Article, Lessor shall have the right to elect to re-enter and take possession of the Project, Lessor may enter and expel Lessee and those claiming through or under Lessee and remove the property and effects of both or either (forcibly if necessary) without being deemed guilty of any manner of trespass and without prejudice to any remedies for arrears of rent or preceding breach of covenant.

## ARTICLE XVII

### REMEDIES TO BE CUMULATIVE (No Implied Waiver)

Lessor, Lessee and the Trustee shall each be entitled to specific performance and injunctive or other equitable relief for any breach or threatened breach of any of the provisions of this Agreement, notwithstanding the availability of an adequate remedy at law, and each party hereby waives the right to raise such defense in any proceeding in equity. The specific remedies provided for in this Agreement are cumulative and not exclusive of any other remedy. The failure of either party to insist in any one or more cases upon strict performance shall not be construed as a waiver or relinquishment for the future. No acceptance of rent with knowledge of any default shall be deemed a waiver of such default.

## ARTICLE XVIII

### NOTICE OF ASSIGNMENT-AMENDMENTS-REMEDIES OF TRUSTEE

Lessee accepts notice that this Agreement has been pledged and assigned to the Trustee and that the basic rent and additional rent payable to Lessor under this Agreement have been assigned to the Trustee to provide for payment for the Bonds issued by Lessor; and Lessee consents and agrees for the benefit of the Trustee and the owners of said Bonds, that until payment of all of the Bonds and interest thereon or until funds sufficient for such payment have been duly provided, this Agreement may not be effectively amended, changed, or modified except as permitted by the Indenture, and that the Trustee has and may exercise all rights and remedies of Lessor provided for in this Agreement, either in its own name or in the name of Lessor.

## ARTICLE XIX

### CONVEYANCE TO LESSEE

On the termination of this Agreement, if the Lessee has paid all the rentals due to Lessor under the terms of this Agreement, Lessor will convey and transfer the Project to Lessee by good and sufficient instrument of conveyance free and clear of all liens and encumbrances, except any encumbrances caused by default of Lessee thereunder, and such conveyance and assignment shall be made without payment by Lessee of any additional rental or other consideration therefor. In the event that the Bonds issued by Lessor, the interest due and to become due thereon to date of payment of the Bonds, and all other obligations of the Lessor, other than obligations to the Lessee, are fully paid or payment provided for (as herein and in the Indenture permitted) prior to the expiration of the term of this Agreement, by virtue of prepayment of basic rent or otherwise, this Agreement will thereupon be terminated, and the Project transferred to the Lessee in the same manner and on the same conditions as above provided upon termination of this Agreement. Lessor further agrees that after Lessee has acquired title to the Project, as above provided, Lessor will donate to the Lessee all assets derived from or relating to the Project possessed by Lessor after paying all of its obligations.

## ARTICLE XX

### MISCELLANEOUS

Section 20.1 Lessor agrees that it will not incur any debt other than the 1996 Bonds without the consent of the Mayor and City Council of Lessee. Lessor further agrees that it will not pay any salaries or compensation to its officers or directors for their service as such, but Lessor may incur obligations for audit, legal, officers and directors liability insurance, and governmental fees and other incidental expenses.

Section 20.2 If any provision of this Agreement shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case, for any reason, such circumstances shall not have the effect of rendering the provision in

question inoperative and unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained, invalid, inoperative or unenforceable to any extent whatever. The invalidity of any one or more phrases, sentences, clauses or paragraphs in this Agreement contained shall not affect the remaining portions of this Agreement or any part thereof.

Section 20.3 The Lessor and the Lessee jointly and severally certify and covenant to each other and to and for the benefit of the purchasers and owners of the Bonds that so long as any of the Bonds remain Outstanding, monies on deposit in any fund or account held by the Trustee in connection with the Bonds, whether or not such monies were derived from the proceeds of the sale of the Bonds or from any other sources, will not be used in a manner which will cause the Bonds to be classified as "arbitrage bonds" within the meaning of Code Section 148(a).

