

GILMORE & BELL, P.C.
DRAFT 3 – OCTOBER 3, 2018
FOR DISCUSSION PURPOSES ONLY

CONTINUING DISCLOSURE AGREEMENT

Dated as of November 1, 2018

Between

FRANKLIN COUNTY, MISSOURI

And

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.,
as Dissemination Agent

\$10,000,000
Certificates of Participation
(Franklin County, Missouri, Lessee)
Series 2018

CONTINUING DISCLOSURE AGREEMENT

This **CONTINUING DISCLOSURE AGREEMENT** dated as of November 1, 2018 (the “**Continuing Disclosure Agreement**”), is executed and delivered by **FRANKLIN COUNTY, MISSOURI** (the “**Issuer**”) and **THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.**, as dissemination agent (the “**Dissemination Agent**”).

RECITALS

1. This Continuing Disclosure Agreement is executed and delivered in connection with the execution and delivery of **\$10,000,000 Certificates of Participation (Franklin County, Missouri, Lessee), Series 2018** (the “**Certificates**”), pursuant to Order No. ___ adopted by the governing body of the Issuer on November 6, 2018 (the “**Order**”).

2. The Issuer and the Dissemination Agent are entering into this Continuing Disclosure Agreement for the benefit of the Beneficial Owners of the Certificates and to assist the Participating Underwriter in complying with Rule 15c2-12 of the Securities and Exchange Commission (the “**Rule**”). The Issuer is the only “**obligated person**” (as defined by the Rule) with responsibility for continuing disclosure hereunder.

In consideration of the mutual covenants and agreements herein, the Issuer and the Dissemination Agent covenant and agree as follows:

Section 1. Definitions. In addition to the definitions set forth in the Order, which apply to any capitalized term used herein unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

“**Annual Report**” means any Annual Report provided by the Issuer pursuant to, and as described in, **Section 2** hereof.

“**Beneficial Owner**” means any registered owner of any Certificates and any person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Certificates (including persons holding Certificates through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Certificates for federal income tax purposes.

“**Business Day**” means a day other than (a) a Saturday, Sunday or legal holiday, (b) a day on which banks located in any city in which the principal corporate trust office or designated payment office of the Trustee or the Dissemination Agent is located are required or authorized by law to remain closed, or (c) a day on which the Securities Depository or the New York Stock Exchange is closed.

“**Dissemination Agent**” means The Bank of New York Mellon Trust Company, N.A., acting in its capacity as Dissemination Agent hereunder, or any successor Dissemination Agent designated in writing by the Issuer.

“**EMMA**” means the Electronic Municipal Market Access system for municipal securities disclosures established and maintained by the MSRB, which can be accessed at www.emma.msrb.org.

“**Issuer**” means Franklin County, Missouri, a political subdivision of the State of Missouri, and its successors and assigns.

“**Material Events**” means any of the events listed in **Section 3(a)** hereof.

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

“**Participating Underwriter**” means the original purchaser of the Certificates required to comply with the Rule in connection with offering of the Certificates.

“**Rule**” means Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

Section 2. Provision of Annual Reports.

- (a) The Issuer shall, or shall cause the Dissemination Agent to, not later than **180** days after the end of the Issuer’s fiscal year, commencing with the fiscal year ending December 31, 2018, file with the MSRB, through EMMA, the following financial information and operating data (the “**Annual Report**”):
- (1) The audited financial statements of the Issuer for the prior fiscal year, prepared in accordance with generally accepted accounting principles generally accepted in the United States. If audited financial statements are not available by the time the Annual Report is required to be filed pursuant to this Section, the Annual Report shall contain unaudited financial statements in a format similar to the financial statements contained in the final Official Statement relating to the Certificates, and the audited financial statements shall be filed in the same manner as the Annual Report promptly after they become available.
 - (2) Updates as of the end of the fiscal year of certain financial information and operating data contained in the final Official Statement, as described in **Exhibit B** hereto, in substantially the same format contained in the final Official Statement.

Any or all of the items listed above may be included by specific reference to other documents, including official statements of debt issues with respect to which the Issuer is an “**obligated person**” (as defined by the Rule), which have been filed with the MSRB and are available through EMMA or the Securities and Exchange Commission. If the document included by reference is a final official statement, it must be available from the MSRB on EMMA. The Issuer shall clearly identify each such other document so included by reference.