Section 20.4 The Lessor and Lessee hereby mutually covenant and agree that:

(1) Both the Lessor and Lessee reasonably anticipate that the amount of "qualified tax-exempt obligations," as such term is defined in Section 265(b)(3)(B) of the Code, which will be issued by either Lessor or Lessee, together with all subordinate entities, if any, during the calendar year 1996, including the 1996 Bonds, will not exceed \$10,000,000;

(2) Not more than \$10,000,000 of obligations issued by both Lessor and Lessee during calendar year 1996, including the 1996 Bonds, have been or will be designated by either Lessor or Lessee as "qualified tax-exempt obligations," with all subordinate entities of Lessor and Lessee, if any, taken into account for this purpose;

(3) The 1996 Bonds are not "private activity bonds" as such term is defined in Section 141(a) of the Code.

(4) The Lessor shall, in the Indenture, designate the 1996 Bonds as "qualified tax-exempt obligations" pursuant to Section 265(b)(3)(B)(i) of the Code.

Section 20.5 Except as otherwise specifically provided herein, any notice request, consent, complaint, demand, communication or other papers, shall be sufficiently given and shall be deemed given when delivered or mailed by registered or certified mail, postage prepaid, or sent by telegram, telecopy or telex or other similar communication, or when given by telephone, confirmed in writing, sent by any of the above methods on the same day, addressed to the same parties as follows:

Lessee: City of Gering, Nebraska  
1025 P Street  
Gering, Nebraska 69341  
Attention: Mayor

Lessor: City of Gering Leasing Corporation  
1025 P Street  
Gering, Nebraska 69341  
Attention: President

Trustee: Gering State Bank and Trust Co.  
1425 10th Street  
Gering, Nebraska 69341-2816  
Attn: Sharon Koch

The above parties may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 20.6 In any case where the date of payment of any rent or additional rent shall be a Saturday or Sunday or a legal holiday in the city of payment or a date on which banking institutions are authorized by law to close in the city of payment, then payment of such rent shall be made on the succeeding business day with the same force and effect as if made on the date specified herein.

Section 20.7 This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 20.8 This Agreement shall be governed by and construed in accordance with the laws of the State of Nebraska.

IN WITNESS WHEREOF, CITY OF GERING LEASING CORPORATION, as Lessor, has caused this Agreement to be signed in its name and behalf by its President and Secretary and its corporate seal affixed, and the CITY OF GERING, NEBRASKA, as Lessee, has caused this Agreement to be signed in its name and behalf by the Mayor and City Clerk, this Agreement to be effective as of May 1, 1996, regardless of the actual date of execution.



CITY OF GERING LEASING CORPORATION

BY: Douglas C. Lutz  
President

Jean Bauer  
Secretary



(SEAL)

ATTEST:

CITY OF GERING, NEBRASKA

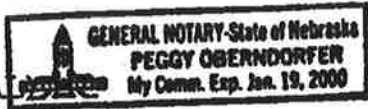
BY: Douglas C. Leafgreen  
Mayor

Pamela K. Richter  
City Clerk

STATE OF NEBRASKA )  
 ) ss  
COUNTY OF SCOTTS BLUFF )

I, the undersigned, Notary Public in and for said County in said State, do hereby certify that Douglas C. Leafgreen and Jean Bauer, whose names as President and Secretary, respectively, of City of Gering Leasing Corporation, are signed to the foregoing Lease Purchase Agreement and who are known to me to be such officers, acknowledged before me on this day that the execution of said Lease Purchase Agreement was their voluntary act and deed as such officers.

WITNESS my hand and seal this 1st day of May, 1996.



(SEAL)

Peggy Oberndorfer  
Notary Public

STATE OF NEBRASKA )  
 ) ss  
COUNTY OF SCOTTS BLUFF )

I, the undersigned, Notary Public, in and for said County in said State, do hereby certify that Douglas C. Leafgreen and Pamela K. Richter, whose names as Mayor and City Clerk, respectively, of the City of Gering, Nebraska, are signed to the foregoing Lease Purchase Agreement and who are each known to me to be such officers, acknowledged before me on this day that the execution of said Lease Purchase Agreement was their voluntary act and deed as such officers.

WITNESS my hand and seal this 1st day of May, 1996.