In each case, the Annual Report may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in this Section; provided that the audited financial statements of the Issuer may be submitted separately from the balance of the Annual Report and later than the date required above for the filing of the Annual Report if they are not available by that date. If the Issuer’s fiscal year changes, it shall give notice of such change in the same manner as for a Material Event under **Section 3** hereof.

- (b) Not later than **10** days before the date specified in subsection (a) for providing the Annual Report to the MSRB, the Issuer shall either (1) provide the Annual Report to the Dissemination Agent, with written instructions to file the Annual Report as specified in subsection (a), or (2) provide written notice to the Dissemination Agent that the Issuer (or another entity on behalf of the Issuer) has filed the Annual Report with the MSRB (or will do so before the deadline specified in subsection (a)).
- (c) If the Dissemination Agent has not received either an Annual Report with filing instructions or a written notice from the Issuer that it has filed an Annual Report with the MSRB by the date required in subsection (a), the Dissemination Agent shall send a notice to the MSRB in substantially the form attached as **Exhibit A** hereto.
- (d) The Dissemination Agent shall, (1) notify the Issuer each year, not later than **90** days and again not later than **30** days prior to the date for providing the Annual Report to the MSRB, of the date on which its Annual Report must be provided to the Dissemination Agent or the MSRB, and of the required content of the Annual Report, in substantially the form attached hereto as **Exhibit B**, and (2) unless the Issuer has filed the Annual Report with the MSRB, promptly following receipt of the Annual Report and instructions required in subsection (b) above, file the Annual Report with the MSRB and file a report with the Issuer and, if the Dissemination Agent is not the Trustee, the Trustee certifying that the Annual Report has been filed pursuant to this Continuing Disclosure Agreement, stating the date it was filed with the MSRB.
- (e) In addition to the foregoing requirements of this Section, the Issuer agrees to provide copies of the most recent Annual Report to any requesting Beneficial Owner or prospective Beneficial Owner, but only after the same has been delivered to the MSRB.

Section 3. Reporting of Material Events.

- (a) Not later than **10** Business Days after the occurrence of any of the following events, the Issuer shall give, or cause to be given to the MSRB, through EMMA, notice of the occurrence of any of the following events with respect to the Certificates (“**Material Events**”):
 - (1) principal and interest payment delinquencies;
 - (2) non-payment related defaults, if material;
 - (3) unscheduled draws on debt service reserves reflecting financial difficulties;
 - (4) unscheduled draws on credit enhancements reflecting financial difficulties;
 - (5) substitution of credit or liquidity providers, or their failure to perform;
 - (6) adverse tax opinions; the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Certificates, or other material events affecting the tax status of the Certificates;
 - (7) modifications to rights of certificateholders, if material;
 - (8) Certificate calls, if material, and tender offers;
 - (9) defeasances;
 - (10) release, substitution or sale of property securing repayment of the Certificates, if material;

- (11) rating changes;
 - (12) bankruptcy, insolvency, receivership or similar event of the Issuer;
 - (13) the consummation of a merger, consolidation, or acquisition involving the Issuer or the sale of all or substantially all of the assets of the Issuer, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
 - (14) appointment of a successor or additional trustee or the change of name of the trustee, if material.
- (b) The Dissemination Agent shall, promptly after obtaining actual knowledge of the occurrence of any event that it believes may constitute a Material Event, contact the Presiding Commissioner of the Issuer or his or her designee, or such other person as the Issuer shall designate in writing to the Dissemination Agent from time to time, inform such person of the event, and request that the Issuer promptly notify the Dissemination Agent in writing whether or not to report the event pursuant to subsection (d). If in response to a request under this subsection (b), the Issuer determines that the event does not constitute a Material Event, the Issuer shall so notify the Dissemination Agent in writing and instruct the Dissemination Agent whether or not to report the occurrence pursuant to subsection (d).
- (c) Whenever the Issuer obtains knowledge of the occurrence of a Material Event, because of a notice from the Dissemination Agent pursuant to subsection (b) or otherwise, the Issuer shall promptly notify and instruct the Dissemination Agent in writing to report the occurrence pursuant to subsection (d).
- (d) If the Dissemination Agent receives written instructions from the Issuer to report the occurrence of a Material Event, the Dissemination Agent shall promptly file a notice of such occurrence with the MSRB, through EMMA, with a copy to the Issuer. Notwithstanding the foregoing, notice of Material Events described in subsections (a)(8) and (9) need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to the registered owners of affected Certificates pursuant to the Order.

Section 4. Termination of Reporting Obligation. The Issuer's obligations under this Continuing Disclosure Agreement shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Certificates. If the Issuer's obligations under this Continuing Disclosure Agreement are assumed in full by some other entity, such person shall be responsible for compliance with this Continuing Disclosure Agreement in the same manner as if it were the Issuer, and the Issuer shall have no further responsibility hereunder. If such termination or substitution occurs prior to the final maturity of the Certificates, the Issuer shall give notice of such termination or substitution in the same manner as for a Material Event under **Section 3** hereof.

Section 5. Dissemination Agent. The Issuer may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Continuing Disclosure Agreement, and may discharge any such Dissemination Agent, with or without appointing a successor Dissemination Agent. The Dissemination Agent may resign as dissemination agent hereunder at any time upon **30** days prior written notice to the Issuer. The Dissemination Agent shall not be responsible in any manner for the content of any notice or report (including without limitation the Annual Report) prepared

by the Issuer pursuant to this Continuing Disclosure Agreement. The initial Dissemination Agent is The Bank of New York Mellon Trust Company, N.A.

Section 6. Amendment; Waiver.

(a) Notwithstanding any other provision of this Continuing Disclosure Agreement, the Issuer and the Dissemination Agent may amend this Continuing Disclosure Agreement and any provision of this Continuing Disclosure Agreement may be waived, provided that Special Tax Counsel or other counsel experienced in federal securities law matters provides the Issuer and the Dissemination Agent with its written opinion that the undertaking of the Issuer contained herein, as so amended or after giving effect to such waiver, is in compliance with the Rule and all current amendments thereto and interpretations thereof that are applicable to this Continuing Disclosure Agreement.

(b) If a provision of this Continuing Disclosure Agreement is amended or waived, the Issuer shall describe such amendment or waiver in the next Annual Report, and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or, in the case of a change of accounting principles, on the presentation) of financial information or operating data being presented by the Issuer. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements, (1) notice of such change shall be given in the same manner as for a Material Event under **Section 3** hereof, and (2) the Annual Report for the year in which the change is made should present a comparison (in narrative form and also, if feasible, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

Section 7. Additional Information. Nothing in this Continuing Disclosure Agreement shall be deemed to prevent the Issuer from disseminating any other information, using the means of dissemination set forth in this Continuing Disclosure Agreement or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Material Event, in addition to that which is required by this Continuing Disclosure Agreement. If the Issuer chooses to include any information in any Annual Report or notice of occurrence of a Material Event, in addition to that which is specifically required by this Continuing Disclosure Agreement, the Issuer shall have no obligation under this Continuing Disclosure Agreement to update such information or include it in any future Annual Report or notice of occurrence of a Material Event.

Section 8. Default. If the Issuer or the Dissemination Agent fails to comply with any provision of this Continuing Disclosure Agreement, any Participating Underwriter or Beneficial Owner of the Certificates may take such actions as may be necessary and appropriate, including seeking mandamus or specific performance by court order, to cause the Issuer or the Dissemination Agent, as the case may be, to comply with its obligations under this Continuing Disclosure Agreement. A default under this Continuing Disclosure Agreement shall not be deemed an event of default under the Order or the Certificates, and the sole remedy under this Continuing Disclosure Agreement if there is any failure of the Issuer or the Dissemination Agent to comply with this Continuing Disclosure Agreement shall be an action to compel performance.

Section 9. Duties and Liabilities of Dissemination Agent. The Dissemination Agent shall have only such duties as are specifically set forth in this Continuing Disclosure Agreement, and, to the extent permitted by law, the Issuer agrees to indemnify and save the Dissemination Agent, its officers, directors, employees and agents, harmless against any loss, expense and liabilities which it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs

and expenses (including attorneys fees) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's negligence or willful misconduct. The obligations of the Issuer under this Section shall survive resignation or removal of the Dissemination Agent and payment of the Certificates. The Issuer shall pay the fees, charges and expenses of the Dissemination Agent in connection with its administration of this Continuing Disclosure Agreement.

Section 10. Notices. Any notices or communications to or among any of the parties to this Continuing Disclosure Agreement may be given by registered or certified mail, return receipt requested, or by facsimile or by e-mail, receipt confirmed by telephone, or delivered in person or by overnight courier, and will be deemed given on the second day following the date on which the notice or communication is so mailed, as follows:

To the Issuer: **Franklin County, Missouri**
400 East Locust, Room 206
Union, Missouri 63084
Attention: Presiding Commissioner

To the Dissemination Agent: **The Bank of New York Mellon Trust Company, N.A.**
100 South 4th Street, Suite 550
St. Louis, Missouri 63102
Attention: Corporate Trust

Any person may, by written notice to the other persons listed above, designate a different address or facsimile number(s) to which subsequent notices or communications should be sent.