(SEAL)

Peggy Oberndorfer  
Notary Public

**EXHIBIT A  
TO  
LEASE PURCHASE AGREEMENT, DATED MAY 1, 1996  
CITY OF GERING LEASING CORPORATION  
as Lessor  
and  
CITY OF GERING, NEBRASKA  
as Lessee**

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**LEGAL DESCRIPTION OF SITE**

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**Block "A", Nelson Subdivision in Scotts Bluff County, Nebraska.**

**EXHIBIT B  
TO  
LEASE PURCHASE AGREEMENT, DATED MAY 1, 1996  
CITY OF GERING LEASING CORPORATION  
as Lessor  
and  
CITY OF GERING, NEBRASKA  
as Lessee**

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**SCHEDULE OF BASIC RENT  
PAYABLE BY CITY OF GERING**

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<u>Date</u>	<u>Amount</u>
12/15/96	\$ 93,230.67
06/15/97	74,917.50
12/15/97	129,917.50
06/15/98	73,817.50
12/15/98	128,817.50
06/15/99	72,662.50
12/15/99	132,662.50
06/15/00	71,342.50
12/15/00	131,342.50
06/15/01	69,977.50
12/15/01	134,977.50
06/15/02	68,450.00
12/15/02	138,450.00
06/15/03	66,770.00
12/15/03	131,770.00
06/15/04	65,177.50
12/15/04	135,177.50
06/15/05	63,427.50
12/15/05	138,427.50
06/15/06	61,515.00
12/15/06	201,515.00
06/15/07	57,875.00
12/15/07	247,875.00
06/15/08	52,840.00
12/15/08	382,840.00
06/15/09	43,930.00
12/15/09	508,930.00
06/15/10	31,142.50
12/15/10	526,142.50
06/15/11	17,282.50
12/15/11	542,282.50
06/15/12	2,320.00
12/15/12	82,320.00





### **WARRANTY DEED**

City of Gering Leasing Corporation, GRANTOR, in consideration of TEN DOLLARS (\$10.00) and other good and valuable consideration received from GRANTEE, The City of Gering, a Municipal Corporation organized and existing under the laws of Nebraska, conveys to GRANTEE the following described real estate (as defined in Neb. Rev. Stat. Sec. 76-201):

**Block A, Nelson Subdivision, City of Gering, Scotts Bluff County, Nebraska as platted and recorded in deed book 208, pages 332-333 of the Scotts Bluff County, Nebraska deed records.**

**EXCEPT:**

**Clubhouse Estates, City of Gering, Scotts Bluff County, Nebraska as Platted and Recorded in Deed Book 210, Pages 371-372 of the Scotts Bluff County, Nebraska Deed Records.**

**AND**

**Lot 11A, Block 2, Clubhouse Estates, City of Gering, Scotts Bluff County, Nebraska as Platted and Recorded in Instrument Number 2011-197 of the Scotts Bluff County, Nebraska Deed Records.**

**AND**

**Lots 1 Through 4, Monument Shadows - CCR Subdivision to The City of Gering, Scotts Bluff County, Nebraska as Platted and Recorded in Instrument Number 2003-11140 of the Scotts Bluff County, Nebraska Deed Records.**

**AND**

**Lots 5 and 6, Monument Shadows - CCR Subdivision to The City of Gering, Scotts Bluff County, Nebraska as Platted and Recorded in Instrument Number 2004-8670 of the Scotts Bluff County, Nebraska Deed Records.**

**AND**

**The Preserve, City of Gering, Scotts Bluff County, Nebraska as Platted and Recorded in Instrument Number 2005-3447 of the Scotts Bluff County, Nebraska Deed Records.**

**AND**

**Monument Shadows Subdivision Phase III, City of Gering, Scotts Bluff County, Nebraska as Platted and Recorded in Instrument Number 2001-04793 of the Scotts Bluff County, Nebraska Deed Records.**

**Subject to all, if any, valid easements, rights of way, covenants, conditions, reservations, and restrictions of record.**

GRANTOR covenant with GRANTEE that GRANTOR:

- 1) are lawfully seized of such real estate and that it is free from encumbrances;
- 2) have legal power and lawful authority to convey the same;
- 3) warrant and will defend title to the real estate against the lawful claims of all persons.

EXECUTED on this \_\_\_\_ day of December, 2024.

\_\_\_\_\_  
Kent Ewing, President  
City of Gering Leasing Corporation

STATE OF NEBRASKA                    )  
  )ss.  
COUNTY OF SCOTTS BLUFF         )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of December, 2024, by Kent Ewing as President of City of Gering Leasing Corporation, known to me personally or who has produced satisfactory evidence of identification to me.

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