Section 11. Beneficiaries. This Continuing Disclosure Agreement shall inure solely to the benefit of the Issuer, the Dissemination Agent, the Participating Underwriter, and Beneficial Owners from time to time of the Certificates, and shall create no rights in any other person or entity.

Section 12. Severability. If any provision in this Continuing Disclosure Agreement, the Order or the Certificates shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 13. Counterparts. This Continuing Disclosure Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 14. Electronic Transactions. The arrangement described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

Section 15. Governing Law. This Continuing Disclosure Agreement shall be governed by and construed in accordance with the laws of the State of Missouri.

IN WITNESS WHEREOF, the Issuer and the Dissemination Agent have caused this Continuing Disclosure Agreement to be executed as of the day and year first above written.

FRANKLIN COUNTY, MISSOURI

By: _____
Title: Presiding Commissioner

By: _____
Title: First District Commissioner

By: _____
Title: Second District Commissioner

**THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A., as Dissemination
Agent**

By: _____
Name: _____
Title: _____

EXHIBIT A

NOTICE OF FAILURE TO FILE ANNUAL REPORT

Name of Issuer: Franklin County, Missouri (the “Issuer”)
Name of Issue: \$10,000,000 Certificates of Participation (Franklin County, Missouri, Lessee), Series 2018 (the “Certificates”)
Date of Delivery: November 14, 2018

NOTICE IS HEREBY GIVEN that Franklin County, Missouri, has not filed an Annual Report with respect to the above-named Certificates as required by the Continuing Disclosure Agreement dated as of November 1, 2018, between the Issuer and The Bank of New York Mellon Trust Company, N.A., as Dissemination Agent. [The Issuer has informed the Dissemination Agent that the Issuer anticipates that the Annual Report will be filed by _____.]

Dated: _____, _____

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as Dissemination Agent
on behalf of **Franklin County, Missouri**

cc: Franklin County, Missouri

EXHIBIT B

NOTICE OF ANNUAL REPORT FILING REQUIREMENTS

Presiding Commissioner
Franklin County, Missouri
400 East Locust, Room 206
Union, Missouri 63084

Re: \$10,000,000 Certificates of Participation (Franklin County, Missouri, Lessee) (Franklin County, Missouri, Lessee), Series 2018

In connection with the above-referenced certificates of participation (the "Certificates"), the Issuer has entered into a Continuing Disclosure Agreement with The Bank of New York Mellon Trust Company, N.A., as dissemination agent (the "Dissemination Agent"). The purpose of this notice is to inform you of the requirements relating to the Annual Report for the Issuer's fiscal year ending December 31, 20__ (the "Fiscal Year"), which must be filed with the Municipal Securities Rulemaking Board (the "MSRB") pursuant to the Continuing Disclosure Agreement. Under the Continuing Disclosure Agreement, the Issuer must, within 180 days after the end of the Fiscal Year, provide or cause the Dissemination Agent to provide the Annual Report, consisting of the financial information and operating data specified in this Notice, to the MSRB. The deadline for submitting the Annual Report for the Fiscal Year to the MSRB is June __, 20__. The Continuing Disclosure Agreement requires that, at least 10 days prior to such deadline, the Issuer either provide the Annual Report to the Dissemination Agent or provide notice to the Dissemination Agent that the Issuer has filed the Annual Report or will file the Annual Report with the MSRB prior to the deadline. If you have any questions, please contact the Dissemination Agent at the address provided below.

The Bank of New York Mellon Trust Company, N.A.
Corporate Trust Department
100 South 4th Street, Suite 550
St. Louis, Missouri 63102

Enclosures

REQUIRED CONTENT OF ANNUAL REPORT

- 1. Audited financial statements of the Issuer for the Fiscal Year.**
- 2. Financial information and operating data contained in the tables found in the following sections of Appendix A to the Official Statement relating to the Certificates, updated as of the end of the Fiscal Year:**
 - (a) “FINANCIAL INFORMATION CONCERNING THE COUNTY - Sources of Revenue”**
 - (b) “FINANCIAL INFORMATION CONCERNING THE COUNTY - Sales Taxes”**